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House of Representatives

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. 2250. 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 compromises 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?

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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 and I 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 sunset 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 all national 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 Persons 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.

□ 1015

HUGO CHAVEZ AND THE AMERICAN CONSUMER

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

Mr. STEARNS. Madam Speaker, Hugo Chavez, dictator of Venezuela, gave a speech at the United Nations last week in which he lambasted the United States and denigrated 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

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 ethnic cleansing by the dictatorship 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 all 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 of South Carolina. 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 put 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 Hai, and it is clear to me from my conversations with them that the government of Vietnam continues to violate religious, property and labor rights as well as the right to a free and independent media. These violations are unacceptable.

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 Ulysess by Alfred Lord Tennyson who wrote:

''Tho' much is taken, much abides; and tho' we are not now that strength which in old days moved heaven and earth, that which 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.

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.

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 Secretary of Health and Human 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 Iraq to Social Security, Republicans have sided with the lobbyists' special interest agenda instead of working for the American people. Time and time again, they have said ''no'' to the needs and concerns of the American people.

''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 on no-bid contracts for administration cronies like Halliburton.

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

□ 1030

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 gas 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, biomass, 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 a lot of Republicans on it. I hope we can get it to the floor for a vote because I think it is extremely important.

THE WORLD IS LESS SAFE

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

Mr. COSTA. Madam Speaker, America is less safe today than before 9/11 attacks. That is according to the National Intelligence Estimate that was leaked out over the weekend. According to the report, the war in Iraq is actually fueling terror worldwide, undermining our efforts to fight terrorism, and making Americans less safe at home and abroad.

This is the second report that questioned our efforts in Iraq, by the GAO. The GAO report asked three specific questions that, unfortunately, this do-nothing Congress should be asking if we had not abdicated our role.

First, what are the key political, economic, and security conditions that must be achieved for U.S. forces to begin to withdraw? Americans want to know.

Two, why have security conditions continued to deteriorate in Iraq even though 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.

It is 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 days 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 her designee on the designation of any matter for consideration pursuant to this resolution.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

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

(Mr. HASTINGS of Washington asked and was given permission to revise and extend his remarks.)

Mr. HASTINGS of Washington. Madam Speaker, House Resolution 1045 provides that suspensions will be in order at any time through the legislative day of September 29, 2006. Further, it provides that the Speaker or his designee will consult with the minority leader or her designee on any suspension considered under the rule.

This is the last week before Congress will recess until November so that Members can return home and spend their time meeting and working with those that they represent. Currently, there are several necessary and noncontroversial bills that are waiting consideration by the House of Representatives. It is important that the House be able to consider these bills before adjourning.

The suspension authority provided in this resolution will ensure that Congress can complete some additional key work by allowing for consideration of a number of important bills through the legislative day of September 29, 2006.

I encourage my colleagues on both sides of the aisle to support this rule.

Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I thank the gentleman for yielding, and I yield myself such time as I may consume.

Madam Speaker, at the end of the week, this Congress will adjourn so that its Members can go home to campaign for their seats. I like to think of a campaign as a long job interview. Everyone in the body will have to convince his or her constituents that they are the best person for the job, that they have spent their time here in Washington doing whatever they can to better the lives of the people back home in their districts.

Madam Speaker, this Republican Congress has not made that task easy. It isn't just what the Congress has done with its time that is so disappointing, for example, yesterday's passage of a military detainee bill that undermines some of our most cherished and fundamental principles. It is also what the Congress has not done. All the challenges it has not addressed. The responsibilities it has not lived up to. It is all going to leave voters wondering what we have been doing these last 2 years.

The American people do not need us to tell them why their country is headed 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 and those with disabilities 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 commuters break the bank trying 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 numerous important suspension 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 in safety and security, 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 energy infrastructure, at our ports, 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 alleviate that pressure 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 Democrat 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 an easy way to do it. We can immediately pass Representative GEORGE MILLER's Fair Minimum Wage Act or a similar amendment that Representative HOYER 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 home 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 challenge 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, authored in secret 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, not 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 of our citizens.

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.

□ 1045

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 it has not done 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.

I mean, we are about to recess, and this Congress has not increased the Federal minimum wage. It is stuck at $5.15 an hour. I mean, Congress has not raised the minimum wage in 9 years. During that same period of time, Congress voted themselves a $31,600 pay raise. We do not have the time to increase the Federal minimum wage, but we have time to increase our salaries by $31,600? Please, give me a break. Where are our priorities?

We have the time right now to raise the Federal minimum wage. I think that is more important than naming a post office before we recess before the elections.

On the issue of energy, I mean where is our energy policy? Where is our commitment to renewable and safe and clean alternative sources of energy?

I mean, there is nothing. We have seen gas prices go way up. And, guess what? They are mysteriously coming down before the election. But I am going to make a bet with you that right after the election they will go back up again. You know, these oil executives, they are smart. They know where their bread is buttered. They do not want accountability. They do not want a Congress that is going to hold their feet to the fire when it comes to price gouging the American people.

On the issue of Iraq, a National Intelligence Estimate tells us that this war in Iraq has created more terrorists rather than decreased the number of terrorists. And yet what do we have going on here in this Congress? Nothing. There is no accountability with regard to this administration's policy.

President Bush tells us to stay the course, which is code for stay forever. This war began in 2003. And whether you supported it or opposed it, I think everybody can agree it has not unfolded as advertised. I mean, we are now a referee in a civil war.

We have spent hundreds of billions of dollars not on schools, not on senior citizens and retirement security, not on economic development, not on infrastructure, not even on reducing our enormous debt, we have spent it in a mistaken war in Iraq that gets worse and worse every day, and yet this Congress, this Congress refuses to hold the administration accountable, refuses to do the oversight necessary to try to take this failed policy and bring it to an end.

I mean, we have lots and lots to do before we recess. We have important matters that every single person in this country cares about, whether they are a Democrat or a Republican. Instead, we are told, no, we do not have the time, we are going to come here and we are going to spend more of our time doing suspension bills.

I mean, there is a reason why this Congress only has a 25 percent approval rating by the American people. People get it. People know that this is a do-nothing Congress. People are frustrated that this Congress has become a place where trivial issues get debated passionately and important ones not at all.

People understand that there is something wrong when Congress cannot find the time to increase the Federal minimum wage and when they try to do it they play politics with it by attaching it to a tax cut to wealthy people.

There is something wrong when Congress cannot increase the national minimum wage, but we have time to vote ourselves a pay raise. There is a disconnect. I think the people are way ahead of us here in Washington. People understand that this Congress has failed them time and time and time again.

It is time for a new direction. It is time for a change, and it is time to get this Congress to behave in a mature, responsible fashion. And that means dealing with issues like the affordability of a college education. It means dealing with issues that people care about.

With that, Madam Speaker, I urge my colleagues to vote against this rule.

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.

Yes, it was attached to other bills, or other issues. That is not anything that is unusual in this body. That goes on all of 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, but capping 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 ought to be 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 increase 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 the 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 from a red or blue State.

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 it must be 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? That is the question that 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 immediately, it will add 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 FEMA provisions attached to the Homeland Security appropriations bill.

The House leadership can spend 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, no, demand that 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 Mumbai? Democrats want to secure our border, and we want to do it right.

Five years ago the President announced that he was creating 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 sent to 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 allow us to vote on a complete overhaul of our immigration system, adequate funding for border personnel, equipment and resources for border personnel, a system for addressing what to do with 12 million people without documentation in this country.

Instead, Madam Speaker, the House leadership chose to vote and revote on a fence without setting aside enough money to build it. Democrats also believe we must strengthen the relationship between the intelligence community and State and local law enforcement.

Today, as ranking member of Homeland Security, I am releasing a report entitled, ''LEAP'', Law Enforcement Assistance and Partnership strategy, 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 us our privacy and civil liberties. As the Gilmore Commission told us a few years ago, counterterrorism 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).

□ 1100

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 jobs on this Hill, 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 alternatives. 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, which is failing to address the 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. America probably know that 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 resent 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 Federal 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 failed to enact 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 asking us to 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 who works 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 a hard time denying that. 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 I 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 were cutting 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 for immediate consideration of the 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 a couple of issues that were 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, some very innovative reforms 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 it voluntary. It was not 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 put in place there were 30 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 off 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 our way of life.

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 record, Madam Speaker, 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, Madam 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 Ms. SLAUGHTER 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 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.

(5) a bill to roll back tax breaks for large petroleum 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 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, 1920, 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, 1909, 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–IIIinois) 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 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 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] 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. HASTINGS of Washington, Madam 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 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 report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of September 28, 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.

(3) A conference report to accompany 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.

SEC. 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 yield 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.

□ 1115

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 items so 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 martial 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 immediately 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. We have not passed a comprehensive national energy policy 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 lower prescription drug prices for seniors and people with disabilities. We should restore the massive cuts to Federal student financial aid that Congress made earlier this year. And we have not had a clean vote to raise the minimum wage.

Democrats want to address each of these issues before we go home for the elections, but the majority has made it clear, through this rule, that the House leadership will not consider these priorities before leaving town.

This martial law rule would allow us to consider a conference report for homeland security funding. But even after this agreement passes, massive holes will remain in our homeland. 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.

According to the 9/11 Commission, the Federal Government still does not have a consolidated terror watch list at our airports, and without proper funding, TSA cannot implement the full range of security measures necessary to protect us.

Finally, we do not have 100 percent screening of cargo coming into our ports. These holes are the reason that the 9/11 Commission gave Congress failing grades late last year.

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

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 dependent on volatile regions of the world, and it is impractical and unwise to believe we can drill our way out of this problem.

It is long past due for the Federal Government to make an unprecedented commitment towards 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.

Another 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 have a plan with a so-called donut hole. 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 keep paying premiums to the Federal Government.

And those drug prices are higher than they need to be. Congress already allows the Veterans Administration to negotiate prices directly with the drug companies. 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 doing 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 88 days thus far, we have also 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 now more than $17,000 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 stay at 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 loan 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 officials 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 policy that provides prizes in 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 that, building on the 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 families, 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 fought 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 has 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. All of these things have gone up in these people's lives, but what hasn't gone up is the wages they work at.

□ 1130

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 that the people who are coming to their stores simply don't have sufficient moneys 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 recycle that money for the well-being of students to lessen the financial burden of families who are trying to put their children through school. They didn't do any of that. They took that $12 billion 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 moved it into tax cuts for the wealthiest people in the country. They do that at a time when the basic Pell Grant for the most needy students, it only covers 30 percent of college costs today. When it was enacted, it covered 70 percent, and it has fallen behind.

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 students, and 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 debt.

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.

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 6.8 percent on their loans instead of 3.4 percent. Parents will be paying 8.5 percent instead of 4.25 percent.

This is a tragedy. This is the tragedy of the Republicans' failure to address the needs of middle-income Americans who are struggling to educate 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 to extend 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 headhunters 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 business 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 this 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, continue to 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 this House, 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.'' That is what someone 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 controls the time.

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 seniors 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 ought 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 have access to prescription drugs who did not have that same access under the old regime.

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 law, 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 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

deal with Homeland Security appropriations and military tribunals. Let's move it forward.

Madam Speaker, I reserve the balance of my time.

□ 1145

Ms. MATSUI. Madam Speaker, before I yield to the next speaker, I would like to yield 10 seconds to the gentleman from Wisconsin to respond.

Mr. OBEY. Let me say to the gentleman, I am not angry at all to Wal-Mart for responding to a public need. I congratulate them for it. The shame is the fact that you and the majority folks in this House would not meet your responsibilities to have the government negotiate to save money for everybody.

Ms. MATSUI. Madam Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. I think it is important to note that my good friend from Florida is a great debater and orator on this floor, but I think some of the debate has been skewed. The passion here is because we feel let down. We have let many American people down.

My good friend from Wisconsin is simply saying that, in spite of the procedural responsibility of moving to the end of this session, what has not been done is we have not done what the American people need: The minimum wage, responding to the crisis of Medicare part D. And let me give a personal story and I will answer the gentleman's question about security.

My mother is now paying more than she has ever paid before under Medicare part D. And all of my seniors are now crying because they are over the top in the donut hole. This is a personal story and a personal testimony.

And I would suggest to the gentleman that he knows the rules of this body and he knows that many times we ask the other side to yield and they do not. So there is no commentary on your understanding of the rules by not yielding to someone who is interjecting in your statements. It is a question of passion and commitment.

And I would simply say that I am prepared to discuss, as a member of the Homeland Security Committee, the failures of this body regarding security. The 9/11 Commission Report issued some 2 years ago rendered to this body Ds and Fs for every aspect of homeland security you could ever imagine. And Abraham Lincoln said: We cannot escape history, right after the Civil War, 1862, his mission during the Civil War. We of this Congress and this administration will be remembered in spite of ourselves. No personal significance or insignificance can spare one or another of us.

We will be doing the electronic surveillance. But as we speak, the leaders of Hewlett-Packard are in our committee rooms in the Rayburn room discussing why they abused technology. There is nothing on the record that suggests that we cannot use the FISA proceedings to deal with securing America. We know that there have been 19,000 FISA requests and less than five refused by the tribunal. The only necessity is to restate the authorization of FISA and to ensure that it is utilized. But this body will come and try to take away the very rights and protection from privacy for the American people. That is not homeland security. There is no basis for abusing America's military.

When I say that, let me qualify it. By jeopardizing their status as an MIA and a POW, in this instance, a POW, in any conflict around the world by what we are doing with the military tribunal system here, which is, ignoring the Geneva Convention.

And might I just show to my colleagues the faces and faces of the fallen, pages and pages in the Nation's newspapers of those who have lost their lives on the front lines in Iraq and Afghanistan. It is well documented in recent intelligence reports that have been declassified that we have created a pool for insurgency and terrorists, a breeding ground, in Iraq. So now my friends want to abuse the habeas corpus system of America. We want to ignore the Geneva Convention, which simply provides for no torture provisions and a respect for that incarcerated person.

Now, we have called these people enemy combatants, but we are now prepared to suspend the habeas corpus for an indefinite period of time. We are prepared now to ensure that there is not any real protection against torture. And, of course, this bill will be an amended bill that will come here to the floor that we will be debating, but the question is the reasonableness in protecting those who are offering their lives. The Military Tribunal Commission bill will still put U.S. soldiers in harm's way.

The SPEAKER pro tempore. The gentlewoman's time has expired.

Ms. JACKSON-LEE of Texas. I would simply say, we know about homeland security. They don't, they failed. That is what we are doing today. Vote ''no'' on this rule.

The SPEAKER pro tempore. The gentlewoman's time has expired.

Ms. JACKSON-LEE of Texas. * * *

The SPEAKER pro tempore. The gentlewoman's time has expired.

Ms. JACKSON-LEE of Texas. * * *

Mr. PUTNAM. Madam Speaker, I was wondering whether the gentleman from Wisconsin might want to share some parliamentary lessons with the gentlewoman from Texas as he did with me.

I would be happy to yield.

Mr. OBEY. I don't even understand what the gentleman is talking about.

Mr. PUTNAM. The gentleman took great umbrage at me asking to yield to answer his question.

Mr. OBEY. No, I did not. I took great umbrage at you interrupting me.

Mr. PUTNAM. Reclaiming my time.

Mr. OBEY. I told you I would not yield.

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 reclaimed it. That is my understanding of how the situation works. And we heed the gavel.

Madam Speaker, I am delighted to yield 4 minutes to a member of the Appropriations and Select Intelligence Committee, the gentleman from Kansas (Mr. TIAHRT).

Mr. TIAHRT. Madam Speaker, there has been some discussion about prescription drugs and the difference in philosophy between allowing the free market to work to bring drug prices down versus having the Federal Government negotiate the prices. And I have spent some time in the private sector dealing with the Federal Government, and I have observed two different types of contracts. And I think they very well represent the two concepts in providing for prescription drugs for our seniors.

If you look at a Federal negotiations for drug prices, essentially you are looking at sole source contracts. This is where the Federal Government goes out and says, okay, you are going to be the provider for this prescription drug, and we want to know what your costs are and then we are going to give you a fair and reasonable profit margin on top of that.

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 pliers 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 get a lower fee.

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 gone to generic 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. I think Wal-Mart has been significant in contributing to productivity. In fact, they contributed about 20 percent of the productivity in the 1990s. 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 lower cost prescriptions to seniors by negotiating rates and prices, and by competing in the free market at the highest level.

So I think that we should be very thankful that we are not doing a sole source contract for pharmaceuticals, because the philosophy of having it cost plus profit says to the pharmaceutical companies: Bury stuff in your costs. Put more research and development, put your overhead in there, expand your buildings, hire additional people that you may or may not need, but inflate those costs. Because when you do inflate those costs, then your profit, which is a percentage of cost, is actually greater.

So to have the Federal Government go out and negotiate these sole source contracts with pharmaceuticals encourages higher costs. It encourages companies to bury costs into the bottom line there so that they can show a higher profit; the profit which is a percentage would be higher because it is applied to a larger base or the cost of the pharmaceuticals.

Competitive forces in pharmaceuticals are bringing the price down. We saw projections when we were looking at Medicare part D legislation about how high the costs were going to be. Today, in a comparison, the costs for the same pharmaceutical drugs that are most common have significantly been reduced.

And now we've heard some concerns now about people hitting the so called donut hole and they have to pay now more for their prescription drugs than ever before. Well, that is not true. The price is lower. And, if you go back a couple of years, they were getting no help from Medicare part D. Today there is a donut hole; it does get some people, but there have been thousands and thousands of dollars per individual applied, including for my own family, where they have had help getting pharmaceuticals. And that has been an important contribution to our culture and to the health of seniors.

Ms. MATSUI. Madam Speaker, I just want to make a comment that the Department of Veteran Affairs has been very successful lowering prescription drug prices by negotiating directly with the drug companies.

Madam Speaker, I would like to yield 3 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Madam Speaker, I rise today to defeat the previous question on the rule so that the House can finally consider the real issues facing American families.

You know, many conservative writers have called the Congress the less-than-do-nothing-congress, particularly at a time when there is concern on all parts of the political spectrum about the growth of the power of the Executive Branch of the government. Our forefathers warned us about this. No oversight, no oversight as to what is happening.

Look at what happened in the Interior Department in just the last 10 days and the HUD Department by Inspector Generals. That is a disgrace. And you can try to get us off track all you want, we are going to stay on track. This is not so much a question of less days, which we will be here, this is a question of 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 education, and yet they are 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 a 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 these things.

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.

□ 1200

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 debate 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, and no one knows where it is, that is not running government like a business. When you look at all of the waste, this government is being run like it is 1950 with misleading information. Now we are moving into a new economy, knowledged-based and information-based, and the government has not changed at all.

All of the guys who came in here with Newt Gingrich in 1994, you may remember the big Republican revolution, we are going to balance the budget, we are going to run this thing like a business, we are going to have a smaller government, you are talking about a trillion dollar Medicare drug program, and you have to go back to your conservative base and you have to tell them that you passed it without any ability to negotiate down the drug prices. Good luck in the next 5 weeks.

You have to go back to them and say we are for free markets. But when we ask to get reimportation into this country from Canada and some of the G–7 countries to drive the prices down, you all were against it. That is not worshiping the free market like you normally do.

There are a lot of contradictions going on here, and I think we need to point this out to the American people.

Another thing that I think is even more important, as you guys move away from what your rhetoric is, is that this President and this Congress has borrowed more money from foreign interests than every single President in Congress before you. That is not conservative Republicanism. That is not running your government like a business.

If we don't get past all this rhetoric and doing something else, we are not going to be able to move the country forward. All of these games, we are now competing with 1.3 billion citizens in China and 1 billion citizens in India; hard-core brutal competition, and we are not investing back into the American people. We cannot even give them a slight pay raise. When you guys have given this Congress $30,000 in pay raises, you can't even raise the minimum wage.

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 going to be 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. OBEY's frustrations is that day in and day out you 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.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). The Chair would remind all Members to address their remarks to the Chair.

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. 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 would go along with the 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, as my friend, Mr. RYAN, spoke of, 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 bothered 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 the Outer Continental Shelf. 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 on the other side of 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 this country who would do us harm, to modernize that 1978 law which needs modernization to protect our American people. That is what this is all about.

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 for Medicare that we finally delivered to our American seniors back in November of 2003 when they have been asking for the 40 years that the Democrats controlled this body for relief and got now. And now they are railing against this issue saying it is a giveaway 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 the fact that the 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. RYAN of Ohio. 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 in from Canada; you wouldn'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 seniors that live at or close to the border 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 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 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 and 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 the topic at 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 not one but three substantial energy independence bills.

□ 1215

Bills that would allow us to reduce our reliance on countries that often don't like us for the economic lifeblood that this Nation requires, by expanding our own capacity, expanding exploration, expanding refining capacity, expanding renewables, putting an emphasis on American agriculture so that we can grow our way to energy independence, investing in renewables like solar and wind and hydroelectric, investing in long-term technologies like hydrogen. That 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 appropriations, the 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 Nation brings to bear 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, securing our borders, listening to the bad guys, locking them up and keeping them from doing future 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 that creates free enterprise, 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. Let us continue to press on with that agenda, the secure 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.

(5) a bill to roll back tax breaks for large petroleum 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 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, 1920, 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, 1909, 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. 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 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 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] 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 bear in mind that heeding 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.

Ms. MATSUI. 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.

Votes will be taken in the following order:

ordering the previous question on H. Res. 1045, by the yeas and nays; adoption of H. Res. 1045, if ordered; ordering the previous question on H. Res. 1046, by the yeas and nays; adoption of H. Res. 1046, if ordered.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

The SPEAKER pro tempore. The pending business is the vote on ordering the previous question on House Resolution 1045, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

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

The vote was taken by electronic device, and there were—yeas 223, nays 196, not voting 13, as follows:

[Roll No. 495]

YEAS—223

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—196

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Hefley
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reichert
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—13

Brown (OH)
Castle
Evans
Green (WI)
Lewis (GA)
McKinney
Meehan
Moore (KS)
Ney
Strickland
Stupak
Towns
Westmoreland

□ 1244

Messrs. GUTIERREZ, MURTHA, HONDA, HEFLEY and Mrs. JONES of

Ohio changed their vote from ''yea'' to ''nay.''

Messrs. OTTER, GARY G. MILLER of California, LEWIS 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 resolution was agreed to.

A motion to reconsider was laid on the table.

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

The SPEAKER pro tempore. The pending business is the vote on ordering the previous question on House Resolution 1046, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The question is on ordering the previous question.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 223, noes 197, not voting 12, as follows:

[Roll No. 496]

YEAS—223

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—197

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reichert
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—12

Brown (OH)
Burton (IN)
Castle
Evans
Green (WI)
Lewis (GA)
Meehan
Ney
Strickland
Stupak
Towns
Westmoreland

□ 1253

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. MATSUI. 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—ayes 227, noes 191, not voting 14, as follows:

[Roll No. 497]

AYES—227

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner

Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—191

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—14

Castle
Doggett
Evans
Fattah
Green (WI)
Johnson (CT)
Lewis (GA)
Meehan
Ney
Petri
Strickland
Stupak
Towns
Westmoreland

□ 1300

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

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:

H.R. 6198

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''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CODIFICATION OF SANCTIONS AGAINST IRAN

Sec. 101. Codification of sanctions.

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

Sec. 201. Multilateral regime.
Sec. 202. Imposition of sanctions.
Sec. 203. Termination of sanctions.
Sec. 204. Sunset.
Sec. 205. Technical and conforming amendments.

TITLE III—PROMOTION OF DEMOCRACY FOR IRAN

Sec. 301. Declaration of policy.
Sec. 302. Assistance to support democracy for Iran.

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

Sec. 401. Sense of Congress.

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

Sec. 501. Prevention of money laundering for weapons of mass destruction.

TITLE I—CODIFICATION OF SANCTIONS AGAINST IRAN

SEC. 101. CODIFICATION OF SANCTIONS.

(a) CODIFICATION OF SANCTIONS.—Except as otherwise provided in this section, United States sanctions with respect to Iran imposed pursuant to sections 1 and 3 of Executive Order No. 12957, sections 1(e), (1)(g), and (3) of Executive Order No. 12959, and sections 2, 3, and 5 of Executive Order No. 13059 (relating to exports and certain other transactions with Iran) as in effect on January 1, 2006, shall remain in effect. The President may terminate such sanctions, in whole or in part, if the President notifies Congress at least 15 days in advance of such termination. In the event of exigent circumstances, the President may exercise the authority set forth in the preceding sentence without regard to the notification requirement stated therein, except that such notification shall be provided as early as practicable, but in no event later than three working days after such exercise of authority.

(b) NO EFFECT ON OTHER SANCTIONS RELATING TO SUPPORT FOR ACTS OF INTERNATIONAL TERRORISM.—Nothing in this Act shall affect any United States sanction, control, or regulation as in effect on January 1, 2006, relating to a determination under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)(A)), section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) that the Government of Iran has repeatedly provided support for acts of international terrorism.

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

SEC. 201. MULTILATERAL REGIME.

(a) WAIVER.—Section 4(c) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended to read as follows:

''(c) WAIVER.—

''(1) IN GENERAL.—The President may, on a case by case basis, waive for a period of not more than six months the application of section 5(a) with respect to a national of a country, if the President certifies to the appropriate congressional committees at least 30 days before such waiver is to take effect that such waiver is vital to the national security interests of the United States.

''(2) SUBSEQUENT RENEWAL OF WAIVER.—If the President determines that, in accordance with paragraph (1), such a waiver is appropriate, the President may, at the conclusion of the period of a waiver under paragraph (1), renew such waiver for subsequent periods of not more than six months each.''.

(b) INVESTIGATIONS.—Section 4 of such Act (50 U.S.C. 1701 note) is amended by adding at the end the following new subsection:

''(f) INVESTIGATIONS.—

''(1) IN GENERAL.—The President should initiate an investigation into the possible imposition of sanctions under section 5(a) against a person upon receipt by the United States of credible information indicating that such person is engaged in investment activity in Iran as described in such section.

''(2) DETERMINATION AND NOTIFICATION.—Not later than 180 days after an investigation is initiated in accordance with paragraph (1), the President should determine, pursuant to section 5(a), if a person has engaged in investment activity in Iran as described in such section and shall notify the appropriate congressional committees of the basis for any such determination.''.

SEC. 202. IMPOSITION OF SANCTIONS.

(a) SANCTIONS WITH RESPECT TO DEVELOPMENT OF PETROLEUM RESOURCES.—Section 5(a) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended in the heading, by striking ''TO IRAN'' and inserting ''TO THE DEVELOPMENT OF PETROLEUM RESOURCES OF IRAN''.

(b) SANCTIONS WITH RESPECT TO DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.—Section 5(b) of such Act (50 U.S.C. 1701 note) is amended to read as follows:

''(b) MANDATORY SANCTIONS WITH RESPECT TO DEVELOPMENT OF WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.—The President shall impose two or more of the sanctions described in paragraphs (1) through (6) of section 6 if the President determines that a person has, on or after the date of the enactment of this Act, exported, transferred, or otherwise provided to Iran any goods, services, technology, or other items knowing that the provision of such goods, services, technology, or other items would contribute materially to the ability of Iran to—

''(1) acquire or develop chemical, biological, or nuclear weapons or related technologies; or

''(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. 203. 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) poses no significant threat to United States national security, interests, or allies.''.

SEC. 204. SUNSET.

Section 13 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking ''on September 29, 2006'' and inserting ''on December 31, 2011''.

SEC. 205. 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 subsection (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) IRAN.—''; 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 to read as follows:

''(C) an estimate of the significance of the provision of the items described in section 5(a) or section 5(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) DEFINITIONS.—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,''; and

(ii) by striking ''nongovenmental'' and inserting ''nongovernmental''; and

(B) in subparagraph (A), by striking ''or Libya (as the case may be)'';

(2) by striking paragraph (12); and

(3) by redesignating 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 FOR 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 peaceful 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 (including the award of grants) to foreign and domestic individuals, organizations, and entities working for the purpose of supporting and promoting democracy for Iran. Such assistance may include the award of grants to eligible independent pro-democracy radio and television broadcasting organizations that broadcast into Iran.

(2) 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.

(b) ELIGIBILITY FOR ASSISTANCE.—Financial and political assistance under this section should 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 nonproliferation regimes for nuclear, chemical, and biological weapons and materiel;

(3) is dedicated to 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 under this section using—

(1) funds available to the Middle East Partnership Initiative (MEPI), the Broader Middle East and North Africa Initiative, and the Human Rights and Democracy Fund; and

(2) amounts made available pursuant to the authorization of appropriations under subsection (g).

(d) NOTIFICATION.—Not later than 15 days before each obligation of assistance under this section, and in accordance with the procedures under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1), the President shall notify the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(e) SENSE OF CONGRESS REGARDING DIPLOMATIC ASSISTANCE.—It is the sense of Congress that—

(1) support for a transition to democracy in Iran should be expressed by United States representatives and officials in all appropriate international fora;

(2) officials and representatives of the United States should—

(A) strongly and unequivocally support indigenous efforts in Iran calling for free, transparent, and democratic elections; and

(B) draw international attention to violations by the Government of Iran of human rights, freedom of religion, freedom of assembly, and freedom of the press.

(f) DURATION.—The authority to provide assistance under this section shall expire on December 31, 2011.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of State such sums as may be necessary to carry out this section.

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 President 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 committed to verifiably refrain permanently from such activity in the future (except potentially the conversion of uranium exclusively for export to foreign nuclear fuel production facilities pursuant to internationally agreed arrangements and subject to strict international safeguards), and is abiding by that commitment; or

(2) the government of that 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 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, with the knowledge and acquiescence of that government, of goods, services, or technology listed on the Nuclear Suppliers Group Guidelines for the Export of Nuclear Material, Equipment and Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev. 3/Part 1, and subsequent revisions) or Guidelines 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, with the knowledge and acquiescence of that government, of—

(A) advanced conventional weapons; or

(B) 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) in subparagraph (A)(i), by striking ''or both,'' and inserting ''or entities involved in the proliferation of weapons of mass destruction or missiles''; and

(2) in subparagraph (B)(i), 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 gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Oregon (Mr. BLUMENAUER) each will control 20 minutes.

The Chair recognizes the gentlewoman 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 gentlewoman 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 breached its 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 it 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 authorities 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 against financial 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. Knowledgable 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 Chairmen THOMAS and OXLEY concerning the bill H.R. 6198 "The Iran Freedom Support Act" for printing in the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, September 27, 2006.

Hon. HENRY J. HYDE,
Chairman, Committee on International Relations, Washington, DC.

DEAR CHAIRMAN HYDE: I am writing regarding 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, they fall within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this legislation 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. 6198, and would ask that a copy of our exchange of letters on this matter be included in the record.

Best regards,

BILL THOMAS,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, September 27, 2006.

Hon. WILLIAM M. THOMAS,
Chairman, Committee on Ways and Means, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 6198, the ''Iran Freedom Support Act,'' which is scheduled for floor action this week.

In recognition of the importance of this legislation and based on our two Committees' agreement, the final text of 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.

I concur in your assessment that these provisions, as well as provisions related to the waiver, tennination, 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 forgoing 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.

1As 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.

HOUSE OF REPRESENTATIVES, COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, September 28, 2006.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services, House of Representatives, 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 be entitled to 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 on these provisions or any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to your Committee in the future. Furthermore, should these or similar provisions be considered in a conference with the Senate, I will

request the Speaker to name members of the Committee on Financial Services to the conference committee.

As you requested, I will be pleased to include a copy of this exchange of letters 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 FINANCIAL SERVICES,
Washington, DC, September 28, 2006.

Hon. HENRY J. HYDE,
Committee on International Relations, House of Representatives, Washington, DC.

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 act on those 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 or any other similar legislation and 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 from Iran 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 thug, an anti-Semite, and 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 terrorism. We have done nothing to break our global 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 rejected it as an amendment to the 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 appreciate 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 is nothing in 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 timing 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 formula that would 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 diplomatic 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 Iranian government 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, Hezbollah, and Hamas. 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 interests and Iran's aligned, and we were 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, President 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 confuse what our priorities are, 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. 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 gentlewoman 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.

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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 countries that cooperate in this area with Iran. This provides new tools to the President to prevent money laundering that can be used to

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 this bill, but 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. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

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 U.N. 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 recalibrate 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 our relations with European allies who invest in Iran. But that argument, Mr. Speaker, is simply wrongheaded. Our legislation is intended to reinforce diplomacy with economics. We ask our allies to do what the United States did over a decade ago, 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 suffer accordingly.

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 say 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 2 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 funds 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 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. No more Iraqs.

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 if the Ahmadinejad government agreed to halt Iran's nuclear enrichment program, the United States would talk directly with Tehran. Secretary Rice crafted the statement working alone at home. She called 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 pretext 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—that it would be unlikely to yield any of the results that American policymakers do 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 final decision to execute a military option against Iran, you must first consider the seven key truths that they believe: Iran is developing weapons of mass destruction—that is most likely true. Iran is ignoring the international community—true. Iran supports Hezbollah and terrorism—true. Iran is increasingly inserting itself in Iraq and beginning to be involved in Afghanistan—true. The people of Iran want a regime change—most likely an exaggeration. 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 close to being left with only the military option. Administration officials say that they want to give diplomacy a chance. But when they say that, we need to remind ourselves that they do not mean a negotiated settlement. They mean that Iran must do what we want as a result of our nonmilitary leverage: suspend enrichment, and we will talk. But enrichment appears to continue, and there are no direct discussions between the two main parties. Satisfied that nonmilitary leverage is not going to work, those who believe the seven ''truths'' argue that the only viable option remaining is a military one. The story, however, is more complicated.

This report draws on my long experience of running military war games to examine some of the complications of the current situation: the various pressures and rationales for an attack on Iran; the probable direct and indirect consequences of air strikes; the significant gap between what proponents of the military option want to achieve and what in fact such attacks will achieve; and the likelihood that policymakers will ignore those gaps and proceed to war despite them.

Timing and Uncertainty

Waiting makes it harder. The history of warfare is dominated by attackers who concluded that it was better to attack early than to wait. One source of the momentum in Washington for a strike on Iran's nuclear program is the strategic observation that if such an attack is in fact inevitable, then it is better done sooner than later.

I conducted a war game for the Atlantic Monthly magazine two years ago. On a chart prepared for a mock meeting of the National Security Council, 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 reinforced concrete and soil. There is evidence that similar hardening is taking 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 with enrichment. They know that Iran's nuclear program bears a striking resemblance to the Pakistani program, but they do not know whether Iran has acquired 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, is operating under the assumption 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 said that Iran could not develop a nuclear weapon until some time in the next decade. But the next day, Secretary of Defense Donald Rumsfeld said he did not trust estimates of the Iranian program.

The very ambiguity of the intelligence picture has become another argument for military options, because even if U.S. policymakers could agree on a firm policy red line, there would be no way of determining if and when Iran crossed that line. Vice President Cheney's espoused calculation for dealing with global threats is that if there is even a 1 percent chance of a country passing WMD to a terrorist, the United States must act. Because there is a 1 percent chance Iran could pass WMD to a terrorist, the Bush administration finds itself obliged to reject nonmilitary options.

Regional Pressures

Adding to the political momentum toward war with Iran is significant pressure from the Israeli security establishment. Israel says that it has a plan for attacking Iranian nuclear facilities. Israel recently appointed an airman to be in charge of the Iranian theater of operations. It was announced that this major general would coordinate Israeli planning for Iran. Israeli military planners have U.S. penetrating weapons and a replica of the Natanz facility. They say that the attack would resemble the kind of operation they used against Egypt in 1967. They say that the plan involves more than just air strikes from the ''Hammers'' of the Israeli Air Force's 69 Squadron. It would include Shaldag commando teams, possibly some version of sea-launched missiles, and even explosive-carrying dogs that would penetrate the underground facilities.

Israel probably could hit most of the known nuclear targets. But such an attack would 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 independent Israeli military operation would have critical consequences for the United States.

Part of the problem is that the two countries' red lines for Iran are not the same. Israel's red line is enrichment. The U.S. red line used to be the development of an Iranian nuclear weapon. But over the past six months, America's red line has drifted closer to Israel's. On March 21, the president said that the United States could not allow Iran to have the knowledge to make a weapon. He repeated the phrase in August.

By redrawing the red line in this manner, U.S. policymakers are creating pressure to go to war with Iran. In saying that Iran could not be permitted to have the knowledge to develop nuclear weapons, the president used almost the exact words the Israeli Foreign Minister had used a year earlier. More recently, a senior State Department official said that Iran was near ''the point of no return'' on its nuclear program. Again, this was an exact echo of the words of Israeli officials. The Israeli pressure has worked.

Marketing the Military Option

I often hear from those who were strongly supportive of the Iraq invasion that the targeting of the Iranian facilities would be simple. If you understand the elements of the nuclear process, all you have to do is go after a small number of targets. The argument continues that Iran's nuclear facilities could be devastated on a single night, in a single strike, by a small number of U.S. B–2 bombers. The apparent ease of the operation is another element of this pressure to go now: If the Iranian nuclear program can be stopped in one night by a simple strike, why should the United States wait?

But the elimination of 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 source of 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 extremists 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 peace. The world must hold those regimes to account.'' ''Unnamed intelligence officials,'' citing evidence from satellite coverage and electronic eavesdropping, have told the press that Iran is hosting al Qaeda, granting senior operatives freedom to communicate and plan terrorist operations.

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 Iraq 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. (Although this was certainly an embarrassment to the Iranians, they mentioned the flights numerous times in their press.)

In 2005, the balance within the 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 most likely conducting—-direct action missions. Reports suggest that the United States is supporting militant groups in the Baluchistan region of Iran. There have been killings and kidnappings in this region. Iran Revolutionary Guard convoys have been attacked. In a New Yorker article, Seymour Hersh confirmed that this region was one of the areas where U.S. forces were operating. 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 Iraq-based MEK (Mojahedin-e Khalq) in Baluchistan.

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-Asghar Soltanieh. I told him I had read that the Iranians were accusing the United States of supporting elements in Baluchistan. I asked him how they knew that. 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 from being below 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 I trust who believes that the sanctions would cause the Iranians to abandon their nuclear program, any more than did the sanctions on India and Pakistan after their 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 of 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 Iraq. 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

Initial strikes	Follow-on strikes
Nuclear facilities	Revolutionary Guard bases.
Military air bases	Command and governance assets:
Air defense command and control	Intelligence
Terrorist training camps	Military command
Chemical facilities	Radio and television
Medium-range ballistic missiles	Communications
23rd Commando Division	Security forces in Tehran.
Gulf-threatening assets:	
Submarines	Leadership: targeted killing.
Anti-ship missiles.	
Naval ships.	
Small boats.	

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 missiles. Other missile attacks will come from Navy ships firing at a safe distance.

Targeting the Nuclear Program? Or the Regime?

Air-target planners orchestrate strikes on the basis of desired target destruction criteria. In the case of an attack on Iran, after five nights of bombing, we can be relatively certain of target destruction. It is even 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 enrichment facility, it is possible to see three years worth of construction. An attack on that construction might appear to set the program back three years. But it is hard to judge. David Kay, the former top 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 program, American military leaders are growing 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 nuclear program.

If this uncertainty does not appear to worry the proponents of air strikes in Iran it is in no small part because the real U.S. policy objective is not merely to eliminate the nuclear program, but to overthrow the regime. It is hard to believe, after the misguided 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 Revolutionary Guard units would be attacked since according to the argument they are the primary force that keeps the current regime in power. There are other regime protection units in Tehran. Most important, the U.S. operation would move into targeted killing, seeking to eliminate the leadership of Iran.

It sounds simple. Air planners always tell a good story. By the same token, they almost always fall short of their promises, even in strictly military terms. That was true in World War II. It was true in Korea. It was true in Vietnam. It has just proved true with the Israeli attacks on Hezbollah. No serious expert on Iran believes the argument about enabling a regime change. On the contrary, whereas the presumed goal is to weaken or disable the leadership and then replace it with others who would improve relations between Iran and the United States, it is far more likely that such strikes would strengthen the clerical leadership and turn the United States into Iran's permanent enemy.

Iran's Response

Having demonstrated that air strikes are unlikely either to eliminate the nuclear program or to bring about the overthrow of the Islamic regime in Iran, we must now turn to what, precisely, they would achieve. It is important to remember that some of Iran's threats, demonstrations of new weapons, and military exercises are designed to have a deterrent effect. As such we should not deduce too much about what Iran would do in the event of an attack on the basis of what it might say and do in advance of an attack. A former CIA Middle East Station Chief told me once that predicting the consequences of a strategic event in the Middle East was as difficult as predicting how an Alexander Calder mobile would come to rest after you flicked one of its hanging pieces.

It is possible, however, to identify some high probability immediate consequences.

The Iranians would likely look to target Israel as a response to a U.S. strike, using Hezbollah as the primary vehicle for retaliation. For Tehran, there is the added benefit that blaming Israel (even for a U.S. strike) would play well at home, and probably throughout the region.

Moqtada al-Sadr has said publicly that if the United States were to attack Iran, he would target U.S. forces in Iraq.

Iran could channel more individuals and weapons into Iraq. Specifically, Iran could upgrade technology among Shiite militias, with weapons like the laser-guided anti-tank missiles Hezbollah had in Lebanon. We might even see more direct operations like missile attacks against U.S. forces.

Moqtada al-Sadr controls the large Facilities Protection Service forces in Iraq. Some estimates put this force as large as 140,000. Among other missions, they guard the oil pipelines. If Iran wants to cut the flow of oil, Iraq is the best place to begin, and the means are in place to take on the mission. The impact of severing Iraq's oil supplies would be an immediate increase in its own oil revenue.

Iran is not going to wipe Israel from the map or force the United States to leave Iraq with these operations. But in causing these various complications, Iran can still achieve a degree of success. As we recently witnessed in the clash between Hezbollah and Israel, Iran can seem stronger just by virtue of making the United States and Israel seem weaker.

Round Two

Once the nature of the Iranian retaliation becomes apparent, the United States will not likely declare success and walk away from the problem. Clearly, the pressure will be to expand the targets and punish Iran even more. The government of Iran is fragile, the thinking goes; it could even be on the verge of falling; it is time to ''enable'' the Iranian people. The Iranians will react with their own horizontal escalation. (See Table 2, page 16.)

Iran has been sending mixed signals about whether or not it would cut its own oil production or attempt to restrict the flow of oil from the Gulf. A strike of five nights might not push them to cut the flow of oil. But continued operations probably would. Iran does have some flexibility to do without oil revenues for a period because of surpluses from currently high oil prices. In addition, it has plans for rationing refined petroleum products that it must import.

Executing the oil option might not be limited to operations against tankers moving in and out of the Gulf. Iran has the capability, and we have seen some indications of the intent, to attack facilities of other oil providers in the region.

It would be tougher for Iran and Hezbollah to attack UN forces in Lebanon. If the UN forces were to become too aggressive in response to Hezbollah attacks against Israel, they would most likely become targets. In addition, at some point in the expanding conflict, Iran might see a value to making the war about attempts at Western domination of the region and not just about the United States and Israel. In that case, a focused attack on something like the Italian headquarters would resonate in the region.

It took a while for the nations of the region to react to the Israeli attack into Lebanon. That most likely would be the case in the event of a U.S. strike against Iran. As attacks continued and as the television coverage intensified, however, we could see something similar to the reactions to the Danish cartoons. We could see the ''Arab Street'' asserting itself.

Syria and Iran signed a defense agreement on June 15. Under this agreement Syrian forces would be brought into a fight if Iran were attacked. Syrian President Bashar Assad might be a reluctant participant, but as the conflict expands, he might not have a choice.

The Iranians could conduct targeted killing outside the region. They have used this tactic in the past: in 1991, Shapour Bakhtiar, the Shah's last prime minister, was decapitated in his apartment in Paris.

Continued air strikes and demonstrations could have a compounding effect. Weak governments in the Muslim world could be threatened. The governments of Pakistan, Jordan, Bahrain, and Saudi Arabia are vulnerable.

TABLE 2. CONSEQUENCES OF AN ATTACK

	Type of Operation	
	Short strike	Regime change
Hezbollah attacks on Israel	High probability	High probability.
Attacks on U.S. forces in Iraq	High probability	High probability.
Sabotage pipelines in Iraq	High probability	High probability.
Street demonstrations on a wide scale.	Possible	High probability.
Hezbollah attacks outside the region.	Possible	High probability.
Iran stopping its own oil exports	Possible	High probability.
Iran blocking Gulf oil flow	High probability	High probability.
Iran attacking other regional oil facilities.	Possible	Possible.
Iran suicide attacks	Not likely	Possible.
Syria involved	Not likely	Possible.
Threats to regional governments	Not likely	Possible.

As an obvious consequence of the instability resulting from a U.S. strike, the price of oil almost certainly will spike. The impact will depend on how high and how long. The longer the conflict goes, the higher the price. A former Kuwaiti oil minister privately suggested a plateau of $125 per barrel. Confidential analysis by a major European bank suggests it would level off at $130, and a very conservative estimate would be over $200.

With prices surging to this level, third order consequences become apparent. The most obvious would be a global, synchronized recession, intensified by the existing U.S. trade and fiscal imbalances. Another political consequence would be that oil exporting countries outside the region would enjoy significant surges 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 should note that in the preceding discussion of the cycle of action and reaction, I have not mentioned large U.S. ground unit formations. That is because I do not believe we will come to a point where that option will make sense to policymakers. This is the one 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 attractive to the administration from the beginning.

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 attack is that the military preparations will not be the determining factor. This operation will not resemble the six months of

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 Turkey for basing permission. It will not be a major CNN event.

Instead, preparations will involve the quiet deployment of Air Force tankers to staging bases. We will see additional Navy assets moved to the region. The more significant indications will come from strategic influence efforts to establish domestic political support. The round of 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's existence. We can expect the number of administration references to Iran to significantly increase, and will see three themes—the nuclear program, terrorism, and the threat to Israel's existence.

The issue of congressional approval plays into the timing question. Administration officials have been asked numerous times if the president would require authorization by Congress for a strike on Iran. Secretary Rice responded to that question before the Senate Foreign Relations Committee in October 2005 by saying, ''I will not say anything that constrains his authority as Command in Chief.'' Congressmen Peter DeFazio and Maurice Hinchey offered an amendment to the Defense Appropriations Bill in June that would have required the president to get authorization from Congress before taking military action against Iran. The amendment failed.

Over the past few months, we have seen numerous leaks and administration documents that raise an Iran-al Qaeda connection. In addition, the House Permanent Select Committee report on the threat of Iran implied an al Qaeda connection. This linkage of Iran and al Qaeda fits neatly into the broader effort to sell a strike to the American people. But more importantly, it opens the way for an argument that a strike on Iran was part of the global war on terrorism already authorized by Congress.

In other words, approval by Congress does not necessarily have to be part of the calculation of when an attack could take place. If the determining factor of timing is neither the preparation of military forces nor congressional approval, one question remains: How much public support do decisionmakers believe they need before pulling the trigger? And that question brings us back to the beginning of the summer of diplomacy. Vice President Cheney had to be convinced that it was necessary to give some lip service to diplomacy, checking that box in order to secure public support. President Bush seems to be convinced of the rightness of his cause and vision. He repeats often that he does not care about public opinion.

The window for a strike on Iran stands open.

Finally

Policymakers who begin with the seven ''truths'' of the situation can easily proceed down a path that leaves the military option as the only one on the table. There is a certain inevitability to this path, a certain inexorability to the momentum toward war. The policymakers will say that the Iranians have forced us to go in this direction. But the painful irony is that these policymakers are forcing the direction on themselves.

At the end of the path that the administration seems to have chosen, will the issues with Iran be resolved? No. Will the region be better off? No. Is it clear Iran will abandon its nuclear program? No. On the other hand, can Iran defeat the United States militarily? No.

Will the United States force a regime change in Iran? In all probability it will not. Will the economy of the United States suffer? 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 the process. After all the effort, I am left with two simple sentences for policymakers. ''You have no military solution for the issues of Iran. You have to make diplomacy work.'' I have not changed my mind. That conclusion made sense then. It still makes sense today.

Mr. LANTOS. Mr. Speaker, I am delighted to yield 1–1/3 minutes to my dear friend and distinguished colleague on 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 Iranian regime means 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 overstate the danger Iran represents. Unchecked Iranian nuclear proliferation, combined with increasing support for international terrorism, poses a grave 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.

Incomprehensibly, 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 I believe is as dangerous to the world community in 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.)

□ 1330

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?'' We should make an attempt to see 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 do not like the current regime. I 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 aid to those groups that we expect 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 private and commercial purposes.

For these three reasons we obviously should reconsider and not use this confrontational approach. Why not try diplomacy? Oppose this resolution.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 1⅓ 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.

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 Halliburton is protected; the American people are not.

This bill extends the Iran-Libya Sanctions Act, which was so effective,

along with other measures, in getting Khadaffi 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 we are supposed to sanction oil companies 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 got 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 before they go home, 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 like Iran and Iraq. But global 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 en mass right now. It is the Republican Iraq 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 here on the floor. You watch how quick it makes it into the 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 entrench and bolster those who are wrong.

The press release won't protect anybody. But, in fact, the Iranian dissidents don't want 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 on this bipartisan bill, the essence of which has been extensively debated on the floor several times and in committees, as well.

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 a nuclear weapon. 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 listening 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 to come forward and talk of this nature is absolutely counterproductive. 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 spilling their blood and that blood is being spilt 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 friend from Oregon for yielding me this time and providing it to us in the context of this debate.

This proposed legislation is contrary to the best interest of Iran and the United States. It is, unfortunately, reminiscent of the State of the Union address which declared Iran, Iraq, and North Korea as part of the Axis of Evil; and we are now very familiar with the consequences of that statement. We have seen a disastrous situation develop in Iraq, and we have also seen the revival of nuclear interest both in North Korea and in Iran.

The attitude of our country toward Iran now for more than 50 years has been overly aggressive and overbearing, and the consequences of it have been very dangerous. We should be acting in a much more mature and responsible way, particularly toward this country. This is a very significant country, not only in the Middle East but in the world generally. The people of this country are good, sound, solid, reasonable people, and we need to be appealing to them on that basis, not on the basis of the language of this resolution, which continues to create this atmosphere of hostility which is, as I have indicated, has been going on now for more than 50 years.

That needs to change. We need to change our attitude, change our approach to this nation. We need to engage them more objectively, more seriously, and in a much more filial way, a much more friendlier way. And if we were to do that, we would find that this country would react and respond to us in a similar fashion.

Unfortunately, this proposed legislation does exactly the opposite. It places us, continues to place us in a difficult and dangerous, antagonistic circumstance between ourselves and this country, and unnecessarily so. So this legislation is contrary to our interests, just as it is contrary to the interests of Iran, and so it should be rejected by this body.

Mr. LANTOS. Mr. Speaker, I am pleased to yield the balance of our time to the distinguished member of the International Relations Committee, Mr. ENGEL, 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 West, that is hostile towards Israel. You have a president of that country who has said every foul thing imaginable, denies the Holocaust, says he wants to wipe Israel off the face of the map, and says that Americans are his sworn enemy.

This bill makes sense. This bill extends the current law and sanctions and provides important additional authorities to fight that threat. It is the carrot and the stick. We are having democracy building in this bill. We are being able to try to reach the Iranian 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.

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 that 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.

□ 1345

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 dealing with Iran will follow this example.

We can pound 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 through.

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 the fact is that 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 mutual self-interest, not antagonism, and we ought to move in the direction of realism 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. I had hoped it would come back to our committee because I think these issues are worthy of further discussion, and there is more fine-tuning we could do.

For instance, dealing with the provisions for terms 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 engage them directly, diplomatically and not under the auspices of this bill, which I hope that the House will reject.

Ms. ROS-LEHTINEN. Mr. Speaker, as recently as last month, Iran blatantly 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 nonproliferation 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 Iran at this time. He says, ''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 that we will have demonstrated to the world that for those similarly inclined, there is no serious impediment.''

This bill will help contain the Iranian threat and will send a clear message that we will not tolerate flagrant violations of international nonproliferation obligations.

Mr. ACKERMAN. Mr. Speaker, I rise in strong support of H.R. 6198, legislation to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran. As an original cosponsor of the legislation I am pleased that the House is considering it today.

The threat from Iran is plain. The Iranian mullahs have lied to the international community about their nuclear program for years. 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, shiploads of weapons, advanced military training and substantial political cover to Hizballah, Hamas and other radical, violent Islamist groups in the Middle East. Their most senior officials continue to make pronouncements that call into question their attachment to reality. Supreme Leader Khamenei has confirmed that Iran would share its nuclear technology with other states. President Ahmadinejad has made a hobby out of Holocaust denial and at every opportunity violates the most fundamental tenet of international law by calling 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 unappetizing 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 many of the sites that we do know of can't 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 overextended troops in Iraq, and probably against our ally, Israel.

So without a viable military option, we are left with maklng 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 little proficiency.

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 before it will become urgent for anyone else. Only concerted, sustained multilateral 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 effective multilateral 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 for Iran not to have 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 may be 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 the 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 exercise of self-determination'' 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 on investment 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 saving 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 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 nuclear network

This is a man who was basically appointed by the Mullahs in Tehran.

I say this because any reform minded candidate was 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.

Crucial 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 would be counterproductive while these 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.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and pass the bill, H.R. 6198, 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.

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 $20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, inclusion of small, minority, and women-owned business, and 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 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, lack of rigorous departmental contract management, insufficient departmental financial oversight, bundling that limits the

ability of small business to compete, or other high risk business practices.

(c) REPORT BY SECRETARY.—Not later than 30 days after the receipt of each report required under subsection (b), the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the findings of the report by the Inspector General and the steps the Secretary has taken, or plans to take, to address the problems identified in such report.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts that are otherwise authorized to be appropriated to the Office of the Inspector General, an additional amount equal to at least five percent for fiscal year 2007, at least six percent for fiscal year 2008, and at least seven percent for fiscal year 2009 of the overall budget of the Office for each such fiscal year is authorized to be appropriated to the Office to enable the Office to carry out this section.

(e) ACTION BY INSPECTOR GENERAL.—In the event the Inspector General becomes aware of any improper conduct or wrongdoing in accordance with the contract review required under subsection (a), the Inspector General shall, as expeditiously as practicable, refer information related to such improper conduct or wrongdoing to the Secretary of Homeland Security or other appropriate official in the Department of Homeland Security for purposes of evaluating whether to suspend or debar the contractor.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alabama (Mr. ROGERS) and the gentleman from Florida (Mr. MEEK) each will control 20 minutes.

The Chair recognizes the gentleman from Alabama.

GENERAL LEAVE

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

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

There was no objection.

Mr. ROGERS of Alabama. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 6162, the Secure Border Initiative Financial Accountability Act of 2006.

This bipartisan legislation will help to ensure that taxpayer funds dedicated to technologies to secure our Nation's borders are spent efficiently and effectively.

The ranking member of the Committee on Homeland Security, Mr. THOMPSON, and I have worked for almost a year on this important bill.

Last November, I introduced H.R. 4284, the Secure Border Financial Accountability Act of 2005. I was pleased that Chairman KING and Ranking Member THOMPSON were original cosponsors of that bill.

We also worked to include the language in the border security bill which the Committee on Homeland Security marked up on November 11, 2005. At that time, Mr. THOMPSON added a key funding trigger to ensure that the Inspector General had the necessary resources to respond quickly to major disasters.

This language ultimately was included in H.R. 4437, the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005, which passed the House on December 16 of that same year. We again worked in a bipartisan manner to include this provision in H.R. 5814, the Department of Homeland Security Authorization Act for 2007, which the Committee on Homeland Security reported favorably in July of this year.

But, why is this bill so important? The Homeland Security Subcommittee on Management, Integration, and Oversight, which I chair, has held three hearings over the past year and a half on the existing border technology program.

We found the Integrated Surveillance Intelligence System, ISIS, and its remote video surveillance program, was plagued by mismanagement, operational problems and financial waste. On June 16, 2005, our committee heard from the GSA deputy inspector general that electronic surveillance equipment covered only 2 to 4 percent of the border and that over $200 million was paid by the Federal Government for poor, incomplete and never-delivered goods and services.

At our second hearing on December 16, 2005, the Department of Homeland Security Inspector General testified that cameras and sensors were not integrated, oversight of contractor performance was ineffective, numerous poles and cameras were never installed along the border, and millions of program dollars remained unspent at the GSA.

Our third hearing on February 16, 2006, examined the disciplinary actions taken by the Department against employees responsible for these problems at ISIS to ensure that those employees would not be involved in any future border technology contracts.

Last Thursday, Secretary Chertoff announced the contract for the technology component of the Secure Border Initiative, known as SBInet. This is a 6-year, multi-billion dollar contract, and it is designed to establish a virtual fence across 6,000 miles of our borders through a mix of poles, cameras, ground-based radar, aircraft and other aerial platforms.

My subcommittee intends to hold a fourth hearing on November 15 to review the SBInet contract. The purpose of this bill is to prevent the same type of financial mismanagement of ISIS from taking place in SBInet.

Specifically, this bill directs the Inspector General of the Department of Homeland Security to review each contract action related to the Department's Secure Border Initiative that is a contracting amount of $20 million or more. This contract review will determine whether each contract action fully complies with cost requirements, performance objectives, and timelines.

The bill further requires that the Homeland Security Inspector General report to the Secretary of Homeland Security on cost overruns, significant delays in contract execution, lack of rigorous contract management, insufficient financial oversight, and other high-risk business practices.

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 vigorous oversight, the bill includes a provision by Mr. THOMPSON that would authorize additional funds. SBInet will involve numerous large and small Federal contractors to implement the technology required to successfully secure our Nation'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 oversight process in place to ensure SBInet is cost effective.

A ''yes'' vote on this legislation will send a strong message to the contractor and to the Department that Congress intends to ''hold their feet to the fire'' in fulfilling these contract requirements.

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 stemming waste, fraud and abuse in the Department 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 once this amount has been triggered, the Inspector General can immediately review the cost requirement, 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 Inspector General to express its concerns if they find unsatisfactory practices early on.

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

Mr. Speaker, I also want to emphasize that this review would include 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 guess some people would wonder why this kind of oversight is necessary or whether we are being fair. Let me tell you why this kind of oversight is necessary for a project of this size.

First of all, SBInet is expected to cost around $2.5 billion. Under the predecessors to Secure Border, ISIS and American Shield, we have spent over $429 million and protected only 4 percent of the border. That is about $100 million for every 1 percent of the border. It is not an understatement to say that this has not been a cost-effective use of funds.

The Inspector General has found that the Department's failure in these past programs has been due to poor planning, bad equipment purchases, and spotty implementation. We are told once again that this program will solve the problems of our porous border through the use of integrated and coordinated technology and manpower. It seems like I have heard this before, Mr. Speaker.

We have not seen a detailed rendering of the Department's overall strategy. And in fact, this procurement allows the industry to pitch solutions based not on the Department's objectives. As I have said many times, I support the use of technology as a force-multiplier in the effort to secure our borders. However, I also support the effective use of our taxpayers' money. We all want to see this initiative fare better than its failed predecessors, but that will only happen with effective oversight and management of this program.

I commend Mr. ROGERS again and I commend my ranking member, Mr. MEEK, for their support of this legislation. I look forward not only to the passage of this legislation, but I look forward to working with both these gentlemen to make sure that with any other large contracts we provide similar oversight to make sure that the taxpayers' dollars are well spent.

Mr. ROGERS of Alabama. Mr. Speaker, I yield myself such time as I may consume.

I think folks can take from the dialogue here today that this committee, this full committee, and particularly this Management Subcommittee that the gentleman from Florida and I are the ranking member and Chair of, are going to be vigorous in our oversight of these contracts going forward to ensure that we do not have future problems like we saw with ISIS and American Shield.

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

Mr. MEEK of Florida. Mr. Speaker, I would like to yield 5 minutes to the distinguished gentlewoman from the great State of Texas, Ms. SHEILA JACKSON-LEE.

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me thank the distinguished gentlemen, the ranking member and the chairman of the Management Subcommittee on Homeland Security, that deal with these crucial issues.

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 ensure that the Secure Border Initiative that Secretary Chertoff speaks of, that this is a major component of, is in place.

And I just want to thank both gentlemen for your 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 UAVs, 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; 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 do both. 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.

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 opportunity.

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 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.

If that is not one of the larger pieces, everywhere we go, as this Department grows larger and 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 big guys have thrown us out 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 business persons.

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; a comprehensive and systemic upgrading of the technology used in controlling the border, including increased manned aerial assets, expanded use of UAVs, 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 plans to take.

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 review will occur during the pendency 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 their 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. I encourage 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, viable business concerns. As a result, 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 SBInet is expected to be a $2.5 billion procurement and the contracts allocated through SBI will be substantial. For example, last week, DHS awarded a contract valued at $80 million to a team led by Boeing under the SBInet program. Furthermore, the predecessors to SBI—ISIS and American Shield—fell far short of expectations. The Department spent over $429 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's constitutional duty to conduct systematic 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 is very happy because the Inspector General, especially in the Department of Homeland Security, writes these 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 to $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 340E 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 ''12'';

(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 ''; and''; and

(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 ''subsection (b)(1)(A)'' and inserting ''subsection (b)(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 ''; and''; and

(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—

(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 of such 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 beginning on 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 during such residency academic year (except that the first report submitted by the hospital under this subparagraph shall be for such 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 safety of patient care.

''(v) The numbers of residents described in subparagraph (C) who completed their residency training at the end of such residency academic year and care for children within the borders of the service area of the hospital or within the borders of the State in which the hospital is located. Such numbers shall be disaggregated with respect to residents who completed residencies in general pediatrics or internal medicine/pediatrics, subspecialty residencies, and dental residencies.

''(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; or

''(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)(ii)'' and inserting ''applied under section 1886(d)(3)(E) of the Social Security Act for discharges occurring during the preceding fiscal year'';

(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.

GENERAL LEAVE

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 this legislation 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 I 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 this country's health care delivery 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 financial 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.

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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 PRYCE of Ohio and Chairman NANCY JOHNSON 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 health subcommittee, Mr. SHERROD 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, reauthorizes 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 Federal support for their resident and intern training programs through the Medicare program because of their low volume of Medicare patients.

Full-service teaching hospitals receive funds for graduate medical education through 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 $100 million a year for fiscal years 2007 through 2011, to 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 80 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 PRYCE, 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 requests for time.

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 will reauthorize and strengthen the children's hospital graduate medical education program.

I want to thank Chairman BARTON and Chairman DEAL for their commitment to prioritizing this important measure this year—it's been a great team effort and I appreciate the Committee's support for 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.

RYAN WHITE HIV/AIDS TREATMENT MODERNIZATION ACT OF 2006

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (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, as amended.

The Clerk read as follows:

H.R. 6143

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 ''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; supplemental grants.
Sec. 104. Timeframe for obligation and expenditure of grant funds.
Sec. 105. Use of amounts.
Sec. 106. Additional amendments to part A.
Sec. 107. New program in part A; transitional 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.

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—

''(1) to meet the requirements of subsection (a); and

''(2) 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) as of December 31 of the most recent calendar year for which such data is available.

''(c) BOUNDARIES.—For purposes of determining eligibility under this part—

''(1) with respect to a metropolitan area that received funding under this part in fiscal year 2006, the boundaries of such metropolitan area shall be the boundaries that were in effect for such area for fiscal year 1994; or

''(2) with respect to a metropolitan area that becomes eligible to receive funding under this part in any fiscal year after fiscal year 2006, 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 (c)''; and

(2) by inserting ''and confirmed by'' after ''reported to''.

(c) DEFINITION OF METROPOLITAN AREA.—Section 2607(2) of the Public Health Service Act (42 U.S.C. 300ff-17(2)) is amended—

(1) by striking ''area referred'' and inserting ''area that is referred''; and

(2) by inserting before the period the following: '', and that has a population of 50,000 or more individuals''.

SEC. 102. TYPE AND DISTRIBUTION OF GRANTS; FORMULA GRANTS.

(a) DISTRIBUTION PERCENTAGES.—Section 2603(a)(2) of the Public Health Service Act (42 U.S.C. 300ff-13(a)(2)) is amended—

(1) in the first sentence—

(A) by striking ''50 percent of the amount appropriated under section 2677'' and inserting ''66⅔ 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)''.

(2) by striking the last sentence.

(b) DISTRIBUTION BASED ON LIVING CASES OF HIV/AIDS.—Section 2603(a)(3) of the Public Health Service Act (42 U.S.C. 300ff-13(a)(3)) is amended—

(1) 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

(2) by striking subparagraphs (C) through (E) and inserting the following:

''(C) LIVING CASES OF HIV/AIDS.—

''(i) 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), exempt from the requirement under clause (i) that living names-based non-AIDS cases of HIV be reported unless—

''(I) 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 (viii); or

''(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 (ii) for an eligible area applies only if, by October 1, 2006—

''(I)(aa) the State in which the area is located had 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 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, an exemption under clause (ii) 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 or 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 (referred to in this subparagraph as 'code-based reporting'), the Secretary shall, for purposes of this subparagraph, modify the number of such cases reported for the eligible area in order to adjust for duplicative reporting in and among systems that use code-based reporting.

''(II) ADJUSTMENT RATE.—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 one political jurisdiction and as a result is subject to more than one reporting system for purposes of this subparagraph:

''(I) 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 reporting and code-based reporting apply in the area, the number of code-based cases shall be reduced under clause (vi).

''(viii) LIST OF ELIGIBLE AREAS MEETING STANDARD REGARDING DECEMBER 31, 2005.—

''(I) IN GENERAL.—If an eligible area or 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)(I). No other eligible area or portion thereof may be considered to meet such standard.

''(II) RELEVANT STATES.—For purposes of subclause (I), the States specified in this subclause are the following: Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Indiana, Iowa, Idaho, Kansas, Louisiana, Michigan, Minnesota, Missouri, 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.

''(ix) RULES OF CONSTRUCTION REGARDING ACCEPTANCE OF REPORTS.—

''(I) CASES OF AIDS.—With respect to an eligible area 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 noncompliance, accept reports of living cases of AIDS that are in accordance with such clause.

''(II) APPLICABILITY OF EXEMPTION REQUIREMENTS.—The provisions of clauses (ii) through (viii) 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 2603(a)(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 .—

''(i) 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, then notwithstanding 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 for the area 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 '66⅔ percent' for '50 percent'; and

''(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 and paragraph (4) for the 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).''.

(d) 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 (ii), by striking the period at the end and inserting a semicolon; and

(B) by inserting after and below clause (ii) 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, for each of the 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 fiscal year involved is not 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 '66⅔ percent' for '50 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 section 2609(d)(2)(C) 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 for such compliance, 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 Secretary shall'' 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''; and

(E) by adding at the end the following:

''(H) demonstrates 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 such subsection canceled or covered by any waivers under subsection (c)(3).''; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking ''severe 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 2602(b)(4) or other community input process as defined 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 2602(b)(2)(M).

''(ix) The relevant factors that limit access to health care, including geographic variation, adequacy of health insurance coverage, and language barriers.

''(x) The impact of a decline in the amount received pursuant to subsection (a) on services available to all individuals with HIV/AIDS identified and eligible under this title.''; and

(C) by striking subparagraphs (C) and (D) and inserting the following:

''(C) PRIORITY IN MAKING GRANTS.—The Secretary shall provide funds under this subsection to an eligible area to address the decline in services related to the decline in the amounts received pursuant to subsection (a) consistent with the grant award for the eligible area for fiscal year 2006, to the extent that the factor under subparagraph (B)(x) (relating to a decline in funding) applies to the eligible area.''.

SEC. 104. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.

Section 2603 of the Public Health Service Act (42 U.S.C. 300ff–13) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.—

''(1) OBLIGATION BY END OF GRANT YEAR.—Effective for fiscal year 2007 and subsequent fiscal years, funds from a grant award made pursuant to subsection (a) or (b) for a fiscal year are available for obligation by the eligible area involved through the end of the one-year period beginning on the date in such fiscal year on which funds from the award first become available to the area (referred to in this subsection as the 'grant year for the award'), except as provided in paragraph (3)(A).

''(2) SUPPLEMENTAL GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made pursuant to subsection (b) for an eligible area for a fiscal year has an unobligated balance as of the end of the grant year for the award—

''(A) the Secretary shall cancel that unobligated balance of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area; and

''(B) the 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 subparagraph (A) 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.

''(3) FORMULA GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD; WAIVER PERMITTING CARRYOVER.—

''(A) IN GENERAL.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made pursuant to subsection (a) for 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 unobligated balance of the award, 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 to the Secretary 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.

''(B) EXPENDITURE BY 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.

''(C) USE OF CANCELLED 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.

''(D) CORRESPONDING REDUCTION IN FUTURE GRANT.—

''(i) 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 funds for grants pursuant to subsection (b) for such first fiscal year, subject to subsection (a)(4) and section 2610(d)(2);

except that this clause does not apply to the eligible area if the amount of the unobligated balance was 2 percent or less.

''(ii) 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 paragraph (2), 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)(C), by the HIV health 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 to provide direct financial assistance to entities described in paragraph (2) for the purpose of providing core medical services and support services.

''(2) 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 for an eligible area for a grant year, the chief elected official of the 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).

''(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) 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 the chief elected official of an eligible area that a grant under section 2601 is being made for the area for a grant year, the Secretary shall inform the official whether a waiver under subparagraph (A) is in effect for such year.

''(3) CORE MEDICAL SERVICES.—For purposes of this subsection, 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 in accordance with 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 adherence services.

''(d) SUPPORT SERVICES.—

''(1) IN GENERAL.—For purposes of this section, the term 'support services' means services, subject to 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) MEDICAL OUTCOMES.—In this subsection, the term 'medical outcomes' means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

''(e) EARLY INTERVENTION SERVICES.—

''(1) IN GENERAL.—For purposes of this section, the term 'early intervention services' means HIV/AIDS early intervention services described in section 2651(e), with follow-up referral provided for the purpose of facilitating the access of individuals receiving the services to HIV-related health services. The entities through which such services may be provided under the grant include public health departments, emergency rooms, substance abuse and mental health treatment programs, detoxification centers, detention facilities, clinics regarding sexually transmitted diseases, homeless shelters, HIV/AIDS counseling and testing sites, health care points of entry specified by eligible areas, federally qualified health centers, and entities described in section 2652(a) that constitute a point of access to services by maintaining referral relationships.

''(2) CONDITIONS.—With respect to an entity that proposes to provide early intervention services under paragraph (1), such paragraph shall apply only if the entity demonstrates to the satisfaction of the chief elected official for the eligible area involved that—

''(A) Federal, State, or local funds are otherwise inadequate for the early intervention services the entity proposes to provide; and

''(B) the entity will expend funds pursuant to such paragraph to supplement and not supplant other funds available to the entity for the provision of early intervention services for the fiscal year involved.

''(f) PRIORITY FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.—

''(1) IN GENERAL.—For the purpose of providing health and support services to infants, children, youth, and women with HIV/AIDS, including treatment measures to prevent the perinatal transmission of HIV, the chief elected official of an eligible area, in accordance with the established priorities of the planning council, shall for each of such populations in the eligible area use, from the grants made for the area under section 2601(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.

''(2) WAIVER.—With respect to the population involved, the Secretary may provide to the chief elected official of an eligible

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 the State medicaid program 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 2601(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) meets the criteria for a waiver under such subparagraph 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 eligible area 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.—In the case of entities and subcontractors to which the chief elected official of an eligible area allocates amounts received by the official under a grant under this part, the official 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).

''(3) ADMINISTRATIVE ACTIVITIES.—For purposes of paragraph (1), amounts may be used for administrative activities that include—

''(A) routine grant administration and monitoring activities, including the development of applications for part A funds, the receipt and disbursal of program funds, the development and establishment of reimbursement and accounting systems, the development of a clinical quality management program as described in paragraph (5), the preparation of routine programmatic and financial reports, and compliance with grant conditions and audit requirements; 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 2602(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.

''(4) 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.

''(5) 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 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.

''(B) USE OF FUNDS.—

''(i) 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.

''(ii) 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).

''(i) 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) any building or other facility, or to make cash payments to intended recipients of services.''.

SEC. 106. ADDITIONAL AMENDMENTS TO PART A.

(a) REPORTING OF CASES.—Section 2601(a) 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 2602(b)(2)(G) of the Public Health Service Act (42 U.S.C. 300ff–12(b)(2)(G)) is amended by inserting '', members of a Federally recognized Indian tribe as represented in the population, individuals co-infected with hepatitis B or C'' after ''disease''.

(c) APPLICATION FOR GRANT.—

(1) PAYER OF LAST RESORT.—Section 2605(a)(6)(A) of the Public Health Service Act (42 U.S.C. 300ff–15(a)(6)(A)) is amended by inserting ''(except for a program administered by or providing the services of the Indian Health Service)'' before the semicolon.

(2) AUDITS.—Section 2605(a) 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;

(B) in paragraph (9), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(10) that the chief elected official will submit to the lead State agency under section 2617(b)(4), audits, consistent with Office of Management and Budget circular A133, regarding funds expended in accordance with this part every 2 years and shall include necessary client-based data to compile unmet need calculations and Statewide coordinated statements of need process.''.

(3) COORDINATION.—Section 2605(b) of the Public Health Service Act (42 U.S.C. 300ff–15(b)) is amended—

(A) in paragraph (3), by striking ''and'' at the end;

(B) in paragraph (4), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

''(5) the manner in which the expected expenditures are related to the planning process for States that receive funding under part B (including the planning process described in section 2617(b)); and

''(6) the expected expenditures and how those expenditures will improve overall client outcomes, as described under the State plan under section 2617(b), and through additional outcomes measures as identified by the HIV health services planning council under section 2602(b).''.

SEC. 107. NEW PROGRAM IN PART A; TRANSITIONAL GRANTS FOR CERTAIN AREAS INELIGIBLE UNDER SECTION 2601.

(a) IN GENERAL.—Part A of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–11) is amended—

(1) by inserting after the part heading the following:

''Subpart I—General Grant Provisions''; and

(2) by adding at the end the following:

''Subpart II—Transitional Grants

''SEC. 2609. ESTABLISHMENT OF PROGRAM.

''(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants for the purpose of providing services described in section 2604 in transitional areas, subject to the same provisions regarding the allocation of grant funds as apply under subsection (c) of such section.

''(b) TRANSITIONAL AREAS.—For purposes of this section, the term 'transitional area' means, subject to subsection (c), a metropolitan area for which there has been reported to and confirmed by the Director of the Centers for Disease Control and Prevention a cumulative total of at least 1,000, but fewer than 2,000, cases of AIDS during the most recent period of 5 calendar years for which such data are available.

''(c) CERTAIN ELIGIBILITY RULES.—

''(1) FISCAL YEAR 2007.—With respect to grants under subsection (a) for fiscal year 2007, a metropolitan area that received funding under subpart I for fiscal year 2006 but does not for fiscal year 2007 qualify under such subpart as an eligible area and does not qualify under subsection (b) as a transitional area shall, notwithstanding subsection (b), be considered a transitional area.

''(2) CONTINUED STATUS AS TRANSITIONAL AREA.—

''(A) IN GENERAL.—Notwithstanding subsection (b), a metropolitan area that is a transitional area for a fiscal year continues, except as provided in subparagraph (B), to be a transitional area until the metropolitan area fails, for three consecutive fiscal years—

''(i) to qualify under such subsection as a transitional area; and

''(ii) to have a cumulative total of 1,500 or more living cases of AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) as of December 31 of the most recent calendar year for which such data is available.

''(B) EXCEPTION REGARDING STATUS AS ELIGIBLE AREA.—Subparagraph (A) does not

apply for a fiscal year if the metropolitan area involved qualifies under subpart I 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 (a) for a transitional area to the same extent and in the same manner as such provisions apply with respect to a grant under subpart I for an eligible area, except that, subject to 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 documentation to the Secretary that details 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; TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.—

''(A) FORMULA GRANTS; SUPPLEMENTAL GRANTS.—The provisions 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)(2)(C) (relating to priority in making grants).

''(iii) Pursuant to section 2603(b)(1), amounts for the single program are subject to use under sections 2603(a)(4) and 2610(d)(1).

''(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 A of title XXVI 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 subpart''.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS FOR PART A.

Part A of title XXVI of the Public Health Service Act, as 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 $604,000,000 for fiscal year 2007, $626,300,000 for fiscal year 2008, $649,500,000 for fiscal year 2009, $673,600,000 for fiscal year 2010, and $698,500,000 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) $458,310,000 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 subpart I for a fiscal year, but for a subsequent fiscal year ceases to be an eligible area by reason of section 2601(b)—

''(A)(i) the amount reserved under paragraph (1)(A) or (2)(A) of subsection (b) of this section for the first such subsequent 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; and

''(ii)(I) if the metropolitan area qualifies for such first subsequent fiscal year as a transitional area under 2609, the amount reserved under paragraph (1)(B) or (2)(B) of subsection (b) for such fiscal year is deemed to be increased by an amount equal to the amount of the reduction under subparagraph (A) for such year; or

''(II) if the metropolitan area does not qualify for such first subsequent fiscal year as a transitional area under 2609, an amount equal to the amount of such reduction is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2618(a)(1), in addition to amounts available for such grants under section 2623; and

''(B) if a transfer under subparagraph (A)(ii)(II) is made with respect to the metropolitan area for such first subsequent fiscal year, then—

''(i) the amount reserved under paragraph (1)(A) or (2)(A) of subsection (b) of this section for such year is deemed to be reduced by an additional $500,000; and

''(ii) an amount equal to the amount of such additional reduction is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2618(a)(1), 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(c)(2) (and does not qualify for such subsequent fiscal year as an eligible area under subpart I)—

''(A) the amount reserved under subsection (b)(2)(B) of this section for the first such subsequent fiscal year of not being a transitional area is deemed to be reduced by an amount equal to the total of—

''(i) the amount of the grant that, pursuant to section 2603(a), was made under section 2609(d)(2)(A) for the metropolitan area for the preceding fiscal year; and

''(ii) $500,000; and

''(B) an amount equal to the amount of the reduction under subparagraph (A) for such year is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2618(a)(1), in addition to amounts available for such grants under section 2623.

''(3) If a metropolitan area is a transitional area under section 2609 for a fiscal year, but for a subsequent fiscal year qualifies as an eligible area under subpart I—

''(A) the amount reserved under subsection (b)(2)(B) of this section for the first such subsequent fiscal year of becoming an eligible area is deemed to be reduced by an amount equal to the amount of the grant that, pursuant to section 2603(a), was made under section 2609(d)(2)(A) for the metropolitan area for the preceding fiscal year; and

''(B) the amount reserved under subsection (b)(2)(A) for such fiscal year is deemed to be increased by an amount equal to the amount of the reduction under subparagraph (A) for such year.

''(d) CERTAIN TRANSFERS; ALLOCATIONS BETWEEN PROGRAMS UNDER SUBPART I.—With respect to paragraphs (1)(B)(i) and (2)(A)(ii) of subsection (c), the Secretary shall administer any reductions under such paragraphs for a fiscal year in accordance with the following:

''(1) The reductions shall be made from amounts available for the single program referred to in section 2609(d)(2)(C) (relating to supplemental grants).

''(2) The reductions shall be made before the amounts referred to in paragraph (1) are used for purposes of section 2603(a)(4).

''(3) 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.

''(e) 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 a transitional area under section 2609 for a fiscal year and then for a subsequent fiscal year becomes an eligible area under subpart I, rather than applying to a single such series.''.

TITLE II—CARE GRANTS

SEC. 201. GENERAL USE OF GRANTS.

(a) IN GENERAL.—Section 2612 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.—A State may use amounts provided under grants made under section 2611 for—

''(1) core medical services described in subsection (b);

''(2) support services described in subsection (c); and

''(3) administrative expenses described in section 2618(b)(3).

''(b) REQUIRED FUNDING FOR CORE MEDICAL SERVICES.—

''(1) IN GENERAL.—With respect to a grant under section 2611 for a State for a grant year, the State shall, of the portion of the grant remaining after reserving amounts for purposes of subparagraphs (A) and (E)(ii)(I) of section 2618(b)(3), use not less than 75 percent to provide core medical services that are needed in the State for individuals with HIV/AIDS who are identified and eligible under this title (including services 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—

''(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 a State that 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.

''(3) CORE MEDICAL SERVICES.—For purposes of this subsection, the term 'core medical services', with respect to an individual infected 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 in accordance with section 2616.

''(C) AIDS pharmaceutical assistance.

''(D) Oral health care.

''(E) Early intervention services described in subsection (d).

''(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 adherence services.

''(c) SUPPORT SERVICES.—

''(1) IN GENERAL.—For purposes of this subsection, the term 'support services' means services, subject to 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 subsection, the term 'medical outcomes' means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

''(d) EARLY INTERVENTION SERVICES.—

''(1) IN GENERAL.—For purposes of this section, the term 'early intervention services' means HIV/AIDS early intervention services described in section 2651(e), with follow-up referral provided for the purpose of facilitating the access of individuals receiving the services to HIV-related health services. The entities through which such services may be provided under the grant include public health departments, emergency rooms, substance abuse and mental health treatment programs, detoxification centers, detention facilities, clinics regarding sexually transmitted diseases, homeless shelters, HIV/AIDS counseling and testing sites, health care points of entry specified by States, federally qualified health centers, and entities described in section 2652(a) that constitute a point of access to services by maintaining referral relationships.

''(2) CONDITIONS.—With respect to an entity that proposes to provide early intervention services under paragraph (1), such paragraph shall apply only if the entity demonstrates to the satisfaction of the chief elected official for the State involved that—

''(A) Federal, State, or local funds are otherwise inadequate for the early intervention services the entity proposes to provide; and

''(B) the entity will expend funds pursuant to such subparagraph to supplement and not supplant other funds available to the entity for the provision of early intervention services for the fiscal year involved.

''(e) PRIORITY FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.—

''(1) IN GENERAL.—For the purpose of providing health and support services to infants, children, youth, and women 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 2601(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.

''(2) WAIVER.—With respect to the population involved, the Secretary may provide to a State a waiver of the requirement of paragraph (1) if such State demonstrates to the satisfaction of the Secretary that the population is receiving HIV-related health services through the State medicaid program 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.

''(f) CONSTRUCTION.—A State may not use amounts received under a grant awarded under section 2611 to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.''.

(b) HIV CARE CONSORTIA.—Section 2613 of the Public Health Service Act (42 U.S.C. 300ff–23) is amended—

(1) in subsection (a), in the matter preceding paragraph (1)—

(A) by striking ''may use'' and inserting ''may, subject to subsection (f), use''; and

(B) by striking ''section 2612(a)(1)'' and inserting ''section 2612(a)''; and

(2) by adding at the end the following subsection:

''(f) ALLOCATION OF FUNDS; TREATMENT AS SUPPORT SERVICES.—For purposes of the requirement of section 2612(b)(1), expenditures of grants under section 2611 for or through consortia under this section are deemed to be support services, not core medical services. The preceding sentence may not be construed as having any legal effect on the provisions of subsection (a) that relate to authorized expenditures of the grant.''.

(c) TECHNICAL AMENDMENTS.—Part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–21 et seq.) is amended—

(1) in section 2611—

(A) in subsection (a), by striking the subsection designation and heading; and

(B) by striking subsection (b);

(2) in section 2614—

(A) in subsection (a), in the matter preceding paragraph (1), by striking ''section 2612(a)(2)'' and inserting ''section 2612(b)(3)(J)''; and

(B) in subsection (c)(2)(B), by striking ''homemaker or'';

(3) in section 2615(a) by striking ''section 2612(a)(3)'' and inserting ''section 2612(b)(3)(F)''; and

(4) in section 2616(a) by striking ''section 2612(a)(5)'' and inserting ''section 2612(b)(3)(B)''.

SEC. 202. AIDS DRUG ASSISTANCE PROGRAM.

(a) REQUIREMENT OF MINIMUM DRUG LIST.—Section 2616 of the Public Health Service Act (42 U.S.C. 300ff–26) is amended—

(1) in subsection (c), by striking paragraph (1) and inserting the following:

''(1) ensure that the therapeutics included on the list of classes of core antiretroviral therapeutics established by the Secretary under subsection (e) are, at a minimum, the treatments provided by the State pursuant to this section;'';

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following:

''(e) LIST OF CLASSES OF CORE ANTIRETROVIRAL THERAPEUTICS.—For purposes of subsection (c)(1), the Secretary shall develop and maintain a list of classes of core antiretroviral therapeutics, which list shall be based on the therapeutics included in the guidelines of the Secretary known as the Clinical Practice 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.''.

(b) DRUG REBATE PROGRAM.—Section 2616 of the Public Health Service Act, as amended by subsection (a)(2) of this section, is amended by adding at the end the following:

''(g) DRUG REBATE PROGRAM.—A State shall ensure that any drug rebates received on drugs purchased from funds provided pursuant to this section are applied to activities supported under this subpart, with priority given to activities described under this section.''.

SEC. 203. DISTRIBUTION OF FUNDS.

(a) DISTRIBUTION BASED ON LIVING CASES OF HIV/AIDS.—

(1) STATE DISTRIBUTION FACTOR.—Section 2618(a)(2) of the Public Health Service Act (42 U.S.C. 300ff–28(a)(2)) is amended—

(A) in subparagraph (B), by striking ''estimated number of living cases of acquired immune deficiency syndrome in the eligible area involved'' and inserting ''number of living cases of HIV/AIDS in the State involved''; and

(B) by amending subparagraph (D) to read as follows:

''(D) LIVING CASES OF HIV/AIDS.—

''(i) REQUIREMENT OF NAMES-BASED REPORTING.—Except as provided in clause (ii), the number determined under this subparagraph for a State for a fiscal year for purposes of subparagraph (B) is the number of living names-based cases of HIV/AIDS in the State 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, a State is, subject to clauses (iii) through (v), exempt from the requirement under clause (i) that living non-AIDS names-based cases of HIV be reported unless—

''(I) 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, subject to clause (vii); or

''(II) no later than the beginning of fiscal year 2008, 2009, or 2010, the Secretary, after consultation with the chief executive of the State, 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 (ii) for a State applies only if, by October 1, 2006—

''(I)(aa) the State had 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 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, an exemption under clause (ii) for a State applies only if, as of April 1, 2008, the State is substantially in compliance with the agreement under clause (iii)(II).

''(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 State 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 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 number of such cases reported for the State in order to adjust for duplicative 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) RELEVANT STATES.—For purposes of subclause (I), the States specified in this subclause are the following: Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Indiana, Iowa, Idaho, Kansas, Louisiana, Michigan, Minnesota, Missouri, 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.

''(viii) RULES OF CONSTRUCTION REGARDING ACCEPTANCE OF REPORTS.—

''(I) CASES 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 noncompliance, accept reports of living cases of AIDS that are in accordance with such clause.

''(II) APPLICABILITY OF EXEMPTION REQUIREMENTS.—The provisions of clauses (ii) through (vii) 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.

''(ix) 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.''.

(2) NON-EMA DISTRIBUTION FACTOR.—Section 2618(a)(2)(C) of the Public Health Service Act (42 U.S.C. 300ff–28(a)(2)(C)) is amended—

(A) in clause (i), 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:

''(ii) 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 subpart I of part A for the fiscal year involved, which individual number for an area is the number that applies under section 2601 for the area for such fiscal year; and

''(II) the total number of such cases that are within areas in such State that are transitional areas under section 2609 for such fiscal year, which individual number for an area is the number that applies under such section for the fiscal year.''.

(b) FORMULA AMENDMENTS GENERALLY.—Section 2618(a)(2) of the Public Health Service Act (42 U.S.C. 300ff–28(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by striking ''The amount referred to'' in the matter preceding clause (i) and all that follows through the end of clause (i) and inserting the following: ''For purposes of paragraph (1), the amount referred to in this paragraph for a State (including a territory) for a fiscal year is, subject to subparagraphs (E) and (F)—

''(i) an amount equal to the amount made available under section 2623 for the fiscal year involved for grants pursuant to paragraph (1), subject to subparagraph (G); and''; and

(B) in clause (ii)—

(i) in subclause (I)—

(I) by striking ''.80'' and inserting ''0.75''; and

(II) by striking ''and'' at the end;

(ii) in subclause (II)—

(I) by inserting ''non-EMA'' after ''respective''; and

(II) by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(III) if the State does not for such fiscal year contain any area that is an eligible area under subpart I of part A or any area that is a transitional area under section 2609 (referred to in this subclause as a 'no-EMA State'), the product of 0.05 and the ratio of the number of cases that applies for the State under subparagraph (D) to the sum of the respective numbers of cases that so apply for all no-EMA States.'';

(2) by striking subparagraphs (E) through (H);

(3) by inserting after subparagraph (D) the following subparagraphs:

''(E) CODE-BASED STATES; LIMITATION ON INCREASE IN GRANT.—

''(i) IN GENERAL.—For each of the fiscal years 2007 through 2010, if code-based reporting (within the meaning of subparagraph (D)(vi)) applies in a State as of the beginning of the fiscal year involved, then notwithstanding any other provision of this paragraph, the amount of the grant pursuant to paragraph (1) for the State may not for the fiscal year involved exceed by more than 5 percent the amount of the grant pursuant to this paragraph for the State for the preceding fiscal year, except that the limitation under this clause may not result in a grant pursuant to paragraph (1) for a fiscal year that is less than the minimum amount that applies to the State under such paragraph for such 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 section 2620, subject to subparagraph (H).

''(F) SEVERITY OF NEED.—

''(i) FISCAL YEARS BEGINNING WITH 2011.—If, by January 1, 2010, the Secretary notifies the appropriate committees of Congress that the Secretary has developed a severity of need index in accordance with clause (v), the provisions of subparagraphs (A) through (E) shall not apply for fiscal year 2011 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.

''(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 provisions 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 HIV/AIDS cases in the State, providing different weights to those cases based on their needs.

''(v) REQUIREMENTS FOR SECRETARIAL NOTIFICATION.—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 the Ryan White HIV/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

appropriate committees of Congress a report—

''(I) that updates progress toward having client level data;

''(II) that updates the progress toward having a severity of need index, including information related to the methodology and process for obtaining community input; and

''(III) that, as applicable, states whether the Secretary could develop a severity of need index before fiscal year 2010.''; and

(4) by redesignating subparagraph (I) as subparagraph (G).

(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—

(1) in clause (i)—

(A) in the matter preceding subclause (I), by striking ''section 2677'' and inserting ''section 2623'';

(B) in subclause (II), by striking the period at the end and inserting a semicolon; and

(C) by adding after and below subclause (II) the following:

''which product shall then, as applicable, be increased under subparagraph (H).'';

(2) in clause (ii)—

(A) by striking subclauses (I) through (III) and inserting the following:

''(I) IN GENERAL.—From amounts made available under subclause (V), the Secretary shall award supplemental grants to States described in subclause (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 subclause (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 2616(a), and an unanticipated increase of eligible individuals with HIV/AIDS.

''(III) STATE REQUIREMENTS.—The Secretary may not make a grant to a State under this clause unless the State agrees that the State will make available (directly or through donations of public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to $1 for each $4 of Federal funds provided in the grant, except that the Secretary may waive this subclause if the State has otherwise fully complied with section 2617(d) with respect to the grant year involved. The provisions of this subclause shall apply to States that are not required to comply with such section 2617(d).''.

(B) in subclause (IV), by moving the subclause two ems to the left;

(C) in subclause (V), by striking ''3 percent'' and inserting ''5 percent''; and

(D) by striking subclause (VI); and

(3) by adding at the end the following clause:

''(iii) CODE-BASED STATES; LIMITATION ON INCREASE IN FORMULA GRANT.—The limitation under subparagraph (E)(i) applies to grants pursuant to clause (i) of this subparagraph to the same extent and in the same manner as such limitation applies to grants pursuant to paragraph (1), except that the reference to minimum grants does not apply for purposes of this clause. Amounts available as a result of the limitation under the preceding sentence shall be made available by the Secretary as additional amounts for grants under clause (ii) of this subparagraph.''.

(d) HOLD HARMLESS.—Section 2618(a)(2) of the Public Health Service Act (42 U.S.C. 300ff–28(a)(2)), as amended by subsection (b)(4) of this section, is amended by adding at the end the following subparagraph:

''(H) INCREASE IN FORMULA GRANTS.—

''(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 for a State of the 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, except that any increase under this clause—

''(I) may not result in a grant pursuant to paragraph (1) that is more than 95 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 95 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 the amount reserved under section 2623(b)(2) for a fiscal year, and from amounts available for such section pursuant to subsection (d) of this section, the Secretary shall make available such amounts as may be necessary to comply with clause (i).

''(II) PRO RATA REDUCTION.—If the amounts referred to in subclause (I) for a fiscal year are insufficient to fully comply with clause (i) for the year, the Secretary, in order to provide the additional funds necessary for such compliance, shall reduce on a pro rata basis the amount of each grant pursuant to paragraph (1) for the fiscal year, other than grants for States for which increases under clause (i) apply and other than States described in paragraph (1)(A)(i)(I). A reduction under the preceding sentence may not be made in an amount that would result in the State involved becoming eligible for such an increase.

''(iv) APPLICABILITY.—This paragraph may not be construed as having any applicability after fiscal year 2009.''.

(e) ADMINISTRATIVE EXPENSES; CLINICAL QUALITY MANAGEMENT.—Section 2618(b) of the Public Health Service Act (42 U.S.C. 300ff–28(b)) is amended—

(1) by redesignating paragraphs (2) through (7) as paragraphs (1) through (6);

(2) in paragraph (2) (as so redesignated)—

(A) by striking ''paragraph (5)'' and inserting ''paragraph (4)''; and

(B) by striking ''paragraph (6)'' and inserting ''paragraph (5)'';

(3) in paragraph (3) (as so redesignated)—

(A) by amending subparagraph (A) to read as follows:

''(A) IN GENERAL.—Subject to paragraph (4,) and except as provided in paragraph (5), a State may not use more than 10 percent of amounts received under a grant awarded under section 2611 for administration.'';

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively;

(C) by inserting after subparagraph (A) the following:

''(B) ALLOCATIONS.—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 inserting before the period the following: '', including a clinical quality management program under subparagraph (E)''; and

(E) by adding at the end the following:

''(E) 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 Public Health Service 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.—

''(I) IN GENERAL.—From amounts received under a grant awarded under section 2611 for a fiscal year, a State may use for activities associated with the clinical quality management program required in clause (i) not to exceed the lesser of—

''(aa) 5 percent of amounts received under the grant; or

''(bb) $3,000,000.

''(II) 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 (2) and (3)''; and

(5) in paragraph (5) (as so redesignated), by striking ''paragraphs (3)'' and all that follows through ''(5),'' and inserting the following: ''paragraphs (2) and (3), may, notwithstanding paragraphs (2) through (4),''.

(f) REALLOCATION 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:

''(d) REALLOCATION.—Any portion of a grant made to a State under section 2611 for a fiscal year that has not been obligated as described in subsection (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 such grants under section 2623(b)(2).''.

(g) DEFINITIONS; OTHER TECHNICAL AMENDMENTS.—Section 2618(a) of the Public Health Service Act (42 U.S.C. 300ff–28(a)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by striking ''section 2677'' and inserting ''section 2623'';

(2) in paragraph (1)(A)—

(A) in the matter preceding clause (i), by striking ''each of the several States and the District of Columbia'' and inserting ''each of the 50 States, the District of Columbia, Guam, and the Virgin Islands (referred to in this paragraph as a 'covered State')''; and

(B) in clause (i)—

(i) in subclause (I), by striking ''State or District'' and inserting ''covered State''; and

(ii) in subclause (II)—

(I) by striking ''State or District'' and inserting ''covered State''; and

(II) by inserting ''and'' after the semicolon; and

(3) in paragraph (1)(B), by striking ''each territory of the United States, as defined in paragraph (3),'' and inserting ''each territory other than Guam and the Virgin Islands'';

(4) in paragraph (2)(C)(i), by striking ''or territory''; and

(5) by striking paragraph (3).

SEC. 204. ADDITIONAL AMENDMENTS TO SUBPART I OF PART B.

(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 by striking ''this part'' each place such term appears and inserting ''section 2611''.

(b) HEPATITIS.—Section 2614(a)(3) of the Public Health Service Act (42 U.S.C. 300ff–24(a)(3)) is amended by inserting '', including specialty care and vaccinations for hepatitis co-infection,'' after ''health services''.

(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), respectively;

(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 programs under this title;

''(E) every 2 years, collect and submit to the Secretary all audits, consistent with Office of Management and Budget circular A133, from grantees within the State, including audits regarding funds expended in accordance 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)—

(i) in subparagraph (E), by striking ''and'' at the end; and

(ii) by inserting after subparagraph (F) the following:

''(G) includes key outcomes to be measured by all entities in the State receiving assistance under this title; and''; and

(D) in paragraph (7) (as so redesignated), in subparagraph (A)—

(i) by striking ''paragraph (5)'' and inserting ''paragraph (6)''; and

(ii) by striking ''paragraph (4)'' and inserting ''paragraph (5)''.

(2) NATIVE AMERICAN REPRESENTATION.—Section 2617(b)(6) of the Public Health Service Act, as redesignated by paragraph (1)(A) of this subsection, is amended by inserting before ''representatives of grantees'' the following: ''members of a Federally recognized Indian tribe as represented in the State,''.

(3) PAYER OF LAST RESORT.—Section 2617(b)(7)(F)(ii) of the Public Health Service Act, as redesignated by paragraph (1)(A) of this subsection, is amended by inserting before the semicolon the following: ''(except for a program administered by or providing the services of the Indian Health Service)''.

(d) MATCHING FUNDS; APPLICABILITY OF REQUIREMENT.—Section 2617(d)(3) of the Public Health Service Act (42 U.S.C. 300ff–27(d)(3)) is amended—

(1) in subparagraph (A), by striking ''acquired immune deficiency syndrome'' and inserting ''HIV/AIDS''; and

(2) in subparagraph (C), by striking ''acquired immune deficiency syndrome'' and inserting ''HIV/AIDS''.

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 following:

''SEC. 2620. SUPPLEMENTAL GRANTS.

''(a) IN GENERAL.—For the purpose of providing services described in section 2612(a), the Secretary shall make grants to States—

''(1) whose applications under section 2617 have demonstrated the need in the State, on an objective and quantified basis, for supplemental financial assistance to provide such services; and

''(2) that did not, for the most recent grant year pursuant to section 2618(a)(1) or 2618(a)(2)(G)(i) for which data is available, have more than 2 percent of grant funds under such sections canceled or covered by any waivers under section 2622(c).

''(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 include 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-related services, including relative rates of increase 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, including co-occurring conditions, determined relevant by the Secretary.

''(7) The prevalence of homelessness.

''(8) The prevalence of individuals described under section 2602(b)(2)(M).

''(9) The relevant factors that limit access to health care, including geographic variation, adequacy of health insurance coverage, and language barriers.

''(10) 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 section to a State to address the decline in services related to the decline in the amounts received pursuant to section 2618 consistent with the grant award to the State for fiscal year 2006, to the extent that the factor under subsection (b)(10) (relating to a decline in funding) applies to the State.

''(d) CORE MEDICAL SERVICES.—The provisions 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 section applies beginning with the first fiscal year for which amounts are made available for such grants under section 2623(b)(1).''.

SEC. 206. EMERGING COMMUNITIES.

Section 2621 of the Public Health Service Act, as redesignated by section 205(1) of this Act, is amended—

(1) in the heading for the section, by striking ''**SUPPLEMENTAL GRANTS**'' and inserting ''**EMERGING COMMUNITIES**'';

(2) in subsection (b)—

(A) in paragraph (2), by striking ''and'' at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

''(3) agree that the grant will be used to provide funds directly to emerging communities in the State, separately from other funds under this title that are provided by the State to such communities; and''.

(3) by striking subsections (d) and (e) and inserting the following:

''(d) DEFINITIONS OF EMERGING COMMUNITY.—For purposes of this section, the term 'emerging community' means a metropolitan area (as defined in section 2607) for which there has been reported to and confirmed by the Director of the Centers for Disease Control and Prevention a cumulative total of at least 500, but fewer than 1,000, cases of AIDS during the most recent period of 5 calendar years for which such data are available.

''(e) CONTINUED STATUS AS EMERGING COMMUNITY.—Notwithstanding any other provision of this section, a metropolitan area that is an emerging community for a fiscal year continues to be an emerging community until the metropolitan area fails, for three consecutive fiscal years—

''(1) to meet the requirements of subsection (d); and

''(2) to have a cumulative total of 750 or more living cases of AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) as of December 31 of the most recent calendar year for which such data is available.

''(f) DISTRIBUTION.—The amount of a grant under subsection (a) for a State for a fiscal year shall be an amount equal to the product of—

''(1) the amount available under section 2623(b)(1) for the fiscal year; and

''(2) a percentage equal to the ratio constituted by the number of living 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.''.

SEC. 207. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.

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 205, is further amended by adding at the end the following:

''SEC. 2622. TIMEFRAME FOR OBLIGATION AND EXPENDITURE OF GRANT FUNDS.

''(a) OBLIGATION BY END OF GRANT YEAR.—Effective for fiscal year 2007 and subsequent fiscal years, funds from a grant award made to a State for a fiscal year pursuant to section 2618(a)(1) or 2618(a)(2)(G), or under section 2620 or 2621, are available for obligation by the State through the end of the one-year period beginning on the date in such fiscal year on which funds from the award first become available to the State (referred to in this section as the 'grant year for the award'), except as provided in subsection (c)(1).

''(b) SUPPLEMENTAL GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made to a State for a fiscal year pursuant to section 2618(a)(2)(G)(ii), or under section 2620 or 2621, has an unobligated balance as of the end of the grant year for the award—

''(1) the Secretary shall cancel that unobligated balance of the award, and shall require the State to return any amounts from such balance that have been disbursed to the State; and

''(2) the funds involved shall be made available by the Secretary as additional amounts for grants pursuant to 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 paragraph (1) to be canceled, except that the availability of the funds for such grants is subject to section 2618(a)(2)(H) as applied for such year.

''(c) FORMULA GRANTS; CANCELLATION OF UNOBLIGATED BALANCE OF GRANT AWARD; WAIVER PERMITTING CARRYOVER.—

''(1) IN GENERAL.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made to a State for a fiscal year pursuant to section 2618(a)(1) or 2618(a)(2)(G)(i) has an unobligated balance as of the end of the grant year for the award, the Secretary shall cancel that unobligated balance of 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 a waiver of the cancellation, 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)(B), the grant funds involved shall be made 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 canceled, except that the availability of the funds for such grants 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 under such section 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 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 was 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 applying section 2618(a)(2)(H) with respect to the State for the subsequent fiscal year.

''(d) TREATMENT OF DRUG REBATES.—For purposes of this section, funds that are drug rebates referred to in section 2616(g) may not be considered part of any grant award referred to in subsection (a).''.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS FOR SUBPART I 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, $1,285,200,000 for fiscal year 2009, $1,332,600,000 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 for obligation by the Secretary 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 ⅓ 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 except that 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 2677(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 2625 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 subsection (b), the Secretary, acting through the Centers for Disease Control and Prevention, shall make grants to such States for the purposes described in subsection (c).

''(b) DESCRIPTION OF COMPLIANT STATES.—For purposes of subsection (a), the laws or regulations of a State are in accordance with this subsection if, under such laws or regulations (including programs carried out pursuant to the discretion of State officials), both of the policies described in paragraph (1) are in effect, or both of the policies 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.

The Secretary shall periodically ensure that the applicable policies are being carried out and recertify compliance.

''(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) APPLICATION.—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 State laws regarding HIV/AIDS counseling and testing.

''(g) DEFINITIONS.—In this section:

''(1) The term 'voluntary opt-out testing' means HIV/AIDS testing—

''(A) that is administered to an individual seeking other health care services; and

''(B) in which—

''(i) pre-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

''(ii) for those individuals with a positive test result, post-test counseling (including referrals for care) is provided and confidentiality is protected.

''(2) The term 'universal testing of newborns' means HIV/AIDS testing that is administered within 48 hours of delivery to—

''(A) all infants born in the State; or

''(B) all infants born in the State whose mother's HIV/AIDS status is unknown at the time of delivery.

''(h) AUTHORIZATION OF APPROPRIATIONS.—Of the funds appropriated annually to the Centers for Disease Control and Prevention for HIV/AIDS prevention activities, $30,000,000 shall be made available 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 with the policies described in subsection (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.''.

SEC. 210. CERTAIN PARTNER NOTIFICATION PROGRAMS; AUTHORIZATION OF APPROPRIATIONS.

Section 2631(d) of the Public Health Service Act (42 U.S.C. 300ff–38(d)) 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.''.

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 public and nonprofit private 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 only for—

''(A) core medical services described in subsection (c);

''(B) support services described in subsection (d); and

''(C) administrative expenses as described in section 2664(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) through (E) of subsection (e)(1) for individuals with HIV/AIDS.

''(c) REQUIRED FUNDING FOR CORE MEDICAL SERVICES.—

''(1) 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 in the area involved for individuals with HIV/AIDS who are identified and eligible under this title (including services regarding the co-occurring conditions of the individuals).

''(2) WAIVER.—

''(A) The Secretary shall waive the application of paragraph (1) with respect to an applicant for a grant 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 subsection, 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 adherence services.

''(d) SUPPORT SERVICES.—

''(1) IN GENERAL.—For purposes of this section, the term 'support services' means services, subject to 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) referrals described in paragraph (2);

''(D) other clinical and diagnostic services regarding HIV/AIDS, and periodic medical evaluations of individuals with HIV/AIDS; and

''(E) providing the therapeutic measures described in subparagraph (B).

''(2) REFERRALS.—The services 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;

''(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 2671, 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 applicant for 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 agreement, such a grantee 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 private for-profit 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 2652(a)(1) shall use not less than 50 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 or at sites where other primary care services are rendered; and

''(ii) subparagraphs (B) and (C) of section 2652(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(g) of the Public Health Service Act (42 U.S.C. 300ff–64(g)) is amended—

(1) in paragraph (3), by amending the paragraph to read as follows:

''(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 2652(a) of the Public Health Service Act (42 U.S.C. 300ff–52(a)) is amended to read as follows:

''(a) ELIGIBLE ENTITIES.—

''(1) IN GENERAL.—The entities referred to in section 2651(a) are public entities and nonprofit private entities that are—

''(A) federally-qualified health centers under section 1905(l)(2)(B) of the Social Security Act;

''(B) grantees under section 1001 (regarding family planning) other than States;

''(C) comprehensive hemophilia diagnostic and treatment centers;

''(D) rural health clinics;

''(E) health facilities operated by or pursuant to a contract with the Indian Health Service;

''(F) 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

''(G) nonprofit private entities that provide comprehensive primary care services to populations at risk of HIV/AIDS, including faith-based and community-based organizations.

''(2) UNDERSERVED POPULATIONS.—Entities described in paragraph (1) shall serve underserved populations which may include minority populations and Native American populations, ex-offenders, individuals with comorbidities including hepatitis B or C, mental illness, or substance abuse, low-income populations, inner city populations, and rural populations.''.

(b) PREFERENCES IN MAKING GRANTS.—Section 2653 of the Public Health Service Act (42 U.S.C. 300ff–53) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A), by striking ''acquired immune deficiency syndrome'' and inserting ''HIV/AIDS''; and

(B) in subparagraph (D), by inserting before the semicolon the following: ''and the number of cases of individuals co-infected with HIV/AIDS and hepatitis B or C''; and

(2) in subsection (d)(2), by striking ''special consideration'' and inserting ''preference''.

(c) PLANNING AND DEVELOPMENT GRANTS.—Section 2654(c) of the Public Health Service Act (42 U.S.C. 300ff–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 communities'' and inserting ''areas or to underserved populations''.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

Section 2655 of the Public Health Service Act (42 U.S.C. 300ff–55) is amended by striking ''such sums'' and all that follows through ''2005'' and inserting '', $218,600,000 for fiscal year 2007, $226,700,000 for fiscal year 2008, $235,100,000 for fiscal year 2009, $243,800,000 for fiscal year 2010, and $252,800,000 for fiscal year 2011''.

SEC. 304. CONFIDENTIALITY AND INFORMED CONSENT.

Section 2661 of the Public Health Service Act (42 U.S.C. 300ff–61) is amended to read as follows:

''SEC. 2661. CONFIDENTIALITY AND INFORMED CONSENT.

''(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 the 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. 300ff–62) is amended to read as follows:

''SEC. 2662. PROVISION OF CERTAIN COUNSELING SERVICES.

''(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, the applicant 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 hepatitis treatments.

''(b) COUNSELING OF 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 to 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; and

''(C) the significance of the results of such testing, including the potential for developing AIDS, hepatitis B, or hepatitis C;

''(2) reviewing the appropriateness of further counseling, testing, and education of the individual regarding HIV/AIDS and other sexually transmitted diseases; and

''(3) providing counseling—

''(A) on the availability, through the applicant, of early intervention services;

''(B) on the availability in the geographic area of appropriate health care, mental health care, and social and support services, including providing referrals for such services, as appropriate;

''(C)(i) that explains 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 the manner in which such disclosures 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);

''(4) 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

''(5) 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 individuals.

''(d) COUNSELING OF EMERGENCY RESPONSE EMPLOYEES.—The Secretary may not make a grant under this part to a State unless the State agrees that, in counseling individuals 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 grantee or the individual determining that such testing of the individual is not appropriate.''.

SEC. 306. GENERAL PROVISIONS.

(a) APPLICABILITY OF CERTAIN REQUIREMENTS.—Section 2663 of the Public Health Service Act (42 U.S.C. 300ff–63) is amended by striking ''will, without'' and all that follows through ''be carried'' and inserting ''with funds appropriated through this Act will be carried''.

(b) ADDITIONAL REQUIRED AGREEMENTS.—Section 2664(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;

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

(C) by adding at the end the following:

''(C) 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 2602) 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 how those expenditures 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:

''(3) the applicant agrees to provide additional documentation to the Secretary regarding the process used to obtain community input into the design and implementation of activities related to such grant; and

''(4) the applicant agrees to submit, every 2 years, to the lead State agency under section 2617(b)(4) audits, consistent with Office of Management and Budget circular A133, regarding funds expended in accordance with 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 2664(f)(1)(A) of the Public Health Service Act (42 U.S.C. 300ff–64(f)(1)(A)) is amended by inserting ''(except for a program administered by or providing the services of the Indian Health Service)'' before the semicolon.

TITLE IV—WOMEN, INFANTS, CHILDREN, AND YOUTH

SEC. 401. WOMEN, INFANTS, CHILDREN, AND YOUTH.

Part D of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–71 et seq.) is amended to read as follows:

''PART D—WOMEN, INFANTS, CHILDREN, AND YOUTH

''SEC. 2671. GRANTS FOR COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.

''(a) 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 by or 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 contracts) for women, infants, children, and youth with HIV/AIDS.

''(b) 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; and

''(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.

''(4) The provision of information and education on opportunities to participate in HIV/AIDS-related clinical research.

''(c) COORDINATION WITH OTHER ENTITIES.—A grant awarded under subsection (a) may be made only if the applicant provides an agreement that includes 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 (where it has been initiated 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 funds expended in accordance with this title and shall include necessary client-level data to complete unmet need calculations and Statewide coordinated statements of need process.

''(d) 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, assurances, and information as the Secretary determines to be necessary to carry out this section. 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 outlined in section 2602) 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 those expenditures will improve overall patient outcomes, as outlined as part of the State plan (under section 2617(b)) or through additional outcome measures.

''(e) 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 by the entity. The purpose of such review shall be the development of recommendations, as appropriate, for improvements in the following:

''(A) Procedures used by the entity to allocate opportunities and services under subsection (a) among patients of the entity who are women, infants, children, or youth.

''(B) Other procedures or policies 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).

''(f) 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 Public Health Service 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.—From the amounts appropriated 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 related to any 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.

''(3) 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).

''(i) AUTHORIZATION OF APPROPRIATIONS.—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, concerning the funding 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 the administrative expenses, indirect costs, and services, as defined in section 2671(h) of such title, to family members of women, infants, children, and youth infected with HIV/AIDS;

(3) how funds are used to provide family-centered care involving outpatient or ambulatory care authorized under section 2671(a) of such title;

(4) how funds are used to provide additional services authorized under section 2671(b) of such title; and

(5) how funds are used to help identify HIV-positive pregnant 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. 300ff–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 2693) to enhance the continuity of care and prevention services 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 this section, including a description of Federal barriers to HIV program integration and a strategy for eliminating such barriers and enhancing the continuity 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 receipt of funds under this title, a State shall provide assurances to the Secretary that health support 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 is enhanced.

''(d) INTEGRATION BY LOCAL OR PRIVATE ENTITIES.—As a condition of receipt of funds under this title, a local government 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 is enhanced.

''SEC. 2682. AUDITS.

''(a) IN GENERAL.—For fiscal year 2009, and each subsequent fiscal year, the Secretary may reduce the amounts of grants under this title to a State or political subdivision 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 representative samples of such audits, prepare summaries of the selected audits, and submit the summaries to the Congress.

''(b) POSTING ON THE INTERNET.—All audits that the Secretary receives from the State lead agency under section 2617(b)(4) 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 shall have the authority to 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 2603(b) and 2620.

''SEC. 2684. PROHIBITION ON PROMOTION OF CERTAIN ACTIVITIES.

''None of the funds appropriated under this title shall be used to fund AIDS programs, or to develop materials, designed to promote or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual. Funds authorized under this title may be used to provide medical 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 264(c) of the Health Insurance Portability and Accountability Act of 1996.

''SEC. 2686. GAO REPORT.

''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 barriers to HIV program integration, particularly for racial and ethnic minorities, including activities carried out under subpart III of part F, and recommendations for enhancing 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 with such funds 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.—The term 'AIDS' means acquired immune deficiency syndrome.

''(2) CO-OCCURRING CONDITIONS.—The term 'co-occurring conditions' means one or more adverse health conditions in an individual with HIV/AIDS, without regard to whether the individual has AIDS and without regard to whether 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 continuum 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.—

''(A) IN GENERAL.—The term 'HIV/AIDS' means HIV, and includes AIDS and any condition arising from AIDS.

''(B) COUNTING OF CASES.—The term 'living cases of HIV/AIDS', with respect to the counting of cases in a geographic area during a period of time, means the sum of—

''(i) the number of living non-AIDS cases of HIV in the area; and

''(ii) the number of living cases of AIDS in the area.

''(C) NON-AIDS CASES.—The term 'non-AIDS', with respect to a case of HIV, means that the individual involved has HIV but does not have 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' means the poverty line established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

''(10) PERSON.—The term 'person' includes one or more individuals, governments (including the Federal Government and the governments of the States), governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, receivers, trustees, and trustees in cases under title 11, United States Code.

''(11) STATE.—

''(A) IN GENERAL.—The term 'State' means each of the 50 States, the District of Columbia, and each of the territories.

''(B) TERRITORIES.—The term 'territory' means each of American Samoa, Guam, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

''(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.

''(a) IN GENERAL.—Of the amount appropriated under each of parts A, B, C, and D for each fiscal year, the Secretary shall use the greater of $20,000,000 or an amount equal to 3 percent of such amount appropriated under each such part, but not to exceed $25,000,000, to administer special projects of national significance to—

''(1) quickly respond to emerging needs of individuals receiving assistance under this title; and

''(2) to fund special programs to develop a standard electronic client information data system to improve the ability of grantees under this title to report client-level data to the Secretary.

''(b) GRANTS.—The Secretary shall award grants under subsection (a) to entities eligible for funding under parts A, B, C, and D based on—

''(1) whether the funding will promote obtaining client level data as it relates to the creation of a severity of need index under section 2618(a)(2)(E), including funds to facilitate the purchase and enhance the utilization of qualified health information technology systems;

''(2) demonstrated ability to create and maintain a qualified health information technology system;

''(3) the potential replicability of the proposed activity in other similar localities or nationally;

''(4) the demonstrated reliability of the proposed qualified health information technology system across a variety of providers, geographic regions, and clients; and

''(5) the demonstrated ability to maintain a safe and secure qualified health information system; or

''(6) newly emerging needs of individuals receiving assistance under this title.

''(c) COORDINATION.—The Secretary may not make a grant under this section unless the applicant submits evidence that the proposed program is consistent with the statewide coordinated statement of need, and the applicant agrees to participate in the ongoing revision process of such statement of need.

''(d) PRIVACY PROTECTION.—The Secretary may not make a grant under this section for the development of a qualified health information technology system unless the applicant provides assurances to the Secretary that the system will, at a minimum, comply with the privacy regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

''(e) REPLICATION.—The Secretary shall make information concerning successful models or programs developed under this part available to grantees under this title for the purpose of coordination, replication, and integration. To facilitate efforts under this subsection, the Secretary may provide for peer-based technical assistance for grantees funded under this part.''.

SEC. 602. AIDS EDUCATION AND TRAINING CENTERS.

(a) AMENDMENTS REGARDING SCHOOLS AND CENTERS.—Section 2692(a)(2) of the Public Health Service Act (42 U.S.C. 300ff–111(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by inserting ''and Native Americans'' after ''minority individuals''; and

(B) by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) train or result in the training of health professionals and allied health professionals to provide treatment for hepatitis B or C co-infected individuals.''.

(b) AUTHORIZATIONS OF APPROPRIATIONS FOR SCHOOLS, CENTERS, AND DENTAL PROGRAMS.—Section 2692(c) of the Public Health Service Act (42 U.S.C. 300ff–111(c)) is amended to read as follows:

''(c) AUTHORIZATION OF APPROPRIATIONS.—

''(1) SCHOOLS; CENTERS.—For the purpose of awarding grants under subsection (a), there is authorized to be appropriated $34,700,000 for each of the fiscal years 2007 through 2011.

''(2) DENTAL SCHOOLS.—For the purpose of awarding grants under subsection (b), there is authorized to be appropriated $13,000,000 for each of the fiscal years 2007 through 2011.''.

SEC. 603. CODIFICATION OF MINORITY AIDS INITIATIVE.

Part F of title XXVI of the Public Health Service Act (42 U.S.C. 300ff–101 et seq.) is amended by adding at the end the following:

"Subpart III—Minority AIDS Initiative

"SEC. 2693. MINORITY AIDS INITIATIVE.

''(a) IN GENERAL.—For the purpose of carrying out activities under this section to evaluate and address the disproportionate impact of HIV/AIDS on, and the disparities in access, treatment, care, and outcomes for, racial and ethnic minorities (including African Americans, Alaska Natives, Latinos, American Indians, Asian Americans, Native Hawaiians, and Pacific Islanders), there are authorized to be appropriated $131,200,000 for fiscal year 2007, $135,100,000 for fiscal year 2008, $139,100,000 for fiscal year 2009, $143,200,000 for fiscal year 2010, and $147,500,000 for fiscal year 2011.

''(b) CERTAIN ACTIVITIES.—

''(1) IN GENERAL.—In carrying out the purpose described in subsection (a), the Secretary shall provide for—

''(A) emergency assistance under part A;

''(B) care grants under part B;

''(C) early intervention services under part C;

''(D) services through projects for HIV-related care under part D; and

''(E) activities through education and training centers under section 2692.

''(2) ALLOCATIONS AMONG ACTIVITIES.—Activities under paragraph (1) shall be carried out by the Secretary in accordance with the following:

''(A) For competitive, supplemental grants to improve HIV-related health outcomes to reduce existing racial and ethnic health disparities, the Secretary shall, of the amount appropriated under subsection (a) for a fiscal year, reserve the following, as applicable:

''(i) For fiscal year 2007, $43,800,000.

''(ii) For fiscal year 2008, $45,400,000.

''(iii) For fiscal year 2009, $47,100,000.

''(iv) For fiscal year 2010, $48,800,000.

''(v) For fiscal year 2011, $50,700,000.

''(B) For competitive grants used for supplemental support education and outreach services to increase the number of eligible racial and ethnic minorities who have access to treatment through the program under section 2616 for therapeutics, the Secretary shall, of the amount appropriated for a fiscal year under subsection (a), reserve the following, as applicable:

''(i) For fiscal year 2007, $7,000,000.

''(ii) For fiscal year 2008, $7,300,000.

''(iii) For fiscal year 2009, $7,500,000.

''(iv) For fiscal year 2010, $7,800,000.

''(v) For fiscal year 2011, $8,100,000.

''(C) For planning grants, capacity-building grants, and services grants to health care providers who have a history of providing culturally and linguistically appropriate care and services to racial and ethnic minorities, the Secretary shall, of the amount appropriated for a fiscal year under subsection (a), reserve the following, as applicable:

''(i) For fiscal year 2007, $53,400,000.

''(ii) For fiscal year 2008, $55,400,000.

''(iii) For fiscal year 2009, $57,400,000.

''(iv) For fiscal year 2010, $59,500,000.

''(v) For fiscal year 2011, $61,800,000.

''(D) For eliminating racial and ethnic disparities in the delivery of comprehensive, culturally and linguistically appropriate care services for HIV disease for women, infants, children, and youth, the Secretary shall, of the amount appropriated under subsection (a), reserve $18,500,000 for each of the fiscal years 2007 through 2011.

''(E) For increasing the training capacity of centers to expand the number of health care professionals with treatment expertise and knowledge about the most appropriate standards of HIV disease-related treatments and medical care for racial and ethnic minority adults, adolescents, and children with HIV disease, the Secretary shall, of the amount appropriated under subsection (a), reserve $8,500,000 for each of the fiscal years 2007 through 2011.

''(c) CONSISTENCY WITH PRIOR PROGRAM.—With respect to the purpose described in subsection (a), the Secretary shall carry out this section consistent with the activities carried out under this title by the Secretary pursuant to the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002 (Public Law 107–116).''.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. HEPATITIS; USE OF FUNDS.

Section 2667 of the Public Health Service Act (42 U.S.C. 300ff–67) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(4) shall provide information on the transmission and prevention of hepatitis A, B, and C, including education about the availability of hepatitis A and B vaccines and assisting patients in identifying vaccination sites.''.

SEC. 702. CERTAIN REFERENCES.

Title XXVI of the Public Health Service Act (42 U.S.C. 300ff et seq.) is amended—

(1) by striking ''acquired immune deficiency syndrome'' each place such term appears, other than in section 2687(1) (as added by section 501 of this Act), and inserting ''AIDS'';

(2) by striking ''such syndrome'' and inserting ''AIDS''; and

(3) by striking ''HIV disease'' each place such term appears and inserting ''HIV/AIDS''.

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.

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this legislation 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 I may consume.

Mr. Speaker, I rise today in strong support of H.R. 6143, 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 nonmedical services. Those include services not covered for Medicare or Medicaid beneficiaries, including buddy and companion services, dog walking, therapeutic touching, and housing assistance.

Dog walking? Therapeutic touching? Is this what the Federal Government really wants to pay for? The Ryan White CARE Act program is designed to provide needed medical services to people suffering from HIV/AIDS. If we do not pass this bill, the status quo will remain.

The AIDS Drug Assistance Program, ADAP, provides needed life-saving therapies to those suffering from HIV/AIDS. These are crucial medications that extend and prolong life.

Next year, funds to supplement States' ADAP spending will be used for hold-harmless payments based on an old, inaccurate case count. Patients will not receive needed drug therapies if the status quo remains. Currently, there is a 50 percent difference in funding for AIDS cases for 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 AIDS/HIV.

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 pediatric AIDS cases, and fifth in overall 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 vicious system of winners and losers. 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 4 minutes to the gentlewoman from California (Mrs. BONO), 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.

□ 1430

In bringing together systems of care from across the Nation, significant compromises have been made, and I assure you that they have been made in the interest of providing care to the individuals who need it the most. Every attempt has been made to ensure that funds are directed to areas of greatest need and are balanced by provisions that limit the loss of funds for jurisdictions.

I believe that none of us want to reduce funding for HIV services in any jurisdictions, but I ask you to consider carefully the existing disparities in funding and services, to bear in mind our solemn duty to serve people with HIV regardless of where they live and to support the effort of the Modernization Act to address those disparities.

In California's 45th district, I have had the opportunity to work closely with an exceptional provider of this care, the Desert AIDS Project. It has been my privilege to see firsthand what caring and dedicated people do with the funds and framework that have been provided in the Ryan White CARE Act. Their input throughout this process has been invaluable to me, and their work has been and continues to be inspiring. I would like to express my personal thanks to the great people of the Desert AIDS Project.

I would also like to express my deep appreciation to Chairman BARTON, Chairman DEAL and Ranking Member DINGELL for bringing this bill to the floor today.

This reauthorization has been the product of bipartisan and bicameral efforts. I would like 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 Christrup 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 serve their constituencies and all citizens 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.

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 put 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 does not treat fairly States which must now begin to implement a whole new system for finding and reporting persons with HIV.

The bill favors States and cities that collected HIV data by name over those that collected it by code; and, as a result, many areas of the country will see drastic losses of funding. This is unfair.

Large and diverse code-based States, like California, would have to start from scratch, converting their approximately 40,000 code-based cases of HIV to names, and under California law, these cases cannot simply be retallied under a new names-based system. The State would have to contact 40,000 individuals. I do not think California will be able to get all of those individuals entered into the names-based system in 3 years.

So I cannot support legislation that would take critical dollars away from California simply because its data system is incomplete. We will have the same number of persons with HIV needing services. They should not lose needed services because of an unrealistic data requirement.

I wish I could support this bill. I would support it if this problem could be addressed, and I am hopeful that when this bill gets to the Senate and there are further deliberations we can get a better bill. I do not want to see no bill pass, particularly with the threat that we are hearing from the administration that they are going to penalize the code-based States, but I do not want to vote for a bill that I do not think is a good enough bill.

The Ryan White program has had a long history of broad bipartisan support. It did not pit interests of one area of the country against another. It did not ask cities and States to give up critical funds to treat people in their areas. Ultimately, we must find the will to direct the necessary dollars to this problem. The people who continue to suffer from this epidemic deserve no less.

Mr. Speaker, I have to be reluctant and vote ''no'' and hope that we can get a better bill when this legislation passes the House and there are further deliberations with the Senate.

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that I be given control of the time on the majority side.

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

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, may I ask how much time remains?

The SPEAKER pro tempore. The gentleman from Texas (Mr. BARTON) has 14½ minutes remaining, and the gentleman from New Jersey (Mr. PALLONE) has 14 minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

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 reauthorizes and reforms 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 no or 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.

Here 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 reportedly a 50 percent increase 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 care services. What kind of services? 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 no 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 begin to treat 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, 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 about 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 on consent calendar, a bill with 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 limitation.

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 in both the number of 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.

□ 1445

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, 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? They cut 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.

I offered amendments in committee to increase 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 irresponsible 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

here, and it is shameful that we are pittinstates against each other for scarce funding.

Compounding the funding problem is that a proposed Severity of Need Index, expected to be implemented in this reauthorization, may consider state and local resources in determining how much federal funding to grant to states.

This is not the right message to send to NY that has more HIV/AIDS cases than any other state in the nation and spends more of its state dollars on care for HIV/AIDS patients than any other state in the nation. We have always viewed caring for our HIV/AIDS patients as a partnership between the local, state and federal governments. The Severity of Need Index is a powerful disincentive for states and local areas to take action.

It is with great sadness that I will vote against this bill today. But NY needs to make sure that we can keep helping the nearly 110,000 people living in our state with HIV/AIDS. We need to make sure we can keep providing life saving drugs and healthcare services which are preventing the transmission of HIV, preventing the progression from HIV to AIDS and ultimately keeping people from dying. This bill compromises our ability to do this.

This is why Mayor Bloomberg opposes this bill, this is why Gov. Pataki opposes this bill and this is why I must as well. Our nation deserves better than the underlying bill before us and it is a disgrace that this is all it will get.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the chairman for the time.

Mr. Speaker, this bill seeks to offer services by primary care providers for the uninsured and less fortunate individuals. We have to work together to improve the quality and the availability of care for persons living with HIV/AIDS.

In my congressional district of Miami-Dade County, we had the second highest rate of AIDS, major cases of AIDS of all the cities in 2004. And the number of people suffering with HIV/AIDS has reached epidemic proportions, especially within my district with minority communities. There are over 12,000 people living with AIDS in Miami-Dade County and almost 10,000 living with HIV.

We have got to remain vigilant in our efforts to provide for and protect the HIV infected, affected, and at-risk individuals living in this country, especially through prevention and education; and this bill seeks to do that.

Mr. PALLONE. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. TOWNS).

Mr. TOWNS. Mr. Speaker, I thank the gentleman for yielding. This bill, maybe if we changed the name of it, maybe it might help some folks, because this is called the winner-loser bill. Calling it Ryan White is a misnomer. I think that is a shame, that we would move legislation without the opportunity to amend it and to try to make it better and to be able to deal with the States that are getting hurt.

We act as if we are not talking about human beings. New York State would lose $17 million. And, of course, the Governor of the State has said he is against the bill and the mayor of the city indicated that he is against the bill. And every Member of the New York State delegation, New York City delegation has indicated that they are actually against this legislation.

I don't understand why we have to rush this and put this kind of bill on suspension. It seems to me that this is a bill that we would bring up and give people an opportunity to amend it and make it as strong as possible, because we are talking about lives. So the reauthorization does not have to be brought up this kind of way.

And let us be candid, Brooklyn itself would lose approximately $3 million, and that is the epicenter of the disease. So I don't understand why we can't take our time and provide help for the people that truly need help. Of course I am against this bill in every way, and I am hoping that my colleagues understand that we can do a much better job and that we need to do a much better job. What we have to do now is to defeat it and then let us go back and come up with a bill that is going to improve the quality of life for people that need it. I hope the Members of this body will understand that.

These States that are losing, and there are quite a few of them, I think that we would want to do something and do it right on behalf of the people. So I urge my colleagues to vote ''no'' on this bill.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, I rise in strong support of the Ryan White CARE Act and the great care that it offers for those suffering from HIV/AIDS. But today I reluctantly rise in opposition to this legislation because it contains flawed provisions with harsh and negative effects for New York's Hudson Valley and New York State.

I represent Dutchess County, New York, and the eligible metropolitan area in that county. If this bill is passed, Dutchess County would lose up to 5 percent the first year, and then incrementally more in the second and third year. And by the fourth year, all funds for title I would be eliminated for Dutchess County.

Title I money goes for support and services for people living with HIV/AIDS. The patients benefiting from these services simply will not get their needed medication because the program won't exist. If the funds to Dutchess County disappear, there is absolutely nowhere near where the HIV/AIDS patients would be able to go for support, services, and medication because the entire State is suffering from the cuts for New York that this bill calls for.

This means over 1,600 people in Dutchess County alone will lose out with the passage of the Ryan White CARE Act in its current form. This is unacceptable, and that is why I reluctantly ask that you vote against H.R. 6143 at this time. This legislation should be brought up under regular order so that amendments can be offered.

And while I strongly support the Ryan White Act, the HIV/AIDS problem is a problem that requires resources to fight. While we recognize the need to direct attention to those communities where this is an emerging problem, we must not do so at the cost of the places that need it the most. People in my district and the people of New York need these lifesaving funds. Please don't take away from them. Vote against H.R. 6143.

Mr. PALLONE. 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 continues to be on the rise. Yet you 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 in November do 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 are that 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 there.

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 language services 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 the 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:

''The county understands that absent this legislation the Health Resources and Services Administration will count only HIV cases for States with mature named-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 effectively addresses 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, DC, 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. The Centers for Disease Control and Prevention (CDC) currently does not count California's HIV cases, as it does not consider the State's name-based HIV reporting system to be mature. While hard work lies ahead for California to fully implement its names-based HIV reporting system, we are confident that this provision in the legislation will adequately protect existing systems of care for its residents who live with HIV and AIDS.

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. The proposed CARE Act reauthorization legislation effectively addresses many of the concerns raised by the County's Board of Supervisors in its August 30, 2006 letter to you. To further strengthen this legislation, the County encourages you to support efforts to extend the hold harmless provision for a total of 4 years, and a provision that counts HIV cases in states working toward mature HIV surveillance systems in periods when a hold harmless provision is not in effect.

Thank you for your assistance to the County on this important issue.

Sincerely,

REGINALD N. TODD,
Chief Legislative Representative.

What we have before us, Mr. Speaker, is a classic case of a formula funding fight. Those States and those cities that were the epicenter of the AIDS epidemic 10 to 15 years ago benefit greatly from the current formula. However, the AIDS/HIV epidemic is moving. It is actually, luckily, thankfully, declining in some of the areas where it began; but, unfortunately, it is growing in other areas where it wasn't prevalent 10 or 15 years ago.

The proposed legislation reallocates the funds based on HIV cases and AIDS cases. The old formula only counts AIDS cases. The old formula only counts what is called a named-base case. The new formula would allow for, in addition to named-based cases, also what are called code-based cases, where individuals still have to be counted, but they are not collectively sent to HHS.

Mr. PALLONE. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I thank the gentleman from New Jersey for the time.

Mr. Speaker, I came to this floor really intending to support this bill. But, you know, I am not going to do it. I am not going to support this bill. It is not worth the paper it is written on.

Here we are fighting with each other, people from New York and California and places fighting with people from the South because we have a piece of legislation that is pitting us against each other instead of funding what needs to be funded with HIV and AIDS.

Over 1 million people in the United States have HIV/AIDS. African Americans are only 13 percent of the population, but we account for a half of all the new AIDS cases. African American women represent 71 percent of the new AIDS cases among women, and African American teenagers represent 66 percent of the new AIDS cases among teenagers.

The Congressional Black Caucus has been struggling and working, and I 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 not play 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 support the South. But 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.

Somebody does not care that Americans are dying. Somebody doesn't give a darn 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 $4 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.

□ 1500

Mr. PALLONE. Mr. Speaker, I yield 1½ minutes to my colleague from New Jersey (Mr. PASCRELL).

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 when 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. I 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 don't know where this gentleman is coming from when he says that the problem is less in those five States that I mentioned and increased in other areas. It just is not so. It is not true. Sixty thousand of these dollars will go directly to the two counties that I am involved in, a cut of 40 percent in the funding.

I urge you to vote against this proposed legislation. It will hurt all EMA and the States most affected by the devastating effects of HIV.

Mr. BARTON of Texas. Mr. Speaker, I reserve my time.

Mr. PALLONE. 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 the way to go.

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 bill, why we 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 just isn't 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 other. 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 should go. It 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 on our side of the aisle 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 of the Republican leadership and 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 yield myself the balance of my time.

Mr. Speaker, I will include for the RECORD a list of over 20 organizations that have endorsed the bill, as well as a letter from the AIDS Institute dated September 28, 2006, signed 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. I won't read the entire letter, but I want to read parts of it.

It says, ''Dear Representative: The AIDS Institute,'' and this is a nonpartisan 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 its immediate passage 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 today's 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 more equitably 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 it 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

AbsoluteCare Medical Center.
ADAP Coalition.
AIDS Action Coalition; Huntsville, 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.
Am I My Brother's Keeper, Inc.
Brother 2 Brother.
Carepoint 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.
Rep. Linda Upmeyer (Iowa State Rep, District 12).
South Alabama Cares.

Southern AIDS Coalition.

THE AIDS INSTITUTE,
September 28, 2006.

Re: Vote ''yes'' on Ryan White HIV/AIDS Treatment Modernization Act.

DEAR REPRESENTATIVE: The AIDS Institute urges YOU to vote ''yes'' today on the Ryan White HIV/AIDS Treatment Modernization Act (H.R. 6143). This important bill would reauthorize the Ryan White CARE Act for the next five years. Ryan White CARE Act programs provide lifesaving medical care, drug treatment, and support services to over 535,000 low-income people living with HIV/AIDS throughout the nation. The bill is the result of three long years of work and has been carefully crafted in an unprecedented bi-partisan, bicameral fashion.

While no bill that is crafted through a series of compromises is perfect, The AIDS Institute strongly supports its immediate passage 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 today's epidemic.

The bill prioritizes medical core services, including medications; takes into account HIV case counts, in addition to AIDS cases; and addresses such issues as co-morbidities, unspent funds, accountability, and coordination of services. While at the same time, the existing title structure and the AIDS service infrastructure together with the social service component of AIDS care and treatment remain.

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 this coming year.

This reauthorization process has been long and divisive for all those involved. Unfortunately, it has pitted HIV/AIDS patients from one part of the country against another. Congress has to do what is best for the entire nation; just not one state or region.

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 is extremely disappointed the bill provides absolutely no increase next year for the nation's AIDS Drug Assistance Programs (ADAPs). We hope you will join us in seeking new additional money 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 rise in opposition 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.

Along with my colleagues in the CBC, 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.

I have also tried to do my part to encourage wider testing for HIV, introducing several resolutions on the subject, and just yesterday by getting tested with my colleagues in the CBC.

With my colleagues I have also worked to dramatically scale up U.S. foreign assistance on HIV/AIDS, provide the framework for the creation of the Global Fund, and focus assistance on orphans vulnerable to this disease.

Unfortunately today I must stand against this bill because it significantly cuts HIV/AIDS funding in my district in Alameda County. In its current form, this bill will force the consolidation and closure of AIDS service organizations who are on the front lines in fighting this disease.

I do believe there are some strengths to this bill. In particular the inclusion of the Minority AIDS Initiative—an initiative created through the leadership of my colleague MAXINE WATERS, the CBC, and President Clinton—should be applauded.

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 before an election.

The bill, in its current form, does not adequately address the challenge of 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 in larger metropolitan areas and redistributes those funds to rural and suburban areas faced with an increase in the number of HIV/AIDS patients.

I am very concerned that all of those in need receive the necessary and appropriate treatment whether they live in urban, suburban, or rural communities. I firmly believe that the localities facing this increasing challenge should get the funds they need to care for their citizens. However, that should not come at the cost of taking away from cities like San Francisco, which has the highest per capita prevalence of people living with AIDS, and other cities such as Los Angeles, Chicago or New York. Saving our neighbors and loved ones from this epidemic should not come from a policy of robbing Peter to pay Paul.

The Ryan White Act and all of those afflicted by HIV/AIDS needs our attention and our support for additional funds. Short-changing this program insults its namesake, it insults the millions who have died from AIDS, it insults those who are currently living with it day in and day out, and it insults their families. There are millions of Americans who rely on this program to receive the services they so desperately need to live. I recognize that they are not just from San Francisco or New York, but they are also from Dubuque and Omaha, Charleston and Boise. I do not question the need for services and care. Geography should not determine whether you live or die from AIDS and that is why we should do more than simply shift money around.

Mr. Speaker, I had hoped that we would be able to succeed in passing legislation that would help benefit all the victims of this illness. Instead, a bill may pass today that does not accomplish this goal. Rather it will help some and hurt others, especially I fear in the San Francisco Bay area. 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. NADLER. Mr. Speaker, I rise today in reluctant opposition to H.R. 6143, the Ryan White HIV/AIDS Treatment Modernization Act of 2006. 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 resources 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 HIV cases and 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 complex HIV/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 fact is that the number of people 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 unspeakably 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 out-of-pocket costs for 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. McGOVERN. Mr. Speaker, it's hard to believe, but it's been 25 years since the first 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 has flat funded the CARE Act for a number of years. And unfortunately, the bill that this House is considering today, H.R. 6143, 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 around—robbing Peter to pay Paul—while placing an even greater strain on the program's limited resources. As a result, vital medical and supportive services stand to be severely underfunded without any consideration for the human lives at risk.

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. Since 1990, the Ryan White funding 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 health care 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 caseload 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.

If funding for this Act had simply 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, the impact of the cuts 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 our problem has not gone away. There are more people living with AIDS in the San Francisco's area than at any point in the epidemic's history.

This legislation has far-reaching implications for the stability of HIV/AIDS funding in our State and cities. The programs funded by the Ryan White CARE Act have literally been lifesavers 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 drug and support programs to treat the disease. This cut 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 San Francisco and California need it the most, and allows the Administration to devise and implement a whole new funding formula without Congressional approval.

It is for these reasons, I must 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 distribution 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 by name since 1985, others had yet to implement 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 jurisdictions emerged. Some areas reported HIV by the individual's name along with other identifying information. Others, like California, as a means of protecting the individual's confidentiality, opted not to report the person's name at all, and instead included only a unique code identifying the individual. The 2000 reauthorization 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 was ''sufficiently accurate and reliable,'' jurisdictions were free to report cases by name or by code. Thus, whether an area began collecting HIV by name or by code, they were on equally 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 ''sufficiently accurate and reliable.'' In a letter to all 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 requirement. 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 in 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-tallied under the new names-based system. In order to incorporate these cases into the new system, the State must contact each of these 40,000 individuals, and ask them to come in to a testing site to be re-tested. Some of these individuals are homeless. Some are drug-abusers. Many don't speak English. When personnel and resources are already strained, California will simply not be able to get all of these individuals 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 current names-based HIV count severely undercounts 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 support legislation that would disadvantage my State and city and take large amounts of dollars away simply because the data system is incomplete. The number of persons with HIV and with need for services remains. They should not lose needed services because of an unrealistic data requirement.

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 method which surely varies from jurisdiction to 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 government.

Under the proposed language, the case count used in 2010 and 2011 in making the allocation to San Francisco will be substantially less than the actual number of HIV positive individuals 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 current 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 the hold harmless under the bill comes to an end. By California's estimates, the State stands to lose nearly 25 percent of its total Ryan White Care Act funding during the 5th year of the bill alone. Our State simply cannot sustain these kinds of losses.

In year 5, when 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 preparing to absorb cuts as a result of the eventual loss of the hold harmless, but the more than one-third cut in funding proposed is punitive and will eliminate critical care for thousands of people living with HIV/AIDS.

Finally, I cannot support the bill's inclusion of the so-called ''severity of need index'' (SONI). The bill requires the Secretary to develop a SONI to measure the relative 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 unacceptable. Congress—not the Administration—should be solely responsible for making such a drastic shift in the way funds are distributed under the Act.

Mr. GENE GREEN of Texas. I rise in support of this legislation to reauthorize the Ryan White CARE Act. Initially enacted in 1990, the Ryan White CARE Act provides critical medical treatment to individuals living with HIV and AIDS. The Ryan White program is essentially a payer of last resort and specifically targets uninsured and medically underserved individuals living with HIV and AIDS.

In my community in Harris County, our Hospital District utilizes more than $26 million each year to coordinate essential health care and support services for more than 21,000 individuals 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 important 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 geographically, our funding formulas must change to meet increased need for care in certain areas. Southern States and rural areas are seeing higher numbers of individuals with HIV, for whom treatment is necessary. I wholeheartedly support the use of HIV counts in CARE Act funding formulas to provide these areas with the support they need to develop appropriate systems of care. However, it is important that the funding formula recognize that urban areas—particularly those in New York—continue to be the epicenter of the AIDS epidemic. 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 ideologically. 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 area of this country. Nevertheless, in 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 encourage my colleagues to do the same.

Mr. CROWLEY. Mr. Speaker, I rise in opposition to the Ryan White HIV/AIDS Treatment Modernization Act of 2006.

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. Under the current proposal, 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 add insult to injury, the Republican Congress refuses to give this bill the due diligence it deserves. Instead they are debating this bill under Suspension of the rules, with no opportunity for Members to offer amendments and a short debate schedule.

This is unacceptable for New York, this is unacceptable for New Jersey, this is unacceptable for Florida, and most importantly this is unacceptable for the millions of people who will have to suffer as a result.

I urge my colleagues to vote ''no'' on this legislation. Instead let's continue to negotiate so New York, New Jersey, Florida and other 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 health 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 cost of sending 67 employees from the 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, art classes, and even tickets to 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 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, prohibiting 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 helps 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'' proposed 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 provision after 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 loss 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 gentleman 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.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

FORT McDOWELL INDIAN COMMUNITY WATER RIGHTS SETTLEMENT REVISION ACT OF 2006

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:

(1) FORT MCDOWELL WATER RIGHTS SETTLEMENT ACT.—The term ''Fort McDowell Water Rights Settlement Act'' means the Fort McDowell Indian Community Water Rights Settlement Act of 1990 (Public Law 101–628; 104 Stat. 4480).

(2) NATION.—The term ''Nation'' means the Fort McDowell Yavapai Nation, formerly known as the ''Fort McDowell Indian Community''.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. CANCELLATION OF REPAYMENT OBLIGATION.

(a) CANCELLATION OF OBLIGATION.—The obligation of the Nation to repay the loan made under section 408(e) of the Fort McDowell Water Rights Settlement Act (104 Stat. 4489) is cancelled.

(b) EFFECT OF ACT.—

(1) RIGHTS OF NATION UNDER FORT MCDOWELL WATER RIGHTS SETTLEMENT ACT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this Act alters or affects any right of the Nation under the Fort McDowell Water Rights Settlement Act.

(B) EXCEPTION.—The cancellation of the repayment obligation under subsection (a) shall be considered—

(i) to fulfill all conditions required to achieve the full and final implementation of the Fort McDowell Water Rights Settlement Act; and

(ii) to relieve the Secretary of any responsibility or obligation to obtain mitigation

property or develop additional farm acreage under section 410 the Fort McDowell Water Rights Settlement Act (104 Stat. 4490).

(2) ELIGIBILITY FOR SERVICES AND BENEFITS.—Nothing in this Act alters or affects the eligibility of the Nation or any member of the Nation for any service or benefit provided by the Federal Government to federally recognized Indian tribes or members of such Indian tribes.

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

The Chair recognizes the gentleman from Arizona.

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

Mr. Speaker, S. 2464, or the Fort McDowell Indian Community Water Rights Settlement Revision 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 through the Bureau of Reclamation and will provide a financial savings to both parties involved. The House Resources Committee held a legislative hearing on H.R. 5299 on July 12 of this year, at which time both the tribe and the Bureau of Reclamation expressed their strong support for this bill.

This agreement represents the last step to full implementation of the Fort McDowell Indian Community Water Rights Settlement Act of 1990. The 1990 Act requires 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 adequate 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 the Department's obligation to supply the 227 replacement acres currently estimated at the aforementioned $5.6 million in exchange for the tribe being granted loan forgiveness on a 50-year, no-interest loan extended to the tribe as part of the 1990 Act. The Congressional Budget Office estimates the worth of this 50-year loan at $4 million.

Mr. Speaker, this bill makes sense. It saves the Fort McDowell community money. It saves American taxpayers money. I urge its swift passage.

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

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

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

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 Yavapai community 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 question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the Senate bill, S. 2464.

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.

□ 1515

RECLAMATION WASTEWATER AND GROUNDWATER STUDY AND FACILITIES ACT AMENDMENT

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4545) 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, as amended.

The Clerk read as follows:

H.R. 4545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF LOS ANGELES COUNTY WATER SUPPLY AUGMENTATION DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

"SEC. 16___. LOS ANGELES COUNTY WATER SUPPLY AUGMENTATION DEMONSTRATION PROJECT.

"(a) IN GENERAL.—The Secretary of the Interior, in cooperation with the Los Angeles and San Gabriel Rivers Watershed Council, is authorized to participate in the planning, design, construction, and assessment of a neighborhood demonstration project to—

"(1) demonstrate the potential for infiltration of stormwater runoff to recharge groundwater by retrofitting one or more sites in the Los Angeles area with features designed to reflect state-of-the-art best management practices for water conservation, pollution reduction and treatment, and habitat restoration; and

"(2) through predevelopment and postdevelopment monitoring, assess—

"(A) the potential new water supply yield based on increased infiltration; and

"(B) the value of the new water.

"(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—No Federal funds shall be used for the operation and maintenance of the project described in subsection (a). For purposes of this subsection, pre- and post-development monitoring for not more than 2 years before and after project installation for project assessment purposes shall not be considered operation and maintenance.

"(d) SUNSET OF AUTHORITY.—- The authority of the Secretary to carry out any provisions of this section shall terminate 10 years after the date of the enactment of this section.".

(b) CLERICAL AMENDMENT.—The table of sections in section 2 of Public Law 102–575 is amended by inserting after the item relating to section 16___ the following:

"Sec. 16___. Los Angeles County Water Supply Augmentation Demonstration Project".

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

The Chair recognizes the gentleman from Arizona.

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

H.R. 4545 authorizes the Secretary of the Interior, in cooperation with the Los Angeles and San Gabriel Rivers Watershed Council, to participate in the design, planning, and construction of a water recharge demonstration project in Southern California. To meet the needs of future population growth in this arid region, capturing stormwater runoff and recharging groundwater could substantially increase local water supplies.

I urge my colleagues to support this bill.

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

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

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

Mr. PALLONE. We strongly support H.R. 4545, championed by our colleague from Lakewood, California (Ms. LINDA T. SÁNCHEZ). This authorization will authorize Federal financial assistance for a unique water reuse and conservation project in the Los Angeles area. The project will demonstrate that small-scale neighborhood projects can be built to increase local water supplies and reduce urban water pollution.

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 bill that deserves our support. 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 gentlewoman 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. I am also 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 create it in 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 great 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, being from a water-challenged State the gentlewoman from California spoke of earlier, I would simply like to say I likewise have no additional speakers.

I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. HAYWORTH) that the House suspend the rules and pass the bill, H.R. 4545, 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.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the two bills just considered.

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

There was no objection.

WOODROW WILSON PRESIDENTIAL LIBRARY AUTHORIZATION ACT

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4846) to authorize a grant for contributions toward the establishment of the Woodrow Wilson Presidential Library, as amended.

The Clerk read as follows:

H.R. 4846

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTS FOR ESTABLISHMENT OF THE WOODROW WILSON PRESIDENTIAL LIBRARY.

(a) GRANTS AUTHORIZED.—Subject to subsections (b), (c), and (d), the Archivist of the National Archives and Records Administration may make grants to contribute funds for the establishment in Staunton, Virginia, of a library to preserve and make available materials related to the life of President Woodrow Wilson and to provide interpretive and educational services that communicate the meaning of the life of Woodrow Wilson.

(b) LIMITATION.—A grant may be made under subsection (a) only from funds appropriated to the Archivist specifically for that purpose.

(c) CONDITIONS ON GRANTS.—

(1) MATCHING REQUIREMENT.—A grant under subsection (a) may not be made until such time as the entity selected to receive the grant certifies to the Archivist that funds have been raised from non-Federal sources for use to establish the library in an amount equal to at least double the amount of the grant.

(2) RELATION TO OTHER WOODROW WILSON SITES AND MUSEUMS.—The Archivist shall further condition a grant under subsection (a) on the agreement of the grant recipient to operate the resulting library in cooperation with other Federal and non-Federal historic sites, parks, and museums that represent significant locations or events in the life of Woodrow Wilson. Cooperative efforts to promote and interpret the life of Woodrow Wilson may include the use of cooperative agreements, cross references, cross promotion, and shared exhibits.

(d) PROHIBITION OF CONTRIBUTION OF OPERATING FUNDS.—Grant amounts may not be used for the maintenance or operation of the library.

(e) NON-FEDERAL OPERATION.—The Archivist shall have no involvement in the actual operation of the library, except at the request of the non-Federal entity responsible for the operation of the library.

(f) AUTHORITY THROUGH FISCAL YEAR 2011.—The Archivist may not use the authority provided under subsection (a) after September 30, 2011.

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 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 might consume.

Woodrow Wilson was this Nation's 28th President, and today I rise in support of a bill that honors his life and his legacy.

As both a statesman and a scholar, President Wilson was a champion of democracy and freedom. He was a fierce advocate of using diplomacy as a tool for foreign policy, and when he led America to fight against Germany in World War I, he did so saying, ''The world must be safe for democracy.''

H.R. 4846, as amended, will enable the construction of a Presidential Library and Museum at President Wilson's birthplace in Staunton, Virginia. This facility would provide educational services honoring the ideals and beliefs President Wilson promoted throughout

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 consume.

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 have been 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 created 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 war.

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 quickly 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 twice 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 birth year.

I would also like to thank the Woodrow Wilson Library Foundation for their help in this cause, including Eric Vettel, Don Wilson, 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.

□ 1530

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).

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 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 transferee 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 by 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 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 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 stages.

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 preventions 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, and each September since then the Gynecologic Cancer Foundation has embarked on an intensive education program to reach women with an important message:

First, get to know your family history. Second, conduct a cancer-risk assessment. Third, ask questions, educate yourself about these deadly cancers. Last, make an appointment for an 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. If diagnosed in the early stages, the 5-year survival rates for these cancers are over 95 percent.

Mr. Speaker, this is an important awareness program. We have done a wonderful job throughout the years as Americans in shedding light on other deadly diseases, including breast cancer; but this remains a silent killer.

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.

Mr. 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 make 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, and I urge Members 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 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. 473.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was 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 infant mortality refers to the death of a 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 four 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 infant 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 the Secretary 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 an objective regarding a decrease in the rate of infant mortality;

Whereas September 1, 2007, is the beginning of a period of several 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 Representatives 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

(2) 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, that the rate of infant mortality in the United States be reduced to a rate of not more than 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.

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 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 seven 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

Japan, and newborn mortality is 2½ times higher in the United States than in Finland, Iceland, or Norway. Only Latvia, with six deaths per 1,000 live births, has a higher death rate for newborns than the United States, and Latvia is near the bottom of the list of industrialized nations, tied with Hungary, Malta, Poland, and Slovakia with five deaths per 1,000 births.

□ 1545

Newborn death rates are higher among American minorities and disadvantaged groups. For African Americans, the mortality rate is nearly double that of the United States as a whole, with 9.3 deaths per 1,000 births.

The primary causes of infant mortality 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 oxygen absorption, and high carbon dioxide 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 if infant mortality rates are high, it means 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 effectively across the board with the quality 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. 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 opportunity.

I mentioned just a moment ago that my specialty was gynecology, but there is another part to that, and it is the obstetrical 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 colleague in this House and another OB/GYN, Dr. MIKE BURGESS, Representative 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 industrialized 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 prematurity occurs, low birth weight babies that Representative DAVIS was talking about, and we can do something about that.

So this resolution is very timely, supporting the goals and ideals of Infant Mortality Awareness Month; and I just want to thank the gentleman for letting me put in my 2 cents worth in regard to this very, very important issue.

Mr. WESTMORELAND. Mr. Speaker, I urge all Members to support the adoption of House Resolution 402, as amended.

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 Georgia (Mr. WESTMORELAND) that the House suspend the rules and agree to the resolution, H. Res. 402, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

RECOGNIZING THE 225TH ANNIVERSARY 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) recognizing the 225th anniversary of the American and French victory at Yorktown, Virginia, during the Revolutionary 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 operations against the British army;

Whereas the victory at Yorktown concluded the last major battle of the American Revolution, effectively ending the war and securing for the colonies their independence by providing a military conclusion to the political declaration issued five years earlier;

Whereas Virginia, as the largest and most populous of the original 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 contributions to the struggle to secure liberty and democracy;

Whereas in 1983 the Virginia General Assembly designated the 19th day of October of each year to be recognized and celebrated as Yorktown Day throughout the Commonwealth 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 Representatives 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 Commonwealth of Virginia played in securing their liberty.

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 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.

On October 19, 1781, Mr. Speaker, Lieutenant General Charles Cornwallis and nearly 7,100 British soldiers surrendered to General George Washington in Yorktown, Virginia. This surrender almost 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 American 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 becoming the democracy our forefathers envisioned.

We are most fortunate to live in this Nation, and I urge all Members to join me in supporting this resolution recognizing the 225th anniversary of the American and French Victory at Yorktown.

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, Yorktown was established by Virginia's colonial government in 1691 to regulate trade and to collect taxes on both imports and exports for Great Britain. Over time, the waterfront with wharves, docks, storehouses, and businesses developed. On the bluff above the waterfront, stately homes lined Main Street. Taverns and shops were scattered throughout the town. By the early 1700s, Yorktown had emerged as 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 combined American and French army. Upon hearing of their defeat, British Prime Minister Frederick Lord North is reputed to have said, ''Oh, God, it's

all over.'' And it was. The victory secured independence for the United States and significantly changed the course of world history.

H. Res. 748 recognizes the 225th anniversary of the American and French victory at Yorktown, Virginia, during the Revolutionary War; and I strongly support its passage.

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

Mr. WESTMORELAND. Mr. Speaker, I yield such time as she may consume to my distinguished colleague from the Commonwealth of Virginia, Mrs. DAVIS.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in support of my resolution, H. Res. 748, recognizing the 225th anniversary of the American and French victory at Yorktown, Virginia, during the Revolutionary War.

I am very proud to represent America's First Congressional District. While next year my district will be host to the 400th anniversary celebration of the founding of Jamestown, this month marks another significant anniversary in our Nation's history: the victory at Yorktown.

It is a privilege every year on October 19 to celebrate Yorktown Day. The Revolution secured independence for the United States and significantly changed the course of world history. The American Revolution took place from Maine to Florida and as far west as Arkansas and Louisiana, but it was Yorktown battlefield that saw the final battle of the American Revolution, with the surrender of General Cornwallis's British army to General George Washington's American-French allied army in October, 1781.

By the end of September, 1781, Washington's army of 17,600 Continental soldiers and French allies had surrounded Cornwallis' 8,300 British, German, and Loyalist troops and laid siege to Yorktown, leading to the surrender of Cornwallis on October 19, 1781. And my colleague from Illinois said it best when he quoted Prime Minister Frederick Lord North when he said, ''Oh, God, it's all over.'' The allied victory at Yorktown effectively ended the war.

In 1931, Dr. Ray Lyman Wilbur, Secretary of the Interior, commented, ''To declare independence is one thing; to achieve it is another. Here it was actually achieved . . . The victory at Yorktown gave us that independence which the American patriots had boldly proclaimed to the world.''

Mr. Speaker, it is that independence that we so cherish and enjoy here in the United States of America today. It is our freedoms that our wonderful men and women in the military continue to fight for today, and it started back in 1781 with the victory at Yorktown.

Mr. Speaker, with that, I urge all of my colleagues to support this resolution honoring a significant historical event in our Nation's history.

Mr. WESTMORELAND. 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. WESTMORELAND) that the House suspend the rules and agree to the resolution, H. Res. 748.

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.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL PREGNANCY AND INFANT LOSS REMEMBRANCE DAY

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 222) supporting the goals and ideals of National Pregnancy and Infant Loss Remembrance Day, as amended.

The Clerk read as follows:

H. CON. RES. 222

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 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;

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 and communities, they 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.

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 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, 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.

As this resolution states, even the shortest of lives are of great value, and the grief of the parents who lose their children cannot be underestimated. The Governors of all 50 States have joined together in designating October 15, 2006, as Pregnancy and Infant Loss Remembrance Day; and I hope all Members will join me in supporting the goals and ideal of this day as well.

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, 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 into 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 take the time on 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, I yield such time as he may consume to my friend and a distinguished member of this House from the State of Iowa (Mr. LATHAM).

□ 1600

Mr. LATHAM. 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 attention on 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 too want 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 some people, well, it is just 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 very 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 joys they are going to have sending that child 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 when my daughter-in-law, pregnant with their 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 of course I 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 five healthy 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 commending 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 an instrumental 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 support 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 to win 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 team still kept pressing hard to come from behind to win the Championship game;

Whereas a team from the State of Georgia had not won the world title in more than 20 years;

Whereas the 2006 Columbus Northern Little League World Championship team consists of players Kyle Carter, Brady Hamilton, Matthew Hollis, Matthew Kuhlenberg, Josh Lester, Ryan Lang, Mason Meyers, J.T. Phillips, Kyle Rovig, Patrick Stallings, and Cody Walker;

Whereas the 2006 Columbus Northern Little League World Championship team is led by Coach Richard Carter, Manager Randy Morris, Team Mother Lynne Phillips, and President Curt Thompson;

Whereas the championship victory of the Columbus Northern Little League Baseball Team sets an example of sportsmanship, dedication, and a ''never give up'' spirit for men and women all across the country; and

Whereas the achievement of the Columbus Northern Little League Baseball Team is the cause of enormous pride for the Nation, the State of Georgia, and the city of Columbus: Now, therefore, be it

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 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, 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 Eighth 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 Northern 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 live the dream 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 nearly 2 million Little Leaguers playing, and more than a million adult volunteers throughout the United States and in dozen of other countries. No other youth support 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 great accomplishment. Pitcher 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.

Cody 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 guarantee 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 speak; I am ready to grab my bat 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 coaches decided to ask that team 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.

My colleague from Georgia, Congressman WESTMORELAND, mentioned that we had another team from Georgia. Indeed, back in 1983, and my nurse,

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, that led 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 Lynn's son is, 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 sportsmanship, 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 we have honored 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, Bulldogs, Georgia Tech, Kennesaw State University. We have got some great baseball teams in Georgia, and that is where we want them to play.

□ 1615

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 my colleague 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 very dutifully 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 sportsmanship 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 brought goose bumps 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. Any parent of 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, the hundreds of whom took the 900-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 Carter, 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, H. Res. 991.

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.R. 5108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 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 TED 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 to my good friend and distinguished judge from the sovereign State of Texas (Mr. POE).

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 during 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, one out of 10 people wearing the United States military uniform are from the State of Texas, and enlistments and volunteers among those with Hispanic surname is extremely high.

Just before his death, Robert Martinez had called his mother and asked her to buy him a diamond ring because he was going to propose to his girlfriend, Taylor Wilkenson, as soon as he got back. He called her his ''love at first sight.''

He went to a little, small high school, Cleveland High School in Cleveland, Texas, and he graduated there in 2003. While in high school, he was known as the peacemaker. By the time he started his senior year, he had already signed up for the Marine Corps, but they would not take him until he was old enough. His pre-enlistment at the age of 17 would be activated as soon as he graduated from high school.

He was an outstanding baseball pitcher at Cleveland High School and dreamed of getting a degree in education and being a high school baseball coach, but he put all those dreams on hold so he could join the United States Marine Corps. He went to basic training 2 days after his high school graduation.

Lance Corporal Martinez's stepfather, Jeremy Hunt, called Robbie his ''diamond in the rough'' and one of the greatest things that ever came into the life of his family. He loved being in the United States Marine Corps, and he was proud telling folks he was just a Marine. He knew there was a reason for resolving the situation in Iraq, and he looked forward to coming back to Texas.

While overseas, he requested bags and bags of candy and care packages, but this candy was not for him because he would split it up and give it out to little kids in Iraq.

Robbie's mother, Kelly Hunt, said their 14-year-old son Mikie wanted to be in the Marine Corps just like his brother Robbie.

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. MCKEON. 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.

TITLE II—ADMINISTRATION ON AGING

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.

Sec. 209. Pension counseling and information programs.
Sec. 210. Authorization of appropriations.
TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING
Sec. 301. Purpose; administration.
Sec. 302. Definitions.
Sec. 303. Authorization 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. Consumer contributions.
Sec. 311. Supportive services and senior centers.
Sec. 312. Nutrition service.
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 adults.
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 EMPLOYMENT 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 provisions.
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 the 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. Termination.
Sec. 809. Authorization of appropriations.
TITLE IX—CONFORMING AMENDMENTS
Sec. 901. Conforming amendments to other Acts.

TITLE I—GENERAL PROVISION

SEC. 101. DEFINITIONS.

(a) IN GENERAL.—Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended—

(1) by striking paragraph (10) and inserting the following:

''(10)(A) The term 'assistive device' includes an assistive technology device.

''(B) The terms 'assistive technology', 'assistive technology device', and 'assistive technology service' have the meanings given such terms in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).'';

(2) by striking paragraph (12)(D) and inserting the following:

''(D) evidence-based health promotion programs, including programs related to the prevention and mitigation of the effects of chronic disease (including osteoporosis, hypertension, obesity, diabetes, and cardiovascular disease), alcohol and substance abuse reduction, smoking cessation, weight loss and control, stress management, falls prevention, physical activity, and improved nutrition;'';

(3) by striking paragraph (24) and inserting the following:

''(24)(A) The term 'exploitation' means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an older individual for monetary or personal benefit, profit, or gain, or that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets.

''(B) In subparagraph (A), the term 'caregiver' means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an older individual.'';

(4) in paragraph (29)(E)—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(iii) older individuals at risk for institutional placement.'';

(5) in paragraph (32)(D), by inserting '', including an assisted living facility,'' after ''home'';

(6) by striking paragraph (34) and inserting the following:

''(34) The term 'neglect' means—

''(A) the failure of a caregiver (as defined in paragraph (18)(B)) or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an older individual; or

''(B) self-neglect.''; and

(7) by adding at the end the following:

''(44) The term 'Aging and Disability Resource Center' means an entity established by a State as part of the State system of long-term care, to provide a coordinated system for providing—

''(A) comprehensive information on the full range of available public and private long-term care programs, options, service providers, and resources within a community, including information on the availability of integrated long-term care;

''(B) personal counseling to assist individuals in assessing their existing or anticipated long-term care needs, and developing and implementing a plan for long-term care designed to meet their specific needs and circumstances; and

''(C) consumers access to the range of publicly-supported long-term care programs for which consumers may be eligible, by serving as a convenient point of entry for such programs.

''(45) The term 'at risk for institutional placement' means, with respect to an older individual, that such individual is unable to perform at least 2 activities of daily living without substantial assistance (including verbal reminding, physical cuing, or supervision) and is determined by the State involved to be in need of placement in a long-term care facility.

''(46) The term 'civic engagement' means an individual or collective action designed to address a public concern or an unmet human, educational, health care, environmental, or public safety need.

''(47) The term 'elder justice'—

''(A) used with respect to older individuals, collectively, means efforts to prevent, detect, treat, intervene in, and respond to elder abuse, neglect, and exploitation and to protect older individuals with diminished capacity while maximizing their autonomy; and

''(B) used with respect to an individual who is an older individual, means the recognition of the individual's rights, including the right to be free of abuse, neglect, and exploitation.

''(48) The term 'fiduciary'—

''(A) means a person or entity with the legal responsibility—

''(i) to make decisions on behalf of and for the benefit of another person; and

''(ii) to act in good faith and with fairness; and

''(B) includes a trustee, a guardian, a conservator, an executor, an agent under a financial power of attorney or health care power of attorney, or a representative payee.

''(49) The term 'Hispanic-serving institution' has the meaning given the term in section 502 of the Higher Education Act of 1965 (20 U.S.C. 1101a).

''(50) The term 'long-term care' means any service, care, or item (including an assistive device), including a disease prevention and health promotion service, an in-home service, and a case management service—

''(A) intended to assist individuals in coping with, and to the extent practicable compensate for, a functional impairment in carrying out activities of daily living;

''(B) furnished at home, in a community care setting (including a small community care setting as defined in subsection (g)(1), and a large community care setting as defined in subsection (h)(1), of section 1929 of the Social Security Act (42 U.S.C. 1396t)), or in a long-term care facility; and

''(C) not furnished to prevent, diagnose, treat, or cure a medical disease or condition.

''(51) The term 'self-directed care' means an approach to providing services (including programs, benefits, supports, and technology) under this Act intended to assist an individual with activities of daily living, in which—

''(A) such services (including the amount, duration, scope, provider, and location of such services) are planned, budgeted, and purchased under the direction and control of such individual;

''(B) such individual is provided with such information and assistance as are necessary and appropriate to enable such individual to make informed decisions about the individual's care options;

''(C) the needs, capabilities, and preferences of such individual with respect to such services, and such individual's ability

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) based on the assessment made 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 responsible for directing;

''(ii) a determination of the role of family members (and others whose participation is sought by such individual) in providing services under such plan; and

''(iii) 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 inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including—

''(A) obtaining essential food, clothing, shelter, and medical care;

''(B) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

''(C) managing one's own 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—

''(I) 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 services, home and community-based services, personal care services, and case management services provided under the plan; and

''(II) 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. 3002) is amended—

(1) by redesignating paragraphs (1) through (54) as paragraphs (45), (7), (50), (39), (26), (27), (54), (13), (48), (8), (29), (14), (1), (2), (3), (5), (6), (10), (30), (37), (11), (15), (16), (18), (21), (22), (23), (24), (28), (31), (33), (35), (36), (38), (40), (41), (42), (43), (44), (51), (53), (19), (49), (4), (9), (12), (17), (20), (25), (34), (46), (47), (52), and (32), respectively; and

(2) so that paragraphs (1) through (54), as so redesignated in paragraph (1), appear in numerical order.

TITLE II—ADMINISTRATION ON AGING

SEC. 201. ELDER ABUSE PREVENTION AND SERVICES.

Section 201 of the Older Americans Act of 1965 (42 U.S.C. 3011) is amended by adding at the end the following:

''(e)(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-term 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 best practices 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, maintain, and disseminate information concerning best practices and resources for training, technical assistance, and other activities to assist States and communities to carry out evidence-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.

''(3) The Secretary, acting through the Assistant Secretary, may issue such regulations as may be necessary to carry out this subsection and section 752.

''(f)(1) The Assistant Secretary may designate an officer or employee who shall be responsible for the administration of mental health services authorized under this Act.

''(2) It shall be the duty of the Assistant Secretary, acting through the individual designated under paragraph (1), to develop objectives, priorities, and a long-term plan for supporting State and local efforts involving education about and prevention, detection, and treatment of mental disorders, including age-related dementia, depression, and Alzheimer's disease and related neurological disorders with neurological and organic brain dysfunction.''.

SEC. 202. FUNCTIONS OF THE ASSISTANT SECRETARY.

Section 202 of the Older Americans Act of 1965 (42 U.S.C. 3012) is amended—

(1) in subsection (a)—

(A) 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 to implement and build awareness of programs providing benefits affecting older individuals; and

''(B) carry on a continuing evaluation of the programs and activities related 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 benefits enrollment assistance to inform and enroll older individuals with 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, make a grant to or enter into a contract with a qualified, experienced entity to establish a National Center on Senior Benefits Outreach and Enrollment, which shall—

''(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 benefits enrollment centers for the programs;

''(iv) develop and maintain an information clearinghouse on best practices and cost-effective methods for finding and enrolling older individuals with 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 (26)—

(i) in subsection (D)—

(I) by striking ''gaps in''; and

(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 subsection (E), by striking ''and'' at the end;

(E) in paragraph (27)—

(i) in subparagraph (B), by adding ''and'' at the end; and

(ii) by striking subparagraph (D); and

(F) by adding at the end the following:

''(28) make available to States, area agencies on aging, and service providers information and technical assistance to support the provision of evidence-based disease prevention and health promotion services.'';

(2) by striking subsections (b) and (c), and inserting the 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, in a manner responsive to the needs and preferences of older individuals and their family caregivers, the Assistant Secretary shall, consistent with the applicable provisions of this title—

''(1) collaborate, coordinate, and consult with other Federal entities responsible for formulating and implementing programs, benefits, and services related to providing long-term care, and may make grants, contracts, and cooperative agreements with funds received from other Federal entities;

''(2) conduct research and demonstration projects to identify innovative, cost-effective strategies for modifying State systems of long-term care to—

''(A) respond to the needs and preferences of older individuals and family caregivers; and

''(B) target services to individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

''(3) establish criteria for and promote the implementation (through area agencies on aging, service providers, and such other entities as the Assistant Secretary determines to be appropriate) of 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;

''(4) facilitate, in coordination with the Administrator of the Centers for Medicare & Medicaid Services, and other heads of Federal entities as appropriate, the provision of long-term care in home and community-based settings, including the provision of such care through self-directed care models that—

''(A) provide for the assessment of the needs and preferences of an individual at risk for institutional placement to help such individual avoid unnecessary institutional placement and depletion of income and assets to qualify for benefits under the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

''(B) respond to the needs and preferences of such individual and provide the option—

''(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 service coordination matters (referred to in this paragraph as a 'representative' of the individual), to direct and control the receipt of those services; and

''(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;

''(5) provide for the Administration to play a lead role with respect to issues concerning home and community-based long-term care, including—

''(A) directing (as the Secretary or the President determines to be appropriate) or otherwise participating in departmental and interdepartmental activities concerning long-term care;

''(B) reviewing and commenting on departmental rules, regulations, and policies related to providing long-term care; and

''(C) making recommendations to the Secretary with respect to home and community-based long-term care, including recommendations based on findings made through projects conducted under paragraph (2);

''(6) promote, in coordination with other appropriate Federal agencies—

''(A) enhanced awareness by the public of the importance of planning in advance for long-term care; and

''(B) the availability of information and resources to assist in such planning;

''(7) ensure access to, and the dissemination of, information about all long-term care options and service providers, including the availability of integrated long-term care;

''(8) implement in all States Aging and Disability Resource Centers—

''(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 ahead for their future long-term care needs; and

''(E) to assist (in coordination with the entities carrying out the health insurance information, counseling, and assistance program (receiving funding under section 4360 of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4)) in the States) beneficiaries, and prospective beneficiaries, under the Medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) in understanding and accessing prescription drug and preventative health benefits under the provisions of, and amendments made by, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003;

''(9) establish, either directly or through grants or contracts, national technical assistance programs to assist State agencies, area agencies on aging, and community-based service providers funded under this Act in implementing—

''(A) home and community-based long-term care systems, including evidence-based programs; and

''(B) evidence-based disease prevention and health promotion services programs;

''(10) develop, in collaboration with the Administrator of the Centers for Medicare & Medicaid Services, performance standards and measures for use by States to determine the extent to which their State systems of long-term care fulfill the objectives described in this subsection; and

''(11) conduct such other activities as the Assistant Secretary determines to be appropriate.

''(c) The Assistant Secretary, in consultation with the Chief Executive Officer of the Corporation for National and Community Service, shall—

''(1) encourage and permit volunteer groups (including organizations carrying out national service programs and including organizations of youth in secondary or postsecondary school) that are active in supportive services and civic engagement to participate and be involved individually or through representative groups in supportive service and civic engagement programs or activities to the maximum extent feasible;

''(2) develop a comprehensive strategy for utilizing older individuals to address critical local needs of national concern, including the engagement of older individuals in the activities of public and nonprofit organizations such as community-based organizations, including faith-based organizations; and

''(3) encourage other community capacity-building initiatives involving older individuals, with particular attention to initiatives that demonstrate effectiveness and cost savings in meeting critical needs.''; and

(3) in subsection (e)(1)(A), by striking the semicolon at the end and inserting a period.

SEC. 203. FEDERAL AGENCY CONSULTATION.

Section 203 of the Older Americans Act of 1965 (42 U.S.C. 3013) is amended—

(1) in subsection (a)(3)(A)—

(A) 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 older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)''; and

(B) by striking ''section 507'' and inserting ''section 518'';

(2) in subsection (b)—

(A) in paragraph (17), by striking ''and'' at the end;

(B) in paragraph (18), by striking the period and inserting '', and''; and

(C) by adding at the end the following:

''(19) sections 4 and 5 of the Assistive Technology Act of 1998 (29 U.S.C. 3003, 3004).''; and

(3) by adding at the end the following:

''(c)(1) The Secretary, in collaboration with the Federal officials specified in paragraph (2), shall establish an Interagency Coordinating Committee on Aging (referred to in this subsection as the 'Committee') focusing on the coordination of agencies with respect to aging issues.

''(2) The officials referred to in paragraph (1) shall include the Secretary of Labor and the Secretary of Housing and Urban Development, and may include, at the direction of the President, the Attorney General, the Secretary of Transportation, the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Homeland Security, the Commissioner of Social Security, and such other Federal officials as the President may direct. An official described in this paragraph may appoint a designee to carry out the official's duties under paragraph (1).

''(3) The Secretary of Health and Human Services shall serve as the first chairperson of the Committee, for 1 term, and the Secretary of Housing and Urban Development shall serve as the chairperson for the following term. After that following term, the Committee shall select a chairperson from among the members of the Committee, and any member may serve as the chairperson. No member may serve as the chairperson for more than 1 consecutive term.

''(4) For purposes of this subsection, a term shall be a period of 2 calendar years.

''(5) The Committee shall meet not less often than once each year.

''(6) The Committee shall—

''(A) share information with and establish an ongoing system to improve coordination among Federal agencies with responsibility for programs and services for older individuals and recommend improvements to such system with an emphasis on—

''(i) improving access to programs and services for older individuals;

''(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 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 remain in 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) collect 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 data 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.

''(7) Not later than 90 days following the end of each term, the Committee shall prepare and submit to the Committee on Financial Services of the House of Representatives, the Committee on Education and the Workforce of the House of Representatives, the Committee on Energy and Commerce of the House of Representatives, the Committee on Ways and Means of the House of Representatives, 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 accomplishments of the Committee in—

''(i) enhancing the overall coordination of federally funded programs and services for older individuals; and

''(ii) meeting the requirements of paragraph (6);

''(B) incorporates an analysis from the head of each agency that is a member of the interagency coordinating committee established under paragraph (1) that describes the barriers and impediments, including barriers and impediments in statutory and regulatory law (as the chairperson of the Committee determines to be appropriate), to 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.

''(8) On the request of the Committee, any Federal Government employee may be detailed to the Committee without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.''.

SEC. 204. ADMINISTRATION.

Section 205 of the Older Americans Act of 1965 (42 U.S.C. 3016) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (C), by adding ''and'' at the end;

(ii) in subparagraph (D), by striking ''; and'' and inserting a period; and

(iii) by striking subparagraph (E); and

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by amending clause (i) to read as follows:

''(i) designing, implementing, and evaluating evidence-based programs to support improved nutrition and regular physical activity for older individuals;'';

(II) by amending clause (iii) to read as follows:

''(iii) conducting outreach and disseminating evidence-based information to nutrition service providers about the benefits of healthful diets and regular physical activity, including information about the most current Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341), 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 (viii) and inserting the following:

''(viii) disseminating guidance that describes strategies for improving the nutritional 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 guidelines for conducting nutrient analyses of meals provided under subparts 1 and 2 of part C of title III, including guidelines for averaging key nutrients over an appropriate period of time; and

''(x) providing technical assistance to the regional offices of the Administration 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 balance, 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 total amount appropriated for each fiscal year to carry out title III, the Secretary may use such sums as may be necessary, but not to exceed ½ of 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:

''SEC. 212. CONTRACTING AND GRANT AUTHORITY; PRIVATE PAY RELATIONSHIPS; APPROPRIATE USE OF FUNDS.

''(a) IN GENERAL.—Subject to subsection (b), this Act shall not be construed to prevent a recipient of a grant or a contract under this Act (other than title V) from 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—

''(1) 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;

''(2) 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 paragraph (1)), are reimbursed to such recipient; and

''(C) the recipient reports the rates for providing such services under such agreement in accordance with subsection (c) and the 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

''(3) any amount of payment to the recipient under the agreement that exceeds reimbursement under this subsection of the recipient's costs is used to provide, or support the provision of, services under this Act.

''(b) ENSURING APPROPRIATE USE OF FUNDS.—An agreement described in subsection (a) may not—

''(1) be made without the prior approval of the State agency (or, in the case of a grantee under title VI, without the prior recommendation of the Director of the Office for American Indian, Alaska Native, and Native Hawaiian Aging and the prior approval of the Assistant Secretary), after timely submission of all relevant documents related to the agreement including information on all costs incurred;

''(2) directly or indirectly provide for, or have the effect of, paying, reimbursing, subsidizing, or otherwise compensating an individual 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 who is at risk for institutional placement; or

''(4) in any other way compromise, undermine, or be inconsistent with the objective of serving the needs of 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 procedures and reporting requirements consistent with the provisions of subparagraphs (A) through (E) of section 306(a)(13) 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 per State, summaries of all the agreements, and information on the type of organizations participating in the agreements, types of services provided under the agreements, and the net proceeds from, and documentation of funds spent and reimbursed, under the agreements.

''(d) TIMELY 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 or carrying out an agreement described in subsection (a), whether the recipient contributed funds, staff time, or other plant, equipment, or services to meet the expense.''.

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 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, through nutrition education and nutrition assessment and counseling, in accordance with section 339(2)(J).''.

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 the following:

''(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.''; and

(3) in subsection (h)(2), by inserting ''(including individuals with limited English proficiency)'' after ''individuals''.

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

Section 216 of the Older Americans Act of 1965 (42 U.S.C. 3020f) is amended—

(1) in subsection (a), by striking ''2001, 2002, 2003, 2004, and 2005'' and inserting ''2007, 2008, 2009, 2010, and 2011.''; and

(2) in subsections (b) and (c), by striking ''year'' and all that follows through ''years'', and inserting ''years 2007, 2008, 2009, 2010, and 2011''.

TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

SEC. 301. PURPOSE; ADMINISTRATION.

Section 301(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3021(a)(2)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(F) organizations that have experience in providing training, placement, and stipends for volunteers or participants who are older individuals (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings.''.

SEC. 302. DEFINITIONS.

Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022) is amended—

(1) 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 dysfunction.'';

(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. 303. 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'' each place it appears, and inserting ''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 ''$160,000,000 for fiscal year 2007.'';

(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 $187,000,000 for fiscal year 2011.''; and

(C) in paragraph (3)—

(i) by striking ''(2)—'' and all that follows through ''1 percent'' and inserting ''(2), not more than 1 percent'';

(ii) by striking ''shall'' and inserting ''may''; and

(iii) by striking ''section 376'' and inserting ''section 411(a)(11)''.

SEC. 304. ALLOTMENTS.

Section 304(a)(3)(D) of the Older Americans Act of 1965 (42 U.S.C. 3024(a)(3)(D)) is amended to read as follows:

''(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—

''(I) for fiscal year 2007, 20 percent of the percentage increase above the fiscal year 2006 allotments for all of the States;

''(II) for fiscal year 2008, 15 percent of 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 2006 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) in paragraph (1)(E)—

(A) 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)''; and

(B) by striking ''and'' at the end;

(2) in paragraph (2)—

(A) in subparagraph (E), 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)''; and

(B) in subparagraph (G), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(3) the State agency shall, consistent with this section, promote the development and implementation of a State system of long-term care that is a comprehensive, coordinated system that enables older individuals to receive long-term care in home and community-based settings, in a manner responsive to the needs and preferences of the older individuals and their family caregivers, by—

''(A) collaborating, coordinating, and consulting with other agencies in such State responsible for formulating, implementing, and administering programs, benefits, and services related to providing long-term care;

''(B) participating in any State government activities concerning long-term care, including reviewing and commenting on any State 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 such 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, area agencies on aging, 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.''.

SEC. 306. AREA PLANS.

Section 306 of the Older Americans Act of 1965 (42 U.S.C. 3026) is amended—

(1) in subsection (a)—

(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)''; and

(iii) by inserting ''the number of older individuals at risk for institutional placement residing in such area,'' after ''individuals) residing in such area,'';

(B) in paragraph (2)(A)—

(i) by inserting after ''transportation,'' the following: ''health services (including mental health services),''; and

(ii) by inserting after ''information and assistance'' the following: ''(which may include information and assistance to consumers on availability of services under part B and how to receive benefits under and participate in publicly supported programs for which the consumer may be eligible)'';

(C) in paragraph (4)—

(i) in subparagraph (A)—

(I) by amending clause (i) to read as follows:

''(i)(I) provide assurances that the area agency on aging will—

''(aa) set specific objectives, consistent with State policy, for providing services to older individuals with greatest economic need, older individuals with greatest social need, and older individuals at risk for institutional placement;

''(bb) include specific objectives for providing services to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas; and

''(II) include proposed methods to achieve the objectives described in items (aa) and (bb) of subclause (I);''; and

(II) in clause (ii), by inserting '', older individuals with limited English proficiency,'' after ''low-income minority individuals'' each place it appears; and

(ii) in subparagraph (B)—

(I) by moving the left margin of each of subparagraph (B), clauses (i) and (ii), and subclauses (I) through (VI) of clause (i), 2 ems to the left; and

(II) in clause (i)—

(aa) in subclause (V), by striking ''with limited English-speaking ability; and'' and inserting ''with limited English proficiency;'';

(bb) in subclause (VI), by striking ''or related'' and inserting ''and related''; and

(cc) by adding at the end the following:

''(VII) older individuals at risk for institutional placement; and'';

(D) in paragraph (5), by inserting ''and individuals at risk for institutional placement'' after ''severe disabilities'';

(E) in paragraph (6)—

(i) in subparagraph (C)—

(I) in clause (i), by striking ''and'' at the end;

(II) in clause (ii), by adding ''and'' at the end; and

(III) by inserting after clause (ii) the following:

''(iii) make use of trained volunteers in providing direct services delivered to older individuals and individuals with disabilities needing such services and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings;'';

(ii) in subparagraph (D)—

(I) by inserting ''family caregivers of such individuals,'' after ''Act,''; and

(II) by inserting ''service providers, representatives of the business community,'' after ''individuals,''; and

(iii) by amending subparagraph (F) to read as follows:

''(F) in coordination with the State agency and with the State agency responsible for mental health services, increase public awareness of mental health disorders, remove barriers to diagnosis and treatment, and coordinate mental health services (including mental health screenings) provided with funds expended by the area agency on aging with mental health services provided by community health centers and by other public agencies and nonprofit private organizations;'';

(F) in paragraph (7), to read as follows:

''(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 for 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;'';

(G) by striking paragraph (14) and the 2 paragraphs (15);

(H) by redesignating paragraph (16) as paragraph (14); and

(I) by adding at the end the following:

''(15) provide assurances that funds received under this title will be used—

''(A) to provide benefits and services to older individuals, giving priority to older individuals identified in paragraph (4)(A)(i); and

''(B) in compliance with the assurances specified in paragraph (13) and the limitations specified in section 212;

''(16) provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care; and

''(17) include information detailing how the area agency on aging will coordinate activities, and develop long-range emergency preparedness plans, with local and State emergency response agencies, relief organizations, local and State governments, and any other institutions that have responsibility for disaster relief service delivery.'';

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f); and

(3) by inserting after subsection (a) the following:

''(b)(1) An area agency on aging may include in the area plan an assessment of how prepared the area agency on aging and service providers in the planning and service area are 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.

''(2) Such assessment may include—

''(A) the projected change in the number of older individuals in the planning and service area;

''(B) 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;

''(C) an analysis of how the programs, policies, and services provided by such area agency can be improved, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the planning and service area; and

''(D) an analysis of how the change in the number of individuals age 85 and older in the planning and service area is expected to affect the need for supportive services.

''(3) An area agency on aging, in cooperation with government officials, State agencies, tribal organizations, or local entities, may make recommendations to government officials in the planning and service area and the State, on actions determined by the area agency to build the capacity in the planning and service area to meet the needs of older individuals for—

''(A) health and human services;

''(B) land use;

''(C) housing;

''(D) transportation;

''(E) public safety;

''(F) workforce and economic development;

''(G) recreation;

''(H) education;

''(I) civic engagement;

''(J) emergency preparedness; and

''(K) any other service as determined by such agency.''.

SEC. 307. STATE PLANS.

Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended—

(1) in paragraph (2)(C), by striking ''section 306(b)'' and inserting ''section 306(c)'';

(2) in paragraph (4), 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 older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)'';

(3) by striking paragraph (15);

(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 with limited English proficiency.'';

(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)''; and

(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 service delivery model, 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 assessment 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 resource levels can be adjusted to meet the needs of the changing population of older individuals in the State; and

''(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 supportive 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, relief organizations, 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 309(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3029(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 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a) 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''; and

(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 respecting 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 option of such 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; and

''(B) may cover related expenses 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 Agriculture and the Secretary of Health and Human Services'' and inserting ''the Assistant 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) the foods available to such 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. 3030c–2) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''provided that'' and inserting ''if''; 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 ''given'';

(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 older individuals, including 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 and minority older 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)''.

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 ''provision of services and assistive devices (including provision of assistive technology services and assistive technology 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 providers in carrying out and coordinating 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. 3030e 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. CONGREGATE NUTRITION PROGRAM.

Section 331 of the Older Americans Act of 1965 (42 U.S.C. 3030e) 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.''.

SEC. 314. HOME DELIVERED NUTRITION SERVICES.

Section 336 of the Older Americans Act of 1965 (42 U.S.C. 3030f) is amended to read as follows:

''SEC. 336. PROGRAM AUTHORIZED.

''The Assistant Secretary shall establish and carry out 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 foods and any additional meals that the recipient of a grant or contract under this subpart elects to provide; 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. 3030g) 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. 3030g–21) is amended—

(1) in paragraph (1), to read as follows:

''(1) solicit the expertise 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''; 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,'';

(D) in subparagraph (H), by striking ''and accompany'';

(E) in subparagraph (I), by striking ''and'' at the end; and

(F) by striking subparagraph (J) and inserting the following:

''(J) provides for nutrition screening and nutrition education, and nutrition assessment and counseling if appropriate, and

''(K) encourages individuals who distribute nutrition services under subpart 2 to provide, to homebound older individuals, available medical information approved by health care professionals, such as informational brochures and information on how to get vaccines, including vaccines for influenza, pneumonia, and shingles, in the individuals' communities.''.

SEC. 317. STUDY OF NUTRITION PROJECTS.

(a) STUDY.—

(1) IN GENERAL.—The Assistant Secretary for Aging shall use funds allocated in section 206(g) of the Older Americans Act of 1965 (42 U.S.C. 3017(g)) to enter into a contract with the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences, for the purpose of establishing an independent panel of experts that will conduct an evidence-based study of the nutrition projects authorized by such Act.

(2) STUDY.—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—

(i) improvement of the health status, including nutritional status, of participants in the projects;

(ii) prevention of hunger and food insecurity of the participants; and

(iii) 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.

(b) REPORTS.—

(1) REPORT TO THE ASSISTANT SECRETARY.—The panel described in subsection (a)(1) shall submit to the Assistant Secretary a report containing the results of the evidence-based study described in subsection (a), including any recommendations described in subsection (a)(2)(C).

(2) REPORT TO CONGRESS.—The Assistant Secretary shall submit a report containing the results described in paragraph (1) to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

SEC. 318. SENSE OF CONGRESS RECOGNIZING THE CONTRIBUTION OF NUTRITION TO THE HEALTH OF OLDER ADULTS.

(a) FINDINGS.—Congress finds that—

(1) good nutrition is vital to 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 capacity to absorb and 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 address nutritional gaps that exist among the elderly population, especially the poor; and

(6) the Dietary Guidelines for Americans state that multivitamin-mineral supplements may be useful when they fill 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 may help prevent nutrition 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 participating in congregate and home-delivered meal programs would benefit from a single, daily multivitamin-mineral supplement that is in compliance with all applicable government quality standards and provides at least ⅔ 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 372 of the National Family Caregiver Support Act (42 U.S.C. 3030s) is amended—

(1) in paragraph (1), by inserting ''or who is an individual with a disability'' after ''age'';

(2) in paragraph (3)—

(A) by striking ''a child by blood or marriage'' and inserting ''a child by blood, marriage, or adoption''; and

(B) by striking ''60'' and inserting ''55'';

(3) by inserting before ''In this subpart'' the following: ''(a) IN GENERAL.—'';

(4) by striking paragraph (2);

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

(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 organic brain 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 involved 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 ''caregivers 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) in subsection (c)—

(A) in paragraph (1)(B), by striking ''subparagraph (A)(i) or (B) of section 102(28)'' and inserting ''subparagraph (A)(i) or (B) of section 102(22)''; and

(B) by striking paragraph (2) and inserting the following:

''(2) PRIORITY.—In providing services under this subpart, the State, in addition to giving the priority described in section 372(b), shall give priority—

''(A) to caregivers who are older individuals with greatest social need, and older individuals with greatest economic need (with particular attention to low-income older individuals); and

''(B) to older individuals providing care to individuals with severe disabilities, including children with severe disabilities.'';

(3) in subsection (d), to read as follows:

''(d) USE OF VOLUNTEERS.—In carrying out this subpart, each area agency on aging shall make use of trained volunteers to expand the provision of the available services described in subsection (b) and, if possible, work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants (such as organizations carrying out Federal service programs administered by the Corporation for National and Community Service), in community service settings.'';

(4) in subsection (e)(3), by adding at the end the following: ''The reports shall describe any mechanisms used in the State to provide to persons who are family caregivers, or grandparents or older individuals who are relative caregivers, information about and access to various services so that the persons can better carry out their care responsibilities.'';

(5) in subsection (f)(1), by striking ''2001 through 2005'' and inserting ''2007, 2008, 2009, 2010, and 2011''; and

(6) in subsection (g)(2)(C), by inserting ''of a child who is not more than 18 years of age'' before the period at the end.

SEC. 322. NATIONAL INNOVATION.

Subpart 2 of part E of title III of the Older Americans Act of 1965 (42 U.S.C. 3030s–11 et seq.) is repealed.

TITLE IV—ACTIVITIES FOR HEALTH, INDEPENDENCE, AND LONGEVITY

SEC. 401. TITLE.

The Older Americans Act of 1965 is amended by inserting before section 401 (42 U.S.C. 3031) the following:

''TITLE IV—ACTIVITIES FOR HEALTH, INDEPENDENCE, AND LONGEVITY''.

SEC. 402. GRANT PROGRAMS.

Section 411 of the Older Americans Act of 1965 (42 U.S.C. 3032) is amended—

(1) in subsection (a)—

(A) in paragraph (8), by striking ''and'' at the end;

(B) by redesignating paragraph (9) as paragraph (13); and

(C) by inserting after paragraph (8) the following:

''(9) planning activities to prepare communities for the aging of the population, which activities may include—

''(A) efforts to assess the aging population;

''(B) activities to coordinate the activities of State and local agencies in order to meet the needs of older individuals; and

''(C) training and technical assistance to support States, area agencies on aging, and organizations receiving grants under title VI, in engaging in community planning activities;

''(10) 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 remotely connect family and professional caregivers to frail older individuals residing in home and community-based settings or rural areas;

''(11) conducting activities of national significance to promote quality and continuous improvement in the support provided to family and other informal caregivers of older individuals through activities that include program evaluation, training, technical assistance, and research, including—

''(A) programs addressing unique issues faced by rural caregivers;

''(B) programs focusing on the needs of older individuals with cognitive impairment such as Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and their caregivers; and

''(C) programs supporting caregivers in the role they play in providing disease prevention and health promotion services;

''(12) building public awareness of cognitive impairments such as Alzheimer's disease and related disorders with neurological and organic brain dysfunction, depression, and mental disorders; and''; and

(2) in subsection (b), by striking ''year'' and all that follows through ''years'' and inserting ''years 2007, 2008, 2009, 2010, and 2011''.

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 colleges or universities, Hispanic-serving institutions, and Hispanic Centers of Excellence in Applied Gerontology, to provide education and training that prepares students for careers in the field of aging.''.

SEC. 404. HEALTH CARE SERVICE DEMONSTRATION 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 inserting ''mental health services,'' after ''care,''; and

(2) in subsection (b)(1)(B)(i), by inserting ''mental health,'' after ''health,''.

SEC. 405. TECHNICAL ASSISTANCE AND INNOVATION TO IMPROVE TRANSPORTATION FOR OLDER INDIVIDUALS.

Section 416 of the Older Americans Act of 1965 (42 U.S.C. 3032e) is amended to read as follows:

''SEC. 416. TECHNICAL ASSISTANCE AND INNOVATION TO IMPROVE TRANSPORTATION FOR OLDER INDIVIDUALS.

''(a) IN GENERAL.—The Secretary may award grants or contracts to nonprofit organizations to improve transportation services for older individuals.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—A nonprofit organization receiving a grant or contract under subsection (a) shall use the funds received through such grant or contract to carry out a demonstration project, or to provide technical assistance to assist local transit providers, area agencies on aging, senior centers, and local senior support groups, to encourage and facilitate coordination of Federal, State, and local transportation services and resources for older individuals. The organization may use the funds to develop and carry out an innovative transportation demonstration project to create transportation services for older individuals.

''(2) SPECIFIC ACTIVITIES.—In carrying out a demonstration project or providing technical assistance under paragraph (1) the organization may carry out activities that include—

''(A) developing innovative approaches for improving access by older individuals to transportation services, including volunteer driver programs, economically sustainable transportation programs, and programs that allow older individuals to transfer their automobiles to a provider of transportation services in exchange for the services;

''(B) preparing information on transportation options and resources for older individuals and organizations serving such individuals, and disseminating the information by establishing and operating a toll-free telephone number;

''(C) developing models and best practices for providing comprehensive integrated transportation services for older individuals, including services administered by the Secretary of Transportation, by providing ongoing technical assistance to agencies providing services under title III and by assisting in coordination of public and community transportation services; and

''(D) providing special services to link older individuals to transportation services not provided under title III.

''(c) ECONOMICALLY SUSTAINABLE TRANSPORTATION.—In this section, the term 'economically sustainable transportation' means demand responsive transportation for older individuals—

''(1) that may be provided through volunteers; and

''(2) that the provider will provide without receiving Federal or other public financial assistance, after a period of not more than 5 years of providing the services under this section.''.

SEC. 406. DEMONSTRATION, SUPPORT, AND RESEARCH PROJECTS FOR MULTIGENERATIONAL ACTIVITIES AND CIVIC ENGAGEMENT ACTIVITIES.

Section 417 of the Older Americans Act of 1965 (42 U.S.C. 3032f) is amended to read as follows:

''SEC. 417. DEMONSTRATION, SUPPORT, AND RESEARCH 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 to—

''(1) provide opportunities for older individuals to participate in multigenerational activities and civic engagement activities designed to meet critical community needs, and use the full range of time, skills, and experience of older individuals, including demonstration and support projects that—

''(A) provide support for grandparents and other older individuals who are relative caregivers raising children (such as kinship navigator programs); or

''(B) involve volunteers who are older individuals who provide support and information to families who have a child with a disability or chronic illness, or other families in need of such family support; and

''(2) coordinate multigenerational activities and civic engagement activities, promote volunteerism, and facilitate development of and participation in multigenerational activities and civic engagement activities.

''(b) USE OF FUNDS.—An eligible organization shall use funds made available under a grant awarded, or a contract entered into, under this section to—

''(1) carry out a project described in subsection (a); and

''(2) evaluate the project in accordance with subsection (f).

''(c) PREFERENCE.—In awarding grants and entering into contracts to carry out a project described in subsection (a), the Assistant Secretary shall give preference to—

''(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 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) eligible organizations with the capacity to develop meaningful roles and assignments that use the time, skills, and experience of older individuals to serve public and 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 reasonably require.

''(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant or enter into a contract under subsection (a)—

''(1) to carry out activities described in subsection (a)(1), shall be organizations that provide opportunities for older individuals to participate in activities described in subsection (a)(1); and

''(2) to carry out activities described in subsection (a)(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 providing the activities; and

''(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 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 as 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 (1); and

''(8) any policy change recommendations relating to the projects.

''(h) DEFINITIONS.—As used in this section:

''(1) MULTIGENERATIONAL ACTIVITY.—The term 'multigenerational activity' means an activity that provides an opportunity for interaction between 2 or more 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 a family support 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; and

''(ii) individuals in younger generations.''.

SEC. 407. NATIVE AMERICAN PROGRAMS.

Section 418(a)(2)(B)(i) of the Older Americans Act of 1965 (42 U.S.C. 3032g(a)(2)(B)(i)) 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) by striking the title and inserting the following:

''SEC. 419. MULTIDISCIPLINARY CENTERS AND MULTIDISCIPLINARY SYSTEMS.'';

(2)(A) in subsection (b)(2), by redesignating subparagraphs (A) through (G) as clauses (i) through (vii), respectively;

(B) in subsection (c)(2), by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively; and

(C) by aligning the margins of the clauses described in subparagraphs (A) and (B) with the margins of clause (iv) of section 418(a)(2)(A) of such Act;

(3)(A) in subsection (b), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) in subsection (c), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by aligning the margins of the subparagraphs described in subparagraphs (A) and (B) with the margins of subparagraph (D) of section 420(a)(1) of such Act;

(4) in subsection (a), by striking ''(a)'' and all that follows through ''The'' and inserting the following:

''(a) MULTIDISCIPLINARY CENTERS.—

''(1) PROGRAM AUTHORIZED.—The'';

(5) in subsection (b)—

(A) by striking the following:

''(b) USE OF FUNDS.—'' and inserting the following:

''(2) USE OF FUNDS.—''; and

(B) by striking ''subsection (a)'' each place it appears and inserting ''paragraph (1)'';

(6) in subsection (c)—

(A) by striking the following:

''(c) DATA.—'' and inserting the following:

''(3) DATA.—'';

(B) by striking ''subsection (a)'' and inserting ''paragraph (1)'';

(C) by striking ''such subsection'' and inserting ''such paragraph'';

(D) by striking ''paragraph (1)'' and inserting ''subparagraph (A)''; and

(E) by striking ''this section'' and inserting ''this subsection'';

(7) in subsection (a) (as so redesignated)—

(A) in paragraph (1), by inserting ''diverse populations of older individuals residing in urban communities,'' after ''minority populations,'';

(B) in paragraph (2)(B)—

(C)(i) in clause (v), by inserting '', including information about best practices in long-term care service delivery, housing, and transportation'' before the semicolon at the end;

(ii) in clause (vi)—

(I) by striking ''consultation and'';

(II) by inserting ''and other technical assistance'' after ''information''; and

(III) by striking ''and'' at the end;

(iii) in clause (vii), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(viii) provide training and technical assistance to support the provision of community-based mental health services for older individuals.''; and

(8) by adding at the end the following:

''(b) MULTIDISCIPLINARY HEALTH SERVICES IN COMMUNITIES.—

''(1) PROGRAM AUTHORIZED.—The Assistant Secretary shall make grants to States, on a competitive basis, for the development and operation of—

''(A) systems for the delivery of mental health screening and treatment services for older individuals who lack access to such services; and

''(B) programs to—

''(i) 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 area 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, any Federal, State, and local 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 patient screening, diagnostic services, care planning and oversight, therapeutic interventions, and referrals, that are—

''(A) provided pursuant to evidence-based intervention and treatment protocols (to the extent such protocols are available) for mental disorders prevalent in older individuals; and

''(B) 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'—

''(A) means a nonprofit health or social service organization, a community-based nonprofit organization, an area agency on aging or other local government agency, a tribal organization, or another entity that—

''(i) the Assistant Secretary determines to be appropriate to carry out a project under this part; and

''(ii) demonstrates a record of, and experience in, providing or administering group and individual health and social services for older individuals; and

''(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 multifamily service coordinator program carried out under section 202(g) of the Housing Act of 1959 (12 U.S.C. 1701q(g)).

''(2) NATURALLY OCCURRING RETIREMENT COMMUNITY.—The term 'Naturally Occurring Retirement Community' means a community with a concentrated population of older individuals, which may include a residential building, a housing complex, an area (including a rural area) of single family residences, or a neighborhood 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, allow 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 health and social services to sustain 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 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 entity's experience in providing services to older individuals in age-integrated settings;

''(B) a definition of the contiguous service area and a description of the project area in which the older individuals reside or carry out activities to sustain their well-being;

''(C) the results of a needs assessment that identifies—

''(i) existing (as of the date of the assessment) community-based health and social services available to individuals residing in the project area;

''(ii) the strengths and gaps of such existing services in the project area;

''(iii) the needs of older individuals who reside in the project area; and

''(iv) services not being delivered that would promote aging in place and contribute to the well-being of older individuals residing in the project area;

''(D) a plan for the development and implementation of an innovative model for service coordination and delivery within the project area;

''(E) a description of how the plan described in subparagraph (D) will enhance existing services described in subparagraph (C)(i) and support the goal of this section to promote aging in place;

''(F) a description of proposed actions by the entity to prevent the duplication of services funded under a provision of this Act, other than this section, and 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 area 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 interested local entities, including private agencies and businesses that provide health and social services, housing entities, community development organizations, philanthropic organizations, foundations, and other non-Federal entities;

''(H) a description of the entity's 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.—

''(1) IN GENERAL.—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 and coordination of community-based health and social services, including those identified in subparagraph (A)(iv), which may include mental health services, for eligible older individuals.

''(2) 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.

''(3) 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 concentration of older individuals has aged in place and resided, such as a Naturally Occurring Retirement Community.

''(4) SUPPLEMENT NOT SUPPLANT.—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.

''(e) 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 serving older individuals and experience evaluating and reporting on programs; and

''(B) has demonstrated knowledge of 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.

''(f) REPORT.—The Assistant Secretary shall annually prepare and submit a report to Congress that shall include—

''(1) the findings resulting from the evaluations of the model projects conducted under this section;

''(2) a description of recommended best practices regarding carrying out health and social service projects for older individuals aging in place; and

''(3) recommendations for legislative or administrative action, as the Assistant Secretary determines appropriate.''.

SEC. 410. RESPONSIBILITIES OF ASSISTANT SECRETARY.

Section 432(c)(2)(B) of the Older Americans Act of 1965 (42 U.S.C. 3033a(c)(2)(B)) is amended by inserting '', including preparing an analysis of such services, projects, and programs, and of how the evaluation relates to improvements in 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 SENIOR 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 may enjoy 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 and agencies 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 made under section 506, and in accordance with section 514. No payment shall be made by the Secretary toward the cost of any project established or administered by such an organization or agency unless the Secretary determines that such project—

''(A) will provide community service employment only for eligible individuals except for necessary technical, administrative, and supervisory personnel, and such personnel will, to the fullest extent possible, be recruited from among eligible individuals;

''(B)(i) will provide community service employment and other authorized activities for eligible individuals in the community in which such individuals reside, or in nearby communities; or

''(ii) if such project is carried out by a tribal organization that receives a grant under this subsection or receives assistance from a State that receives a grant under this subsection, will provide community service employment and other authorized activities for such individuals, including those who are Indians residing on an Indian reservation, as defined in section 2601 of the Energy Policy Act of 1992 (25 U.S.C. 3501);

''(C) will comply with an average participation cap for eligible individuals (in the aggregate) of—

''(i) 27 months; or

''(ii) pursuant to the request of a grantee, an extended period of participation established by the Secretary for a specific project area for such grantee, up to a period of not more than 36 months, if the Secretary determines that extenuating circumstances exist relating to the factors identified in section 513(a)(2)(D) that justify such an extended period for the program year involved;

''(D) will employ eligible individuals in service related to publicly owned and operated facilities and projects, or projects sponsored by nonprofit organizations (excluding political parties exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986), but excluding projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

''(E) will contribute to the general welfare of the community, which may include support for children, youth, and families;

''(F) will provide community service employment and other authorized activities for eligible individuals;

''(G)(i) will not reduce the number of employment opportunities or vacancies that would otherwise be available to individuals not participating in the program;

''(ii) will not displace currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits);

''(iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed; and

''(iv) will not employ or continue to employ any eligible individual to perform the same work or substantially the same work as that performed by any other individual who is on layoff;

''(H) 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 to recruit eligible individuals to ensure that the maximum number of eligible individuals will have an opportunity to participate in the project;

''(I) will include such training (such as work experience, on-the-job training, and classroom training) as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance equivalent to the wage described in subparagraph (J);

''(J) will ensure that safe and healthy employment conditions will be provided, and will ensure that participants employed in community service and other jobs assisted under this title will be paid wages that shall not be lower than whichever is the highest of—

''(i) the minimum wage that would be applicable to such a participant under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), if section 6(a)(1) of such Act (29 U.S.C. 206(a)(1)) applied to the participant and if the participant were not exempt under section 13 of such Act (29 U.S.C. 213);

''(ii) the State or local minimum wage for the most nearly comparable covered employment; or

''(iii) the prevailing rates of pay for individuals employed in similar public occupations by the same employer;

''(K) will be established or administered with the advice of persons competent in the field of service in which community service employment or other authorized activities are being provided, and of persons who are knowledgeable about the needs of older individuals;

''(L) will authorize payment for necessary supportive services costs (including transportation costs) of eligible individuals that may be incurred in training in any project funded under this title, in accordance with rules issued by the Secretary;

''(M) 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 greatest economic need, at least in proportion to their numbers in the area served and take into consideration their rates of poverty and unemployment;

''(N)(i) 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. 2801 et seq.), the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 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;

''(ii) will provide training and employment counseling to eligible individuals based on strategies that identify appropriate employment objectives and the need for supportive services, developed as a result of the assessment and service strategy provided for in clause (i), and provide other appropriate information regarding such project; and

''(iii) will provide counseling to participants on their progress in meeting such objectives and satisfying their need for supportive services;

''(O) 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 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)), and will be involved in the planning and operations of such system pursuant to a memorandum of understanding with the local workforce investment board in accordance with section 121(c) of such Act (29 U.S.C. 2841(c));

''(P) 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 political activities allowable and unallowable under chapter 15 of title 5, United States Code, applicable to the project and to each category of individuals associated with such project; and

''(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;

''(Q) will provide to the Secretary the description and information described in—

''(i) paragraph (8), relating to coordination with other Federal programs, of section 112(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b)); and

''(ii) paragraph (14), relating to implementation of one-stop delivery systems, of section 112(b) of the Workforce Investment Act of 1998; and

''(R) will ensure that entities that carry out activities under the project (including State agencies, local entities, subgrantees,

and subcontractors) and affiliates of such entities receive an amount of the administrative cost allocation determined by the Secretary, in consultation with grantees, to be sufficient.

''(2) REGULATIONS.—The Secretary may establish, issue, and amend such regulations as may be necessary to effectively carry out this title.

''(3) ASSESSMENT AND SERVICE STRATEGIES.—

''(A) PREPARED UNDER THIS ACT.—An assessment and service strategy required by paragraph (1)(N) to be prepared for an eligible individual shall satisfy any condition for an assessment and service strategy or individual employment plan for an adult participant under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.), in order to determine whether such eligible individual also qualifies for intensive or training services described in section 134(d) of such Act (29 U.S.C. 2864(d)).

''(B) PREPARED UNDER WORKFORCE INVESTMENT ACT OF 1998.—An assessment and service strategy or individual employment plan prepared under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.) for an eligible individual may be used to comply with the requirement 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 project is—

''(A) an emergency or disaster project; or

''(B) a project located in an economically depressed area, as determined by the Secretary 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 determining 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.—Of the grant amount to be paid under this subsection by the Secretary for a project, not to exceed 13.5 percent shall be available for any fiscal year to pay the administrative 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 determines, based on information submitted by the grantee under subsection (b), that such increase is necessary to carry out such project; and

''(B) if the grantee under subsection (b) demonstrates to the Secretary that—

''(i) major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workers' compensation, costs associated with achieving unsubsidized placement goals, and costs associated with other operation requirements imposed by the Secretary;

''(ii) the number of community service employment positions in the project or the number of minority eligible individuals participating 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 administrative costs to an amount not to exceed 15 percent of the grant amount.

''(4) ADMINISTRATIVE COSTS.—For purposes of this title, administrative costs are the costs, both personnel-related and nonpersonnel-related and both direct and indirect, associated with the following:

''(A) The costs of performing general administrative functions and of providing for the coordination of functions, such as the costs of—

''(i) accounting, budgeting, and financial and cash management;

''(ii) procurement and purchasing;

''(iii) property management;

''(iv) personnel management;

''(v) payroll functions;

''(vi) coordinating the resolution of findings arising from audits, reviews, investigations, and incident reports;

''(vii) audits;

''(viii) general legal services;

''(ix) developing systems and procedures, including information systems, required for administrative functions;

''(x) preparing administrative reports; and

''(xi) other activities necessary for the general administration of government funds and associated programs.

''(B) The costs of performing oversight and monitoring responsibilities related to administrative functions.

''(C) The costs of goods and services required for administrative functions of the project involved, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space.

''(D) The travel costs incurred for official business in carrying out administrative activities or overall management.

''(E) The costs of information systems related to administrative functions (such as personnel, procurement, purchasing, property management, accounting, and payroll systems), including the purchase, systems development, and operating costs of such systems.

''(F) The costs of technical assistance, professional organization membership dues, and evaluating results obtained by the project involved against stated objectives.

''(5) NON-FEDERAL SHARE OF ADMINISTRATIVE COSTS.—To the extent practicable, an entity that carries out a project under this title shall provide for the payment of the expenses described in paragraph (4) from non-Federal sources.

''(6) USE OF FUNDS FOR WAGES AND BENEFITS AND PROGRAMMATIC ACTIVITY COSTS.—

''(A) IN GENERAL.—Amounts made available for a project under this title that are not used to pay for the administrative costs shall be used to pay for the costs of programmatic activities, including the costs of—

''(i) participant wages, such benefits as are required by law (such as workers' compensation or unemployment compensation), the costs of physical examinations, compensation for scheduled work hours during which an employer's business is closed for a Federal holiday, and necessary sick leave that is not part of an accumulated sick leave program, except that no amounts provided under this title may be used to pay the cost of pension benefits, annual leave, accumulated sick leave, or bonuses;

''(ii) participant training (including the payment of reasonable costs of instructors, classroom rental, training supplies, materials, equipment, and tuition), 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 appropriate arrangements;

''(iii) job placement assistance, including job development and job search assistance;

''(iv) participant supportive services to enable a participant to successfully participate in a project under this title, which may include the payment of reasonable costs of transportation, health and medical services, special job-related or personal counseling, incidentals (such as work shoes, badges, uniforms, eyeglasses, and tools), child and adult care, temporary shelter, and follow-up services; and

''(v) outreach, recruitment and selection, intake, orientation, and assessments.

''(B) USE OF FUNDS FOR WAGES AND BENEFITS.—From the funds made available through a grant made under subsection (b), a grantee under this title—

''(i) except as provided in clause (ii), shall use not less than 75 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i) for eligible individuals who are employed under projects carried out under this title; or

''(ii) that obtains approval for a request described in subparagraph (C) may use not less than 65 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i).

''(C) REQUEST TO USE ADDITIONAL FUNDS FOR PROGRAMMATIC ACTIVITY COSTS.—

''(i) IN GENERAL.—A grantee may submit to the Secretary a request for approval—

''(I) to use not less than 65 percent of the grant funds to pay the wages, benefits, and other costs described in subparagraph (A)(i);

''(II) to use the percentage of grant funds described in paragraph (3) to pay for administrative costs, as specified in that paragraph;

''(III) to use not more than 10 percent of the grant funds for individual participants to provide activities described in clauses (ii) and (iv) of subparagraph (A), in which case the grantee shall provide (from the funds described in this subclause) the subsistence allowance described in subsection (b)(1)(I) for those individual participants who are receiving training described in that subsection from the funds described in this subclause, but may not use the funds described in this subclause to pay for any administrative costs; and

''(IV) to use the remaining grant funds to provide activities described in clauses (ii) through (v) of subparagraph (A).

''(ii) CONTENTS.—In submitting the request the grantee shall include in the request—

''(I) a description of the activities for which the grantee will spend the grant funds described in subclauses (III) and (IV) of clause (i), consistent with those subclauses;

''(II) an explanation documenting how the provision of such activities will improve the effectiveness of the project, including an explanation concerning whether any displacement of eligible individuals or elimination of positions for such individuals will occur, information on the number of such individuals to be displaced and of such positions to be eliminated, and an explanation concerning how the activities will improve employment outcomes for individuals served, based on the assessment conducted under subsection (b)(1)(N); and

''(III) a proposed budget and work plan for the activities, including a detailed description of the funds to be spent on the activities described in subclauses (III) and (IV) of clause (i).

''(iii) SUBMISSION.—The grantee shall submit a request described in clause (i) not later than 90 days before the proposed date of implementation contained in the request. Not later than 30 days before the proposed date of implementation, the Secretary shall approve, approve as modified, or reject the request, on the basis of the information included in the request as described in clause (ii).

''(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 (v) 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, for review and public comment 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 assistance to participants transitioning from subsidized activities to private sector employment;

''(B) demonstration projects and pilot projects designed to—

''(i) attract more eligible individuals into the labor force;

''(ii) improve the provision of services to eligible individuals under one-stop delivery systems established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

''(iii) enhance the technological skills of eligible individuals; and

''(iv) provide incentives to grantees under this title for exemplary performance and incentives to businesses to promote their participation in the program under this title;

''(C) demonstration projects and pilot projects, as described in subparagraph (B), for workers who are older 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;

''(D) provision of training and technical assistance to support any project funded under this title;

''(E) 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, entities carrying out projects 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 the '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 process used to ensure the participation of individuals described in paragraph (2). Not less often than every 2 years, the Governor shall review the State plan and submit an update to the State plan to the Secretary for consideration and approval.

''(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 the State and local workforce investment boards established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

''(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; and

''(C) individuals representing social service organizations providing services to older individuals, grantees under title III of this Act, affected communities, unemployed older individuals, community-based organizations serving the needs of older individuals, business organizations, and labor organizations.

''(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 identify and address—

''(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 greatest social need;

''(D) the current and projected employment opportunities in the State (such as by providing information available under section 15 of the Wagner-Peyser Act (29 U.S.C. 491–2) by occupation), and the type of skills possessed by local eligible individuals;

''(E) the localities and populations for which projects of the type authorized by this title are most needed; and

''(F) plans for facilitating the coordination of activities of grantees in the State under this title with activities carried out in the State under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.).

''(5) GOVERNOR'S RECOMMENDATIONS.—Before a proposal for a grant under this title for any fiscal year is submitted to the Secretary, 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 proposal upon the overall distribution of enrollment positions under this title in the State (including such distribution among urban and rural areas), taking into account the total 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 subsection, 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 and services under this title in the State, including the distribution between urban and rural areas in the State. For each proposed reallocation of projects or services in a State, the Secretary shall give notice and opportunity for public comment.

''(8) 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 Island and Asian Americans, respectively.

''(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 the program 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 2006 (20 U.S.C. 2301 et seq.), the National and Community Service Act of 1990 (42 U.S.C. 12501 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 and who need services under such titles receive such services.

''(B) USE OF FUNDS.—

''(i) 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, the Rehabilitation 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 Volunteer Service Act of 1973.

''(ii) 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 section 511.

''(3) INFORMATIONAL MATERIALS ON AGE DISCRIMINATION.—The Secretary shall distribute to grantees under this title, for distribution to program participants, and at no cost to grantees or participants, informational materials developed and supplied by the Equal Employment Opportunity Commission and other appropriate Federal agencies that the Secretary determines are designed to help participants identify age discrimination and to understand their rights under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).

''(c) 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 other public and nonprofit private agencies and organizations in the use of services, equipment, and facilities.

''(d) PAYMENTS.—Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

''(e) NO DELEGATION OF FUNCTIONS.—The Secretary shall not delegate any function of the Secretary under this title to any other Federal officer or entity.

''(f) COMPLIANCE.—

''(1) MONITORING.—The Secretary shall monitor projects for which grants are made under this title to determine whether the grantees are complying with rules and regulations issued to carry out this title (including the statewide planning, consultation, and coordination requirements of this title).

''(2) COMPLIANCE WITH UNIFORM COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS.—Each grantee that receives funds under this title shall comply with the applicable uniform cost principles and appropriate administrative requirements for grants and contracts that are applicable to the type of entity that receives funds, as issued as circulars or rules of the Office of Management and Budget.

''(3) REPORTS.—Each grantee described in paragraph (2) shall prepare and submit a report in such manner and containing such information as the Secretary may require regarding activities carried out under this title.

''(4) RECORDS.—Each grantee described in paragraph (2) shall keep records that—

''(A) are sufficient to permit the preparation of reports required by this title;

''(B) are sufficient to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully; and

''(C) contain any other information that the Secretary determines to be appropriate.

''(g) EVALUATIONS.—The Secretary shall establish by rule and implement a process to evaluate, in accordance with section 513, the performance of projects carried out and services provided under this title. The Secretary shall report to Congress, and make available to the public, the results of each such evaluation and shall use such evaluation to improve services delivered by, or the operation of, projects carried out under this title.

''SEC. 504. PARTICIPANTS NOT FEDERAL EMPLOYEES.

''(a) INAPPLICABILITY OF CERTAIN PROVISIONS COVERING FEDERAL EMPLOYEES.—Eligible individuals who are participants in any project funded under this title shall not be considered to be Federal employees as a result of such participation and shall not be subject to part III of title 5, United States Code.

''(b) WORKERS' COMPENSATION.—No grant or subgrant shall be made and no contract or subcontract shall be entered into under this title with an entity who is, or whose employees are, under State law, exempted from operation of the State workers' compensation law, generally applicable to employees, unless the entity shall undertake to provide either through insurance by a recognized carrier or by self-insurance, as authorized by State law, that the persons employed under the grant, subgrant, contract, or subcontract shall enjoy workers' compensation coverage equal to that provided by law for covered employment.

''SEC. 505. INTERAGENCY COOPERATION.

''(a) CONSULTATION WITH THE ASSISTANT SECRETARY.—The Secretary shall consult with and obtain the written views of the Assistant Secretary before issuing rules and before establishing general policy in the administration of this title.

''(b) CONSULTATION WITH HEADS OF OTHER AGENCIES.—The Secretary shall consult and cooperate with the Secretary of Health and Human Services (acting through officers including the Director of the Office of Community Services), and the heads of other Federal agencies that carry out programs related to the program carried out under this title, in order to achieve optimal coordination of the program carried out under this title with such related programs. Each head of a Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this title and in promoting the identification and interests of individuals eligible for employment in projects assisted under this title.

''(c) COORDINATION.—

''(1) IN GENERAL.—The Secretary shall promote and coordinate efforts to carry out projects under this title jointly with programs, projects, or activities carried out under other Acts, especially activities provided under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), including activities provided through one-stop delivery systems established under section 134(c)) of such Act (29 U.S.C. 2864(c)), that provide training and employment opportunities to eligible individuals.

''(2) COORDINATION WITH CERTAIN ACTIVITIES.—The Secretary shall consult with the Secretary of Education to promote and coordinate efforts to carry out projects under this title jointly with activities in which eligible individuals may participate that are carried out under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.).

''SEC. 506. DISTRIBUTION OF ASSISTANCE.

''(a) RESERVATIONS.—

''(1) RESERVATION FOR PILOT DEMONSTRATION AND EVALUATION PROJECTS.—Of the funds appropriated to carry out this title for each fiscal year, the Secretary may first reserve not more than 1.5 percent to carry out demonstration projects, pilot projects, and evaluation projects under section 502(e).

''(2) RESERVATION FOR TERRITORIES.—Of the funds appropriated to carry out this title for each fiscal year, the Secretary shall reserve 0.75 percent, of which—

''(A) Guam, American Samoa, and the United States Virgin Islands shall each receive 30 percent of the funds so reserved; and

''(B) the Commonwealth of the Northern Mariana Islands shall receive 10 percent of the funds so reserved.

''(3) RESERVATION FOR ORGANIZATIONS.—Of the funds appropriated to carry out this title for each fiscal year, the Secretary shall reserve such amount as may be necessary to make national grants to public or nonprofit national Indian aging organizations with the ability to provide community service employment and other authorized activities for eligible individuals who are Indians and to national public or nonprofit Pacific Island and Asian American aging organizations with the ability to provide community service employment and other authorized activities for eligible individuals who are Pacific Island and Asian Americans.

''(b) STATE ALLOTMENTS.—The allotment for each State shall be the sum of the amounts allotted for national grants in such State under subsection (d) and for the grant to such State under subsection (e).

''(c) DIVISION BETWEEN NATIONAL GRANTS AND GRANTS TO STATES.—The funds appropriated to carry out this title for any fiscal year that remain after amounts are reserved under paragraphs (1), (2), and (3) of subsection (a) shall be divided by the Secretary between national grants and grants to States as follows:

''(1) RESERVATION OF FUNDS FOR FISCAL YEAR 2000 LEVEL OF ACTIVITIES.—

''(A) IN GENERAL.—The Secretary shall reserve the amount of funds necessary to maintain the fiscal year 2000 level of activities supported by grantees that operate under this title under national grants from the Secretary, and the fiscal year 2000 level of activities supported by State grantees under this title, in proportion to their respective fiscal year 2000 levels of activities.

''(B) INSUFFICIENT APPROPRIATIONS.—If in any fiscal year the funds appropriated to carry out this title are insufficient to satisfy the requirement specified in subparagraph (A), then the amount described in subparagraph (A) shall be reduced proportionally.

''(2) FUNDING IN EXCESS OF FISCAL YEAR 2000 LEVEL OF ACTIVITIES.—

''(A) UP TO $35,000,000.—The amount of funds remaining (if any) after the application of paragraph (1), but not to exceed $35,000,000, shall be divided so that 75 percent shall be provided to State grantees and 25 percent shall be provided to grantees that operate under this title under national grants from the Secretary.

''(B) OVER $35,000,000.—The amount of funds remaining (if any) after the application of subparagraph (A) shall be divided so that 50 percent shall be provided to State grantees and 50 percent shall be provided to grantees that operate under this title under national grants from the Secretary.

''(d) ALLOTMENTS FOR NATIONAL GRANTS.—From funds available under subsection (c) for national grants, the Secretary shall allot for public and nonprofit private agency and organization grantees that operate under this title under national grants from the Secretary in each State, an amount that bears the same ratio to such funds as the product 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 ½ of 1 percent of the amount provided under subsection (c) for public and nonprofit private agency and organization grantees that operate under this

title under national grants from the Secretary 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 grantees that operate under this title under national grants from the Secretary 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 grantees that operate under this title under national grants from the Secretary 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.

''(e) ALLOTMENTS FOR GRANTS TO STATES.—From the amount provided for grants to States under subsection (c), the Secretary shall allot for the State grantee in each State an amount that bears the same ratio to such amount as the product 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 ½ of 1 percent 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 State grantees 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 percent 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 33 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 determined 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; and

''(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; and

''(B) with respect to State grantees, their level of activities for fiscal year 2000.

''(3) GRANTS TO STATES.—The term 'grants to States' means grants made under this title by the Secretary to the States.

''(4) LEVEL OF ACTIVITIES.—The term 'level of activities' means the number of authorized positions multiplied by the cost per authorized position.

''(5) NATIONAL GRANTS.—The term 'national grants' means grants made under this title by the Secretary to public and nonprofit private agency and organization grantees that operate under this title.

''(6) STATE.—The term 'State' does not include Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

''SEC. 507. EQUITABLE DISTRIBUTION.

''(a) INTERSTATE ALLOCATION.—In making grants under section 502(b) from allotments made under section 506, the Secretary shall ensure, to the extent feasible, an equitable distribution of activities under such grants, in the aggregate, among the States, taking into account the needs of underserved States.

''(b) INTRASTATE ALLOCATION.—The amount allocated for projects within each State under section 506 shall be allocated among areas in the State in an equitable manner, taking into consideration the State priorities set out in the State plan in effect under section 503(a).

''SEC. 508. 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 prepare and submit a report at the beginning of each fiscal year on such State's compliance with section 507(b). Such report shall include the names and geographic location of all projects assisted under this title and carried out in the State and the amount allocated to each such project under section 506.

''SEC. 509. EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS.

''Funds received by eligible individuals from projects carried out under the program established under this title shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other 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.).

''SEC. 510. ELIGIBILITY FOR WORKFORCE INVESTMENT ACTIVITIES.

''Eligible individuals under this title may be considered by local workforce investment boards and one-stop operators established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.) to satisfy the requirements for receiving services under such title I that are applicable to adults.

''SEC. 511. COORDINATION WITH THE WORKFORCE INVESTMENT ACT OF 1998.

''(a) PARTNERS.—Grantees under this title shall be one-stop partners as described in subparagraphs (A) and (B)(vi) of section 121(b)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(b)(1)) in the one-stop delivery system established under section 134(c) of such Act (29 U.S.C. 2864(c)) for the appropriate local workforce investment areas, and shall carry out the responsibilities relating to such partners.

''(b) COORDINATION.—In local workforce investment areas 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 the memorandum of understanding established under section 121(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(c)).

''SEC. 512. TREATMENT OF ASSISTANCE.

''Assistance provided under this title shall not be considered to be financial assistance described in section 245A(h)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(1)(A)).

''SEC. 513. PERFORMANCE.

''(a) MEASURES AND INDICATORS.—

''(1) ESTABLISHMENT AND IMPLEMENTATION OF MEASURES AND INDICATORS.—The Secretary shall establish and implement, after consultation with grantees, subgrantees, and host agencies under this title, States, older individuals, 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 subcontracts, subgrants, or agreements with other entities.

''(2) 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.—The 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).

''(B) CONTINUOUS IMPROVEMENT.—The measures described in subparagraph (A)(i) shall be designed to promote continuous improvement in performance.

''(C) EXPECTED LEVELS OF PERFORMANCE.—The Secretary and each grantee shall reach agreement on the expected levels of performance for each program year for each of the core indicators of performance specified in subparagraph (A)(i). The agreement shall take into account the requirement of subparagraph (B) and the factors described in subparagraph (D), and other appropriate factors as determined by the Secretary, and

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 the levels with all grantees, 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 or proportions for grantees serving other areas of the State or Nation.

''(iv) Changes in Federal, State, or local minimum wage requirements.

''(v) Limited economies of scale for the provision of community service employment and other authorized activities in the areas served by the grantee.

''(E) PLACEMENT.—

''(i) LEVEL OF PERFORMANCE.—For all grantees, the Secretary shall establish an expected level of performance of not less than the percentage specified in clause (ii) (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.

''(3) LIMITATION.—An agreement to be evaluated on the core measures of performance 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) hours (in the aggregate) of community service employment;

''(B) entry into unsubsidized employment;

''(C) retention in unsubsidized employment for 6 months;

''(D) earnings; and

''(E) the number of eligible individuals served, including the number of participating individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518.

''(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.

''(3) 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 paragraphs (1) and (2).

''(c) EVALUATION.—The Secretary shall—

''(1) 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 expected levels of performance established under subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)); and

''(2) annually 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 additional indicators of performance.

''(d) TECHNICAL ASSISTANCE AND CORRECTIVE EFFORTS.—

''(1) INITIAL DETERMINATIONS.—

''(A) IN GENERAL.—As soon as practicable after July 1, 2007, the Secretary shall determine if a grantee under this title has, for program year 2006—

''(i) met the expected levels of performance established under 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 subparagraphs (A), (C), (D), and (E) of subsection (b)(1); and

''(ii) achieved the applicable percentage specified in subsection (a)(2)(E)(ii) for the core indicator of performance described in subsection (b)(1)(B).

''(B) TECHNICAL ASSISTANCE.—If the Secretary determines that the grantee, for program year 2006—

''(i) failed to meet the expected levels of performance described in subparagraph (A)(i); or

''(ii) failed to achieve the applicable percentage described in subparagraph (A)(ii),

the Secretary shall provide technical assistance to assist the grantee to meet the expected levels of performance and achieve the applicable percentage.

''(2) NATIONAL GRANTEES.—

''(A) IN GENERAL.—Not later than 120 days after the end of each program year, the Secretary shall determine if a national grantee awarded a grant under section 502(b) in accordance with section 514 has met the expected levels of performance established under 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) TECHNICAL ASSISTANCE AND CORRECTIVE ACTION PLAN.—

''(i) IN GENERAL.—If the Secretary determines that a national grantee fails to meet the expected levels of performance described in subparagraph (A), the Secretary after each year of such failure, shall provide technical assistance and require such grantee to submit a corrective action plan not later than 160 days after the end of the program year.

''(ii) CONTENT.—The plan submitted under clause (i) shall detail the steps the grantee will take to meet the expected levels of performance in the next program year.

''(iii) RECOMPETITION.—Any grantee who has failed to meet the expected levels of performance for 4 consecutive years (beginning with program year 2007) shall not be allowed to compete in the subsequent grant competition under section 514 following the fourth consecutive year of failure but may compete in the next such grant competition after that subsequent competition.

''(3) STATE GRANTEES.—

''(A) IN GENERAL.—Not later than 120 days after the end of each program year, the Secretary shall determine if a State grantee allotted funds under section 506(e) has met the expected levels of performance established under 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) TECHNICAL ASSISTANCE AND CORRECTIVE ACTION PLAN.—

''(i) IN GENERAL.—If the Secretary determines that a State fails to meet the expected levels of performance described in subparagraph (A), the Secretary, after each year of such failure, shall provide technical assistance and require the State to submit a corrective action plan not later than 160 days after the end of the program year.

''(ii) CONTENT.—The plan submitted under clause (i) shall detail the steps the State will take to meet the expected levels of performance in the next program year.

''(iii) COMPETITION.—If the Secretary determines that the 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.

''(4) 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.

''(e) 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—

''(1) the date on which the Secretary implements the core measures of performance and additional indicators of performance described in this section; and

''(2) January 1, 2010.

''SEC. 514. COMPETITIVE REQUIREMENTS RELATING TO GRANT AWARDS.

''(a) PROGRAM AUTHORIZED.—

''(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 meeting performance requirements, to carry out projects under this title for a period of 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 such recipient to continue 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).

''(c) CRITERIA.—For purposes of subsection (a)(1), the Secretary shall select the eligible applicants to receive grants based on the following:

''(1) The applicant's ability to administer a project that serves the greatest number of eligible individuals, giving particular consideration to individuals with greatest economic need, individuals with greatest social need, and individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518.

''(2) The applicant's ability to administer a project that provides employment for eligible individuals in the communities in which such individuals reside, or in nearby communities, that will contribute to the general welfare of the communities involved.

''(3) The applicant's ability to administer a project that moves eligible individuals into unsubsidized employment.

''(4) The applicant's prior performance, if any, in meeting core measures of performance and addressing additional indicators of performance under this title and the applicant's ability to address core indicators of performance and additional indicators of performance under this title and under other Federal or State programs in the case of an applicant that has not previously received a grant under this title.

''(5) The applicant's ability to move individuals with multiple barriers to employment, including individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518, into unsubsidized employment.

''(6) The applicant's ability to coordinate activities with other organizations at the State and local level.

''(7) The applicant's plan for fiscal management of the project to be administered with funds received in accordance with this section.

''(8) The applicant's ability to administer a project that provides community service.

''(9) The applicant's ability to minimize disruption in services for participants and in community services provided.

''(10) Any additional criteria that the Secretary considers to be appropriate in order to minimize disruption in services for participants.

''(d) RESPONSIBILITY TESTS.—

''(1) IN GENERAL.—Before final selection of a grantee, the Secretary shall conduct a review of available records to assess the applicant's overall responsibility to administer Federal funds.

''(2) REVIEW.—As part of the review described in paragraph (1), the Secretary may consider any information, including the applicant's history with regard to the management of other grants.

''(3) FAILURE TO SATISFY TEST.—The failure to satisfy a responsibility test with respect to any 1 factor that is listed in paragraph (4), excluding those listed in subparagraphs (A) and (B) of such paragraph, does not establish that the applicant is not responsible unless such failure is substantial or persists for 2 or more consecutive years.

''(4) TEST.—The responsibility tests include review of the following factors:

''(A) Unsuccessful efforts by the applicant to recover debts, after 3 demand letters have been sent, that are established by final agency action, or a failure to comply with an approved repayment plan.

''(B) Established fraud or criminal activity of a significant nature within the organization or agency involved.

''(C) Serious administrative deficiencies identified by the Secretary, such as failure to maintain a financial management system as required by Federal rules or regulations.

''(D) Willful obstruction of the audit process.

''(E) Failure to provide services to participants for a current or recent grant or to meet applicable core measures of performance or address applicable indicators of performance.

''(F) Failure to correct deficiencies brought to the grantee's attention in writing as a result of monitoring activities, reviews, assessments, or other activities.

''(G) Failure to return a grant closeout package or outstanding advances within 90 days of the grant expiration date or receipt of the closeout package, whichever is later, unless an extension has been requested and granted.

''(H) Failure to submit required reports.

''(I) Failure to properly report and dispose of Government property as instructed by the Secretary.

''(J) Failure to have maintained effective cash management or cost controls resulting in excess cash on hand.

''(K) Failure to ensure that a subrecipient complies with its Office of Management and Budget Circular A–133 audit requirements specified at section 667.200(b) of title 20, Code of Federal Regulations.

''(L) Failure to audit a subrecipient within the required period.

''(M) Final disallowed costs in excess of 5 percent of the grant or contract award if, in the judgment of the grant officer, the disallowances are egregious.

''(N) Failure to establish a mechanism to resolve a subrecipient's audit in a timely fashion.

''(5) DETERMINATION.—Applicants that are determined to be not responsible shall not be selected as grantees.

''(6) DISALLOWED COSTS.—Interest on disallowed costs shall accrue in accordance with the Debt Collection Improvement Act of 1996, including the amendments made by that Act.

''(e) GRANTEES SERVING INDIVIDUALS WITH BARRIERS TO EMPLOYMENT.—

''(1) DEFINITION.—In this subsection, the term 'individuals with barriers to employment' means minority individuals, Indian individuals, individuals with greatest economic need, and individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518.

''(2) SPECIAL CONSIDERATION.—In areas where a substantial population of individuals with barriers to employment exists, a grantee that receives a national grant in accordance with this section shall, in selecting subgrantees, give special consideration to organizations (including former recipients of such national grants) with demonstrated expertise in serving individuals with barriers to employment.

''(f) MINORITY-SERVING GRANTEES.—The Secretary may not promulgate rules or regulations affecting grantees in areas where a substantial population of minority individuals exists, that would significantly compromise the ability of the grantees to serve their targeted population of minority older individuals.

''SEC. 515. REPORT ON SERVICE TO MINORITY INDIVIDUALS.

''(a) IN GENERAL.—The Secretary shall annually prepare a report on the levels of participation and performance outcomes of minority individuals served by the program carried out under this title.

''(b) CONTENTS.—

''(1) ORGANIZATION AND DATA.—Such report shall present information on the levels of participation and the outcomes achieved by such minority individuals with respect to each grantee under this title, by service area, and in the aggregate, beginning with data that applies to program year 2005.

''(2) EFFORTS.—The report shall also include a description of each grantee's efforts to serve minority individuals, based on information submitted to the Secretary by each grantee at such time and in such manner as the Secretary determines to be appropriate.

''(3) RELATED MATTERS.—The report shall also include—

''(A) an assessment of individual grantees based on the criteria established under subsection (c);

''(B) an analysis of whether any changes in grantees have affected participation rates of such minority individuals;

''(C) information on factors affecting participation rates among such minority individuals; and

''(D) recommendations for increasing participation of minority individuals in the program.

''(c) CRITERIA.—The Secretary shall establish criteria for determining the effectiveness of grantees in serving minority individuals in accordance with the goals set forth in section 502(a)(1).

''(d) SUBMISSION.—The Secretary shall annually submit such a report to the appropriate committees of Congress.

''SEC. 516. SENSE OF CONGRESS.

''It is the sense of Congress that—

''(1) the older American community service employment program described in this title was established with the intent of placing older individuals in community service positions and providing job training; and

''(2) placing older individuals in community service positions strengthens the ability of the individuals to become self-sufficient, provides much-needed support to organizations that benefit from increased civic engagement, and strengthens the communities that are served by such organizations.

''SEC. 517. AUTHORIZATION OF APPROPRIATIONS.

''(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 section 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 year, 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 '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;

''(F) economic development; and

''(G) such other services essential and necessary to the community as the Secretary determines by rule to be appropriate.

''(2) COMMUNITY SERVICE EMPLOYMENT.—The term 'community service employment' means part-time, temporary employment paid with grant funds in projects described in section 502(b)(1)(D), through which eligible individuals are engaged in community service and receive work experience and job skills that can lead to unsubsidized employment.

''(3) ELIGIBLE INDIVIDUAL.—

''(A) IN GENERAL.—The term 'eligible individual' means an individual who is age 55 or older and who has a low income (including any such individual whose income is not more than 125 percent of the poverty line), excluding any 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 paragraph, the term 'eligible individual' does not include an individual who has participated in projects under this title for a period of 48 months in the aggregate (whether or not consecutive) after July 1, 2007 unless the period was increased as described in clause (ii).

''(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.

''(4) INCOME.—In this section, the term 'income' means income received during the 12-month period (or, at the option of the grantee involved, the annualized income for the 6-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.

''(5) PACIFIC ISLAND AND ASIAN AMERICANS.—The term 'Pacific Island and Asian Americans' means Americans having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.

''(6) PROGRAM.—The term 'program' means the older American community service employment program established under this title.

''(7) SUPPORTIVE SERVICES.—The term 'supportive services' means services, such as transportation, child care, dependent care, housing, and needs-related payments, that are necessary to enable an individual to participate in activities authorized under this title, consistent with the provisions of this title.

''(8) UNEMPLOYED.—The term 'unemployed', used with respect to a person or individual, means an individual who is without a job and who wants and is available for work, including an individual who may have occasional employment that does not result in a constant source of income.

''(b) RULE.—Pursuant to regulations prescribed by the Secretary, an eligible individual shall have priority for the community service employment and other authorized activities provided under this title if the individual—

''(1) is 65 years of age or older; or

''(2)(A) has a disability;

''(B) has limited English proficiency or low literacy skills;

''(C) resides in a rural area;

''(D) is a veteran;

''(E) has low employment prospects;

''(F) has failed to find employment after utilizing services provided under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.); or

''(G) is homeless or at risk for homelessness.''.

SEC. 502. EFFECTIVE DATE.

(a) IN GENERAL.—Title V of the Older Americans Act of 1965 (as amended by section 501) takes effect July 1, 2007.

(b) REGULATIONS AND EXPECTED LEVELS OF PERFORMANCE.—

(1) REGULATIONS.—Effective on the date of enactment of this Act, the Secretary of Labor may issue rules and regulations authorized in such title V.

(2) EXPECTED LEVELS OF PERFORMANCE.—Prior to July 1, 2007, the Secretary of Labor may carry out the activities authorized in section 513(a)(2) of the Older Americans Act of 1965 (as so amended), in preparation for program year 2007.

TITLE VI—NATIVE AMERICANS

SEC. 601. CLARIFICATION OF MAINTENANCE REQUIREMENT.

(a) IN GENERAL.—Section 614A of the Older Americans Act of 1965 (42 U.S.C. 3057e–1) is amended by adding at the end the following:

''(c) 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 received 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 subsections (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 covered year for 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 subsection (a) 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, 2008, 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 (2), 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.''.

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''.

SEC. 702. ELDER ABUSE, NEGLECT, AND EXPLOITATION.

Section 721 of the Older Americans Act of 1965 (42 U.S.C. 3058i) is amended—

(1) in subsection (a), by striking ''programs for the prevention of'' and inserting ''programs to address'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''programs for'' and all that follows through ''including—'' and inserting the following: ''programs for the prevention, detection, assessment, and treatment of, intervention in, investigation of, and response to elder abuse, neglect, and exploitation (including financial exploitation), including—'';

(B) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively;

(C) by inserting after paragraph (1) the following:

''(2) providing for public education and outreach to promote financial literacy and prevent identity theft and financial exploitation of older individuals;'';

(D) in paragraph (8), as redesignated by subparagraph (B), by striking ''and'' at the end;

(E) in paragraph (9), as redesignated by subparagraph (B), by striking the period and inserting a semicolon; and

(F) by adding at the end the following:

''(10) examining various types of shelters serving older individuals (in this paragraph referred to as 'safe havens'), and testing various safe haven models for establishing safe havens (at home or elsewhere), that recognize autonomy and self-determination, and fully protect the due process rights of older individuals;

''(11) supporting multidisciplinary elder justice activities, such as—

''(A) supporting and studying team approaches for bringing a coordinated multidisciplinary or interdisciplinary response to elder abuse, neglect, and exploitation, including a response from individuals in social service, health care, public safety, and legal disciplines;

''(B) 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;

''(C) 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 Working Groups');

''(D) broadening and studying various models for elder fatality and serious injury review teams, to make recommendations about their composition, protocols, functions, timing, roles, and responsibilities, with a goal of producing models and information that will allow for replication based on the needs of States and communities (other than the ones in which the review teams were used); and

''(E) developing best practices, for use in long-term care facilities, that reduce the risk of elder abuse for residents, including the risk of resident-to-resident abuse; and

''(12) addressing underserved populations of older individuals, such as—

''(A) older individuals living in rural locations;

''(B) older individuals in minority populations; or

''(C) low-income older individuals.'';

(3) in subsection (e)(2)—

(A) by striking ''subsection (b)(8)(B)(i)'' and inserting ''subsection (b)(9)(B)(i)''; and

(B) by striking ''subsection (b)(8)(B)(ii)'' and inserting ''subsection (b)(9)(B)(ii)''; and

(4) by adding at the end of the section the following:

''(h) ACCOUNTABILITY MEASURES.—The Assistant Secretary shall develop accountability measures to ensure the effectiveness of the activities carried out under this section.

''(i) EVALUATING PROGRAMS.—The Assistant Secretary shall evaluate the activities carried out under this section, using funds made available under section 206(g).

''(j) COMPLIANCE WITH APPLICABLE LAWS.—In order to receive funds made available to carry out this section, an entity shall comply with all applicable laws, regulations, and guidelines.''.

SEC. 703. NATIVE AMERICAN ORGANIZATION PROVISIONS.

Section 751 of the Older Americans Act of 1965 (42 U.S.C. 3058aa) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''and'' at the end;

(B) in paragraph (2), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(3) enabling the eligible entities to support multidisciplinary elder justice activities, such as—

''(A) establishing a coordinating council, which shall identify the needs of an individual Indian tribe or other Native American group and provide the Assistant Secretary with information and recommendations relating to efforts by the Indian tribe or the governing entity of the Native American group to combat elder abuse, neglect, and exploitation;

''(B) providing training, technical assistance, and other methods of support to groups carrying out multidisciplinary efforts for an Indian tribe or other Native American group; and

''(C) broadening and studying various models for elder fatality and serious injury review teams, to make recommendations about their composition, protocols, functions, timing, roles, and responsibilities, with a goal of producing models and information that will allow for replication based on the needs of Indian tribes and other Native American groups (other than the ones in which the review teams were used).'';

(2) in subsection (b), by striking ''this subtitle'' and inserting ''this section''; and

(3) in subsection (d)—

(A) by striking ''this section'' and inserting ''this subtitle''; and

(B) by striking ''2001'' and inserting ''2007''.

SEC. 704. ELDER JUSTICE PROGRAMS.

Subtitle B of title VII of the Older Americans Act of 1965 (42 U.S.C. 3058aa) is amended—

(1) by striking the subtitle heading and inserting the following:

''Subtitle B—Native American Organization and Elder Justice Provisions'';

and

(2) by inserting after section 751 the following:

''SEC. 752. GRANTS TO PROMOTE COMPREHENSIVE STATE ELDER JUSTICE SYSTEMS.

''(a) PURPOSE AND AUTHORITY.—For each fiscal year, the Assistant Secretary may make grants to States, on a competitive basis, in accordance with this section, to promote the development and implementation, within each such State, of a comprehensive elder justice system, as defined in subsection (b).

''(b) COMPREHENSIVE ELDER JUSTICE SYSTEM DEFINED.—In this section, the term 'comprehensive elder justice system' means an integrated, multidisciplinary, and collaborative system for preventing, detecting, and addressing elder abuse, neglect, and exploitation in a manner that—

''(1) provides for widespread, convenient public access to the range of available elder justice information, programs, and services;

''(2) coordinates the efforts of public health, social service, and law enforcement authorities, as well as other appropriate public and private entities, to identify and diminish duplication and gaps in the system;

''(3) provides a uniform method for the standardization, collection, management, analysis, and reporting of data; and

''(4) provides such other elements as the Assistant Secretary determines appropriate.

''(c) APPLICATIONS.—To be eligible to receive a grant under this section for a fiscal year, a State shall submit an application to the Assistant Secretary, at such time, in such manner, and containing such information and assurances as the Assistant Secretary determines appropriate.

''(d) AMOUNT OF GRANTS.—The amount of a grant to a State with an application approved under this section for a fiscal year shall be such amount as the Assistant Secretary determines appropriate.

''(e) USE OF FUNDS.—

''(1) IN GENERAL.—A State that receives a grant under this section shall use funds made available through such grant to promote the development and implementation of a comprehensive elder justice system by—

''(A) establishing formal working relationships among public and private providers of elder justice programs, service providers, and stakeholders in order to create a unified elder justice network across such State to coordinate programmatic efforts;

''(B) facilitating and supporting the development of a management information system and standard data elements;

''(C) providing for appropriate education (including educating the public about the range of available elder justice information, programs, and services), training, and technical assistance; and

''(D) taking such other steps as the Assistant Secretary determines appropriate.

''(2) MAINTENANCE OF EFFORT.—Funds made available to States pursuant to this section shall be used to supplement and not supplant other Federal, State, and local funds expended to support activities described in paragraph (1).''.

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 contemporaneously 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 set forth 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; or

''(3) may be unambiguously deduced from the older individual's life history.''.

TITLE VIII—FEDERAL YOUTH DEVELOPMENT COUNCIL

SEC. 801. SHORT TITLE.

This title may be cited as the ''Tom Osborne Federal Youth Coordination Act''.

SEC. 802. ESTABLISHMENT AND MEMBERSHIP.

(a) ESTABLISHMENT.—There is established the Federal Youth Development Council (in this title referred to as the ''Council'').

(b) MEMBERS AND TERMS.—

(1) FEDERAL EMPLOYEE MEMBERS.—The members of the Council shall include the Attorney General, the Secretary of Agriculture, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Education, the Secretary of the Interior, the Secretary of Commerce, the Secretary of Defense, the Director of National Drug Control Policy, and the Chief Executive Officer of the Corporation for National and Community Service, or a designee of each such individual who holds significant decision-making authority, and other Federal officials as directed by the President.

(2) ADDITIONAL MEMBERS.—

(A) IN GENERAL.—The members of the Council shall include any additional members as the President shall appoint from among representatives of community-based organizations, including faith-based organizations, child and youth focused foundations, institutions of higher education, non-profit organizations, youth service providers, State and local government, and youth in disadvantaged situations.

(B) CONSULTATION.—In making the appointments under this paragraph, the President, as determined appropriate by the President, shall consult with—

(i) the Speaker of the House of Representatives, who shall take into account the recommendations of the majority leader and the minority leader of the House of Representatives; and

(ii) the president pro tempore of the Senate, who shall take into account the recommendations of the majority leader and the minority leader of the Senate.

(3) LENGTH OF TERM.—Each member of the Council shall serve for the life of the Council.

(c) COMPENSATION AND TRAVEL EXPENSES.—

(1) NO COMPENSATION FOR SERVICE ON COUNCIL.—Each member of the Council appointed under section 802 who is not an officer or employee of the United States shall not receive pay by reason of the member's service on the Council, and shall not be considered an employee of the Federal Government by reason of such service. Each member of the Council who is an officer or employee of the United States shall serve without compensation in addition to that received for the member's service as an officer or employee of the United States.

(2) TRAVEL AND TRANSPORTATION EXPENSES.—Each member of the Council may be allowed travel or transportation expenses in accordance with section 5703 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Council.

(d) CHAIRPERSON.—The Chairperson of the Council shall be the Secretary of Health and Human Services.

(e) MEETINGS.—The Council shall meet at the call of the Chairperson, not less frequently than 4 times each year. The first meeting shall be not less than 4 months after the date of enactment of this Act.

SEC. 803. DUTIES OF THE COUNCIL.

(a) IN GENERAL.—The duties of the Council shall be to provide advice and recommendations, including—

(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, supports, 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 such 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 the 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 coordinating to achieve the goals and objectives described in paragraph (3);

(8) assisting Federal agencies, at the request of 1 or more such agencies, in collaborating on—

(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, parents, 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 INTER-AGENCY 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 under Executive Order 13045 (42 U.S.C. 4321 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 section 201 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311), on matters pertaining to homelessness.

(3) Coordinating with the Coordinating Council on Juvenile Justice and Delinquency Prevention, established under section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616), on matters pertaining to programs for at-risk youth.

SEC. 805. ASSISTANCE OF STAFF.

(a) DESIGNATION OF INDIVIDUAL.—The Chairperson is authorized to designate an individual 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 department or agency may detail, on a reimbursable or nonreimbursable basis, any of the personnel of the department or agency to the Council to assist in carrying out the Council's duties under this title.

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.—Upon the request of the Council, the Administrator of General Services shall provide to the Council, on a reimbursable basis, the administrative support services necessary for the Council to carry out its responsibilities under this title.

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 statistical reporting 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);

(4) recommend ways to coordinate and improve Federal training and technical assistance, information sharing, and communication 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 recommendations 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).

SEC. 809. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $1,000,000 for each of the fiscal years 2007 and 2008.

TITLE IX—CONFORMING AMENDMENTS

SEC. 901. CONFORMING AMENDMENTS TO OTHER ACTS.

(a) OLDER AMERICANS ACT AMENDMENTS OF 1987.—Section 205(1) of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended by striking ''section 102(17) of the Older Americans Act of 1965 (42 U.S.C. 3002(17))'' and inserting ''section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002)''.

(b) ENERGY CONSERVATION AND PRODUCTION ACT.—Section 412(6) of the Energy Conservation and Production Act (42 U.S.C. 6862(6)) is amended by striking ''paragraphs (4), (5), and (6), respectively, of section 102'' and inserting ''section 102''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. MCKEON) and the gentleman from Texas (Mr. HINOJOSA) each will control 20 minutes.

The Chair recognizes the gentleman from California.

Mr. MCKEON. 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, and I ask my colleagues to join me in supporting this important reauthorization. More than 49 million Americans and counting are over the age of 60. It is the fastest growing segment of our population. In fact, by the year 2050, that number will reach nearly 90 million and comprise almost a quarter of our population.

Therefore, supporting the needs of seniors is as important as ever, and to do that we must ensure the long-term stability of programs on which they depend. The House-Senate agreement to reauthorize the Older Americans Act has been struck with these priorities in mind, and I commend my committee colleagues, subcommittee chairman Mr. TIBERI, Ranking Member Mr. HINOJOSA, and Mr. MILLER, the ranking member of the full committee, for joining me in forging this agreement in a remarkably bipartisan way. On the other side of the Capitol, Senators ENZI and DEWINE were instrumental in crafting this legislation as well.

I have been here long enough to remember past reauthorizations of the Older Americans Act, and, trust me, there was nothing remarkable or bipartisan about them. In a year when opportunities to reach across party lines are at a premium, this process has been refreshing.

Initially established in 1965, the Older Americans Act is no longer the 1960s-era social program it once was. Rather, it has been transformed into the first stop for seniors to identify home- and community-based long-term care options as well as other supportive services that could help prevent or delay expensive institutional care and generate significant savings in Federal entitlement programs. And H.R. 6197 builds on that progress.

Specifically, the bipartisan reauthorization will promote consumer choice as well as home- and community-based

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 wealthier seniors to pay for many of their program benefits, maximizing the taxpayer investment for low-income seniors; increases the Federal, State, and local coordination; and reforms employment-based training for older Americans.

Within 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 a 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 forward.

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 core values 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 obligation to older Americans.

The Older Americans Act represents our commitment to meeting that obligation. This law provides for supportive 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 on 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 can be supported 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, and 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, and today we have a product that the vast aging network in America can be proud of as this reauthorization passes this House today.

This process has been an open and bipartisan process from the beginning, and this piece of legislation is better for that. I want to thank Mr. HINOJOSA for being a devoted partner in this process. His friendship and hard work and that of his staff have been much appreciated by myself and my team.

I also want to acknowledge the great work of Kate Houston, Stephanie Milburn, Rich Stombres, and a staff member of mine who is now in law school, Angela Kelmack, for her hard work as well. I appreciate all the hard work of all of our members who have contributed to this process, the members of the committee and the cosponsors.

Again, this is a proud day for older Americans. On to the Senate, after we urge our colleagues to pass this bill on the House floor today.

Mr. HINOJOSA. Mr. Speaker, I wish to yield 4 minutes to 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.

□ 1645

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from Texas for 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 Ranking 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 see kinship caregivers have an opportunity to participate at an earlier age, reduced 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 obviously 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 and the Congress 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. 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 their 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. These 150-odd youth serving programs are spread over 12 agencies, so as you might suppose, they have kind of grown like Topsy. Sometimes they duplicate. Sometimes they are not very efficient; sometimes they are. So this council simply tries to coordinate these different programs.

The purpose is, number one, to eliminate duplication and waste, which sometimes we have in government.

Second is to ensure that each program has measurable, quantifiable goals. When appropriators 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.

The council will also provide help to States that request aid in coordinating youth-serving programs at the State level.

I would especially like to thank Majority 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. I think 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.

In conclusion, 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 wound 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 regulation 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 MCKEON and the rest of the committee for their help and cooperation on this issue.

Further 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 on their own 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 only a few years away, and, according to AARP, the intention of Americans 45 and older to age in place in similar fashion, we can expect NORC and NORC-like communities to grow in abundance.

I am pleased the bill authorizes the Assistant Secretary to support efforts underway to develop innovative models providing for the efficient delivery of services to communities where older individuals are aging in place such as NORCs.

Mr. Speaker, the Seniors Independence Act of 2006 reauthorizes vital services for some of the most vulnerable Americans, and those in greatest need. I rise in support of this legislation and I urge its passage by this body.

Mr. TOWNS. Mr. Speaker, today I rise in strong support of the reauthorization of the Older American Act of 2006. For the past 40 years, millions of senior citizens have benefited from the support and nutritional services provided by this law which promotes the dignity and independence of older people and meet the challenges associated with the aging.

Seniors are the fastest growing population group in the United States. In 2000, there were an estimated 35 million people age 65 and older, representing about 13 percent of the population. It is predicted that by 2030, this number will double to 70 million people; and about 20 percent, or 1 in 5 Americans, will be age 65 and older. According to the New York State Office for the Aging, the 60 and older population will grow by 40 percent over the next 30 years due, in large part, to the influx of baby boomers. As the elderly 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 to ''high growth'' States. 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. MCKEON. Mr. Speaker, I submit for the RECORD the following correspondence between Chairman BILL THOMAS of the Committee on Ways and Means and myself.

SEPTEMBER 28, 2006.

Hon. HOWARD P. ''BUCK'' MCKEON,
Chairman, Committee on Education and the Workforce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN MCKEON: 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 our exchange of letters on this matter be included in the CONGRESSIONAL RECORD during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

SEPTEMBER 28, 2006.

Chairman BILL THOMAS,
Committee on Ways and Means, Longworth HOB, Washington, DC.

DEAR CHAIRMAN THOMAS: Thank you for your recent letter regarding 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. MCKEON) 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. MCKEON. 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. 1052) 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

following provisions of the Senate amendment:

(1) Title V (relating to the Rail Security Act of 2006).

(2) Title VI (relating to the National Alert System).

(3) Title VII (relating to mass transit security).

(4) Title IX (relating to improved motor carrier, bus, and hazardous material security).

(5) The following sections of title XI:

(A) Section 1101 (relating to certain TSA personnel limitations not to apply).

(B) Section 1102 (relating to the Rural Policing Institute).

(C) Section 1103 (relating to evacuation in emergencies).

(D) Section 1104 (relating to health and safety during disasters).

(E) Section 1116 (relating to methamphetamine and methamphetamine precursor chemicals).

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 conferees. 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 coming 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 conferees 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, Tracey Henke of DHS told Members 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 has offered us 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 this information as a basis 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 chemical, 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 conferees on is aviation security. London officials thwarted 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 their safety.

This motion to instruct, Mr. Speaker, would instruct conferees to retain language adopted in the Senate that will ensure that TSA has enough screeners to keep our aviation system secure.

□ 1700

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, we cannot 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 America's 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 pilot 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, and that will be 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 rail, mass transit, ferry, and inner city 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 $11 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 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.

We 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 for. They demand it.

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 that, 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 gentlewoman 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 bipartisan 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, who showed by 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 to make a law. 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 the 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 modes 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 we came here to do and what this 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 consume to the gentleman from California (Mr. DANIEL E. LUNGREN).

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 Mississippi nor 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 conference report that I believe we will complete before the end of today. And if we instruct conferees in this regard, frankly, we complicate the effort to reach a final conclusion.

I am concerned about the area of rail and mass transit security. As a matter of fact, I held a hearing in our subcommittee today at the request of the ranking member, Ms. SANCHEZ, and the ranking member of the full committee, Mr. THOMPSON. I thought it was a good bipartisan examination of a number of issues that are out there.

Some have suggested that the very fact that we had that hearing may have prompted some action on the part of DHS to put further attention to these areas. I was very proud of the fact that on a bipartisan basis we approached that issue, and we will continue to approach that issue, and I hope that we will continue in a bipartisan spirit to complete this action.

As the gentleman from New York, the chairman of the full committee, has said, we are close to the goal line right now. It has been a lot of hard work by a lot of people on a bipartisan basis, starting with our staffs about a year ago. We reached across the aisle, and when we reached across the aisle we were met with open hands by the other side. We have worked together to complete a comprehensive response to the threat that exists or the vulnerability that exists at our ports.

It is natural that, when you are attacked by air, that you initially respond to the area of attack. But we are 5 years after 9/11. We are 5 years past the time when we can say that we don't know or didn't know or don't know now of the vulnerabilities that exist with respect to our ports.

This is a major piece of legislation. This will be, when completed, a major achievement; and all I would say to my friends on the other side is, please join us ultimately in supporting this overall bill, as you have to this point.

We will ask for a defeat of this motion to instruct not because of the spirit in which it is offered but because of the complications that it will create and the difficulties that will ensue. If you want to have a viable response to the concerns that have been raised about port security, vote against this motion to instruct so that we can get to the business of completing our action during our conference later today, so we can bring to the floor of this House within the next 24 hours a completed bill, a bill that started in the House of Representatives, a bill that remains in the contours of what will be presented to the conference today, the guts of the bill that passed this House 421–2.

When you have something that passes the House 421–2 you ought to learn to accept ''yes'' for an answer. This is a great piece of work that is going to be presented. It doesn't answer all the questions, but moves us in the proper direction. It puts into law or will put into law many of the things that were first started with this administration but which are not in law, which are not mandatory, which are not permanent, and it extends those. And ideas from both sides of the aisle were put into this bill and will come out of this conference when we complete action.

So while I rise in opposition to the gentleman's motion to instruct, I do so in the spirit of cooperation that, once we get past this and once we get to the conference and once we come back with our completed conference report, we can all join together with another near unanimous vote for a safe ports piece of legislation.

Mr. THOMPSON of Mississippi. Mr. Speaker, I now yield 3 minutes to the

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 was done in a very bipartisan 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 said, 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 done a lot of training, we have put a lot of money, but the ones for busses, mass transit, railroad, freight workers.

□ 1715

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 communications 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 we can add more, 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 in need of 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 domestic security seriously.

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 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 was an eye opener because it did just that, it put the spotlight on our ports 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 year. A major event at a port would 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, where it came from, 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/GreenLanes bill is 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 gentleman 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 majority 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 it still is on the ship. That is our nightmare scenario. And that is something that the majority Republican Party has refused to put in place as a 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 and seal these containers overseas, then the United States will have to once again reinstitute 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 into our country. It is an opening 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 they say, Get 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 in America will never be happy with that, but that is what their policy is for nuclear bombs. Show us the paperwork. We are not going to actually check the inside of the container. We are not going to screen; we are not going to scan. We are going to screen your paperwork; we are not going to screen the container.

Can you imagine that as a policy for airlines in the United States? We are going to screen your paperwork before you get on the plane, but not screen you or your bags or computer to make sure that you are not going to blow up the plane. It just won't happen post-9/11.

Here is the huge opening. This is something that the Republican administration continues to listen too closely to the cargo industry and the shipping industry rather than to the real security interests of the American people.

I thank the gentleman from Mississippi for his leadership on these issues.

Mr. KING of New York. Mr. Speaker, I will just make several remarks before I reserve the balance of my time.

With reference to the gentleman from Massachusetts, unfortunately nothing he said in his statement relates to the motion to instruct. If he had read our bill and read the motion to instruct, he would know that nothing he said was germane to the motion to instruct.

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 gentlewoman 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 particularly important. And I was drawn to the floor, I had a bill on the floor and several meetings, at the same time as several committee hearings that had to do with rail security. I believe the Committee on Homeland Security, of which I am a member, knows that this is an important issue. But we are operating against a backdrop of a Department that questions whether or not this is an important challenge that we have to face.

I respect, Mr. THOMPSON, the fact that the leadership of our Department may have a different view from us.

□ 1730

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 us 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 crossing of 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 step towards recognizing 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 are particularly 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 has to act is because we need 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 real rail security.

I rise in strong support of the Motion to Instruct Conferees 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 but it only 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 warning 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 Conferees 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. 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 Rail Yards 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 conduct vulnerability 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 to Amtrak tunnels on 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 vitally important that riders 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 Conferees 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 on our side very briefly.

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 projects overseas with 100 percent scanning. 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 absolutely can fix it right 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 noes appeared to have it.

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. The bill, as amended, 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 the Judiciary and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence; and (2) one motion to recommit with or without instructions.

SEC. 2. During consideration of H.R. 5825 pursuant to this resolution, notwithstanding the operation of the previous question, 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. HASTINGS), pending which I yield 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. Mr. Speaker, I am pleased to bring to this floor House Resolution 1052. The resolution is a rule that provides for consideration of H.R. 5825, the Electronic Surveillance Modernization Act. H.R. 5825 relates to the manner in which the Federal Government collects oral, wire, and electronic communications for foreign intelligence purposes.

In order to safeguard fourth amendment protections, Congress has created procedures to allow limited law enforcement access to private communications and communication records. Specifically, Congress enacted title III of the Omnibus Crime Control and Safe Streets Act of 1968 that outlines what is and what is not permissible with regard to wiretapping and electronic eavesdropping.

Title III of the Crime Control Act authorizes the use of electronic surveillance for specific crimes. While Congress did not cover national security cases in the Crime Control Act, it did include a disclaimer that the wiretap laws did not affect the President's constitutional duty to protect our national security.

In 1972, the U.S. Supreme Court specifically invited Congress to establish similar standards for domestic intelligence that were established for criminal investigations.

Congress enacted the Foreign Intelligence Surveillance Act of 1978, FISA, to prescribe procedures for foreign intelligence that is collected domestically. FISA authorized the Federal Government to collect intelligence within the United States on foreign powers and agents of foreign powers. It established a special court to review and authorize or deny wiretapping and other forms of electronic eavesdropping for purposes of foreign intelligence gathering in domestic surveillance cases. FISA was enacted by Congress to secure the integrity of the fourth amendment, while protecting the national security interests of the United States by providing a mechanism for the domestic collection of foreign intelligence information.

Mr. Speaker, the purpose of the Electronic Surveillance Modernization Act is to modernize the Foreign Intelligence Surveillance Act to strengthen oversight of the executive branch concerning electronic surveillance and intelligence 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 shift in the focus and reach 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 occurred 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 remained 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 gaining knowledge of those 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. The 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 separation of powers concerns expressed by Members through amendments to 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 authorities of our Nation to act as a whole to protect itself in times of war and heightened threat of attack, both terrorist and otherwise.

□ 1745

I am pleased with the efforts of the House Permanent Select Committee on Intelligence and the House Judiciary Committee. This bill is an excellent example of how Congress and the executive branch can work together to ensure our national security. I thank Chairman HOEKSTRA and Chairman SENSENBRENNER and all 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 option 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 unconscionable, declared by court, unconstitutional 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.

Now, 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 unchecked spying for political advantage.

Americans were similarly dismayed over the legendary J. Edgar Hoover's listening in not only on Dr. King, but many other targets. Those illegal surveillance scandals were, in part, what led to the creation of the select committees of intelligence.

It is our job, Congress's job, to ensure that we effectively oversee the activities of the NSA, the FBI, and the CIA. To the point. This White House bill really does scare me. 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 e-mail that comes into or goes out of the United States. So if a soldier overseas calls her husband, NSA can listen in. If a little girl in my home town of Mirimar, Florida, sends an e-mail 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 and 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 not 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 and the White House get their way, every call and every e-mail, 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.

You know, 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. My amendment simply 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 in the current law.

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 have one. And what is your excuse 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 beat with rulemaking 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 majority runs the House is shameful. It is hypocritical. It is un-American, and it is undemocratic, and it happens every single day that we have a closed rule, and in other circumstances as well.

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 the will of the 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 2½ 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 the sponsor of this legislation, 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 helped British authorities apprehend terrorists plotting to blow up aircraft bound for 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 grandchildren 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 authorize electronic surveillance 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 the underlying bill.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 4¼ 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 debate suspension bills than matters that could likely undermine 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 Republicans and Democrats, offering thoughtful amendments and substitutes, the Republican majority on the Rules Committee said ''no'' to every single one of them.

□ 1800

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 thoughtful 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, I would like to think that we all think democracy is a good thing. I would like to think that we all want good legislation to come out of this House. I am sad to say that I am having a hard time thinking that anymore.

If my Republican friends want this trend of closed rules, of no amendments, of no democracy in the House to continue, then by all means vote for this rule. Just go along to get along.

But if you believe, as I do, that the monopoly on good ideas is not held by a few members of the leadership in a closed room, then vote ''no.'' Have the guts to vote ''no.''

Thoughtful Republican amendments are routinely shut out by the Rules Committee, including here on this bill. The only way to bring this trend to an end is to start defeating closed rules and to demand more openness in this House of Representatives. If you continue to reward bad behavior, then bad behavior is what you will continue to get.

Let us put a stop to this nonsense. Let us stop diminishing this House of Representatives. I urge my colleagues to vote ''no'' on this rule.

Mr. HASTINGS of Florida. Mr. Speaker, will the gentleman yield?

Mr. MCGOVERN. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. Mr. Speaker, when we were in the Rules Committee in those hours of debate, how fast after that discussion when these people presented themselves did the rule come to the floor? In short, was there any deliberation?

Mr. MCGOVERN. Less than a second. The deal was done early on in the day. I mean, the Members who came up and testified and presented their thoughtful amendments wasted their time because the leadership had decided to close this thing down earlier in the day, and that is unforgivable. This issue is too important.

Mr. PUTNAM. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY), my colleague on the Rules Committee, to talk about the issue at hand, the Electronic Surveillance Modernization Act.

Mr. GINGREY. Mr. Speaker, I thank my colleague on the Rules Committee, Mr. PUTNAM, for yielding.

I rise today fully in support of this rule and the underlying legislation for H.R. 5825, the Electronic Surveillance Modernization Act of 2006, because I believe protecting innocent Americans from terrorist plots is one of our government's most critical duties.

This bill updates the FISA, Foreign Intelligence Surveillance Act of 1978, to authorize the expanded use of electronic surveillance on suspected terrorists, with mandated congressional oversight. Its immediate passage is absolutely essential to prevent future terrorist attacks against this Nation.

Mr. Speaker, much has changed since FISA was enacted in 1978. The war on terror has replaced the Cold War as our preeminent national security issue. There have been monumental advances in technology, and our terrorist adversaries are capitalizing on these changes in technology as they aggressively plot our destruction. If we are to be prepared for the foremost threat to our Nation's safety today, the 1978 bill must be amended for the realities of today and tomorrow.

Mr. Speaker, this bill would authorize the NSA Terrorist Surveillance Program to monitor the international, let me repeat, international communication of suspected terrorists inside the United States, while respecting our citizens' privacy.

Simply put, this bill streamlines the process by which a FISA warrant can be obtained. It gives NSA more time to conduct emergency surveillance on suspected terrorists without a warrant, and it allows the President to authorize warrantless electronic surveillance for up to 90 days of suspected terrorists when it is believed an attack on America is imminent.

While this bill helps us stop terrorists before they inflict destruction, it also protects the rights of law-abiding United States citizens by requiring our President to inform Congress and the FISA court of these emergency surveillances.

Mr. Speaker, authorizing the electronic surveillance of terrorists is a matter of common sense. By listening to the phone conversations of al Qaeda members and of organizations working in support of al Qaeda, we stand to learn much more about their terrorist activities, including likely targets of attack.

Mr. Speaker, I was tremendously disappointed that 160 of my Democratic colleagues voted yesterday against the Military Commissions Act, and I am still struggling to understand why. But I am hopeful that they will not vote today to limit our ability to monitor the terrorists' phone calls so that we can disrupt these devastating plots.

In any regard, my Republican colleagues and I remain committed to the safety of this Nation. To ensure that we give our government the tools it needs to fight and win the war on terror, I urge support for this rule on both sides of the aisle and the underlying legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE), my good friend.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is very sad to say that what we are doing today is simply a march toward the November election. There is a certain calculated plan as to what Republicans need to be able to do to win the House, and obviously it has to do with the security of America.

There is no divide among Democrats and Republicans about our resolve to secure this Nation. Not a one of us in this Congress if asked or if needed to defend this Nation in the immediacy of time would refuse that request.

The reason why there is such a sharp divide is because this is not a serious attempt to secure America. It is, frankly, a serious attempt to eliminate for the American people rights that are a part of their birthright.

This is a closed rule, and I oppose it because security and civil liberties of those who are citizens of the United States can be intertwined, and you can 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 resolve this and give this bill. It is a rush to judgment to ensure that this would be a good political sound bite for Republicans who are running for re-election. This is a bad way to secure America, and I ask my colleagues to oppose this rule because the American people frankly, are not prepared to give up their civil liberties when we can do both—civil liberties and a secure Nation.

I rise in opposition to this closed rule providing for consideration of H.R. 5825, the Electronic Surveillance Modernization Act. I oppose the rule because it forecloses members from offering constructive amendments that would improve a bill that otherwise will represent an unwarranted and dangerous delegation of authority to the executive branch. Specifically, the bill does not impose limits on the President's powers; it remains silent on the NSA's warrantless surveillance and expands the government's powers under the Foreign Intelligence Surveillance Act to collect information on Americans without judicial review.

This sad state of affairs could have been avoided if the Rules Committee had fashioned an open rule, allowing consideration of amendments of the type I and my colleagues offered during the Judiciary Committee markup.

For example, I offered an amendment that would have provided the President authority to conduct surveillance and searches without a warrant for 15 days following either: (1) a declaration of war; or (2) "an authorization for the use of military force" (AUMF) within the meaning of Section 2(c)(2) of the War Powers Act.

This amendment improves 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 danger of secret exercise of unchecked and unreviewable power to surveil and search any person deemed by the President to pose a threat to the country.

Mr. Speaker, it is worth remembering that while armies fight battles, it is a nation that goes to war. And the Constitution is neither silent nor coy as to where the power to take a nation to war rests: it is vested in the Congress of the United States, not the President.

The power to conduct secret, warrantless surveillance and searches in response to an act of war or a terrorist attack fundamentally is a war power. That is why the acquisition and exercise of that power properly must flow from a congressional declaration of war or authorization to use military force in response to an act of war.

I believe we should have an open rule to permit such an amendment because it keeps faith with the Founding Fathers and honors 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.

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 event that triggered 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 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 U.S. armed 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 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 rule and with respect to H.R. 5825, the Electronic Surveillance Modernization Act.

Another 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 consequence of rewarding 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 not illegal." By flirting 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 their political views.

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 such 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 has 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 curb the practice by 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 places 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 communications were 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 communications.

The constitutional test is reasonableness, and this bill is reasonable. I thank my colleague from Florida for

bringing 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 to collect 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 commonsense because we are in a different situation.

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 authority and the rules and the tools they need 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 in the Rules 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 allow 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 ruled.

So I am going to tell you today about the bill we will not have the opportunity to vote on, not in an up-or-down fashion, and I think I will tell you a little bit about why 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, as bipartisan as 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 up on a wiretap. Under FISA, you have 72 hours. The government 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 warrantless surveillance for 15 days. That authorization to use force grants that surveillance authority after an attack.

□ 1815

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 in the United States, FISA 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 streamline 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 reasonable expectation of privacy. 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 harmful 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, and I note 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 commended us to 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.''

There 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 since 2001 on U.S. soil is something 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 devoted to one thing: 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 ongoing 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 challenge 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 join us in supporting 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 those three other persons. 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 problem is that 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.

Now, Gerald Ford gave Richard Nixon a pardon. I am wondering to whom this bill is giving a pardon. Does it give immunity or impunity for certain crimes and misdemeanors? This bill may actually be about someone's legal problems.

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.

I want them to tell that to the Congress. Tell us you are not slipping in a clause here where you are trying to get somebody out of jail. Tell me that. Tell us that.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to my good friend, the distinguished gentlewoman from California (Ms. LEE).

Ms. LEE. I want to thank the gentleman for yielding and for his leadership.

Mr. Speaker, I rise in total opposition to the rule for H.R. 5825, the Electronic Surveillance Act, and the underlying bill.

The FISA law the President chose to ignore, and that this bill seeks to bypass, is a law that powerfully symbolizes both the risk of the abuse of executive power and the strength of our system of checks and balances.

Now, the FISA law was enacted to protect against very real abuses in the name of fighting communism, if you remember. Not terrorism then, it was communism. Our executive branch, through the likes of J. Edgar Hoover and COINTELPRO perpetrated massive abuses and surveillance of innocent Americans. These abuses included the surveillance, among many others, of Dr. Martin Luther King, Jr. and his wife Coretta as part of what the Church Commission described as ''an intensive campaign by the Federal Bureau of Investigation to neutralize him as an effective civil rights leader.''

The only thing that redeems our Nation's great shame at these abuses was that the system of checks and balances created by our Constitution worked. Congress passed a law that allowed us to protect our Nation and our Constitution and our citizens.

Mr. PUTNAM. Mr. Speaker, I just rise to point out to the Members that we are here to modernize the FISA bill of 1978, and I ask Members to think about all of the changes in sophistication and accessibility of communication devices today.

Think about your own e-mail, your own BlackBerry, your own cell phone, your own laptop, your own desktop, just the handful of things that are directly involved in this line of work, in any routine business in America. All of those things offer multiple avenues per device to communicate around the world in an instantaneous manner at almost no cost.

Tracking that type of communication device, when it is being used by people who would fly airliners into the World Trade Center; when it is being used by people 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 as recently as 5 weeks ago.

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 not just the United States, 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 worked, 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 discovered 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? Certainly if you look at your own it says an awful lot about you, who 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 from a known al Qaeda operative to someone in the United States, we ought to be on that number as quickly as possible.

□ 1830

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 to lecture 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, excellent 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 before 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 work at NSA have 14 days 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 would be able to have 14 days before they 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 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 going for a warrant to a court. Under current law, warrantless wiretapping is permitted in certain emergency situations. This bill more than doubles the amount of time that the President can conduct surveillance of U.S. citizens without a warrant.

This bill also increases the likelihood that innocent Americans will be caught up in government-run surveillance operations. That is because the bill reduces the amount of specific information the government must provide when seeking approval from the FISA court.

Mr. Speaker, the President wants to go on a fishing expedition, but he doesn't want to have to get a fishing license from a court that guarantees that he has not exceeded the Constitution of the United States.

Mr. Speaker, the bill before us today attempts to authorize an illegal Bush Administration program that a Federal judge has determined "blatantly disregards" the Bill of Rights.

The Bush Administration's secret domestic surveillance program uncovered last year not only ignored constitutional protections against unreasonable searches and seizures, but also failed to abide by laws enacted before and after the September 11th attacks that give government authorities the tools needed to tap terrorist communications and track down terrorists while protecting the civil liberties of American citizens.

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 that 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 liberties 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 before us today removes this important protection. 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 operation.

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 protections and ignored the checks and 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 eavesdropping conducted outside of the special court process that was designed to track terrorists without trampling on civil liberties.

Mr. PUTNAM. Mr. Speaker, I continue to reserve.

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 ask 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 are 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 failing 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 help us stop the next terrorist attack? A debate 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 modernize 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 those things. In other words, 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 war and that we are very much in grave danger by these radicals who have at their disposal all the tools that modern technology can provide and we are arming our law enforcement officials with 25-year-old authority.

To change that, to bring us out of the copper wire telephone world into the wireless, cellular satellite world, we have to pass this legislation. By passing this legislation, we can be assured that we are giving them everything that they need to disrupt terror attacks on our soil.

It seems to me to be a no-brainer that we should give them the tools to listen to anyone who is in regular communication with a member of al Qaeda, to anyone who is in regular communication with someone whose laptop is seized in a cave in Afghanistan after a firefight with allied forces, whose records are found in the desk drawer of a hotel in Hamburg that has been traced to be money laundering through Pakistan, through the European Union, through London, to set up cells in the United States, to buy airplane tickets, to send people to flight school.

Those are the tools that we have to give our law enforcement officials and intelligence agencies, just like the tools that we gave them when we tore down the walls that separated them and prevented them from communicating, just like the tools we gave them to track the movement of money that the terrorists were handling and these nation states who fund the terrorists were handling. Those are the tools that we give to reflect the nature of this global war on terror and to reflect the realities of modern communication technologies.

It is vitally important that we pass this bill. To pass the bill, we have to pass this rule.

The material previously referred to by Mr. HASTINGS of Florida is as follows:

PREVIOUS QUESTION FOR H. RES.—H.R. 5825—ELECTRONIC SURVEILLANCE MODERNIZATION ACT

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

Sec. . 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 bill listed in Sec. :

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

1) a bill to implement the recommendations of the 9/11 Commission.

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, 1920, 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, 1909, 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. 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 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 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] 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.

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. 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 on H. Res. 1052 will be followed by 5-minute votes on adoption of H. Res. 1052, if ordered, and the motion to instruct conferees on H.R. 4954.

The vote was taken by electronic device, and there were—yeas 225, nays 197, not voting 10, as follows:

[Roll No. 498]

YEAS—225

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp (MI)
Campbell (CA)
Cannon
Cantor
Capito
Carter
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—197

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meek (FL)
Meeks (NY)
Melancon
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—10

Cardoza
Castle
Chabot
Evans
Green (WI)
Lewis (GA)
Meehan
Ney
Strickland
Stupak

□ 1905

Messrs. GEORGE MILLER of California, WEINER, and LARSON of Connecticut changed their vote from ''yea'' to ''nay.''

Mr. GIBBONS changed his vote from ''nay'' to ''yea.''

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 REPT. NO. 109–699)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to 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'', having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to 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 102 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 security strategic plan 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 that requires screening all inbound cargo, doubles the percentage of inbound cargo

currently inspected, sets minimum standards for securing inbound cargo, and includes the fiscal year 2007 performance requirements for port, container, and cargo security as specified in the joint explainatory statement accompanying this Act: Provided further, That of the funds provided under this heading, $10,000,000 shall not be available for obligation until the Secretary submits the Secure Border Initiative multi-year strategic plan 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 Committees on the Judiciary of the Senate and the House of Representatives no later than December 1, 2006, that includes: a comprehensive mission statement, an identification of long-term goals, an explanation of how long-term goals will be achieved, schedule and resource requirements for goal achievement, an identification of annual performance goals and how they link to long-term goals, an identification of annual performance measures used to gauge effectiveness towards goal achievement by goal, and an identification of major capital assets critical to program success.

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), $153,640,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses: Provided further, That of the total amount provided, $8,206,000 shall remain available until expended solely for the alteration and 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. 113), $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 and acquisition 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 cost for 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 for each project, details of annual and 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 operations 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 in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $85,185,000, of which not to exceed $100,000 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 1345 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 such hurricane to flooding covered under the insurance coverage provided under the national flood insurance program rather than to windstorms covered under coverage provided by such insurers or 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 not later than April 1, 2007, setting forth the conclusions of such investigation.

TITLE II

SECURITY, ENFORCEMENT, AND INVESTIGATIONS

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. 1365a), $362,494,000, to remain available until expended: Provided, That of the total amount made available under this heading, $200,000,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project 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 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) 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;

(6) is reviewed by the Government Accountability Office;

(7) includes 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 for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; purchase and lease of up to 4,500 (3,500 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $5,562,186,000; of which $379,602,000 shall be used to hire additional border patrol agents, of which $93,000,000 shall be available until September 30, 2008; of which $3,026,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(c)(3)) and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $45,000 shall be for official reception and representation expenses; of which not less than $175,796,000 shall be for Air and Marine Operations; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance 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 designated as described in section 520 of this Act: Provided further, That for fiscal year 2007, the overtime limitation prescribed in section 5(c)(1) 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, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies.

AUTOMATION MODERNIZATION

For expenses for customs 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 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) 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

(6) is reviewed by the Government Accountability Office.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For expenses for customs and border protection fencing, infrastructure, and technology, $1,187,565,000, to remain available until expended: Provided, That of the amount provided under this heading, $1,159,200,000 is designated as described in section 520 of this Act: Provided further, That of the amount provided under this heading, $950,000,000 shall not be obligated 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 and submitted within 60 days after the date of enactment of this Act, to establish a security barrier along the border of the United States of fencing and vehicle barriers, where practicable, and other forms of tactical infrastructure and technology, that—

(1) defines activities, milestones, and costs for implementing the program;

(2) demonstrates how activities will further the goals and objectives of the Secure Border Initiative (SBI), as defined in the SBI multi-year strategic plan;

(3) identifies funding and the organization staffing (including full-time equivalents, contractors, and detailees) requirements by activity;

(4) reports on costs incurred, the activities completed, and the progress made by the program in terms of obtaining operational control of the entire border of the United States;

(5) 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 major subcontractors 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;

(6) complies with all applicable acquisition rules, requirements, guidelines, and best systems acquisition management practices of the Federal Government;

(7) complies with the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular 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 INTERDICTION, OPERATIONS, MAINTENANCE, 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 demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $602,187,000, to remain available until expended: Provided, That of the amount provided under this heading, $232,000,000 of procurement is designated as described in section 520 of this Act: Provided further, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified 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 approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $232,978,000, to remain available until expended: Provided, That of the amount provided under this heading, $110,000,000 is designated as described in section 520 of this Act.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 3,790 (2,350 for replacement only) police-type vehicles; $3,887,000,000, of which not to exceed $7,500,000 shall be available until expended for conducting special operations under section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; 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; of which not less than $102,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than $203,000 shall be for Project Alert; of which not less than $5,400,000 may be used to facilitate agreements consistent with section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: Provided, That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Secretary of Homeland Security, or the designee of the Secretary, may waive that amount as necessary for national security purposes and in cases of immigration emergencies: Provided further, That of the total amount provided, $15,770,000 shall be for activities to enforce laws against forced child labor in fiscal year 2007, of which not to exceed $6,000,000 shall remain available until expended.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings 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 Senate and 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 through 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 of the funds made available under this heading, $13,000,000 may not be obligated 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 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) 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

(6) is reviewed by the Government Accountability Office.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $56,281,000, to remain available until expended: Provided, That of the amount provided under this heading, $30,000,000 is designated as described in section 520 of this Act.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $4,731,814,000, to remain available until September 30, 2008, of which not to exceed $10,000 shall be for official reception and representation expenses: Provided, That of the total amount made available under this heading, not to exceed $3,768,266,000 shall be for screening operations, of which $141,400,000 shall be available only for procurement of checked baggage explosive detection systems and $138,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed $963,548,000 shall be for aviation security direction and enforcement: Provided further, That of the funds appropriated under this heading, $5,000,000 shall not be obligated until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a detailed report in response to findings in the Department of Homeland Security Office of Inspector General report (OIG–04–44) concerning contractor fees: Provided further, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and shall be available 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 any 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 44923 of title 49, United States Code, the share of the cost of the Federal Government for a project under any letter of intent shall be 75 percent for any medium or large hub airport and not more than 90 percent for any other airport, and all funding provided by section 44923(h) of title 49, United States Code, or from appropriations authorized under section 44923(i)(1) of title 49, United States Code, may be distributed in any manner deemed necessary to ensure aviation security and to fulfill the Government's planned cost share under existing letters of intent: Provided further, That by December 1, 2006, the Transportation Security Administration shall submit a detailed air cargo security action plan addressing each of the recommendations contained in the 2005 Government Accountability

Office Report (GAO–06–76) 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 Members of the United States House of Representatives and United States Senate, including the leadership; and the heads of Federal agencies and commissions, including the Secretary, Under Secretaries, and Assistant Secretaries of the Department of Homeland Security; the United States Attorney General and Assistant Attorneys General and the United States attorneys; and senior members of the Executive Office of the President, including the Director of the Office of Management and Budget; shall not be exempt from Federal passenger and baggage screening: Provided further, That beginning in fiscal year 2007 and thereafter, reimbursement for security services and related equipment and supplies provided in support of general aviation access to the Ronald Reagan Washington National Airport shall be credited to this appropriation and shall be available until expended solely for those purposes: Provided further, That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time equivalent screeners.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, $37,200,000, to remain available until September 30, 2008.

TRANSPORTATION THREAT ASSESSMENT AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs of the Office of Transportation Threat Assessment and Credentialing, $39,700,000, to remain available until September 30, 2008.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $525,283,000, to remain available until September 30, 2008: Provided, That of the funds appropriated under this heading, $5,000,000 may not be obligated until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a detailed expenditure plan for explosive detection systems refurbishment, procurement, and installations on an airport-by-airport basis for fiscal year 2007: Provided further, That this plan shall be submitted no later than 60 days after the date of enactment of this Act.

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, $714,294,000.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the United States Coast Guard not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note; 96 Stat. 1920); and recreation and welfare; $5,477,657,000, of which $340,000,000 shall be for defense-related activities; of which $24,255,000 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. 2712(a)(5)); and of which not to exceed $10,000 shall be for official reception and representation expenses: Provided, That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds made available by this Act shall be for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation: Provided further, That not to exceed five percent of this appropriation may be transferred to the ''Acquisition, Construction, and Improvements'' appropriation for personnel compensation and benefits and related costs to adjust personnel assignment to accelerate management and oversight of new or existing projects without detrimentally affecting the management and oversight of other projects: Provided further, That the amount made available for ''Personnel, Compensation, and Benefits'' in the ''Acquisition, Construction, and Improvements'' appropriation shall not be increased by more than 10 percent by such transfers: Provided further, That the Committees on Appropriations of the Senate and the House of Representatives shall be notified of each transfer within 30 days after it is executed by the Treasury.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the United States Coast Guard under chapter 19 of title 14, United States Code, $10,880,000, 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, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; $1,330,245,000, 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. 2712(a)(5)); of which $26,550,000 shall 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, 2011, to increase 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 shore facilities and aids to navigation facilities; of which $81,000,000 shall be available for personnel compensation and benefits and related costs; and of which $1,065,872,000 shall be available until September 30, 2011, for the Integrated Deepwater Systems program: Provided, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2009: Provided further, That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, in conjunction with the President's fiscal year 2008 budget, a 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 to pre-Deepwater legacy assets; 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 how the Coast Guard is planning for the human resource needs of Deepwater assets; a description of the competitive process conducted in all contracts and subcontracts exceeding $5,000,000 within the Deepwater program; and the earned value management system gold 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 every five years, beginning in fiscal year 2011, that includes a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027: Provided further, That the Secretary shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President's budget is submitted 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 completion or estimated completion date 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 ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations 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 that fiscal year: Provided further, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified: Provided further, That of the amount provided under this heading, $175,800,000 is designated as described in section 520 of this Act.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), $16,000,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation; and for maintenance, rehabilitation, lease, and operation of facilities and equipment; as authorized by law; $17,000,000, to remain available until expended, 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. 2712(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 for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,063,323,000.

UNITED STATES SECRET SERVICE

PROTECTION, ADMINISTRATION, AND TRAINING

For necessary expenses of the United States Secret Service, including purchase of not to exceed 755 vehicles for police-type use, of which

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 determined 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 protectee 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; presentation of awards; travel 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 in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $961,779,000, of which not to exceed $25,000 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 $18,400,000 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 and position 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, not otherwise provided for, including costs related to office space and services of expert witnesses at such rate as may be determined by the Director of the Secret Service, $311,154,000; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $6,000,000 shall be a grant 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, $3,725,000, 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 Chief Medical Officer, and 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 $6,459,000 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 planning, coordination and execution of mass evacuation during a disaster, the Governors of the State of West Virginia and the Commonwealth of Pennsylvania, or their designees, shall be included in efforts to integrate the activities of Federal, State, and local governments in the National Capital Region, as defined in section 882 of Public Law 107–296, the Homeland Security Act of 2002.

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, $2,531,000,000, which shall be allocated as follows:

(1) $525,000,000 for formula-based grants and $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 the Office of Grants and Training shall act within 90 days after receipt of an application: Provided further, That not less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds; except in the case of Puerto Rico, where not less than 50 percent of any grant under this paragraph shall be made available to local governments within 60 days after the receipt of the funds.

(2) $1,229,000,000 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 September 30, 2007, 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 of 1986 and exempt from tax under section 501(a) of such Code) determined 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 109–90; 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, network, or cell against an organization described in the previous proviso, and the Secretary shall consider prior threats or attacks (within or outside the United States) against like organizations when determining 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 grantee at least five full business days in advance of the announcement of any grant award;

(B) $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, which shall be awarded based on risk notwithstanding subsection (a), for eligible costs as described in subsections (b)(2) through (4);

(C) $12,000,000 shall be for trucking industry security grants;

(D) $12,000,000 shall be for intercity bus security grants;

(E) $175,000,000 shall be for intercity rail passenger transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants; and

(F) $50,000,000 shall be for buffer zone protection grants:

Provided, That for grants under subparagraph (A), 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 receipt of an application: Provided further, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds: Provided further, That for grants under subparagraphs (B) through (F), the applications for such grants shall be made available to eligible applicants not later than 75 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.

(3) $50,000,000 shall be available for the Commercial Equipment Direct Assistance Program.

(4) $352,000,000 for training, exercises, technical assistance, and other programs:

Provided, That none of the grants 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 grantees shall provide additional reports on their use of funds, as determined necessary by the Secretary of Homeland Security: Provided further, That funds appropriated for law enforcement terrorism prevention grants under paragraph (1) of this heading and discretionary grants under paragraph (2)(A) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with the Office of Grants and Training certified training, as needed: Provided further, That the Government Accountability Office shall report on the validity, relevance, reliability, 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 on its findings not later than 45 days after the date of enactment of this Act: Provided further, That within seven days after the date of enactment of this Act, the Secretary shall provide the Government Accountability Office with the risk methodology and other factors that will be used to allocate discretionary grants funded under this heading.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control

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

For necessary expenses for emergency management performance grants, as 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.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $200,000,000: Provided, That total administrative costs shall not exceed three percent of the total appropriation.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges 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, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for 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 administrative 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 authorized purposes on October 1, 2007, and remain available until expended.

UNITED STATES FIRE ADMINISTRATION AND TRAINING

For necessary expenses of the United States Fire Administration and for other purposes, as authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), $46,849,000.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For necessary expenses for infrastructure protection and information security programs and activities, as authorized 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 of the amount made available under this heading, $10,000,000 may not be obligated until the Secretary submits to the Committees on Appropriations of the Senate and House of Representatives the report required in House Report 109–241 accompanying the Department of Homeland Security Appropriations Act, 2006 (Public Law 109–90) on Department of Homeland Security resources necessary to implement mandatory security requirements for the Nation's chemical sector and to create a system for auditing and ensuring compliance with the security standards.

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.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

READINESS, MITIGATION, RESPONSE, AND RECOVERY

For necessary expenses for readiness, mitigation, response, and recovery activities, $244,000,000, 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.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That of the total amount made available under this heading, $25,000,000 shall be for Urban Search and Rescue Teams, of which not to exceed $1,600,000 may be made available for administrative costs.

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 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11(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 to 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 $25,000,000: 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).

FLOOD MAP MODERNIZATION FUND

For necessary expenses under section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $198,980,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: Provided, That total administrative costs shall not exceed three percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), $128,588,000, which is available as follows: (1) not to exceed $38,230,000 for salaries and expenses associated with flood mitigation and flood insurance operations; and (2) not to exceed $90,358,000 for flood hazard mitigation which shall be derived from offsetting collections assessed and collected under section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), to remain available until September 30, 2008, including up to $31,000,000 for flood mitigation expenses under section 1366 of that Act, which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2008: Provided, That in fiscal year 2007, no funds shall be available from the National Flood Insurance Fund in excess of: (1) $70,000,000 for operating expenses; (2) $692,999,000 for commissions and taxes of agents; (3) such sums as are necessary for interest on Treasury borrowings; and (4) $50,000,000 for flood mitigation actions with respect to severe repetitive loss properties under section 1361A of that Act (42 U.S.C. 4102a) and repetitive insurance claims properties under section 1323 of that Act (42 U.S.C. 4030), which shall remain available until expended: Provided further, That total administrative costs shall not exceed three percent of the total appropriation.

NATIONAL FLOOD MITIGATION FUND

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f), of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), $31,000,000, to remain available until September 30, 2008, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which $31,000,000 shall be derived from the National Flood Insurance Fund.

NATIONAL PREDISASTER MITIGATION FUND

For a predisaster mitigation grant program under title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), $100,000,000, to remain available until expended: Provided, That grants made for predisaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of such Act (42 U.S.C. 5133(g)): 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. 11331 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.

TITLE 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 $93,500,000 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 and approve 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 materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile

phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $211,033,000, of which up to $43,910,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2008; of which $300,000 shall remain available until expended for Federal law enforcement agencies participating in training accreditation, to be distributed as determined by the Federal Law Enforcement Training Center for the needs of participating agencies; and of which not to exceed $12,000 shall be for official reception and representation expenses: Provided, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: Provided further, That section 1202(a) of Public Law 107–206 (42 U.S.C. 3771 note) is amended by striking ''5 years after the date of the enactment of this Act'' and inserting ''December 31, 2007'', and by striking ''250'' and inserting ''350''.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $64,246,000, to remain available until expended: Provided, That of the amount provided under this heading, $22,000,000 is designated as described in section 520 of this Act: Provided further, That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $135,000,000: Provided, That of the amount provided under this heading, $60,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve an expenditure plan by program, project, and activity; with a detailed breakdown and justification of the management and administrative costs for each; prepared by the Secretary of Homeland Security that has been reviewed by the Government Accountability Office: Provided further, That the expenditure plan shall describe the method utilized to derive administration costs in fiscal year 2006 and the fiscal year 2007 budget request: Provided further, That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.); and the purchase or lease of not to exceed five vehicles, $838,109,000, to remain available until expended: Provided, That of the amounts made available under this heading, $50,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a report prepared by the Under Secretary of Science and Technology that describes the progress to address financial management deficiencies, improve its management controls, and implement performance measures and evaluations.

DOMESTIC NUCLEAR DETECTION OFFICE

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Domestic Nuclear Detection Office and for management and administration of programs and activities, $30,468,000: Provided, That no funds will be made available for the reimbursement of individuals from other Federal agencies or organizations in fiscal year 2009: Provided further, That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, AND OPERATIONS

For necessary expenses for radiological and nuclear research, development, testing, evaluation and operations, $272,500,000, to remain available until expended: Provided, That of the amount provided under this heading, $15,000,000 shall not be obligated 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.

SYSTEMS ACQUISITION

For expenses for the Domestic Nuclear Detection Office acquisition and deployment of radiological detection systems in accordance with the global nuclear detection architecture, $178,000,000, to remain available until September 30, 2009; and of which no less than $143,000,000 shall be for radiation portal monitors; and of which not to exceed $5,000,000 shall be for the Surge program: Provided, That none of the funds appropriated under this heading shall 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 will be achieved.

TITLE V

GENERAL PROVISIONS

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 unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act: Provided, That balances so transferred may be merged with funds in the applicable established accounts and thereafter 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, provided by previous 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 through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either of the Committees on Appropriations of the Senate or House of Representatives for a different purpose; or (5) contracts out any function or activity for which funds have been appropriated for Federal full-time equivalent positions; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous 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 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) 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, shall 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 available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

(d) Notwithstanding subsections (a), (b), and (c) of this section, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.

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 allowed in the President's fiscal year 2007 budget, excluding sedan service, shuttle service, transit 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 available 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 are deemed to be 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 enactment of an Act authorizing intelligence activities for fiscal year 2007.

SEC. 507. The Federal Law Enforcement Training Center shall lead the Federal law enforcement training accreditation process, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 508. 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 notifies 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: Provided further, That the Office of Grants and Training shall brief the Committees on Appropriations of the Senate and the House of Representatives five full business days in advance of announcing publicly the intention of making an award of formula-based grants; law enforcement terrorism 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 additional facilities, except within 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 facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 510. The Director of the Federal Law Enforcement Training Center shall schedule basic and/or advanced law enforcement training at all four training facilities under the control of the Federal Law Enforcement Training Center to ensure that these 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 prospectus, if required by the Public Buildings Act of 1959 (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 prospectus.

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 the Under Secretary for Management, Analysis and Operations, Immigration and Customs Enforcement, the Directorate 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 Department 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 shall cease to be effective at such time as the President has selected a single agency to conduct security clearance investigations pursuant to section 3001(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 50 U.S.C. 435b) and the entity selected pursuant to section 3001(b) of such Act has reported to Congress that the agency selected pursuant to such section 3001(c) is capable of conducting all necessary investigations in a timely manner or has authorized the entities within the Department of Homeland Security covered by this section to conduct their own investigations pursuant to section 3001 of such Act.

SEC. 514. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow on or successor passenger prescreening program, until the Secretary of Homeland Security certifies, and the Government Accountability Office reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the conditions contained in paragraphs (1) through (10) of section 522(a) of Public Law 108–334 (118 Stat. 1319) have been successfully met.

(b) The report required by subsection (a) shall be submitted within 90 days after the Secretary provides the requisite certification, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten conditions have been successfully met.

(c) Within 90 days of enactment of this Act, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a detailed plan that describes (1) the dates for achieving key milestones, including the date or timeframes that the Secretary will certify the program under subsection (a); and (2) the methodology to be followed to support the Secretary's certification, as required under subsection (a).

(d) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a Government watch list.

(e) None of the funds provided in this or previous appropriations Acts may be utilized to develop or test algorithms assigning risk to passengers whose names are not on Government watch lists.

(f) None of the funds provided in this or previous appropriations Acts may be utilized for data or a database that is obtained from or remains under the control of a non-Federal entity: Provided, That this restriction shall not apply to Passenger Name Record data obtained from air carriers.

SEC. 515. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 516. None of the funds appropriated by this Act may be used to process or approve a competition under 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 Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 517. (a) None of the funds appropriated to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: Provided, That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis.

(b) Beginning in fiscal year 2008, none of the funds appropriated by this or any other Act to the United States Secret Service shall be made available for the protection of a person, other than persons granted protection under section 3056(a) of title 18, United States Code, and the Secretary of Homeland Security: Provided, That the Director of the United States Secret Service may enter into an agreement to perform such protection on a fully reimbursable basis for protectees not designated under section 3056(a) of title 18, United States Code.

SEC. 518. The Secretary of Homeland Security, in consultation with industry stakeholders, shall develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate.

SEC. 519. (a) The Secretary of Homeland Security is directed to research, develop, and procure new technologies to inspect and screen air cargo carried on passenger aircraft at the earliest date possible.

(b) Existing checked baggage explosive detection equipment and screeners shall be utilized to screen air cargo carried on passenger aircraft to the greatest extent practicable at each airport until technologies developed under subsection (a) are available.

(c) The Transportation Security Administration shall report air cargo inspection statistics quarterly 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 non-compliance with the second proviso 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 referring to 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 defense-related operations, pursuant to section 402 of H. Con. Res. 376 (109th Congress) as made applicable to the House of Representatives by H. Res. 818 (109th Congress), and as an emergency requirement pursuant to 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) RESCISSION.—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 109–90 for the Fast Response Cutter, the service life extension program of the current 110-foot Island Class patrol boat fleet, and accelerated design and production of the Fast Response Cutter, $78,693,508 are rescinded.

(b) ADDITIONAL APPROPRIATION.—For necessary expenses of the United States Coast Guard for ''Acquisition, 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 Privacy Officer appointed under section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) to alter, direct that changes be made to, delay, or prohibit the transmission to Congress of any report prepared under paragraph (6) of such section.

SEC. 523. No funding provided by this or previous appropriation Acts shall be available to pay the salary of any employee serving as a contracting officer's technical representative (COTR), or anyone acting in a similar or like capacity, who has not received COTR training.

SEC. 524. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to Transportation Security Administration ''Aviation Security'', ''Administration'' and ''Transportation 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 notification.

SEC. 525. (a) Within 30 days after enactment of this Act, the Secretary of Homeland Security shall revise Department of Homeland Security (DHS) Management Directive (MD) 11056 to provide for the following:

(1) That when a lawful request is made to publicly release a document containing information designated as sensitive security information

(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 regulation and shall further provide that all portions that no longer require SSI designation be released, subject to applicable law, including sections 552 and 552a of title 5, United States Code;

(2) That sensitive security information that is three years old and not incorporated in a current transportation security directive, security plan, contingency plan, or information circular; or does not contain current information in one of the following SSI categories: equipment or personnel performance specifications, vulnerability assessments, security inspection or investigative information, threat information, security measures, security screening information, security training materials, identifying information of designated transportation security personnel, critical aviation or maritime infrastructure asset information, systems security information, confidential business information, or research and development information shall be subject to release upon request unless:

(A) the Secretary or his designee makes a written determination that identifies a rational reason why the information must remain SSI; or

(B) such information is otherwise exempt from disclosure under applicable law:

Provided, That any determination made by the Secretary under clause (a)(2)(A) shall be provided to the party making a request to release such information and to the Committees on Appropriations of the Senate and the House of Representatives as part of the annual reporting requirement pursuant to section 537 of the Department of Homeland Security Appropriations Act, 2006 (Public Law 109–90; 119 Stat. 2088); and

(3) Common and extensive examples of the individual categories of SSI information cited under 49 CFR 1520(b)(1) through (16) in order to minimize and standardize judgment by covered persons in the application of SSI marking.

(b) Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall report to the Committees on Appropriations of the Senate and the House of Representatives on the progress that the Department has made in implementing the requirements of this section and of section 537 of the Department of Homeland Security Appropriations Act, 2006 (Public Law 109–90; 119 Stat. 2088).

(c) Not later than one year from the date of enactment of this Act, the Government Accountability Office shall report to the Committees on Appropriations of the Senate and the House of Representatives on DHS progress and procedures in implementing the requirements of this section.

(d) That in civil proceedings in the United States District Courts, where a party seeking access to SSI demonstrates that the party has substantial need of relevant SSI in the preparation of the party's case and that the party is unable without undue hardship to obtain the substantial equivalent of the information by other means, the party or party's counsel shall be designated as a covered person under 49 CFR Part 1520.7 in order to have access to the SSI at issue in the case, provided that the overseeing judge enters an order that protects the SSI from unauthorized or unnecessary disclosure and specifies the terms and conditions of access, unless upon completion of a criminal history check and terrorist assessment like that done for aviation workers on the persons seeking access to SSI, or based on the sensitivity of the information, the Transportation Security Administration or DHS demonstrates that such access to the information for the proceeding presents a risk of harm to the nation: Provided, That notwithstanding any other provision of law, an order granting access to SSI under this section 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 further, That notwithstanding any other provision of law, the Secretary may assess a civil penalty of up to $50,000 for each violation of 49 CFR Part 1520 by persons provided access to SSI under this provision.

SEC. 526. The Department of Homeland Security Working Capital Fund, established, pursuant to section 403 of Public Law 103–356 (31 U.S.C. 501 note), shall continue operations during fiscal year 2007.

SEC. 527. RESCISSION. Of the unobligated balances from prior year appropriations made available for the ''Counterterrorism Fund'', $16,000,000 are rescinded.

SEC. 528. (a) The report required by Public Law 109–62 and Public Law 109–90 detailing the allocation and obligation of funds for ''Disaster Relief'' shall hereafter be submitted monthly and include: (1) status of the Disaster Relief Fund (DRF) including obligations, allocations, and amounts undistributed/unallocated; (2) allocations, obligations, and expenditures for Hurricanes Katrina, Rita, and Wilma; (3) information on national flood insurance claims; (4) information on manufactured housing data; (5) information on hotel/motel data; (6) obligations, allocations and expenditures by State for unemployment, crisis counseling, inspections, housing assistance, manufactured housing, public assistance and individual assistance; (7) mission assignment obligations by agency, including (i) the amounts reimbursed to other agencies that are in suspense because FEMA has not yet reviewed and approved the documentation supporting the expenditure and (ii) 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 by agency and mission assignment; (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 from 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 (42 U.S.C. § 5121 et seq.), or any mission 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 documentation for reimbursements, and

(2) the necessity for timeliness of agency billings.

SEC. 529. RESCISSION. Of the unobligated balances from prior year appropriations made available for Science and Technology, $125,000,000 from ''Research, Development, Acquisition, and Operations'' are rescinded.

SEC. 530. None of the funds made available in this Act may be used to enforce section 4025(1) of Public Law 108–458 if the Assistant Secretary (Transportation Security Administration) determines that butane lighters are not a significant threat to civil aviation security: Provided, That the Assistant Secretary (Transportation Security Administration) shall notify the Committees on Appropriations of the Senate and the House of Representatives 15 days in advance of such determination including a report on whether the effectiveness of screening operations is enhanced by suspending enforcement of the prohibition.

SEC. 531. Within 45 days after the close of each month, the Chief Financial Officer of the Department of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a monthly budget and staffing report that includes total obligations and on-board versus funded full-time equivalent staffing levels.

SEC. 532. (a) UNITED STATES SECRET SERVICE USE OF PROCEEDS DERIVED FROM CRIMINAL INVESTIGATIONS.—During fiscal year 2007, with respect to any undercover investigative operation of the United States Secret Service (hereafter referred to in this section as the ''Secret Service'') that is necessary for the detection and prosecution of crimes against the United States—

(1) sums appropriated for the Secret Service, including unobligated balances available from prior fiscal years, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to sections 1341 and 3324 of title 31, United States Code, section 8141 of title 40, United States Code, sections 3732(a) and 3741 of the Revised Statutes of the United States (41 U.S.C. 11(a) and 22), and sections 304(a) and 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C 254(a) and 255);

(2) sums appropriated for the Secret Service, including unobligated balances available from prior fiscal years, may be used to establish or to acquire proprietary corporations or business entities as part of such undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31, United States Code;

(3) sums appropriated for the Secret Service, including unobligated balances available from prior fiscal years and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18, and section 3302 of title 31, United States Code; and

(4) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31, United States Code.

(b) WRITTEN CERTIFICATION.—The authority set forth in subsection (a) may be exercised only upon the written certification of the Director of the Secret Service or designee that any action authorized by any paragraph of such subsection is necessary for the conduct of an undercover investigative operation. Such certification shall continue in effect for the duration 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 with respect to which an action is authorized and carried out under paragraphs (3) and (4) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(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 liquidated, sold, or otherwise disposed of, the Secret Service, as much in advance as the Director or designee determines is practicable, shall report the circumstance to the Secretary of Homeland Security. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

(e) FINANCIAL AUDITS AND REPORTS.—

(1) The Secret Service shall conduct detailed financial 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.

(2) The Secretary of Homeland Security shall annually submit to the Committees on Appropriations of the Senate and House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, a summary of such audits.

SEC. 533. 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, other transactions and contracts.

SEC. 534. 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. 535. 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 (within the meaning of section 801(g) 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, That this section shall apply only to individuals transporting on their person a personal-use quantity of the prescription drug, not to exceed a 90-day supply: Provided further, That the prescription drug may not be:

(1) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(2) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

SEC. 536. The Department of Homeland Security shall, in approving standards for State and local emergency preparedness operational plans under section 613(b)(3) of the Robert T. Stafford Disaster and Emergency Assistance Act (42 U.S.C. 5196b(b)(3)), account for the needs of individuals with household pets and service animals before, during, and following a major disaster or emergency: Provided, That Federal agencies may provide assistance as described in section 403(a) of the Robert T. Stafford Disaster and Emergency Assistance Act (42 U.S.C. 5170b(a)) to carry out the plans described in the previous proviso.

SEC. 537. RESCISSION. From the unobligated balances from prior year appropriations made available for Transportation Security Administration ''Aviation Security'' and ''Headquarters Administration'', $4,776,000 are rescinded.

SEC. 538. RESCISSION. From the unobligated balances from prior year appropriations made available for Transportation Security Administration ''Aviation Security'', $61,936,000 are rescinded.

SEC. 539. RESCISSION. 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 the Department of Homeland Security Act, 2006 (Public Law 109–90) for the development of the Offshore Patrol Cutter, $20,000,000 are rescinded.

SEC. 540. RESCISSION. 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 the Department of Homeland Security Act, 2006 (Public Law 109–90) for the Automatic Identification System, $4,100,000 are rescinded.

SEC. 541. Notwithstanding the requirements of section 404(b)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Army Corps of Engineers may use Lot 19, Block 1 of the Meadowview Acres Addition and Lot 8, Block 5 of the Meadowview Acres Addition in Augusta, Kansas, for building portions of the flood-control levee.

SEC. 542. Notwithstanding any time limitation established for a grant awarded under title I, chapter 6, Public Law 106–31, in the item relating to Federal Emergency Management Agency—Disaster Assistance for Unmet Needs, the City of Cuero, Texas, may use funds received under such grant program until September 30, 2007.

SEC. 543. None of the funds made available by this Act shall be used in contravention of the Federal buildings performance and reporting requirements of Executive Order No. 13123, part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), or subtitle A of title I of the Energy Policy Act of 2005 (including the amendments made thereby).

SEC. 544. The Federal Law Enforcement Training Center instructor staff shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note).

SEC. 545. 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. 13212).

SEC. 546. Section 7209(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(k)).'' and inserting the following:

''(1) DEVELOPMENT OF PLAN AND IMPLEMENTATION.—

''(A) The Secretary of Homeland Security, in consultation with the Secretary of State, shall 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 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)). This plan shall be implemented not later than three months after the Secretary of State and the Secretary of Homeland Security make the certifications required in subsection (B), or June 1, 2009, whichever is earlier. The plan shall seek to expedite 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 on Appropriations of the Senate and the House of Representatives that the following criteria have been met prior to implementation of section 7209(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 International Organization for Standardization (ISO) security standards and meets or exceeds best available practices for protection of personal identification documents: 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 practices to prevent the unauthorized use of information on the card: Provided further, That to facilitate efficient cross-border travel, the Departments of Homeland Security and State shall, to the maximum extent possible, develop 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 subsequent change to that technology, 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 be 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;

''(iv) an alternative procedure has been developed for groups of children traveling across an international border under adult supervision with parental consent;

''(v) the necessary technological infrastructure to process the passport cards has been installed, and all employees at ports of entry have been properly trained in the use of the new technology;

''(vi) the passport card has been made available for the purpose of 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.''.

SEC. 547. 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 except in accordance with section 307 of such Act (42 U.S.C. 5150).

SEC. 548. None of the funds made available in the Act may be used to reimburse L.B.& B. Associates, Inc. or Olgoonik Logistics, LLC (or both) for attorneys fees related to pending litigation against Local 30 of the International Union of Operating Engineers.

SEC. 549. Notwithstanding any other provision of law, the acquisition management system of the Transportation Security Administration shall be subject to the provisions of the Small Business Act (15 U.S.C. 631 et seq).

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 site security plans for chemical facilities: Provided, That such regulations shall apply to chemical facilities that, in the discretion of the Secretary, present high levels of security risk: 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, appropriately 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 requirements of this section and the interim regulations: Provided further, That the Secretary shall review and approve each vulnerability assessment and site security plan required under this section: Provided further, That the Secretary shall not apply regulations issued pursuant to this section to facilities regulated pursuant to the Maritime Transportation Security Act of 2002, Public Law 107–295, as amended; Public Water Systems, as defined by section 1401 of the Safe Drinking Water Act, Public Law 93–523, 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 or the Department of Energy, or any facility subject to regulation by the Nuclear Regulatory Commission.

(b) Interim regulations issued under this section shall apply until the effective date of interim or final regulations promulgated under other laws that establish requirements and standards referred to in subsection (a) and expressly supersede this section: Provided, 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 70103 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 possessing the necessary security clearances, including law enforcement officials and first responders, for the purpose of carrying out this section, provided that such information may not be disclosed pursuant to any State or local law: Provided further, That in any proceeding to enforce this section, vulnerability assessments, site security plans, and other information submitted to or obtained by the Secretary under this section, and related vulnerability or security information, shall be treated as if the information were classified material.

(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: Provided, 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 shall provide 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 by 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. (a) CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.—Chapter 27 of title 18, 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 subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

''(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

''(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 2339B(g)(6)) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 554. Border tunnels and passages.''.

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting ''554,'' before ''1425,''.

(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 promulgate or amend sentencing 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 aggressive and 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 passage described in subsection (a) of such section to facilitate other felonies; and

(ii) the circumstances for which the sentencing guidelines currently 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 units, facilities, design and 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 current 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 modification; 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 Federal fleet and transportation efficiency).

SEC. 554. (a) The Transportation Security Administration shall require each air carrier and foreign air carrier that provides air transportation or intrastate air transportation to submit plans to the Transportation Security Administration on how such air carrier will participate in the voluntary provision of emergency services program established by section 44944(a) of title 49, United States Code.

(b)(1) 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) Relevant contacts for individuals interested in participating in the program described in subsection (a).

(2) The Transportation Security Administration shall make the report required by paragraph (1) available, by Internet web site or other appropriate method, to the following:

(A) The Congress.

(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 conjunction 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.

''(a) PROHIBITION ON CONFISCATION 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 not prohibited under Federal, 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;

''(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 subsection (a) from requiring the temporary surrender of a firearm as a condition for entry into any mode of transportation used for rescue or evacuation during a major disaster or emergency, provided that such temporarily surrendered firearm is returned at the completion of such rescue or evacuation.

''(c) PRIVATE RIGHTS OF ACTION.—

''(1) IN GENERAL.—Any individual aggrieved by a violation of this section may seek relief in an action at law, suit in equity, or other proper proceeding for redress against any person who subjects such individual, or causes such individual to be subjected, to the deprivation of any of the rights, privileges, or immunities secured by this section.

''(2) REMEDIES.—In addition to any existing remedy in law or equity, under any law, an individual aggrieved by the seizure or confiscation of a firearm in violation of this section may bring an action for return of such firearm in the United States district court in the district in which that individual resides or in which such firearm may be found.

''(3) ATTORNEY FEES.—In any action or proceeding to enforce this section, the court shall award the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.''.

SEC. 558. PILOT INTEGRATED SCANNING SYSTEM. (a) DESIGNATIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary 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 scanning system that couples nonintrusive imaging equipment and radiation detection equipment, which may be provided by the Megaports Initiative of the Department of Energy. In making designations under this subsection, the Secretary shall consider three distinct 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 implementation 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 information 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 enhance the Automated Targeting System or other relevant programs; and

(5) store the information for later retrieval and analysis.

(c) EVALUATION.—The Secretary shall evaluate the pilot program in subsection (b) to determine 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 overseas, including consideration of 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 capacity and flow of cargo at foreign or United States ports; and

(5) provides an automated notification of questionable or high-risk cargo as a trigger for further inspection by appropriately trained personnel.

(d) REPORT.—Not later than 120 days after achieving full-scale implementation under subsection (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 section;

(2) an analysis of the efficacy of the Automated Targeted System or other relevant programs in utilizing the images captured to examine high-risk containers;

(3) an evaluation of software that is capable of automatically identifying potential anomalies in scanned containers; and

(4) a plan and schedule to expand the integrated scanning system developed under this section to other container security initiative ports.

(e) IMPLEMENTATION.—If the Secretary determines the available technology meets the criteria outlined in subsection (c), the Secretary, in cooperation with the Secretary of State, shall seek to secure the cooperation of foreign governments to initiate and maximize the use of such technology at foreign ports to scan all cargo bound for the United States as quickly as possible.

SEC. 559. (a) RESCISSION.—From the unexpended balances of the United States Secret Service ''Salaries and Expenses'' account specifically identified in the Joint Explanatory Statement (House Report 109–241) accompanying the Department of Homeland Security Act, 2006 (Public Law 109–90) for National Special Security Events, $2,500,000 are rescinded.

(b) ADDITIONAL APPROPRIATION.—For necessary expenses of the United States Secret Service ''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 section 505 of the Homeland Security Act, as amended by title VI of this Act, shall be used in accordance with the provisions of section 1531(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 Administrator of the Agency;

(2) the term ''Agency'' means the Federal Emergency Management Agency;

(3) the term ''appropriate committees of Congress'' means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) those committees of the House of Representatives 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 severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;

(5) the term ''Department'' means the Department of Homeland Security;

(6) the terms ''emergency'' and ''major disaster'' have the meanings given the terms in section 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, sustain, and improve the capability 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. 101), as amended by this Act;

(9) the term ''Federal coordinating officer'' means a Federal coordinating officer as described in section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143);

(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);

(11) the terms ''local government'' and ''State'' have the meaning given the terms in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101);

(12) the term ''National Incident Management System'' means a system to enable effective, efficient, and collaborative incident management;

(13) the term ''National Response Plan'' means the National Response Plan or any successor plan prepared under section 502(a)(6) of the Homeland Security Act of 2002 (as amended by this Act);

(14) the term ''Secretary'' means the Secretary of Homeland Security;

(15) 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

(16) the term ''tribal government'' means the government of an Indian tribe or authorized tribal organization, or in Alaska a Native village or Alaska Regional Native Corporation.

Subtitle A—Federal Emergency Management Agency

SEC. 611. STRUCTURING THE FEDERAL EMERGENCY MANAGEMENT AGENCY.

Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended—

(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 capabilities);

(6) by redesignating sections 504, 505, 508, and 509 as sections 517, 518, 519, and 520, respectively;

(7) by redesignating section 510 (relating to procurement of security countermeasures for the strategic national stockpile) as section 521;

(8) by redesignating section 502 as section 504;

(9) by redesignating 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 redesignated and transferred by paragraph (9) of this section, the following:

''SEC. 501. DEFINITIONS.

''In this title—

''(1) the term 'Administrator' means the Administrator of the Agency;

''(2) the term 'Agency' means the Federal Emergency 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 severely affecting the population (including mass evacuations), infrastructure, environment, economy, national morale, or government functions in an area;

''(4) the term 'Federal coordinating officer' means a Federal coordinating officer as described in section 302 of the Robert T. Stafford

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 7303(g)(1) 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 prepared under section 502(a)(6);

''(8) the term 'Regional Administrator' means a Regional Administrator appointed under section 507;

''(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 government of any entity described in section 2(10)(B).'';

(11) 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, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.

''(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, and with nongovernmental organizations 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 or public health and 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 robust Regional Offices that will work with State, local, and tribal governments, emergency response providers, and other appropriate entities to identify and address regional priorities;

''(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 build tribal, local, State, regional, 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 risk to our Nation.

''(c) ADMINISTRATOR.—

''(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.

''(3) REPORTING.—The Administrator shall report to the Secretary, without being required to report through any other official of the Department.

''(4) PRINCIPAL ADVISOR ON EMERGENCY MANAGEMENT.—

''(A) 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.

''(B) ADVICE AND RECOMMENDATIONS.—

''(i) IN GENERAL.—In presenting advice 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 provide advice to 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.

''(5) CABINET STATUS.—

''(A) IN GENERAL.—The President may designate the Administrator to serve as a member of the Cabinet in the event of natural disasters, acts of terrorism, or other man-made disasters.

''(B) RETENTION OF AUTHORITY.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary under this Act.'';

(12) in section 504, as redesignated by paragraph (8) of this section—

*(A) in the section heading, by inserting ''**AUTHORITY AND**'' before ''**RESPONSIBILITIES**'';*

(B) 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—'';

(C) in paragraph (6), by striking ''and'' at the end; and

(D) by striking paragraph (7) and inserting the following:

''(7) helping ensure the acquisition of operable and interoperable communications capabilities by Federal, State, local, and tribal governments and emergency response providers;

''(8) assisting the President in carrying 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) mitigation, by taking sustained actions to reduce 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 function on their own, 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) administering 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) minimizing, to the extent practicable, overlapping planning and reporting requirements applicable to State, local, and tribal governments and the private sector;

''(17) maintaining and operating 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 carrying out all functions and authorities 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 503(b).

''(b) ALL-HAZARDS APPROACH.—In carrying out the responsibilities under this section, the Administrator shall coordinate the implementation of a risk-based, all-hazards strategy 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.''; and

(13) by inserting after section 504, as redesignated by paragraph (8) of this section, the following:

"SEC. 505. FUNCTIONS TRANSFERRED.

''(a) IN GENERAL.—Except as provided in subsection (b), there are transferred to the Agency the following:

''(1) All functions of the Federal Emergency Management Agency, including existing responsibilities for emergency alert systems and continuity of operations and continuity of government plans and programs as constituted on June 1, 2006, including all of its personnel, assets, components, authorities, grant programs, and liabilities, and including the functions of the Under Secretary for Federal Emergency Management relating thereto.

''(2) The Directorate of Preparedness, as constituted on June 1, 2006, including all of its functions, personnel, assets, components, authorities, grant programs, and liabilities, and including the functions of the Under Secretary for Preparedness relating thereto.

''(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.—

''(1) IN GENERAL.—The Secretary may not substantially or significantly reduce the authorities, responsibilities, or functions of the Agency or the capability of the Agency to perform those missions, authorities, 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.

''(2) CERTAIN TRANSFERS PROHIBITED.—No asset, function, or mission of the Agency may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, except for details or assignments that do not reduce the capability of the Agency to perform its missions.

''(d) REPROGRAMMING AND TRANSFER OF FUNDS.—In reprogramming or transferring funds, the Secretary shall comply with any applicable provisions of any Act making appropriations for the Department for fiscal year 2007, or any succeeding fiscal year, relating to the reprogramming or transfer of funds.

"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.

''(2) QUALIFICATIONS.—

''(A) IN GENERAL.—Each Regional Administrator shall be appointed from among individuals who have a demonstrated ability in and knowledge of emergency management and homeland security.

''(B) 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, the private sector, nongovernmental organizations, multijurisdictional councils of governments, and regional planning commissions and organizations in the geographical area served by the 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 operable and interoperable emergency communications capabilities;

''(D) staffing and overseeing 1 or more strike teams within the region under subsection (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 an individual responsible 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.—

''(A) TRAINING.—The Administrator shall require each Regional Administrator to undergo specific training periodically to complement the qualifications of the Regional Administrator. Such training, as appropriate, shall include training with respect to the National Incident Management System, the National Response Plan, and such other subjects as determined by the Administrator.

''(B) EXERCISES.—The Administrator shall require each Regional Administrator to participate as appropriate in regional and national exercises.

''(d) AREA OFFICES.—

''(1) IN GENERAL.—There is an Area Office for the Pacific and an Area Office for the Caribbean, as components in the appropriate Regional Offices.

''(2) ALASKA.—The Administrator shall establish an Area Office in Alaska, as a component in the appropriate Regional Office.

''(e) REGIONAL ADVISORY COUNCIL.—

''(1) ESTABLISHMENT.—Each Regional Administrator shall establish a Regional Advisory Council.

''(2) NOMINATIONS.—A State, local, or tribal government located within the geographic area served by the Regional Office may nominate officials, including Adjutants General and emergency managers, to serve as members of the Regional Advisory Council for that region.

''(3) RESPONSIBILITIES.—Each Regional Advisory Council shall—

''(A) advise the Regional Administrator on emergency management issues specific to that region;

''(B) identify any geographic, demographic, or other characteristics peculiar to any State, local, or tribal government within the region that might make preparedness, protection, response, recovery, or mitigation more complicated or difficult; and

''(C) advise the Regional Administrator of any weaknesses 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 is aware.

''(f) 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) liaisons 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 consistent with the emergency preparedness activities of the agency that employs such individual.

''(3) 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.

''(4) COORDINATION.—Each Regional Office strike team shall coordinate the training and exercises of that strike team with the State, local, and tribal governments and private sector and nongovernmental entities which the strike team shall support when a natural disaster, act of terrorism, or other man-made disaster occurs.

''(5) PREPAREDNESS.—Each Regional Office strike team shall be trained as a unit on a regular basis and equipped and staffed to be well prepared to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents.

''(6) AUTHORITIES.—If the Administrator determines that statutory authority is inadequate for the preparedness and deployment of individuals in strike teams under this subsection, the Administrator shall report to Congress regarding the additional statutory authorities that the Administrator determines are 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 advise the Administrator on 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 inpatient medical providers, and public health professionals;

''(C) experts from Federal, State, local, and tribal governments, and the private sector, representing standards-setting and accrediting organizations, including representatives from the voluntary consensus codes and standards development community, particularly those with expertise in the emergency preparedness and response field;

''(D) State, local, and tribal government officials with expertise in preparedness, protection, response, recovery, and mitigation, including Adjutants General;

''(E) elected State, local, and tribal government executives;

''(F) experts in public and private sector infrastructure protection, cybersecurity, and communications;

''(G) representatives of individuals with disabilities and other populations with special needs; and

''(H) such other individuals as the Administrator determines to be appropriate.

''(2) COORDINATION WITH THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND TRANSPORTATION.—In the selection of members of the National Advisory Council who are health or emergency medical services professionals, the Administrator shall work with the Secretary of Health and Human Services and the Secretary of Transportation.

''(3) EX OFFICIO MEMBERS.—The Administrator shall designate 1 or more officers of the Federal Government to serve as ex officio members of the National Advisory Council.

''(4) TERMS OF OFFICE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term of office of each member of the National Advisory Council shall be 3 years.

''(B) INITIAL APPOINTMENTS.—Of the members initially appointed to the National Advisory Council—

''(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.

''(d) 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.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the National Advisory Council.

''(2) TERMINATION.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the National Advisory Council.

"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 consultation with other Federal departments and agencies and the National Advisory Council, shall ensure ongoing management and maintenance of the National Incident Management System, the National Response Plan, and any successor to such system or plan.

''(2) SPECIFIC RESPONSIBILITIES.—The National Integration Center shall periodically review, and revise as appropriate, the National Incident Management System and the National Response Plan, including—

''(A) establishing, in consultation with the Director of the Corporation for National and Community Service, a process to better use volunteers and donations;

''(B) improving the use of Federal, State, local, and tribal resources and ensuring the effective use of emergency response providers at emergency scenes; and

''(C) revising the Catastrophic Incident Annex, finalizing and releasing the Catastrophic Incident Supplement to the National Response Plan, and ensuring that both effectively address response requirements in the event of a catastrophic incident.

''(c) INCIDENT MANAGEMENT.—

''(1) IN GENERAL.—

''(A) NATIONAL RESPONSE PLAN.—The Secretary, acting through the Administrator, shall ensure that the National Response Plan provides for a clear chain of command to lead and coordinate the Federal response to any natural disaster, act of terrorism, or other man-made disaster.

''(B) ADMINISTRATOR.—The chain of the command 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 terrorism, and other man-made disasters; and

''(ii) provide for a role for the Federal Coordinating Officer consistent with the responsibilities under section 302(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143(b)).

''(2) PRINCIPAL FEDERAL OFFICIAL.—The Principal 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 Coordinating Officer, or other Federal and State officials.

"SEC. 510. CREDENTIALING AND TYPING.

''The Administrator shall enter into a memorandum of understanding with the administrators of the Emergency Management Assistance Compact, State, local, and tribal governments, and organizations that represent emergency response providers, to collaborate on developing standards for deployment capabilities, including credentialing of personnel and typing of resources likely needed to respond to natural disasters, acts of terrorism, and other man-made disasters.

"SEC. 511. THE NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER.

''(a) DEFINITION.—In this section, the term 'National Infrastructure Simulation and Analysis Center' means the National Infrastructure Simulation and Analysis Center established under section 1016(d) of the USA PATRIOT Act (42 U.S.C. 5195c(d)).

''(b) AUTHORITY.—

''(1) IN GENERAL.—There is in the Department the National Infrastructure Simulation and Analysis Center which shall serve as a source of national expertise to address critical infrastructure protection and continuity through support for activities related to—

''(A) counterterrorism, threat assessment, and risk mitigation; and

''(B) a natural disaster, act of terrorism, or other man-made disaster.

''(2) INFRASTRUCTURE MODELING.—

''(A) PARTICULAR SUPPORT.—The support provided under paragraph (1) shall include modeling, simulation, and analysis of the systems and assets comprising critical infrastructure, in order to enhance preparedness, protection, response, recovery, and mitigation activities.

''(B) RELATIONSHIP WITH OTHER AGENCIES.—Each Federal agency and department with critical infrastructure responsibilities under Homeland Security Presidential Directive 7, or any successor to such directive, shall establish a formal relationship, including an agreement regarding information sharing, between the elements of such agency or department and the National Infrastructure Simulation and Analysis Center, through the Department.

''(C) PURPOSE.—

''(i) IN GENERAL.—The purpose of the relationship under subparagraph (B) shall be to permit each Federal agency and department described in subparagraph (B) to take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center (particularly vulnerability and consequence analysis), consistent with its work load capacity and priorities, for real-time response to reported and projected natural disasters, acts of terrorism, and other man-made disasters.

''(ii) RECIPIENT OF CERTAIN SUPPORT.—Modeling, simulation, and analysis provided under this subsection shall be provided to relevant Federal agencies and departments, including Federal agencies and departments with critical infrastructure responsibilities under Homeland Security Presidential Directive 7, or any successor to such directive.

"SEC. 512. EVACUATION PLANS AND EXERCISES.

''(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to subsection (d), grants made to States or local or tribal governments by the Department through the State Homeland Security Grant Program or the Urban Area Security Initiative may be used to—

''(1) establish programs for the development and maintenance of mass evacuation plans under subsection (b) in the event of a natural disaster, act of terrorism, or other man-made disaster;

''(2) prepare for the execution of such plans, including the development of evacuation routes and the purchase and stockpiling of necessary supplies and shelters; and

''(3) conduct exercises of such plans.

''(b) PLAN DEVELOPMENT.—In developing the mass evacuation plans authorized under subsection (a), each State, local, or tribal government shall, to the maximum extent practicable—

''(1) establish incident command and decision making processes;

''(2) ensure that State, local, and tribal government plans, including evacuation routes, are coordinated and integrated;

''(3) identify primary and alternative evacuation routes and methods to increase evacuation capabilities along such routes such as conversion of two-way traffic to one-way evacuation routes;

''(4) identify evacuation transportation modes and capabilities, including the use of mass and public transit capabilities, and coordinating and integrating evacuation plans for all populations including for those individuals located in hospitals, nursing homes, and other institutional living facilities;

''(5) develop procedures for informing the public of evacuation plans before and during an evacuation, including individuals—

''(A) with disabilities or other special needs;

''(B) with limited English proficiency; or

''(C) who might otherwise have difficulty in obtaining such information; and

''(6) identify shelter locations and capabilities.

''(c) ASSISTANCE.—

''(1) IN GENERAL.—The Administrator may establish any guidelines, standards, or requirements determined appropriate to administer this section and to ensure effective mass evacuation planning for State, local, and tribal areas.

''(2) REQUESTED ASSISTANCE.—The Administrator shall make 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 establish, 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.

''(d) MULTIPURPOSE 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 Interagency Coordinating 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.

''(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 State, local, and tribal government authorities regarding 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;

''(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 individuals with disabilities;

''(5) ensuring the development of training materials and a curriculum for training of emergency response providers, State, local, and tribal government officials, and others on the needs of individuals with disabilities;

''(6) promoting the accessibility of telephone hotlines and websites regarding emergency preparedness, evacuations, and disaster relief;

''(7) working to ensure that video programming distributors, including broadcasters, cable operators, and satellite television services, make emergency information accessible to individuals with hearing and vision disabilities;

''(8) ensuring the availability of accessible transportation options for individuals with disabilities in the event of an evacuation;

''(9) 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 are 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. 514. DEPARTMENT AND AGENCY OFFICIALS.

''(a) DEPUTY ADMINISTRATORS.—The President may appoint, by and with the advice and consent of the Senate, not more than 4 Deputy Administrators to assist the Administrator in carrying out this title.

''(b) CYBERSECURITY AND COMMUNICATIONS.—There is in the Department an Assistant Secretary for Cybersecurity and Communications.

''(c) UNITED STATES FIRE ADMINISTRATION.—The Administrator of the United States Fire Administration shall have a rank equivalent to an assistant secretary of the Department.

''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 managers and decision makers, can form the basis for incident management decisionmaking.

''(b) ESTABLISHMENT.—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 entire 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; and

''(2) ensure that critical terrorism and disaster-related information reaches government decision-makers.

''SEC. 516. CHIEF MEDICAL OFFICER.

''(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 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 Department 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.—

(1) ADMINISTRATOR.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

''Administrator of the Federal Emergency Management Agency.''.

(2) DEPUTY ADMINISTRATORS.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Deputy Administrators, Federal Emergency Management Agency.''.

(3) CHIEF MEDICAL OFFICER.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Chief Medical Officer, Department of Homeland Security.''.

(b) OFFICERS OF THE DEPARTMENT.—Section 103(a) of the Homeland Security Act of 2002 (6 U.S.C. 113(a)) is amended—

(1) by striking paragraph (5) and inserting the following:

''(5) An Administrator of the Federal Emergency Management Agency.'';

(2) by striking paragraph (2); and

(3) by redesignating paragraphs (3) through (10) (as amended by this subsection) as paragraphs (2) through (9), respectively.

(c) REFERENCES.—Any reference to the Director of the Federal Emergency Management Agency, in any law, rule, regulation, certificate, directive, instruction, or other official paper shall be considered to refer and apply to the Administrator of the Federal Emergency Management Agency.

(d) DEFINITION.—Section 2(6) of the Homeland Security Act of 2002 (6 U.S.C. 101(6)) is amended by inserting ''fire,'' after ''safety,''.

(e) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by striking the items relating to title V and sections 501 through 509 and inserting the following:

''TITLE V—NATIONAL EMERGENCY MANAGEMENT

''Sec. 501. Definitions.
''Sec. 502. Definition.
''Sec. 503. Federal Emergency Management Agency.
''Sec. 504. Authorities and responsibilities.
''Sec. 505. Functions transferred.
''Sec. 506. Preserving the Federal Emergency Management Agency.
''Sec. 507. Regional Offices.
''Sec. 508. National Advisory Council.
''Sec. 509. National Integration Center.
''Sec. 510. Credentialing and typing.
''Sec. 511. The National Infrastructure Simulation and Analysis Center.
''Sec. 512. Evacuation plans and exercises.
''Sec. 513. Disability Coordinator.
''Sec. 514. Department and Agency officials.
''Sec. 515. National Operations Center.
''Sec. 516. Chief Medical Officer.
''Sec. 517. Nuclear incident response.
''Sec. 518. Conduct of certain public health-related activities.
''Sec. 519. Use of national private sector networks in emergency response.
''Sec. 520. Use of commercially available technology, goods, and services.
''Sec. 521. Procurement of security countermeasures for strategic national stockpile.''.

(f) INTERIM ACTIONS.—

(1) IN GENERAL.—During the period beginning on the date of enactment of this Act and ending on March 31, 2007, the Secretary, the Under Secretary for Preparedness, and the Director of the Federal Emergency Management Agency shall take such actions as are necessary to provide for the orderly implementation of any amendment under this subtitle that takes effect on March 31, 2007.

(2) REFERENCES.—Any reference to the Administrator of the Federal Emergency Management Agency in this title or an amendment by this title shall be considered to refer and apply to the Director of the Federal Emergency Management Agency until March 31, 2007.

SEC. 613. NATIONAL WEATHER SERVICE.

Nothing in this title shall alter or otherwise affect the authorities and activities of the National Weather Service to protect life and property, including under the Act of October 1, 1890 (26 Stat. 653-55).

SEC. 614. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on 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).

(3) Sections 505, 507, 508, and 514 of the Homeland Security Act of 2002, as amended by section 611(13) of this Act.

(4) The amendments made by subsection (a).

(5) The amendments made by subsection (b)(1).

Subtitle B—Personnel Provisions

CHAPTER 1—FEDERAL EMERGENCY MANAGEMENT AGENCY PERSONNEL

SEC. 621. WORKFORCE DEVELOPMENT.

(a) IN GENERAL.—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

"CHAPTER 101—FEDERAL EMERGENCY MANAGEMENT AGENCY PERSONNEL

''Sec.
''10101. Definitions.
''10102. Strategic human capital plan.
''10103. Career paths.
''10104. Recruitment bonuses.
''10105. Retention bonuses.
''10106. Quarterly report on vacancy rate in employee positions.

"§ 10101. Definitions

''For purposes of this chapter—

''(1) the term 'Agency' means the Federal Emergency Management Agency;

''(2) the term 'Administrator' means the Administrator of the Federal Emergency Management Agency;

''(3) the term 'appropriate committees of Congress' has the meaning given the term in section 602 of the Post-Katrina Emergency Management Reform Act of 2006;

''(4) the term 'Department' means the Department of Homeland Security; and

''(5) the term 'Surge Capacity Force' refers to the Surge Capacity Force, described under section 624 of the Post-Katrina Emergency Management Reform Act of 2006.

"§ 10102. Strategic human capital plan

''(a) PLAN DEVELOPMENT.—Not later than 6 months after the date of enactment of this chapter, the Administrator shall develop and submit to the appropriate committees of Congress a strategic human capital plan to shape and improve the workforce of the Agency.

''(b) CONTENTS.—The strategic human capital plan shall include—

''(1) a workforce gap analysis, including an assessment of—

''(A) the critical skills and competencies that will be needed in the workforce of the Agency to support the mission and responsibilities of, and effectively manage, the Agency during the 10-year period beginning on the date of enactment of this chapter;

''(B) the skills and competencies of the workforce of the Agency on the day before the date of enactment of this chapter and projected trends in that workforce, based on expected losses due to retirement and other attrition; and

''(C) the staffing levels of each category of employee, including gaps in the workforce of the Agency on the day before the date of enactment of this chapter and in the projected workforce of the Agency that should be addressed to ensure that the Agency has continued access to the critical skills and competencies described in subparagraph (A);

''(2) a plan of action for developing and reshaping the workforce of the Agency to address the gaps in critical skills and competencies identified under paragraph (1)(C), including—

''(A) specific recruitment and retention goals, including the use of the bonus authorities under this chapter as well as other bonus authorities (including the program objective of the Agency to be achieved through such goals);

''(B) specific strategies for developing, training, deploying, compensating, and motivating and retaining the Agency workforce and its ability to fulfill the Agency's mission and responsibilities (including the program objectives of the Department and the Agency to be achieved through such strategies);

''(C) specific strategies for recruiting individuals who have served in multiple State agencies with emergency management responsibilities; and

''(D) specific strategies for the development, training, and coordinated and rapid deployment of the Surge Capacity Force; and

''(3) a discussion that—

''(A) details the number of employees of the Department not employed by the Agency serving in the Surge Capacity Force and the qualifications or credentials of such individuals;

''(B) details the number of individuals not employed by the Department serving in the Surge Capacity Force and the qualifications or credentials of such individuals;

''(C) describes the training given to the Surge Capacity Force during the calendar year preceding the year of submission of the plan under subsection (c);

''(D) states whether the Surge Capacity Force is able to adequately prepare for, respond to, and recover from natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents; and

''(E) describes any additional authorities or resources necessary to address any deficiencies in the Surge Capacity Force.

''(c) ANNUAL UPDATES.—Not later than May 1, 2007, and May 1st of each of the next 5 succeeding years, the Administrator shall submit to the appropriate committees of Congress an update of the strategic human capital plan, including an assessment by the Administrator, using results-oriented performance measures, of the progress of the Department and the Agency in implementing the strategic human capital plan.

"§ 10103. Career paths

''(a) IN GENERAL.—The Administrator shall—

''(1) ensure that appropriate career paths for personnel of the Agency are identified, including the education, training, experience, and assignments necessary for career progression within the Agency; and

''(2) publish information on the career paths described in paragraph (1).

''(b) EDUCATION, TRAINING, AND EXPERIENCE.—The Administrator shall ensure that all personnel of the Agency are provided the opportunity to acquire the education, training, and experience necessary to qualify for promotion within the Agency, including, as appropriate, the opportunity to participate in the Rotation Program established under section 844 of the Homeland Security Act of 2002.

''(c) POLICY.—The Administrator shall establish a policy for assigning Agency personnel to positions that provides for a balance between—

''(1) the need for such personnel to serve in career enhancing positions; and

''(2) the need to require service in a position for a sufficient period of time to provide the stability necessary—

''(A) to carry out the duties of that position; and

''(B) for responsibility and accountability for actions taken in that position.

"§ 10104. Recruitment bonuses

''(a) IN GENERAL.—The Administrator may pay a bonus to an individual in order to recruit the individual for a position within the Agency that would otherwise be difficult to fill in the absence of such a bonus. Upon completion of the strategic human capital plan, such bonuses shall be paid in accordance with that plan.

''(b) 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.

''(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 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.

''(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)); or

''(3) a position which has been excepted from the competitive service by reason of its confidential, 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 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, with respect to the period covered by such report, a description of how the authority to pay bonuses under this section was used by the Agency, 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, with respect to the period covered by such report, a description of how the authority to pay bonuses under this section was used by the Agency, including, with respect to each such agency—

''(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.

''§ 10106. Quarterly report on vacancy rate in employee positions

''(a) INITIAL REPORT.—

''(1) IN GENERAL.—Not later than 3 months after the date of enactment of this chapter, the Administrator shall develop and submit to the appropriate committees of Congress a report on the vacancies in employee positions of the Agency.

''(2) CONTENTS.—The report under this subsection shall include—

''(A) vacancies of 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) hiring-cycle time for each vacancy that has been filled; and

''(E) a plan for reducing the hiring-cycle time and reducing the current and anticipated vacancies with highly-qualified personnel.

''(b) QUARTERLY UPDATES.—Not later than 3 months after submission of the initial report, and every 3 months thereafter until 5 years after the date of enactment of this chapter, the Administrator shall submit to the appropriate committees of Congress an update of the report under subsection (a), including an assessment by the Administrator of the progress of the Agency in filling vacant employee positions of the Agency.''.

(b) 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:

''SEC. 844. HOMELAND SECURITY ROTATION PROGRAM.

''(a) 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 Chief 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 middle 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 providing for rotational assignments of employees to other components;

''(D) build professional relationships and contacts among the employees in the Department;

''(E) invigorate the workforce with exciting 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) RESPONSIBILITIES.—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.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—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 843 the following:

''Sec. 844. Homeland Security Rotation Program.''.

SEC. 623. HOMELAND SECURITY EDUCATION PROGRAM.

(a) ESTABLISHMENT.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by inserting after section 844 (as added by section 622 of this Act) the following:

''SEC. 845. HOMELAND SECURITY EDUCATION PROGRAM.

''(a) ESTABLISHMENT.—The Secretary, acting through the Administrator, shall establish a graduate-level Homeland Security Education Program in the National Capital Region to provide educational opportunities to senior Federal officials and selected State and local officials with homeland security and emergency management responsibilities. The Administrator shall appoint an individual to administer the activities under this section.

''(b) LEVERAGING OF EXISTING RESOURCES.—To maximize efficiency and effectiveness in carrying out the Program, the Administrator shall use existing Department-reviewed Master's Degree curricula in homeland security, including curricula pending accreditation, together with associated learning materials, quality assessment tools, digital libraries, exercise systems and other educational facilities, including the National Domestic Preparedness Consortium, the National Fire Academy, and the Emergency Management Institute. The Administrator may develop additional educational programs, as appropriate.

''(c) STUDENT ENROLLMENT.—

''(1) SOURCES.—The student body of the Program shall include officials from Federal, State, local, and tribal governments, and from other sources designated by the Administrator.

''(2) ENROLLMENT PRIORITIES AND SELECTION CRITERIA.—The Administrator shall establish policies governing student enrollment priorities and selection criteria that are consistent with the mission of the Program.

''(3) DIVERSITY.—The Administrator shall take reasonable steps to ensure that the student body represents racial, gender, and ethnic diversity.

''(d) SERVICE COMMITMENT.—

''(1) IN GENERAL.—Before any employee selected for the Program may be assigned to participate in the program, the employee shall agree in writing—

''(A) to continue in the service of the agency sponsoring the employee during the 2-year period beginning on the date on which the employee completes the program, unless the employee is involuntarily separated from the service of that agency for reasons other than a reduction in force; and

''(B) to pay to the Government the amount of the additional expenses incurred by the Government in connection with the employee's education if the employee is voluntarily separated from the service to the agency before the end of the period described in subparagraph (A).

''(2) PAYMENT OF EXPENSES.—

''(A) EXEMPTION.—An employee who leaves the service of the sponsoring agency to enter into the service of another agency in any branch of the Government shall not be required to make a payment under paragraph (1)(B), unless the head of the agency that sponsored the education of the employee notifies that employee before the date on which the employee enters the service of the other agency that payment is required under that paragraph.

''(B) AMOUNT OF PAYMENT.—If an employee is required to make a payment under paragraph

(1)(B), the agency that sponsored the education of the employee shall determine the amount of the payment, except that such amount may not exceed the pro rata share of the expenses incurred for the time remaining in the 2-year period.

''(3) RECOVERY OF PAYMENT.—If an employee who is required to make a payment under this subsection does not make the payment, a sum 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 lay 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 844 the following:

''Sec. 845. Homeland Security Education Program.''.

SEC. 624. SURGE CAPACITY FORCE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall prepare and submit to the appropriate committees of Congress a plan to establish and implement a Surge Capacity Force for deployment of individuals to respond to 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 Robert T. Stafford 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 shall include 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 Executive 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 natural disasters, acts of terrorism, and other man-made disasters.

(e) NO IMPACT ON AGENCY PERSONNEL CEILING.—Surge Capacity Force members shall not be counted against any personnel ceiling applicable to the Federal Emergency Management Agency.

(f) EXPENSES.—The Administrator may provide members of the Surge Capacity Force with travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for the purpose of participating in any training that relates to service as a member of the Surge Capacity Force.

(g) IMMEDIATE IMPLEMENTATION OF SURGE CAPACITY FORCE INVOLVING FEDERAL EMPLOYEES.—As soon as practicable after the date of enactment of this Act, the Administrator shall develop and implement—

(1) the procedures under subsection (b); and

(2) other elements of the plan needed to establish the portion of the Surge Capacity Force consisting of individuals designated under those procedures.

CHAPTER 2—EMERGENCY MANAGEMENT CAPABILITIES

SEC. 631. STATE CATASTROPHIC INCIDENT ANNEX.

Section 613 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196b) is amended—

(1) in subsection (b)(3) by inserting ''including a catastrophic incident annex,'' after ''plans,''; and

(2) by redesignating subsections (c) through (g) and subsections (d) through (h), respectively; and

(3) by inserting after subsection (b) the following:

''(c) CATASTROPHIC INCIDENT ANNEX.—

''(1) CONSISTENCY.—A catastrophic incident annex submitted under subsection (b)(3) shall be—

''(A) modeled after the catastrophic incident annex of the National Response Plan; and

''(B) consistent with the national preparedness goal established under section 643 of the Post-Katrina Emergency Management Reform Act of 2006, the National Incident Management System, the National Response Plan, and other related plans and strategies.

''(2) CONSULTATION.—In developing a catastrophic incident annex submitted under subsection (b)(3), a State shall consult with and seek appropriate comments from local governments, emergency response providers, locally governed multijurisdictional councils of government, and regional planning commissions.''.

SEC. 632. EVACUATION PREPAREDNESS TECHNICAL ASSISTANCE.

The Administrator, in coordination with the heads of other appropriate Federal agencies, shall provide evacuation preparedness technical assistance to State, local, and tribal governments, including the preparation of hurricane evacuation studies and technical assistance in developing evacuation plans, assessing storm surge estimates, evacuation zones, evacuation clearance times, transportation capacity, and shelter capacity.

SEC. 633. EMERGENCY RESPONSE TEAMS.

Section 303 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5144) is amended—

*(1) by striking ''**SEC. 303.**'' and all that follows through ''The President shall'' and inserting the following:*

''SEC. 303. EMERGENCY SUPPORT AND RESPONSE TEAMS.

''(a) EMERGENCY SUPPORT TEAMS.—The President shall''; and

(2) by adding at the end the following:

''(b) EMERGENCY RESPONSE TEAMS.—

''(1) ESTABLISHMENT.—In carrying out subsection (a), the President, acting through the Director of the Federal Emergency Management Agency, shall establish—

''(A) at a minimum 3 national response teams; and

''(B) sufficient regional response teams, including Regional Office strike teams under section 507 of the Homeland Security Act of 2002; and

''(C) other response teams as may be necessary to meet the incident management responsibilities of the Federal Government.

''(2) TARGET CAPABILITY LEVEL.—The Director shall ensure that specific target capability levels, as defined pursuant to the guidelines established under section 646(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 adequate numbers of properly planned, organized, equipped, trained, and exercised personnel to achieve the established target capability levels. Each emergency response team shall work in coordination with State and local officials and on-site personnel associated with a particular incident.

''(4) READINESS REPORTING.—The Director shall evaluate team readiness on a regular basis and report team readiness levels in the report required under section 652(a) of the Post-Katrina Emergency Management Reform Act of 2006.''.

SEC. 634. URBAN SEARCH AND RESCUE RESPONSE SYSTEM.

(a) IN GENERAL.—There is in the Agency a system known as the Urban Search and Rescue Response System.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the system for fiscal year 2008, an amount equal to the amount appropriated for the system for fiscal year 2007 and an additional $20,000,000.

SEC. 635. METROPOLITAN MEDICAL RESPONSE GRANT PROGRAM.

(a) IN GENERAL.—There is a Metropolitan Medical Response Program.

(b) PURPOSES.—The program shall include each purpose of the program as it existed on June 1, 2006.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program for fiscal year 2008, an amount equal to the amount appropriated for the program for fiscal year 2007 and an additional $30,000,000.

SEC. 636. LOGISTICS.

The Administrator shall develop an efficient, transparent, and flexible logistics system for procurement and delivery of goods and 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 State, local, and tribal governments affected by Hurricane Katrina or Hurricane Rita in a customer-focused, expeditious, effective, and consistent manner, the Administrator shall establish, in coordination with the appropriate States, a recovery office. The Administrator may establish recovery offices for each of the following States, if necessary:

(1) Mississippi.

(2) Louisiana.

(3) Alabama.

(4) Texas.

(b) STRUCTURE.—Each recovery office shall have an executive director, appointed by the Administrator, and a senior management team.

(c) RESPONSIBILITIES.—Each executive director, in coordination with State, local, and tribal governments, private sector entities, and nongovernmental organizations, including faith-based and other community humanitarian relief entities, shall provide assistance in a timely and effective manner to residents of the Gulf Coast region for recovering from Hurricane Katrina or Hurricane Rita.

(d) STAFFING.—

(1) IN GENERAL.—Each recovery office shall be staffed by multi-year term, temporary employees and permanent employees.

(2) STAFFING LEVELS.—Staffing levels of a recovery office shall be commensurate with current and projected workload and shall be evaluated on a regular basis.

(e) PERFORMANCE MEASURES.—To ensure that each recovery office is meeting its objectives, the Administrator shall identify performance measures that are specific, measurable, achievable, relevant, and timed, including—

(1) public assistance program project worksheet completion rates; and

(2) public assistance reimbursement times.

(f) CLOSEOUT INCENTIVES.—The Administrator shall provide incentives for the timely closeout of public assistance projects under sections 406 and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172 and 5173).

(g) TERMINATION.—Each recovery office shall terminate at the discretion of the Administrator.

SEC. 639. BASIC LIFE SUPPORTING FIRST AID AND EDUCATION.

The Administrator shall enter into agreements with organizations to provide funds to emergency response providers to provide education and training in life supporting first aid to children.

SEC. 640. IMPROVEMENTS TO INFORMATION TECHNOLOGY SYSTEMS.

(a) MEASURES TO IMPROVE INFORMATION TECHNOLOGY SYSTEMS.—The Administrator, in coordination with the Chief Information Officer of the Department, shall take appropriate measures to update and improve the information technology systems of the Agency, including measures to—

(1) ensure that the multiple information technology systems of the Agency (including the National Emergency Management Information System, the Logistics Information Management System III, and the Automated Deployment Database) are, to the extent practicable, fully compatible and can share and access information, as appropriate, from each other;

(2) ensure technology enhancements reach the headquarters and regional offices of the Agency in a timely fashion, to allow seamless integration;

(3) develop and maintain a testing environment that ensures that all system components are properly and thoroughly tested before their release;

(4) ensure that the information technology systems of the Agency have the capacity to track disaster response personnel, mission assignments task orders, commodities, and supplies used in response to a natural disaster, act of terrorism, or other man-made disaster;

(5) make appropriate improvements to the National Emergency Management Information System to address shortcomings in such system on the date of enactment of this Act; and

(6) provide training, manuals, and guidance on information technology systems to personnel, including disaster response personnel, to help ensure employees can properly use information technology systems.

(b) REPORT.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing the implementation of this section, including a description of any actions taken, improvements made, and remaining problems and a description of any additional funding needed to make necessary and appropriate improvements to the information technology systems of the Agency.

SEC. 640a. DISCLOSURE OF CERTAIN INFORMATION TO LAW ENFORCEMENT AGENCIES.

In the event of circumstances requiring an evacuation, sheltering, or mass relocation, the Administrator may disclose information in any individual assistance database of the Agency in accordance with section 552a(b) of title 5, United States Code (commonly referred to as the ''Privacy Act''), to any law enforcement agency of the Federal Government or a State, local, or tribal government in order to identify illegal conduct or address public safety or security issues, including compliance with sex offender notification laws.

Subtitle C—Comprehensive 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. A capability may be achieved with any combination of properly planned, organized, equipped, trained, and exercised personnel that achieves the intended outcome.

(2) HAZARD.—The term ''hazard'' has the meaning given that term under section 602(a)(1) of the Robert T. Stafford Disaster Relief and Assistance Act (42 U.S.C. 5195a).

(3) MISSION ASSIGNMENT.—The term ''mission assignment'' means a work order issued to a Federal agency by the Agency, directing completion by that agency of a specified task and setting forth funding, other managerial controls, and guidance.

(4) NATIONAL PREPAREDNESS GOAL.—The term ''national preparedness goal'' means the national preparedness goal established under section 643.

(5) NATIONAL PREPAREDNESS SYSTEM.—The term ''national preparedness system'' means the national preparedness system established under section 644.

(6) NATIONAL TRAINING PROGRAM.—The term ''national training program'' means the national training program established under section 648(a).

(7) 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.

(8) PERFORMANCE MEASURE.—The term ''performance measure'' means a quantitative or qualitative characteristic used to gauge the results of an outcome compared to its intended purpose.

(9) 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.

(10) 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, consistent with the declaration of policy under section 601 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195) and title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.), as amended by this Act, 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 SYSTEM.

(a) ESTABLISHMENT.—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 capabilities 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 the tasks and target capabilities 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, local, 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 measurable.

(d) TERRORISM RISK ASSESSMENT.—With respect to analyzing and assessing the risk of acts of terrorism, the Administrator shall consider—

(1) the variables of threat, vulnerability, and consequences related to population (including transient commuting and tourist populations),

areas of high population density, critical infrastructure, coastline, and international borders; and

(2) the most current risk assessment available from the Chief Intelligence Officer of the Department of the threats of terrorism against the United States.

(e) PREPAREDNESS PRIORITIES.—In establishing the guidelines under subsection (a), the Administrator shall establish preparedness priorities that appropriately balance the risk of all hazards, including natural disasters, acts of terrorism, and other man-made disasters, with the resources required to prevent, respond to, recover from, and mitigate against the hazards.

(f) MUTUAL AID AGREEMENTS.—The Administrator may provide support for the development of mutual aid agreements within States.

SEC. 647. EQUIPMENT AND TRAINING STANDARDS.

(a) EQUIPMENT STANDARDS.—

(1) IN GENERAL.—The Administrator, in coordination with the heads of appropriate Federal agencies and the National Advisory Council, shall support the development, promulgation, and updating, as necessary, of national voluntary consensus standards for the performance, use, and validation of equipment used by Federal, State, local, and tribal governments and nongovernmental emergency response providers.

(2) REQUIREMENTS.—The national voluntary consensus standards shall—

(A) be designed to achieve equipment and other capabilities consistent with the national preparedness goal, including the safety and health of emergency response providers;

(B) to the maximum extent practicable, be consistent with existing national voluntary consensus standards;

(C) take into account, as appropriate, threats that may not have been contemplated when the existing standards were developed; and

(D) focus on maximizing operability, interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety.

(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 ORGANIZATIONS.—In carrying out this section, the Administrator shall consult with representatives of relevant public and private sector national voluntary consensus standards development organizations.

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, the National Council on Disability, and the National Advisory Council, shall carry out a national training program to implement the national preparedness goal, National Incident Management System, National Response Plan, and other related plans and strategies.

(2) TRAINING PARTNERS.—In developing and implementing the national training program, the Administrator shall—

(A) work with government training facilities, academic institutions, private organizations, and other entities that provide specialized, state-of-the-art training for emergency managers or emergency response providers; and

(B) utilize, as appropriate, training courses provided by community colleges, State and local public safety academies, State and private universities, and other facilities.

(b) NATIONAL EXERCISE 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, the National Council on Disability, and the National Advisory Council, shall carry out a national exercise program to test and evaluate the national preparedness goal, National Incident Management System, National Response Plan, and other related plans and strategies.

(2) REQUIREMENTS.—The national exercise program—

(A) shall be—

(i) as realistic as practicable, based on current risk assessments, including credible threats, vulnerabilities, and consequences, and designed to stress the national preparedness system;

(ii) designed, as practicable, to simulate the partial or complete incapacitation of a State, local, or tribal government;

(iii) carried out, as appropriate, with a minimum degree of notice to involved parties regarding the timing and details of such exercises, consistent with safety considerations;

(iv) designed to provide for systematic evaluation of readiness; and

(v) designed to address the unique requirements of populations with special needs; and

(B) shall provide assistance to State, local, and tribal governments with the design, implementation, and evaluation of exercises that—

(i) conform to the requirements under subparagraph (A);

(ii) are consistent with any applicable State, local, or tribal strategy or plan; and

(iii) provide for systematic evaluation of readiness.

(3) NATIONAL LEVEL EXERCISES.—The Administrator shall periodically, but not less than biennially, perform national exercises for the following purposes:

(A) To test and evaluate the capability of Federal, State, local, and tribal governments to detect, disrupt, and prevent threatened or actual catastrophic acts of terrorism, especially those involving weapons of mass destruction.

(B) To test and evaluate the readiness of Federal, State, local, and tribal governments to respond and recover in a coordinated and unified manner to catastrophic incidents.

SEC. 649. COMPREHENSIVE ASSESSMENT SYSTEM.

(a) ESTABLISHMENT.—The Administrator, in coordination with the National Council on Disability and the National Advisory Council, shall establish a comprehensive system to assess, on an ongoing basis, the Nation's prevention capabilities and overall preparedness, including operational readiness.

(b) PERFORMANCE METRICS AND MEASURES.—The Administrator shall ensure that each component of the national preparedness system, National Incident Management System, National Response Plan, and other related plans and strategies, and the reports required under section 652 is developed, revised, and updated with clear and quantifiable performance metrics, measures, and outcomes.

(c) CONTENTS.—The assessment system established under subsection (a) shall assess—

(1) compliance with the national preparedness system, National Incident Management System, National Response Plan, and other related plans and strategies;

(2) capability levels at the time of assessment against target capability levels defined pursuant to the guidelines established under section 646(a);

(3) resource needs to meet the desired target capability levels defined pursuant to the guidelines established under section 646(a); and

(4) performance of training, exercises, and operations.

SEC. 650. REMEDIAL ACTION MANAGEMENT PROGRAM.

The Administrator, in coordination with the National Council on Disability and the National Advisory Council, shall establish a remedial action management program to—

(1) analyze training, exercises, and real-world events to identify and disseminate lessons learned and best practices;

(2) generate and disseminate, as appropriate, after action reports to participants in exercises and real-world events; and

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

SEC. 651. FEDERAL RESPONSE CAPABILITY INVENTORY.

(a) IN GENERAL.—In accordance with section 611(h)(1)(C) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196(h)(1)(C), the Administrator shall accelerate the completion of the inventory of Federal response capabilities.

(b) CONTENTS.—The inventory shall include—

(1) for each capability—

(A) the performance parameters of the capability;

(B) the timeframe within which the capability can be brought to bear on an incident; and

(C) the readiness of the capability to respond to all hazards, including natural disasters, acts of terrorism, and other man-made disasters; and

(2) emergency communications assets maintained by the Federal Government and, if appropriate, State, local, and tribal governments and the private sector.

(c) DEPARTMENT OF DEFENSE.—The Administrator, in coordination with the Secretary of Defense, shall develop a list of organizations and functions within the Department of Defense that may be used, pursuant to the authority provided under the National Response Plan and sections 402, 403, and 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a, 5170b, 5192), to provide support to civil authorities during natural disasters, acts of terrorism, and other man-made disasters.

(d) DATABASE.—The Administrator shall establish an inventory database to allow—

(1) real-time exchange of information regarding capabilities, readiness, or the compatibility of equipment;

(2) easy identification and rapid deployment during an incident; and

(3) the sharing of inventories with other Federal agencies, as appropriate.

SEC. 652. REPORTING REQUIREMENTS.

(a) FEDERAL PREPAREDNESS REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, and annually thereafter, the Administrator, in coordination with the heads of appropriate Federal agencies, shall submit to the appropriate committees of Congress a report on the Nation's level of preparedness for all hazards, including natural disasters, acts of terrorism, and other man-made disasters.

(2) CONTENTS.—Each report shall include—

(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 651(a); and

(D) an assessment of resource needs to meet preparedness priorities established under section 646(e), including—

(i) an estimate of the amount of Federal, State, local, and tribal 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.

(b) CATASTROPHIC RESOURCE REPORT.—

(1) IN GENERAL.—The Administrator shall develop and submit to the appropriate committees of Congress annually an estimate of the resources of the Agency and other Federal agencies needed for and devoted specifically to developing the capabilities of Federal, State, local, and tribal governments necessary to respond to a catastrophic incident.

(2) CONTENTS.—Each estimate under paragraph (1) shall include the resources both necessary for and devoted to—

(A) planning

(B) training and exercises;

(C) Regional Office enhancements;

(D) staffing, including for surge capacity during a catastrophic incident;

(E) additional logistics 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) covering 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 security costs 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, National Response Plan, and other related plans and strategies;

(B) an assessment of current capability levels and a description of target capability levels; and

(C) an assessment of resource needs to meet the preparedness priorities established under section 646(e), including—

(i) an estimate of the 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) the command, control, and communication channels to make, monitor, and communicate decisions;

(2) complies with the National Incident Management System;

(3) develops, trains, and exercises rosters of response personnel to be deployed when the agency is called upon to support a Federal response; and

(4) develops deliberate operational plans and the corresponding capabilities, including crisis planning, to respond effectively to natural disasters, acts of terrorism, and other man-made disasters in support of the National Response Plan to ensure a coordinated Federal response.

(b) OPERATIONAL PLANS.—An operations plan developed under subsection (a)(4) shall meet the following requirements:

(1) The operations plan shall be coordinated under a unified system with a common terminology, approach, and framework.

(2) The operations plan shall be developed, in coordination with State, local, and tribal government officials, to address both regional and national risks.

(3) The operations plan shall contain, as appropriate, the following elements:

(A) Concepts of operations.

(B) Critical tasks and responsibilities.

(C) Detailed resource and personnel requirements, together with sourcing requirements.

(D) Specific provisions for the rapid integration of the resources and personnel of the agency into the overall response.

(4) The operations plan shall address, as appropriate, the following matters:

(A) Support of State, local, and tribal governments in conducting mass evacuations, including—

(i) transportation and relocation;

(ii) short- and long-term sheltering and accommodation;

(iii) provisions for populations with special needs, keeping families together, and expeditious location of missing children; and

(iv) policies and provisions for pets.

(B) The preparedness and deployment of public health and medical resources, including resources to address the needs of evacuees and populations with special needs.

(C) The coordination of interagency search and rescue operations, including land, water, and airborne search and rescue operations.

(D) The roles and responsibilities of the Senior Federal Law Enforcement Official with respect to other law enforcement entities.

(E) The protection of critical infrastructure.

(F) The coordination of maritime salvage efforts among relevant agencies.

(G) The coordination of Department of Defense and National Guard support of civilian authorities.

(H) To the extent practicable, the utilization of Department of Defense, National Air and Space Administration, National Oceanic and Atmospheric Administration, and commercial aircraft and satellite remotely sensed imagery.

(I) The coordination and integration of support from the private sector and nongovernmental organizations.

(J) The safe disposal of debris, including hazardous materials, and, when practicable, the recycling of debris.

(K) The identification of the required surge capacity.

(L) Specific provisions for the recovery of affected geographic areas.

(c) 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 prescripted mission assignments, including logistics, communications, mass care, health services, and public safety.

(d) 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).

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit the authority of the Secretary of Defense with regard 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 consented to by the Joint Resolution entitled ''Joint Resolution granting the consent of Congress to the Emergency Management Assistance Compact'' (Public Law 104–321; 110 Stat. 3877).

(b) USES.—A grant under this section shall be used—

(1) to carry out recommendations identified in the Emergency Management Assistance Compact after-action reports for the 2004 and 2005 hurricane season;

(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 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.

(c) COORDINATION.—The Administrator shall consult with the Administrator of the Emergency Management Assistance Compact to ensure effective coordination of efforts in responding to requests for assistance.

(d) 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—

(1) uses a mix of live, virtual, and constructive simulations to—

(A) prepare elected officials, emergency managers, emergency response providers, and emergency support providers at all levels of government to operate cohesively;

(B) provide a learning environment for the homeland security personnel of all Federal agencies;

(C) assist in the development of operational procedures and exercises, particularly those based on catastrophic incidents; and

(D) allow incident commanders to exercise decisionmaking in a simulated environment; and

(2) uses modeling and simulation for training, exercises, and command and control functions at the 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 COMMUNICATIONS.

''(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 Assistant 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 Department's responsibilities and authorities relating to the SAFECOM Program, excluding elements related to research,

development, testing, and evaluation and standards;

''(3) administer the Department's responsibilities and authorities relating to the Integrated Wireless Network program;

''(4) conduct extensive, nationwide outreach to support and promote 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;

''(5) conduct extensive, nationwide outreach and foster the development of interoperable emergency communications capabilities by State, regional, local, and tribal governments and public safety agencies, and by regional consortia thereof;

''(6) provide technical assistance to State, regional, local, and tribal government officials with respect to use of interoperable emergency communications capabilities;

''(7) coordinate with the Regional Administrators regarding the activities of Regional Emergency Communications Coordination Working Groups under section 1805;

''(8) promote the development of standard operating procedures and best practices with respect to use of interoperable emergency communications capabilities for incident response, and facilitate the sharing of information on such best practices for achieving, maintaining, and enhancing interoperable emergency communications capabilities for such response;

''(9) coordinate, in cooperation with the National Communications System, the establishment of a national response capability with initial and ongoing planning, implementation, and training for the deployment of communications equipment for relevant State, local, and tribal governments and emergency response providers in the event of a catastrophic loss of local and regional emergency communications services;

''(10) assist the President, the National Security Council, the Homeland Security Council, and the Director of the Office of Management and Budget in ensuring the continued operation of the telecommunications functions and responsibilities of the Federal Government, excluding spectrum management;

''(11) establish, in coordination with the Director of the Office for Interoperability and Compatibility, requirements for interoperable emergency communications capabilities, which shall be nonproprietary where standards for such capabilities exist, for all public safety radio and data communications systems and equipment purchased using homeland security assistance administered by the Department, excluding any alert and warning device, technology, or system;

''(12) review, in consultation with the Assistant Secretary for Grants and Training, all interoperable emergency communications plans of Federal, State, local, and tribal governments, including Statewide and tactical interoperability plans, developed pursuant to homeland security assistance administered by the Department, but excluding spectrum allocation and management related to such plans;

''(13) develop and update periodically, as appropriate, a National Emergency Communications Plan under section 1802;

''(14) perform such other duties of the Department necessary to support and promote 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

''(15) perform other duties of the Department necessary to achieve the goal of and maintain and enhance interoperable emergency communications capabilities.

''(d) PERFORMANCE OF PREVIOUSLY TRANSFERRED FUNCTIONS.—The Secretary shall transfer to, and administer through, the Director for Emergency Communications the following programs and responsibilities:

''(1) The SAFECOM Program, excluding elements related to research, development, testing, and evaluation and standards.

''(2) The responsibilities of the Chief Information Officer related to the implementation of the Integrated Wireless Network.

''(3) The Interoperable Communications Technical Assistance Program.

''(e) COORDINATION.—The Director for Emergency Communications shall coordinate—

''(1) as appropriate, with the Director of the Office for Interoperability and Compatibility with respect to the responsibilities described in section 314; and

''(2) with the Administrator of the Federal Emergency Management Agency with respect to the responsibilities described in this title.

''(f) SUFFICIENCY OF RESOURCES PLAN.—

''(1) REPORT.—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.

''(2) COMPTROLLER 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. NATIONAL EMERGENCY COMMUNICATIONS PLAN.

''(a) IN GENERAL.—The Secretary, acting through the Director for Emergency Communications, and in cooperation with the Department of National Communications System (as appropriate), shall, in cooperation with 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 under section 1803, and periodically update, a National Emergency Communications Plan to provide recommendations regarding how the United States should—

''(1) support and promote 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

''(2) ensure, accelerate, and attain interoperable emergency communications nationwide.

''(b) COORDINATION.—The Emergency Communications Preparedness Center under section 1806 shall coordinate the development of the Federal aspects of the National Emergency Communications Plan.

''(c) CONTENTS.—The National Emergency Communications Plan shall—

''(1) include recommendations developed in consultation with the Federal Communications Commission and the National Institute of Standards and Technology for a process for expediting national voluntary consensus standards for emergency communications equipment for the purchase and use by public safety agencies of interoperable emergency communications equipment and technologies;

''(2) identify the appropriate capabilities necessary for 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;

''(3) identify the appropriate interoperable emergency communications capabilities necessary for Federal, State, local, and tribal governments in the event of natural disasters, acts of terrorism, and other man-made disasters;

''(4) recommend both short-term and long-term solutions for ensuring that emergency response providers and relevant government officials can continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

''(5) recommend both short-term and long-term solutions for deploying interoperable emergency communications systems for Federal, State, local, and tribal governments throughout the Nation, including through the provision of existing and emerging technologies;

''(6) identify how Federal departments and agencies that respond to natural disasters, acts of terrorism, and other man-made disasters can work effectively with State, local, and tribal governments, in all States, and with other entities;

''(7) identify obstacles to deploying interoperable emergency communications capabilities nationwide and recommend short-term and long-term measures to overcome those obstacles, including recommendations for multijurisdictional coordination among Federal, State, local, and tribal governments;

''(8) recommend goals and timeframes for the deployment of emergency, command-level communications systems based on new and existing equipment across the United States and develop a timetable for the deployment of interoperable emergency communications systems nationwide; and

''(9) recommend appropriate measures that emergency response providers should employ to ensure the continued operation of relevant governmental communications infrastructure in the event of natural disasters, acts of terrorism, or other man-made disasters.

"SEC. 1803. 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 that—

''(1) defines 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;

''(2) defines the range of interoperable emergency communications capabilities needed for specific events;

''(3) assesses the current available capabilities to meet such communications needs;

''(4) identifies the gap between such current capabilities and defined requirements; and

''(5) includes a national interoperable emergency communications inventory to be completed by the Secretary of Homeland Security, the Secretary of Commerce, and the Chairman of the Federal Communications Commission that—

''(A) identifies for each Federal department and agency—

''(i) the channels and frequencies used;

''(ii) the nomenclature used to refer to each channel or frequency used; and

''(iii) the types of communications systems and equipment used; and

''(B) identifies the interoperable emergency communications systems in use by public safety agencies in the United States.

''(b) CLASSIFIED ANNEX.—The baseline assessment under this section may include a classified annex including information provided under subsection (a)(5)(A).

''(c) SAVINGS CLAUSE.—In conducting the baseline assessment under this section, the Secretary may incorporate findings from assessments conducted before, or ongoing on, the date of enactment of this title.

''(d) PROGRESS REPORTS.—Not later than one year after the date of enactment of this section and biennially thereafter, the Secretary, acting through the Director for Emergency Communications, shall submit to Congress a report on the progress of the Department in achieving the goals of, and carrying out its responsibilities under, this title, including—

''(1) a description of the findings of the most recent baseline assessment conducted under subsection (a);

''(2) a determination of the degree to which interoperable emergency communications capabilities have been attained to date and the gaps that remain for interoperability to be achieved;

''(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 relevant government officials in the event of—

''(A) natural disasters, acts of terrorism, or other man-made disasters, including Incidents of National Significance declared by the Secretary under the National Response Plan; and

''(B) a catastrophic loss of local and regional communications services;

''(4) a list of best practices relating to the ability to continue to communicate and to provide and maintain interoperable emergency communications in the event of natural disasters, acts of terrorism, or other man-made disasters; and

''(A) an evaluation of the feasibility and desirability of the Department developing, on its own or in conjunction with the Department of Defense, a mobile communications capability, modeled on the Army Signal Corps, that could be deployed to support emergency communications at the site of natural disasters, acts of terrorism, or other man-made disasters.

''SEC. 1804. COORDINATION OF DEPARTMENT EMERGENCY COMMUNICATIONS GRANT PROGRAMS.

''(a) COORDINATION OF GRANTS AND STANDARDS PROGRAMS.—The Secretary, acting through the Director for Emergency Communications, shall ensure that grant guidelines for the use of homeland security assistance administered by the Department 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(f) 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 applicant better than equipment or systems that meet or exceed such standards; and

''(C) as of the date that is 3 years after the date of the completion of the initial National Emergency Communications Plan under section 1802, national voluntary consensus standards for interoperable emergency communications capabilities have not been developed and promulgated.

''(2) STANDARDS.—The Secretary, in coordination with the Federal Communications Commission, the National Institute of Standards and Technology, and other Federal departments and agencies with responsibility for standards, shall support the development, promulgation, and updating as necessary of national voluntary consensus standards for interoperable emergency communications.

''SEC. 1805. REGIONAL EMERGENCY COMMUNICATIONS COORDINATION.

''(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 Advisory Council.

''(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) Local fire departments.

''(F) Public safety answering points (9–1–1 services).

''(G) State emergency managers, homeland security directors, or representatives of State Administrative 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 tribal governments.

''(c) COORDINATION.—Each RECC Working Group shall coordinate its activities with the following:

''(1) Communications equipment manufacturers and vendors (including broadband data service providers).

''(2) Local exchange carriers.

''(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.

''(d) DUTIES.—The duties of each RECC Working Group shall include—

''(1) assessing the survivability, sustainability, and interoperability of local emergency communications systems to meet the goals of the National Emergency Communications Plan;

''(2) reporting annually to the relevant Regional Administrator, the Director for Emergency Communications, the Chairman of the Federal Communications Commission, and the Assistant Secretary for Communications and Information of the Department of Commerce on the status of its region in building robust and sustainable interoperable voice and data emergency communications networks and, not later than 60 days after the completion of the initial National Emergency Communications Plan under section 1802, on the progress of the region in meeting the goals of such plan;

''(3) ensuring a process for the coordination of effective multijurisdictional, multi-agency emergency communications networks for use during natural disasters, acts of terrorism, and other man-made disasters through the expanded use of emergency management and public safety communications mutual aid agreements; and

''(4) coordinating the establishment of Federal, State, local, and tribal support services and networks designed to address the immediate and critical human needs in responding to natural disasters, acts of terrorism, and other man-made disasters.

''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 Chairman of the Federal Communications Commission, the Secretary of Defense, the Secretary of Commerce, the Attorney General of the United States, and the heads of other Federal departments and agencies or their designees shall jointly operate the Center in accordance with the Memorandum of Understanding entitled, 'Emergency Communications Preparedness Center (ECPC) Charter'.

''(c) FUNCTIONS.—The Center shall—

''(1) serve as the focal point for interagency efforts and as a clearinghouse with respect to all relevant intergovernmental information to support and promote (including specifically by working to avoid duplication, hindrances, and counteractive 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 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;

''(3) consider, in preparing the strategic assessment under paragraph (2), the goals stated in the National Emergency Communications Plan under section 1802; and

''(4) perform such other functions as are provided in the Emergency Communications Preparedness Center (ECPC) Charter described in subsection (b)(1).

''SEC. 1807. URBAN AND OTHER HIGH RISK AREA 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 1016 of the National Security Intelligence Reform 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(g)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)(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. 1805. Regional emergency communications coordination
''Sec. 1806. Emergency Communications Preparedness Center
''Sec. 1807. Urban and other high risk area communications capabilities
''Sec. 1808. Definition.''.

SEC. 672. OFFICE FOR INTEROPERABILITY AND COMPATIBILITY.

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following:

''SEC. 314. OFFICE FOR INTEROPERABILITY AND COMPATIBILITY.

''(a) CLARIFICATION OF RESPONSIBILITIES.—The Director of the Office for Interoperability and Compatibility shall—

''(1) assist the Secretary in developing and implementing the science and technology aspects of the program described in subparagraphs (D), (E), (F), and (G) of section 7303(a)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(a)(1));

''(2) in coordination with the Federal Communications Commission, the National Institute of Standards and Technology, and other Federal departments and agencies with responsibility for standards, support the creation of national voluntary consensus standards for interoperable emergency communications;

''(3) establish a comprehensive research, development, testing, and evaluation program for improving interoperable emergency communications;

''(4) establish, in coordination with the Director for Emergency Communications, requirements for interoperable emergency communications capabilities, which shall be nonproprietary where standards for such capabilities exist, for all public safety radio and data communications systems and equipment purchased using homeland security assistance administered by the Department, excluding any alert and warning device, technology, or system;

''(5) carry out the Department's responsibilities and authorities relating to research, development, testing, evaluation, or standards-related elements of the SAFECOM Program;

''(6) evaluate and assess new technology in real-world environments to achieve interoperable emergency communications capabilities;

''(7) encourage more efficient use of existing resources, including equipment, to achieve interoperable emergency communications capabilities;

''(8) test public safety communications systems that are less prone to failure, support new nonvoice services, use spectrum more efficiently, and cost less than existing systems;

''(9) coordinate with the private sector to develop solutions to improve emergency communications capabilities and achieve interoperable emergency communications capabilities; and

''(10) conduct pilot projects, in coordination with the Director for Emergency Communications, to test and demonstrate technologies, including data and video, that enhance—

''(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 capabilities.

''(b) COORDINATION.—The Director of the Office for Interoperability and Compatibility shall coordinate with the Director for Emergency Communications with respect to the SAFECOM program.

''(c) SUFFICIENCY OF RESOURCES.—The Secretary shall provide the Office for Interoperability and Compatibility the resources and staff necessary to carry out the responsibilities under this section.''.

(b) 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 INTEROPERABILITY 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 INTEROPERABILITY RESEARCH AND DEVELOPMENT.

''(a) IN GENERAL.—The Under Secretary for Science and Technology, acting through the Director of the Office for Interoperability and Compatibility, shall establish a comprehensive research and development program to support and promote—

''(1) 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

''(2) interoperable emergency communications capabilities among emergency response providers and relevant government officials, including by—

''(A) supporting research on a competitive basis, including through the Directorate of Science and Technology and Homeland Security Advanced Research Projects Agency; and

''(B) considering the establishment of a Center of Excellence under the Department of Homeland Security Centers of Excellence Program focused on improving emergency response providers' communication capabilities.

''(b) PURPOSES.—The purposes of the program established under subsection (a) include—

''(1) supporting research, development, testing, and evaluation on emergency communication capabilities;

''(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 capabilities and supporting research on advanced technologies and potential systemic changes to dramatically improve emergency communications; and

''(5) evaluating and validating advanced technology concepts, and facilitating the development and deployment of interoperable emergency communication capabilities.

''(c) DEFINITIONS.—For purposes of this section, the term 'interoperable', with respect to emergency communications, has the meaning given the term in section 1808.''.

(b) 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 314, as added by this Act, the following:

''Sec. 315. Emergency communications interoperability research and development.''.

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 rerouting 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. SAVINGS CLAUSE.

Nothing in this subtitle shall be construed to transfer to the Office of Emergency Communications any function, personnel, asset, component, authority, grant program, or liability of the Federal Emergency Management Agency as constituted on June 1, 2006.

Subtitle E—Stafford Act Amendments

SEC. 681. GENERAL FEDERAL ASSISTANCE.

(a) MAJOR DISASTERS.—Section 402 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a) is amended—

(1) in paragraph (1), by striking ''efforts'' and inserting ''response or recovery efforts, including precautionary evacuations'';

(2) in paragraph (2), by striking the semicolon and inserting '', including precautionary evacuations and recovery;'';

(3) in paragraph (3)—

(A) in subparagraph (D), by striking ''and'' at the end; and

(B) by adding at the end the following:

''(F) recovery activities, including disaster impact assessments and planning;'';

(4) in paragraph (4), by striking the period and inserting ''; and''; and

(5) by adding at the end the following:

''(5) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

''(A) shall, to the fullest extent practicable, promptly notify and coordinate with officials in a State in which such assistance or support is provided; and

''(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of a major disaster.''.

(b) EMERGENCIES.—Section 502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5192) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking the semicolon and inserting '', including precautionary evacuations;'';

(B) in paragraph (6), by striking ''and'' after the semicolon;

(C) in paragraph (7), by striking the period and inserting ''; and''; and

(D) by adding at the end the following:

''(8) provide accelerated Federal assistance and Federal support where necessary to save lives, prevent human suffering, or mitigate severe damage, which may be provided in the absence of a specific request and in which case the President—

''(A) shall, to the fullest extent practicable, promptly notify and coordinate with a State in which such assistance or support is provided; and

''(B) shall not, in notifying and coordinating with a State under subparagraph (A), delay or impede the rapid deployment, use, and distribution of critical resources to victims of an emergency.'';

(2) in subsection (b), by striking the period and inserting '', including precautionary evacuations.''; and

(3) by adding at the end the following:

''(c) 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 disaster (including for the purpose of seeking assistance with special needs and other evacuation efforts) under this section by defining the types of assistance available to affected States and the circumstances under which such requests are likely to be approved.''.

SEC. 682. NATIONAL DISASTER RECOVERY STRATEGY.

(a) IN GENERAL.—The Administrator, in coordination with the Secretary of Housing and Urban Development, the Administrator of the Environmental Protection Agency, the Secretary

of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, the Secretary of Transportation, the Administrator of the Small Business Administration, the Assistant Secretary for Indian Affairs of the Department of the Interior, and the heads of other appropriate Federal agencies, State, local, and tribal government officials (including through the National Advisory Council), and representatives of appropriate nongovernmental organizations shall develop, coordinate, and maintain a National Disaster Recovery Strategy to serve as a guide to recovery efforts after major disasters and emergencies.

(b) CONTENTS.—The National Disaster Recovery Strategy shall—

(1) outline the most efficient and cost-effective Federal programs that will meet the recovery needs of States, local and tribal governments, and individuals and households affected by a major disaster;

(2) clearly define the role, programs, authorities, and responsibilities of each Federal agency that may be of assistance in providing assistance in the recovery from a major disaster;

(3) promote the use of the most appropriate and cost-effective building materials (based on the hazards present in an area) in any area affected by a major disaster, with the goal of encouraging the construction of disaster-resistant buildings; and

(4) describe in detail the programs that may be offered by the agencies described in paragraph (2), including—

(A) discussing funding issues;

(B) detailing how responsibilities under the National Disaster Recovery Strategy will be shared; and

(C) addressing other matters concerning the cooperative effort to provide recovery assistance.

(c) REPORT.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the National Disaster Recovery Strategy and any additional authorities necessary to implement any portion of the National Disaster Recovery Strategy.

(2) UPDATE.—The Administrator shall submit to the appropriate committees of Congress a report updating the report submitted under paragraph (1)—

(A) on the same date that any change is made to the National Disaster Recovery Strategy; and

(B) on a periodic basis after the submission of the report under paragraph (1), but not less than once every 5 years after the date of the submission of the report under paragraph (1).

SEC. 683. NATIONAL DISASTER HOUSING STRATEGY.

(a) IN GENERAL.—The Administrator, in coordination with representatives of the Federal agencies, governments, and organizations listed in subsection (b)(2) of this section, the National Advisory Council, the National Council on Disability, and other entities at the Administrator's discretion, shall develop, coordinate, and maintain a National Disaster Housing Strategy.

(b) CONTENTS.—The National Disaster Housing Strategy shall—

(1) outline the most efficient and cost effective Federal programs that will best meet the short-term and long-term housing needs of individuals and households affected by a major disaster;

(2) clearly define the role, programs, authorities, and responsibilities of each entity in providing housing assistance in the event of a major disaster, including—

(A) the Agency;

(B) the Department of Housing and Urban Development;

(C) the Department of Agriculture;

(D) the Department of Veterans Affairs;

(E) the Department of Health and Human Services;

(F) the Bureau of Indian Affairs;

(G) any other Federal agency that may provide housing assistance in the event of a major disaster;

(H) the American Red Cross; and

(I) State, local, and tribal governments;

(3) describe in detail the programs that may be offered by the entities described in paragraph (2), including—

(A) outlining any funding issues;

(B) detailing how responsibilities under the National Disaster Housing Strategy will be shared; and

(C) addressing other matters concerning the cooperative effort to provide housing assistance during a major disaster;

(4) consider methods through which housing assistance can be provided to individuals and households where employment and other resources for living are available;

(5) describe programs directed to meet the needs of special needs and low-income populations and ensure that a sufficient number of housing units are provided for individuals with disabilities;

(6) describe plans for the operation of clusters of housing provided to individuals and households, including access to public services, site management, security, and site density;

(7) describe plans for promoting the repair or rehabilitation of existing rental housing, including through lease agreements or other means, in order to improve the provision of housing to individuals and households under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174); and

(8) describe any additional authorities necessary to carry out any portion of the strategy.

(c) GUIDANCE.—The Administrator should develop and make publicly available guidance on—

(1) types of housing assistance available under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) to individuals and households affected by an emergency or major disaster;

(2) eligibility for such assistance (including, where appropriate, the continuation of such assistance); and

(3) application procedures for such assistance.

(d) REPORT.—

(1) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the National Disaster Housing Strategy, including programs directed to meeting the needs of special needs populations.

(2) UPDATED REPORT.—The Administrator shall submit to the appropriate committees of Congress a report updating the report submitted under paragraph (1)—

(A) on the same date that any change is made to the National Disaster Housing Strategy; and

(B) on a periodic basis after the submission of the report under paragraph (1), but not less than once every 5 years after the date of the submission of the report under paragraph (1).

SEC. 684. HAZARD MITIGATION GRANT PROGRAM FORMULA.

The third sentence of section 404(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c(a)) is amended by striking ''7.5 percent'' and inserting ''15 percent for amounts not more than $2,000,000,000, 10 percent for amounts of more than $2,000,000,000 and not more than $10,000,000,000, and 7.5 percent on amounts of more than $10,000,000,000 and not more than $35,333,000,000''.

SEC. 685. HOUSING ASSISTANCE.

Section 408(c)(4) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) is amended—

(1) by inserting ''or semi-permanent'' after ''permanent''; and

(2) by striking ''remote''.

SEC. 686. MAXIMUM AMOUNT UNDER INDIVIDUAL ASSISTANCE PROGRAMS.

Section 408(c) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(c)) is amended—

(1) by striking paragraph (2)(C); and

(2) in paragraph (3)—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as subparagraph (B).

SEC. 687. COORDINATING OFFICERS.

Section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143(b)) is amended by adding after subsection (c) the following:

''(d) Where the area affected by a major disaster or emergency includes parts of more than 1 State, the President, at the discretion of the President, may appoint a single Federal coordinating officer for the entire affected area, and may appoint such deputy Federal coordinating officers to assist the Federal coordinating officer as the President determines appropriate.''.

SEC. 688. DEFINITIONS.

Section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) is amended—

(1) by amending paragraph (9) to read as follows:

''(9) PRIVATE NONPROFIT FACILITY.—

''(A) IN GENERAL.—The term 'private nonprofit facility' means private nonprofit educational, utility, irrigation, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled) and facilities on Indian reservations, as defined by the President.

''(B) ADDITIONAL FACILITIES.—In addition to the facilities described in subparagraph (A), the term 'private nonprofit facility' includes any private nonprofit facility that provides essential services of a governmental nature to the general public (including museums, zoos, performing arts facilities, community arts centers, libraries, homeless shelters, senior citizen centers, rehabilitation facilities, shelter workshops, and facilities that provide health and safety services of a governmental nature), as defined by the President.'';

(2) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively; and

(3) by inserting after paragraph (5) the following:

''(6) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' means an individual with a disability as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)).''.

SEC. 689. INDIVIDUALS WITH DISABILITIES.

(a) GUIDELINES.—Not later than 90 days after the date of enactment of this Act, and in coordination with the National Advisory Council, the National Council on Disability, the Interagency Coordinating Council on Preparedness and Individuals With Disabilities established under Executive Order 13347 (6 U.S.C. 312 note), and the Disability Coordinator (established under section 513 of the Homeland Security Act of 2002, as added by this Act), the Administrator shall develop guidelines to accommodate individuals with disabilities, which shall include guidelines for—

(1) the accessibility of, and communications and programs in, shelters, recovery centers, and other facilities; and

(2) devices used in connection with disaster operations, including first aid stations, mass feeding areas, portable payphone stations, portable toilets, and temporary housing.

(b) ESSENTIAL ASSISTANCE.—Section 403(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b(a)) is amended—

(1) in paragraph (2), by inserting ''durable medical equipment,'' after ''medicine''; and

(2) in paragraph (3)—

(A) in subparagraph (B), by inserting ''durable medical equipment,'' after ''medicine'';

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

(C) in subparagraph (I), by striking the period and inserting ''; and''; and

(D) by adding at the end the following:

''(J) provision of rescue, care, shelter, and essential needs—

''(i) to individuals with household pets and service animals; and

''(ii) to such pets and animals.''.

(c) FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.—Section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) is amended—

(1) in subsection (b)(1), by inserting '', or with respect to individuals with disabilities, rendered inaccessible or uninhabitable,'' after ''uninhabitable''; and

(2) in subsection (d)(1)(A)—

(A) in clause (i), by striking ''and'' after the semicolon;

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

''(ii) meets the physical accessibility requirements for individuals with disabilities; and''.

SEC. 689a. NONDISCRIMINATION IN DISASTER ASSISTANCE.

Section 308(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5151(a)) is amended by inserting ''disability, English proficiency,'' after ''age,''.

SEC. 689b. REUNIFICATION.

(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, in coordination with the Attorney General of the United States, shall establish within the National Center for Missing and Exploited Children the National Emergency Child Locator Center. In establishing the National Emergency Child Locator Center, the Administrator shall establish procedures to make all relevant information available to the National Emergency Child Locator Center in a timely manner to facilitate the expeditious identification and reunification of children with their families.

(2) PURPOSES.—The purposes of the Child Locator Center are to—

(A) enable individuals to provide to the Child Locator Center the name of and other identifying information about a displaced child or a displaced adult who may have information about the location of a displaced child;

(B) enable individuals to receive information about other sources of information about displaced children and displaced adults; and

(C) assist law enforcement in locating displaced children.

(3) RESPONSIBILITIES AND DUTIES.—The responsibilities and duties of the Child Locator Center are to—

(A) establish a toll-free telephone number to receive reports of displaced children and information about displaced adults that may assist in locating displaced children;

(B) create a website to provide information about displaced children;

(C) deploy its staff to the location of a declared event to gather information about displaced children;

(D) assist in the reunification of displaced children with their families;

(E) provide information to the public about additional resources for disaster assistance;

(F) work in partnership with Federal, State, and local law enforcement agencies;

(G) provide technical assistance in locating displaced children;

(H) share information on displaced children and displaced adults with governmental agencies and nongovernmental organizations providing disaster assistance;

(I) use its resources to gather information about displaced children;

(J) refer reports of displaced adults to—

(i) an entity designated by the Attorney General to provide technical assistance in locating displaced adults; and

(ii) the National Emergency Family Registry and Locator System as defined under section 689c(a);

(K) 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; and

(L) develop an emergency response plan to prepare for the activation of the Child Locator Center.

(c) CONFORMING AMENDMENTS.—Section 403(1) of the Missing Children's Assistance Act (42 U.S.C. 5772(1)) is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by adding ''or'' after the semicolon; and

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

''(C) the individual is an individual under 21 years of age who is displaced from the habitual residence of that individual as a result of an emergency or major disaster (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)).''.

(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 Center or completing the cooperative agreements described in subsection (b)(3)(K).

SEC. 689c. NATIONAL EMERGENCY FAMILY REGISTRY AND LOCATOR SYSTEM.

(a) DEFINITIONS.—In this section—

(1) the term ''displaced individual'' means an individual displaced by an emergency or major disaster; and

(2) the term ''National Emergency Family Registry and Locator System'' means the National Emergency Family Registry and Locator System established under subsection (b).

(b) ESTABLISHMENT.—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 to help reunify families separated after an emergency or major disaster.

(c) OPERATION OF SYSTEM.—The National Emergency Family Registry and Locator System shall—

(1) allow a displaced adult (including medical patients) to voluntarily register (and allow an adult that is the parent or guardian of a displaced child to register such child), by submitting personal information to be entered into a database (such as the name, current location of residence, and any other relevant information that could be used by others seeking to locate that individual);

(2) ensure that information submitted under paragraph (1) is accessible to those individuals named by a displaced individual and to those law enforcement officials;

(3) be accessible through the Internet and through a toll-free number, to receive reports of displaced individuals; and

(4) include a means of referring displaced children to the National Emergency Child Locator Center established under section 689b.

(d) PUBLICATION OF INFORMATION.—Not later than 210 days after the date of enactment of this Act, the Administrator shall establish a mechanism to inform the public about the National Emergency Family Registry and Locator System and its potential usefulness for assisting to reunite displaced individuals with their families.

(e) COORDINATION.—Not later than 90 days after the date of enactment of this Act, the Administrator shall enter a memorandum of understanding with the Department of Justice, the National Center for Missing and Exploited Children, the Department of Health and Human Services, and the American Red Cross and other relevant private organizations that will enhance the sharing of information to facilitate reuniting displaced individuals (including medical patients) with their families.

(f) REPORT.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report describing in detail the status of the National Emergency Family Registry and Locator System, including any difficulties or issues in establishing the System, including funding issues.

SEC. 689d. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.

Section 408(c)(1)(A) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(c)(1)(A)) is amended—

(1) in clause (i), by adding at the end the following: ''Such assistance may include the payment of the cost of utilities, excluding telephone service.''; and

(2) in clause (ii), by inserting ''security deposits,'' after ''hookups,''.

SEC. 689e. DISASTER RELATED INFORMATION SERVICES.

Subtitle A of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.) is amended by adding at the end the following:

''SEC. 616. DISASTER RELATED INFORMATION SERVICES.

''(a) IN GENERAL.—Consistent with section 308(a), the Director of 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 major 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 of 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.—For purposes of subsection (a), the Director of Federal Emergency Management Agency shall define the size of a population group.''.

SEC. 689f. TRANSPORTATION ASSISTANCE AND CASE MANAGEMENT SERVICES TO INDIVIDUALS AND HOUSEHOLDS.

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.), is amended by adding at the end the following:

''SEC. 425. TRANSPORTATION ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.

''The President may provide transportation assistance to relocate individuals displaced from

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 alternative locations for short or long-term accommodation or to return an individual or household to their predisaster primary residence or alternative location, as determined necessary by the President.

"SEC. 426. 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. 689g. 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:

"SEC. 326. 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 401 and the emergency declaration process under section 501, 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.''.

(b) 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 income or population.

(c) STATUTORY CONSTRUCTION.—Nothing in this section or the amendments made by this section shall be construed to authorize major disaster or emergency assistance that is not authorized as of the date of enactment of this Act.

SEC. 689h. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED PRIVATE NONPROFIT 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,'' after ''communications,''.

SEC. 689i. INDIVIDUALS AND HOUSEHOLDS PILOT PROGRAM.

(a) PILOT PROGRAM.—

(1) IN GENERAL.—The President, acting through the Administrator, in coordination with State, local, and tribal governments, shall establish and conduct a pilot program. The pilot program shall be designed to make better use of existing rental housing, located in areas covered by a major disaster declaration, in order to provide timely and cost-effective temporary housing assistance to 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.

(2) ADMINISTRATION.—

(A) IN GENERAL.—For the purposes of the pilot program under this section, the Administrator may—

(i) enter into lease agreements with owners of multi-family rental property located in areas covered by a major disaster declaration to house 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);

(ii) make improvements to properties under such lease agreements;

(iii) use the pilot program where the program is cost effective in that the cost to the Government for the lease agreements is in proportion to the savings to the Government by not providing alternative housing; and

(iv) limit repairs to those required to ensure that the housing units shall meet Federal housing quality standards.

(B) IMPROVEMENTS TO LEASED PROPERTIES.—Under the terms of any lease agreement for a property described under subparagraph (A)(ii), the value of the contribution of the Agency to such improvements—

(i) shall be deducted from the value of the lease agreement; and

(ii) may not exceed the value of the lease agreement.

(3) CONSULTATION.—In administering the pilot program under this section, the Administrator may consult with State, local, and tribal governments.

(4) REPORT.—

(A) IN GENERAL.—Not later than March 31, 2009, the Administrator shall submit to the appropriate committees of Congress a report regarding the effectiveness of the pilot program.

(B) CONTENTS.—The Administrator shall include in the report—

(i) an assessment of the effectiveness of the pilot program under this section, including an assessment of cost-savings to the Federal Government and any benefits to 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) under the pilot program;

(ii) findings and conclusions of the Administrator with respect to the pilot program;

(iii) an assessment of additional authorities needed to aid the Agency in its mission of providing disaster housing assistance to 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), either under the pilot program under this section or other potential housing programs; and

(iv) any recommendations of the Administrator for additional authority to continue or make permanent the pilot program.

(b) PILOT PROGRAM PROJECT APPROVAL.—The Administrator shall not approve a project under the pilot program after December 31, 2008.

SEC. 689j. PUBLIC ASSISTANCE PILOT PROGRAM.

(a) PILOT PROGRAM.—

(1) IN GENERAL.—The President, acting through the Administrator, and in coordination with State and local governments, shall establish and conduct a pilot program to—

(A) reduce the costs to the Federal Government of providing assistance to States and local governments under sections 403(a)(3)(A), 406, and 407 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 1570b(a)(3), 5172, 5172);

(B) increase flexibility in the administration of sections 403(a)(3)(A), 406, and 407 of that Act; and

(C) expedite the provision of assistance to States and local governments provided under sections 403(a)(3)(A), 406, and 407 of that Act.

(2) PARTICIPATION.—Only States and local governments that elect to participate in the pilot program may participate in the pilot program for a particular project.

(3) INNOVATIVE ADMINISTRATION.—

(A) IN GENERAL.—For purposes of the pilot program, the Administrator shall establish new procedures to administer assistance provided under the sections referred to in paragraph (1).

(B) NEW PROCEDURES.—The new procedures established under subparagraph (A) may include 1 or more of the following:

(i) Notwithstanding section 406(c)(1)(A) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 1571(c)(1)(A)), providing an option for a State or local government to elect to receive an in-lieu contribution in an amount equal to 90 percent of the Federal share of the Federal estimate of the cost of repair, restoration, reconstruction, or replacement of a public 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, by the State government) and the Administrator to provide financial incentives and disincentives for the local government (or where no local government is involved, for the State 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 prequalified 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 assistance under the sections referred to in paragraph (1) as the Administrator determines are necessary to carry out the pilot program under this section.

(b) REPORT.—

(1) IN GENERAL.—Not later than March 31, 2009, the Administrator shall submit to the appropriate committees of Congress a report regarding the effectiveness of the pilot program under this section.

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

(A) an assessment by the Administrator of any administrative or financial benefits of the pilot program;

(B) an assessment by the Administrator of the effect, including any savings in time and cost, of the pilot program;

(C) any identified legal or other obstacles to increasing the amount of debris recycled after a major disaster;

(D) any other findings and conclusions of the Administrator with respect to the pilot program; and

(E) any recommendations of the Administrator for additional authority to continue or make permanent the pilot program.

(c) DEADLINE FOR INITIATION OF IMPLEMENTATION.—The Administrator shall initiate implementation of the pilot program under this section not later than 90 days after the date of enactment of this Act.

(d) PILOT PROGRAM PROJECT DURATION.—The Administrator may not approve a project under the pilot program under this section after December 31, 2008.

SEC. 689k. DISPOSAL OF UNUSED TEMPORARY HOUSING UNITS.

(a) IN GENERAL.—Notwithstanding section 408(d)(2)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(d)(2)(B)), if the Administrator authorizes the disposal of an unused temporary housing unit that is owned by the Agency on the date of enactment of this Act and is not used to house

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 coordination with the Department of the Interior 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.—

(1) IN GENERAL.—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 Agency can not contract in advance of a natural disaster or act of terrorism or other man-made disaster in a cost effective manner; and

(C) a contracting strategy that maximizes the use of advance contracts to the extent practical and cost-effective.

(2) SUBMISSION.—The report under paragraph (1) shall be submitted to the appropriate committees of Congress.

(b) ENTERING INTO CONTRACTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Administrator shall enter into 1 or more contracts for each type of goods or services identified under subsection (a)(1)(A), and in accordance with the contracting strategy identified in subsection (a)(1)(C). Any contract for goods or services identified in subsection (a)(1)(A) previously awarded may be maintained in fulfilling this requirement.

(2) CONSIDERED FACTORS.—Before entering into any contract under this subsection, the Administrator shall consider section 307 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5150), as amended by this Act.

(3) PRENEGOTIATED FEDERAL CONTRACTS FOR GOODS AND SERVICES.—The Administrator, in coordination with State and local governments and other Federal agencies, shall establish a process to ensure that Federal prenegotiated contracts for goods and services are coordinated with State and local governments, as appropriate.

(4) PRENEGOTIATED STATE AND LOCAL CONTRACTS FOR GOODS AND SERVICES.—The Administrator shall encourage State and local governments to establish prenegotiated contracts with vendors for goods and services in advance of natural disasters and acts of terrorism or other man-made disasters.

(c) MAINTENANCE OF CONTRACTS.—After the date described under subsection (b), the Administrator shall have the responsibility to maintain contracts for appropriate levels of goods and services in accordance with subsection (a)(1)(C).

(d) REPORT ON CONTRACTS NOT USING COMPETITIVE PROCEDURES.—At the end of each fiscal quarter, beginning with the first fiscal quarter occurring at least 90 days after the date of enactment of this Act, the Administrator shall submit a report on each disaster assistance contract entered into by the Agency by other than competitive procedures to the appropriate committees of Congress.

SEC. 692. LIMITATIONS ON TIERING OF SUBCONTRACTORS.

(a) REGULATIONS.—The Secretary shall promulgate regulations applicable to contracts described in subsection (c) to minimize the excessive use by contractors of subcontractors or tiers of subcontractors to perform the principal work of the contract.

(b) SPECIFIC REQUIREMENT.—At a minimum, the regulations promulgated under subsection (a) shall preclude a contractor from using subcontracts for more than 65 percent of the cost of the contract or the cost of any individual task or delivery order (not including overhead and profit), unless the Secretary determines that such requirement is not feasible or practicable.

(c) COVERED CONTRACTS.—This section applies to any cost-reimbursement type contract or task or delivery order 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 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 funds are spent appropriately and in accordance with all applicable laws and regulations.

(C) Reviewing selected contracts and other activities.

(D) Investigating allegations of fraud involving Agency funds.

(E) Conducting and participating in fraud prevention activities with other Federal, State, and local government personnel and contractors.

(2) PLANS AND REPORTS.—Oversight funds may be used to issue the plans required under subsection (e) and the reports required under subsection (f).

(c) RESTRICTION ON USE OF FUNDS.—Oversight funds may not be used to finance existing agency oversight responsibilities related to direct agency appropriations used for disaster response, relief, and recovery activities.

(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.

(2) COORDINATION OF OVERSIGHT ACTIVITIES.—To the extent practicable, evaluations and audits under this section shall be performed by the inspector general of the agency.

(e) DEVELOPMENT OF OVERSIGHT PLANS.—

(1) IN GENERAL.—If an agency receives oversight funds for a fiscal year, the head of the agency shall prepare a plan describing the oversight activities for disaster response, relief, and recovery anticipated to be undertaken during the subsequent fiscal year.

(2) SELECTION OF OVERSIGHT ACTIVITIES.—In preparing the plan, the head of the agency shall select oversight activities based upon a risk assessment of those areas that present the greatest risk of fraud, waste, and abuse.

(3) SCHEDULE.—The plan shall include a schedule for conducting oversight activities, including anticipated dates of completion.

(f) FEDERAL DISASTER ASSISTANCE ACCOUNTABILITY REPORTS.—A Federal agency receiving oversight funds under this section shall submit annually to the Administrator and the appropriate committees of Congress a consolidated report regarding the use of such funds, including information summarizing oversight activities and the results achieved.

(g) DEFINITION.—In this section, the term ''oversight funds'' means funds referred to in subsection (a) that are designated for use in performing oversight activities.

SEC. 694. USE OF LOCAL FIRMS AND INDIVIDUALS.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) is amended by striking section 307 and inserting the following:

''SEC. 307. USE OF LOCAL FIRMS AND INDIVIDUALS.

''(a) CONTRACTS OR AGREEMENTS WITH PRIVATE ENTITIES.—

''(1) IN GENERAL.—In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which may be carried out by contract or agreement with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals residing or doing business primarily in the area affected by such major disaster or emergency.

''(2) CONSTRUCTION.—This subsection shall not be considered to restrict the use of Department of Defense resources under this Act in the provision of assistance in a major disaster.

''(3) SPECIFIC GEOGRAPHIC AREA.—In carrying out this section, a contract or agreement may be set aside for award based on a specific geographic area.

''(b) IMPLEMENTATION.—

''(1) CONTRACTS NOT TO ENTITIES IN AREA.—Any expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster or emergency assistance activities which 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 shall be justified in writing in the contract file.

''(2) TRANSITION.—Following the declaration of an emergency or major disaster, an agency performing response, relief, and reconstruction activities shall transition work performed under 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 any 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.

''(c) PRIOR CONTRACTS.—Nothing in this section shall be construed to require any Federal agency to breach or renegotiate any contract in effect before the occurrence of a major disaster or emergency.''.

SEC. 695. LIMITATION ON LENGTH OF CERTAIN NONCOMPETITIVE CONTRACTS.

(a) REGULATIONS.—The Secretary shall promulgate regulations applicable to contracts described in subsection (c) to restrict the contract period of any such contract entered into using procedures other than competitive procedures pursuant to the exception provided in paragraph (2) of section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)) to the minimum contract period necessary—

(1) to meet the urgent and compelling requirements of the work to be performed under the contract; and

(2) to enter into another contract for the required goods or services through the use of competitive procedures.

(b) SPECIFIC CONTRACT PERIOD.—The regulations promulgated under subsection (a) shall require the contract period to not to exceed 150

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 408 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 provide reasonable assurance that payments are made only to an individual or household that is eligible for such assistance;

''(2) minimize the risk of making duplicative payments or payments for fraudulent claims under this section;

''(3) collect any duplicate payment on a claim under this section, or reduce the amount of subsequent payments to offset the amount of any such duplicate payment;

''(4) provide instructions to recipients of assistance under this section regarding the proper use of any such assistance, regardless of how such assistance is distributed; and

''(5) conduct an expedited 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 terms ''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.

(5) CONSULTATION OF REGISTRY.—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;

(2) for fiscal year 2009, an amount equal to the amount described in paragraph (1), multiplied by 1.1; and

(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 otherise, 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.

HAROLD ROGERS,
ZACH WAMP,
TOM LATHAM,
JO ANN EMERSON,
JOHN E. SWEENEY,
JIM KOLBE,
ANDER CRENSHAW,
JOHN R. CARTER,
JERRY LEWIS,
MARTIN OLAV SABO,
DAVID E. PRICE,
JOSE E. SERRANO,
LUCILLE ROYBAL-ALLARD,
SANFORD D. BISHOP,
MARION BERRY,
CHET EDWARDS,
DAVID R. OBEY.

Managers On The Part Of The House.

JUDD GREGG,
THAD COCHRAN,
TED STEVENS,
ARLEN SPECTER,
PETE V. DOMENICI,
RICHARD C. SHELBY,
LARRY E. CRAIG,
R.F. BENNETT,
WAYNE ALLARD,
ROBERT C. BYRD,
DANIEL K. INOUYE,
PATRICK J. LEAHY,
BARBARA A. MIKULSKI,
HERB KOHL,
PATTY MURRAY,
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. 5441), 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 statement of managers. 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 conferees 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 alternative dates are provided in the accompanying explanatory statement, agencies are directed to provide these reports to the Committees on Appropriations no later than January 23, 2007.

CLASSIFIED PROGRAMS

Recommended adjustments to classified programs are addressed in a classified annex accompanying this statement of managers.

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

The conferees agree to provide $94,470,000 instead of $83,684,000 as proposed by the House and $82,622,000 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:

Immediate Office of the Secretary	$2,540,000
Immediate Office of the Deputy Secretary	1,185,000
Chief of Staff	2,560,000
Office of Counternarcotics Enforcement	2,360,000
Executive Secretary	4,450,000
Office of Policy	29,305,000
Secure Border Coordination Office	4,500,000
Office of Public Affairs	6,000,000
Office of Legislative and Intergovernmental Affairs	5,449,000
Office of General Counsel	12,759,000
Office of Civil Rights and Liberties	13,000,000
Citizenship and Immigration Services Ombudsman	5,927,000
Privacy Officer	4,435,000
Total	94,470,000

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 mission area. 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 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 the Committees on 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, screening coordination and operations, 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 the office is becoming too compartmentalized 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 integration 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 real results. This is illustrated by the data contained within the September 2006 bimonthly 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 continue to submit bi-monthly status reports through the end of fiscal year 2007, as specified by the House correspondence dated June 21, 2006, and direct the Secretary to ensure all information contained within the report is appropriately classified.

The conferees provide considerable resources to border security and 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 this 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 the resource needs of the traditional counternarcotics functions of the DHS agencies, as well as examining the nexus of drugs and terrorism. The conferees agree that this office does not belong within the Office of the Chief of Staff and have provided for the establishment of an independent office within the Office of the Secretary and Executive Management. However, 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 SECRETARY

The conferees agree to provide $4,450,000 for the Executive Secretary instead of $5,001,000 as proposed by the House and $4,090,000 as proposed by the Senate. Within this funding level, the conferees agree to the technical FTE adjustment and associated funding as requested and one additional full-time position. In late 2005, the Executive Secretary was charged with improving responsiveness to Congress by responding to Congressional inquiries within two weeks. The conferees direct the Executive Secretary to report quarterly, with the first report due on January 31, 2007, on its success meeting this two-week goal and its plans to sustain this standard 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 and 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 as part of 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 plans 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 bus, and buffer zone protection grants, 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 unobligated 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 Officer 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 Washington State and 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, including expected increases in border flow, necessary enhancements to border security, estimated border

crossing wait times, and the need for additional border personnel. The Secretary, in coordination with the Secretary of State, the Federal Communications Commission, and relevant agencies in the States of Alaska, Idaho, Montana, Oregon, and Washington, shall also evaluate the technical and operational interoperability challenges facing regional, local, state, and federal authorities in preparing for the 2010 Olympic and Paralympic Games. The conferees direct the Secretary to submit a plan to address these challenges 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 conferees 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 conferees 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 conferees direct the Secretary to provide the Committees on Appropriations a report by November 1, 2006, with any recommendations for transfers, reprogram mings, and if 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 conferees agree to provide $153,640,000 instead of $70,489,000 as proposed by the House and $163,456,000 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:

Under Secretary for Management	$1,870,000
Office of Security	52,640,000
Office of the Chief Procurement Officer	16,895,000
Office of the Chief Human Capital Officer	8,811,000
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 conferees have fully funded the budget request for the Office of the Chief Procurement Officer. Because the Department has experienced numerous procurement problems, the conferees support the Department's efforts 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 procurement 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 23, 2007. The conferees direct GAO to brief the Committees no later than April 16, 2007, on their analysis of this plan.

The conferees direct GAO to review DHS compliance during fiscal years 2005–06 with section 503(a)(5) of P.L. 108–334 and P.L. 109–90, which prohibit DHS from reprogramming funds that were appropriated for federal FTEs for contracting out similar functions, and report to the Committees on Appropriations by March 1, 2007.

HEADQUARTERS

While the conferees 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 the St. Elizabeths complex. This move has been proposed as the first phase to consolidate most or all of DHS at the St. Elizabeths campus. However, the Department is unable to elaborate on the reasons why St. Elizabeths is the best location for a permanent DHS headquarters, what other sites have been considered, which specific components would move to that site, the total space requirements for DHS headquarters, and the total costs associated with using the St. Elizabeths site as a headquarters location. The Department must develop a comprehensive long-term plan for the future location of all DHS offices and components, rather than the piecemeal approach currently being used. As such, the conferees prohibit the Department from relocating the Coast Guard's headquarters, or any other DHS component, until DHS completes a new, comprehensive headquarters master plan and submits a prospectus for Congressional review and approval. In addition, the conferees direct the Department to regularly update the Committees on Appropriations on the expenditure of funds provided to improve the current DHS headquarters on Nebraska Avenue, as specified in the Senate report.

MAX–HR HUMAN RESOURCES SYSTEM

The conferees 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 the purpose of the contract.

OFFICE OF THE CHIEF FINANCIAL OFFICER

The conferees agree to provide $26,000,000 instead of $43,480,000 as proposed by the House and $26,018,000 as proposed by the Senate. A slight funding reduction has been made to the budget request due to the large number of vacancies.

RESOURCE MANAGEMENT TRANSFORMATION OFFICE (EMERGE2)

The conferees provide no funding for the Resource Management Transformation Office (eMerge2) as proposed by the Senate, instead of $18,000,000 for eMerge2 as proposed by the House. The conferees understand DHS has moved away from the original system-centric eMerge2 program and has determined necessary improvements for the Resource Management Transformation Office should also encompass training, financial policy, process changes, and internal controls. Because DHS has about $40,000,000 in unobligated balances from eMerge2 funding provided to the Office of the Chief Information Officer (CIO), the conferees direct the Chief Financial Officer (CFO) to use these remaining funds for financial management improvements, and to continue to coordinate systems improvements with the CIO. The CFO must submit an expenditure plan for these remaining funds by November 15, 2006.

SHARED SERVICES

In spite of clear direction in sections 503 and 504, the conferees are dismayed by an apparent disregard for consistent and transparent budget execution within the Preparedness Directorate. Sections 503 and 504 delineate permissible transfer authority and require notification to the Committees on Appropriations; the conferees are concerned that these transfers exceeded the limits set forth in those general provisions, particularly with regard to funding new activities. As a result, the conferees direct the CFO to review the use of shared services throughout the Department and specifically within Preparedness to ensure that they are in compliance with appropriation law and the proper use of the Economy Act. Such blatant disregard of the Appropriations Act will not be tolerated again.

ALIGNING RESOURCES TO MISSION

The conferees are concerned about the ability of some Departmental agencies to effectively align resource requirements to workload and mission needs. To address this issue, the conferees have included specific reporting requirements and/or re-aligned the funding structure of select agencies experiencing difficulty aligning resources to mission, such as U.S. Customs and Border Protection, Federal Protective Service, Science and Technology Directorate, Infrastructure Protection and Information Security, and U.S. Secret Service. The conferees are committed to improving the budgetary systems of these components and recognize the CFO's efforts in mission cost modeling across the entire Department. In the case of the Secret Service, the conferees provide funding through an entirely new appropriations account structure and recognize this may pose unique challenges. The conferees direct the CFO to support the Secret Service's transition to this new account structure by assisting the agency in the improvement of its budget execution and real-time tracking of resource hours.

ANNUAL APPROPRIATIONS JUSTIFICATIONS

The conferees direct the CFO to submit all of its fiscal year 2008 budget justifications (classified and unclassified) concurrent 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 justifications should include explicit information by appropriations account, program, project, and activity on all reimbursable agreements and uses of the Economy 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 obligational 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 conferees modify and retain a general provision (section 531) requiring the submission of this data, including 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 managers accompanying this Act. The monthly budget execution report shall include total obligational authority appropriated (new budget authority plus unobligated carryover), undistributed obligational authority, amount allotted, current year obligations, unobligated authority (the difference between total obligational authority and current year obligations), beginning unexpended obligations, year-to-date expenditures, and year-end unexpended obligations, of the Department of Homeland Security. This monthly report must also include onboard versus funded full-time equivalent staffing levels, as proposed by the Senate.

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 Payments Information 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 Payments 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 $364,765,000 as proposed by the House and $306,765,000 as proposed by the Senate. Funding shall be allocated as follows:

Salaries and Expenses	$79,521,000
Information Technology Services	61,013,000
Security Activities	89,387,000
Wireless Programs	86,438,000
Homeland Secure Data Network	32,654,000
Total	$349,013,000

EMERGE2

The conferees direct the CIO to use the remaining unobligated balances of approximately $40,000,000 from the eMerge2 program for financial management improvements, and to continue to coordinate systems improvements with 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 made available in this Act for obligation 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 $53,000,000 for NCCIPS data centers. 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 $41,000,000 for those activities. To provide for continuity of operations and fulfill back-up requirements, the conferees direct the secondary facility and infrastructure be at a separate remote location and the site selection be conducted in a fair and open evaluation process. NCCIPS is intended to migrate and consolidate critical infrastructure information, thereby reducing unnecessary and duplicative investments by the government. The conferees believe that integrating the multiple centers and infrastructure 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 implement the 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 contract staff levels.

COMMON OPERATING PICTURE

The conferees acknowledge that DHS has made significant progress developing systems such as the Homeland Security Information Network, U.S. Public Private Partnership, 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 the DHS CIO to 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 $299,663,000 for Analysis and Operations instead of $298,663,000 as proposed by the House and 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, with written materials, on the number and composition of the situational awareness teams, their locations, actual and planned deployments in fiscal years 2006 and 2007, impacts of the 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 effectiveness, their funding sources and amounts, and where additional fusion centers are necessary.

OPERATIONS CENTERS

The conferees support language in the Senate report on operations 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 their findings.

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 as proposed by the House instead of no funding as proposed by the Senate. Within the funding provided, $1,000,000 is unavailable for obligation until the Committees on Appropriations receive an expenditure plan for fiscal year 2007. Any funding above the amount provided must be reprogrammed or transferred in accordance with section 503 of this Act.

OFFICE OF INSPECTOR GENERAL

The conferees agree to provide $85,185,000 for the Office of Inspector General instead of $96,185,000 as proposed by the House and $90,185,000 as proposed by the Senate.

DISASTER RELIEF FUNDING

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 $15,000,000 as proposed by the Senate. The funds are to continue and expand audits and investigations related to the Gulf Coast hurricanes, including flood insurance issues. The Inspector General is required to notify 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 SBInet program require substantial management and oversight. The conferees direct the Inspector General to review and report on any contract or task order relating to the SBInet 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, INSIGHT 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. A prototype 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, $60,080,000 is available to implement 10-print enrollment capability, and to continue the development of interoperability between DHS's Automated Biometric 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 10-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: $2,277,510,000 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 $3,100,000 for the costs of salaries, equipment, and operations for the Customs Patrol Officers (''Shadow Wolves'') to Immigration and Customs Enforcement.

The conference agreement includes $1,860,491,000 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; $4,750,000 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 from all 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:

Headquarters, Management, and Administration:	
Management and Administration, Border Security Inspections and Trade Facilitation	$658,943,000
Management and Administration, Border Security and Control between Ports of Entry	589,446,000
Subtotal, Headquarters Management and Administration	1,248,389,000
Border Security Inspections and Trade Facilitation:	
Inspections, Trade, and Travel Facilitation at Ports of Entry	1,326,665,000
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/SENTRI	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:	
Border Security and Control	2,239,586,000
Training	37,924,000
Subtotal, Border Security and Control between POEs	2,277,510,000
Air and Marine Personnel Compensation and Benefits	175,796,000
Total	5,562,186,000

RESOURCE 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 current and future year staffing requirements, as specified by the House and Senate reports. Specifically, this report should assess optimal staffing levels at all land, air, and sea ports of entry and provide a complete explanation of CBP's methodology for aligning staffing levels to threats, vulnerabilities, and workload across all mission areas.

Of particular concern is CBP's ability to effectively process the growing processing workload at the nation's airports that are experiencing significant growth in passenger volume and wait times. The conferees recognize the airports listed in the House and Senate reports as experiencing exceptional growth in workload and processing challenges. The conferees direct CBP to include in its resource allocation model for airports the number of flights that took longer than 60-minutes to process. The airport processing section of the resource allocation model shall comply with the 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 $1,248,389,000 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 non-intrusive inspection equipment and fully fund the budget request for all cargo security and trade facilitation programs within CBP. The conferees also include stringent reporting and performance 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. The conferees provide $6,800,000, as requested, to support CBP's proposed expansion of the IAP to London and Tokyo within fiscal year 2007. The conferees direct CBP to report on the performance of the IAP no later than January 23, 2007.

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 CBP to ensure that all personnel 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 five-year strategic plan submitted to Congress, including enforcement activities, numbers of seizures and penalties imposed, as well as a status report of personnel responsible for enforcing textile laws.

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 authority 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 Treasury, 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 year's distributions under the law summarizing CBP's efforts to collect past due amounts and increase current collections, particularly with respect to cases involving unfairly-traded Asian imports. 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, 2007, 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.

CBP is also directed to 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 Clearing Account for unliquidated entries 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 other enforcement 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–05–979); and explain whether CBP has completed all of the initiatives, processes, and procedures identified in its February 2005 report to the Committees on Appropriations (including Attachment 1) concerning implementation of the recommendations that were contained in the U.S. Treasury Department Office of the Inspector General report on the Continued Dumping and Subsidy Offset Act.

CBP is also directed to provide the Committees with prior notice of how CBP plans to clarify or provide guidelines for the preparation of Continued Dumping and Subsidy Offset Act (CDSOA) certification of claims and any modifications or revisions of regulations that may be proposed by CBP concerning CDSOA.

BORDER SECURITY

The conferees agree to provide $379,602,000 for an additional 1,500 Border Patrol agents instead of $325,447,000 as proposed by the House and $330,602,000 as proposed by the Senate. With the additional funding provided in this Act, the Border Patrol agent workforce should increase to 14,819 agents.

NORTHERN BORDER STAFFING

The conferees continue to be concerned with erosions in the level of Border Patrol agent staffing along the Northern Border. Given the Secretary's responses to hearing questions, the conferees expect the Department to meet its stated goal of relocating experienced agents to the Northern Border equal to 10 percent of new agent hiring.

BORDER SECURITY TECHNOLOGY

The conferees agree to not fund border security technology within the salaries and expenses appropriation and instead create a new, integrated appropriation for fencing, tactical infrastructure, and technology.

BORDER PATROL VEHICLES

The conferees are extremely disappointed by CBP's insufficient vehicle fleet planning considering the rapid growth of the agency's workforce and operations. Furthermore, the conferees are unclear on the cost-benefit analysis CBP uses to compare operating costs of standard commercial vehicles to those that may be more appropriate for unique topographical and environmental conditions along our border. CBP is directed to re-submit its Vehicle Fleet Management Plan by January 23, 2007, in accordance with all requirements specified in the House and Senate reports, 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 proposed 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 $16,000,000 is for ITDS. Bill language prohibits the obligation of $216,800,000 until the Committees on Appropriations receive and approve an automation modernization expenditure plan.

ACE PROGRAM OVERSIGHT

The conferees support House language on ACE program oversight and direct CBP to improve oversight by assuring releases are ready to proceed beyond critical design and production readiness review before deployment. Also, CBP shall ensure ACE aligns its goals, benefits, desired business outcomes, and performance metrics. Future appropriations decisions will be affected by CBP's progress towards these goals over the year.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

The conferees agree to provide $1,187,565,000 for the integrated border security fencing, tactical infrastructure, and technology system instead of $115,000,000 as proposed by the House within the CBP salaries and expenses appropriation and $131,559,000 for border security technology within a separate technology modernization appropriation and $106,006,000 for tactical infrastructure within the CBP construction appropriation as proposed by the Senate. Funds are available until expended. When combined 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 provided 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, within 60 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. CBP is directed to integrate its future budget requests for border security fencing, tactical infrastructure, and technology within this account. CBP is further directed to provide a 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 Procurement Officer (CPO) and Office 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 CPO and CFO that the scope of the contract is appropriate and that performance of the CBP portion of the contract is measured and controlled by CBP. The acquisition management system utilized for the funds within this account must produce credible, reliable and timely data that is promptly reviewed by the CBP acquisition workforce. Performance shortfalls must be addressed quickly with approved action plans. The conferees expect the Secure Border Coordination Office to operate under clear, consistent, and enforceable acquisition policies and processes for all contracts awarded through the Department's Secure Border Initiative. The conferees further expect the Department to ensure CBP's acquisition workforce has the skills needed to carry out its responsibilities effectively.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

The conferees agree to provide $602,187,000 instead of $373,199,000 as proposed by the House and $458,499,000 as proposed by the Senate. This includes: $70,000,000 for the P–3 service life extension program and additional P–3 flight hours; $20,000,000 for helicopter acquisition; $20,000,000 for the acquisition of unmanned aerial vehicles (UAVs) and related support systems; $10,000,000 for the missionization of manned covert 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 airwings, 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

SALARIES AND EXPENSES

The conferees agree to provide $3,887,000,000 for Immigration and Customs Enforcement (ICE) salaries and expenses, instead of $3,850,257,000 as proposed by the House and $3,798,357,000 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.

The conference agreement includes further new funding, as follows: $4,600,000 for internal controls and procurement management; $5,000,000 for the Office of Professional Responsibility; $10,000,000 for Compliance Enforcement Units; $30,000,000 for expanded Worksite Enforcement efforts; $20,000,000 for additional vehicles for Detention and Removal Operations; $10,000,000 for additional vehicles for the Office of Investigations; $6,800,000 for the Trade Transparency Unit; $2,000,000 for the Criminal Alien Program; $2,500,000 for Alternatives to Detention; and $1,000,000 for the Human Smuggling and Trafficking Center.

Finally, the agreement includes: $21,806,000 for the Law Enforcement Support Center; $5,400,000 for training to support implementation of section 287(g) of the Immigration and Nationality Act; $3,100,000 for the costs of salaries, equipment and operations for the Customs Patrol Officers (''Shadow Wolves'') to reflect their transfer from U.S. Customs and Border Protection; $8,000,000 for the Cyber Crimes Center and support of its Child Exploitation Unit, including $5,000,000 for continued investment in computer forensic storage and digital evidence processing capacity; $4,750,000 to continue textile transshipment efforts; and $2,000,000 for what the conferees expect to be the final year for ICE to fund the Legal Orientation Program. The following table specifies funding by budget activity:

Headquarters Management and Administration:	
Personnel Compensation and Benefits, Services and other	$140,000,000
Headquarters Managed IT investment	134,013,000
Subtotal, Headquarters Management and Administration	274,013,000
Legal Proceedings	187,353,000
Investigations:	
Domestic Operations	1,285,229,000
International Operations	104,681,000
Subtotal, Investigations	1,389,910,000
Intelligence	51,379,000
Detention and Removal:	
Custody Operations	1,381,767,000
Transportation and Removal	238,284,000
Fugitive Operations	183,200,000
Criminal Alien Program	137,494,000
Alternatives to Detention	43,600,000
Subtotal, Detention and Removal	1,984,345,000
Total, Salaries and Expenses	$3,887,000,000

DETENTION AND REMOVALS REPORTING

The conferees direct ICE to submit a quarterly report to the Committees on Appropriations as described in the Senate report, with the first fiscal year 2007 quarterly report due no later than January 30, 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 incentives 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 contained 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.

DETENTION 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 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 alien minors detained by DHS for 72 hours or less, and 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 homelands, and urge DHS, in consultation with the Department of State and ORR, to develop policies and procedures to ensure such children are safely repatriated to 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 TRANSSHIPMENT 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 details on 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 bill language making revenues and security fees collected by the Federal Protective Service (FPS) available until expended, without the limitation of $516,011,000 proposed by the House and Senate, and requiring a report from the Secretary on FPS financial management. The conferees understand the current projection for fiscal year 2007 collections is $567,000,000, and direct FPS to notify the Committees on Appropriations should this estimate change.

FPS FINANCIAL MANAGEMENT

The conferees are disappointed with the slow response of the Department and the Office of Management and Budget (OMB) to the growing FPS funding shortfall. OMB and the Department failed to evaluate and properly set fees for fiscal year 2006, allowing a festering funding imbalance to explode into full-blown crisis, forcing reductions in other homeland security priorities. Furthermore, the Department has indicated FPS could face even larger shortfalls in fiscal year 2007. The conferees direct ICE, the Department, and OMB, as they continue efforts to resolve weaknesses in FPS financial management and procurement, to ensure no transfers are used to cover basic FPS operations, activities and investment. The conferees expect such fiscal year 2007 costs to be covered by the fees FPS assesses and collects from the federal agencies whose facilities it protects. The conferees direct the Secretary, in consultation with OMB, to report to the Committees on Appropriations no later than November 1, 2006, on the extent and cause of any budgetary shortfall; the Department's detailed plan to provide sufficient revenue to operate in fiscal year 2007; and how the Department will fix FPS financial, procurement, and accounting processes and policies. Furthermore, the conferees direct the Secretary to submit an updated report no later than April 30, 2007, including actual and estimated collections and obligations by month for the full fiscal year.

AUTOMATION MODERNIZATION

The conferees agree to provide $15,000,000 for Automation Modernization instead of no appropriation as proposed by the House and $20,000,000 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.

CONSTRUCTION

The conferees agree to provide $56,281,000 instead of $26,281,000 as proposed by the House and $101,281,000 as proposed by the Senate. The conferees include $30,000,000 for infrastructure improvements at current Detention Centers in order to improve the overall efficiency of the detention process, as described in the Senate report. The conferees direct the Department to submit a detailed spending plan for the infrastructure improvement project described in the Senate report.

The following table specifies funding by project and activity:

Projects and Activity:	
Krome, Florida: 250-bed secure dormitory	$ 6,409,000
Krome, Florida, maintenance	5,000,000
Port Isabel, Texas, Infrastructure	9,000,000
Facility Repair and Alterations	5,872,000
Infrastructure Improvement Project	30,000,000
Total, Construction	56,281,000

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

The conferees agree to provide $4,731,814,000 instead of $4,704,414,000 as proposed by the House and $4,751,580,000 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 budget activity:

Screener Workforce:	
Privatized screening	$148,600,000
Passenger and baggage screeners, personnel, compensation and benefits	2,470,200,000
Subtotal, screener workforce	2,618,800,000
Screening training and other	244,466,000
Human resource services	207,234,000
Checkpoint support	173,366,000
EDS/ETD Systems.	
EDS purchase	141,400,000
EDS installation	138,000,000
EDS/ETD maintenance	222,000,000
Operation integration	23,000,000
Subtotal, EDS/ETD systems	524,400,000

Total, screening operations	$3,768,266,000
Aviation, regulation and other enforcement	217,516,000
Airport management, information technology and support	666,032,000
Federal flight deck officer and flight crew training	25,000,000
Air cargo	55,000,000
Subtotal, aviation security direction and enforcement	963,548,000
Total, Aviation Security	$4,731,814,000

STAFFING LEVELS

The conferees agree to provide $2,470,200,000 for federal screeners, 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 aviation 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 notify the Committees on Appropriations if TSA expects to spend less than the appropriated amount due to situations where no additional airports express interest in converting, either fully or partially, to privatized screening, or where airports currently using privatized screening convert to using federal screeners. TSA shall adjust its program, project, and activity (PPA) line items, within ten days, to account for any changes in private screening contracts and screener personnel, compensation and benefits to reflect the award of contracts under the screening partnership program, or the movement from privatized screening into federal screening.

SCREENERS AT COMMERCIAL AIRPORTS AND HELIPORTS

The conferees are concerned with TSA's current screening policy at 24 commercial airports and heliports in the United States that have requested TSA screening but continue to operate with temporary screening or none at all. The conferees remind TSA that section 44901 of the Aviation and Transportation Security Act requires all passengers to be screened, by either TSA or contracted screeners, before they board commercial aircraft. Vision 100—the Century of Aviation Reauthorization Act (P.L. 108–176) further clarified TSA's screening requirements for charter air carriers with a maximum takeoff 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 out the screening function if TSA does not believe it would be efficient to place TSA personnel in these 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 above the budget request 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 direct 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 to airports 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 explosive detection systems (EDS) procurement as proposed by the Senate instead of $136,000,000 as proposed by the House. Of this total, up to $6,000,000 shall be for refurbishment of EDS machines to maximize and extend the useful life of those EDS machines manufacturers are willing to place back under warranty. In addition, $47,000,000 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 machines (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 technologies, 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 $388,000,000 for EDS installation, including $250,000,000 in mandatory funding from the Aviation Security Capital Fund and $138,000,000 in this Act. This funding is sufficient to fulfill the Letters of Intent, install next-generation EDSs 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. The conferees encourage TSA to use some of these unobligated balances or the fiscal year 2007 appropriation to hire additional permanent staff to enhance TSA's analytic air cargo security capabilities.

WAIT TIMES

The conferees direct TSA to review airport wait times over the past three years, identify those airports with above average times, and provide this review with the fiscal year 2008 budget.

ALTERNATIVE SCREENING PROCEDURES

Both the House and Senate reports expressed concern over TSA's occasional use of alternative screening procedures. The conferees support reporting requirements contained in both House Report 109–476 and Senate Report 109–273, including: develop performance measures and targets; track the use of alternative screening procedures at airports; assess the effectiveness of these measures; conduct covert testing at airports using these techniques; and develop a plan to stop alternative screening measures. TSA shall report to the Committees on Appropriations; the House Committee on Homeland Security; and the Senate Committee on Commerce, Science and Transportation on implementation of these requirements.

CHANGES TO AVIATION SECURITY POLICY

The conferees are aware that TSA is considering revising the aviation security policy. These revisions may require changes to staffing, such as who monitors airport exit lanes, who may be a ticket checker, and who may move baggage to and from EDS machines. Each of these policy decisions has a cost implication. Before moving forward with any proposed change, TSA shall brief the Committees on Appropriations on the security and fiscal impact of each change and outline the ramifications to the fiscal year 2007 appropriation. If these costs exceed transfer and reprogramming thresholds, TSA must notify the Committees as required by section 503 of this Act.

PROHIBITED ITEMS

The conferees direct the Comptroller General to report to the Committees on Appropriations no later than six months after the enactment of this Act on the impact on public safety and on the effectiveness of screening operations resulting from the modification announced by TSA on December 2, 2005, to the list of items permitted and prohibited from being carried aboard a passenger aircraft.

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	10,000,000
Subtotal, direct appropriations	39,700,000
Fee Collections:	
Registered traveler	35,101,000
Transportation worker identification credential	20,000,000
Hazardous materials	19,000,000
Alien flight school (transfer from DOJ)	2,000,000
Subtotal, fee collections	76,101,000

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 rebaselining 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 section 514 of this Act.

In addition, the conferees are concerned 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 databases 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: transportation worker identification credential, armed law enforcement officer identity 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 $503,283,000 as proposed by the House and $618,865,000 as proposed by the Senate. The conferees are aware of a large number of vacancies within this program. Funding is provided as follows:

Headquarters administration	$294,191,000
Information technology	210,092,000
Intelligence	21,000,000
Subtotal, transportation security support	525,283,000

EXPENDITURE PLAN

The conferees include bill language requiring TSA to submit an expenditure plan to the Committees on Appropriations detailing explosive detection systems procurement, refurbishment, and installation on an airport-by-airport basis for fiscal year 2007 no later than 60 days after enactment of this Act, as discussed in the House report. The conferees include bill language withholding $5,000,000 from obligation until this plan is received.

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 2008 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.

FINANCIAL MANAGEMENT

The conferees are concerned financial management within TSA has not fully recovered from the lack of internal controls that were in place in its two start-up years. The conferees understand the TSA may face financial obligations due to this mismanagement and direct TSA to work expeditiously to determine if a violation of the Anti-Deficiency Act took place. If there is a shortfall, TSA shall submit a plan to the Committees on Appropriations that addresses the shortfall.

FEDERAL AIR MARSHALS

The conferees agree to provide $714,294,000 for the Federal Air Marshals (FAMs) instead of $699,294,000 as proposed by the House and the Senate. Within this total, $628,494,000 is for management and administration and $85,800,000 is for travel and training.

MULTI-MODAL SECURITY ENHANCEMENT TEAMS

TSA has been piloting a program to use FAMs in multi-modal security enhancement teams to counter potential criminal or terrorist activities throughout the transportation sector, as well as supplement local or state law enforcement agencies in railroad and transit systems, within ports, and on ferries. The conferees recognize that this mission goes beyond what has been authorized for 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 security threat, before expanding their roles into other transportation modes.

UNITED STATES COAST GUARD

OPERATING EXPENSES

The conferees agree to provide $5,477,657,000 instead of $5,481,643,000 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. Elizabeths campus. In addition, the conferees include $15,000,000 for port security inspections to double the amount of foreign port assessments, to conduct unannounced inspections of domestic port facilities, and for additional port vulnerability and threat assessments, if necessary. Funding for operating expenses shall be allocated as follows:

Military pay and allowance:	
Military pay and allowance	$2,342,434,000
Military health care	337,324,000
Permanent change of station	108,518,000
Subtotal, military pay and allowance	2,788,276,000
Civilian pay and benefits:	569,434,000
Training and recruiting:	
Training and education	83,556,000
Recruitment	97,320,000
Subtotal, training and recruiting	180,876,000
Operating funds and unit level maintenance:	
Atlantic Command	188,982,000
Pacific Command	196,449,000
1st District	50,388,000
7th District	63,771,000
8th District	39,985,000
9th District	28,756,000
13th District	20,569,000
14th District	15,754,000
17th District	25,604,000
Headquarters directorates	255,253,000
Headquarters managed units	125,104,000
Other activities	759,000
Subtotal, operating funds and unit level maintenance	1,011,374,000
Centrally managed accounts:	201,968,000

Intermediate and depot level maintenance:	
Aeronautical maintenance	265,979,000
Electronic maintenance	111,736,000
Civil/ocean engineering and shore facilities maintenance	176,394,000
Vessel maintenance	156,620,000
Subtotal, intermediate and depot level maintenance	710,729,000
Port security inspections:	15,000,000
Total, operating expenses	5,477,657,000

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 conferees are aware of the Coast Guard's interest in consolidating OE and AC&I personnel funding in the OE account in order to provide greater flexibility to meet changing personnel requirements. While the conferees support this consolidation, a new PPA structure reflective of this consolidation does not accompany this Act in order to allow the Coast Guard to provide sufficient background materials to the Committees. The conferees encourage the Coast Guard to include the consolidation of OE and AC&I personnel funding, and personnel funding in other accounts, as appropriate, into the OE account in its fiscal year 2008 budget submission. The budget submission shall include a crosswalk of the merged accounts, which tracks personnel and resources from the current PPA structure to the new structure proposed in the budget submission.

NEW HEADQUARTERS BUILDING

The conferees have not provided funding for a new Coast Guard headquarters building. According to DHS, relocating the Coast Guard headquarters to St. Elizabeths campus in Washington, D.C. would be the first phase of a larger effort to move most or all of DHS headquarters' functions to that location. However, the Department has not finalized a plan identifying what specific components would move to the site; the total space requirements for DHS headquarters; and total costs associated 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 conferees 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 conferees 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 shall also include the date and methods 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 conferees direct GAO 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 conferees 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 Coast Guard 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 conferees direct Coast Guard to comply with the reporting requirement of Senate bill section 553 no later than 90 days after the enactment of this Act.

MISSION HOUR EMPHASIS AND ACQUISITION REPORTS

The conferees direct Coast Guard 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 conferees agree to provide $10,880,000 as proposed by the Senate instead of $11,880,000 as proposed by the House.

RESERVE TRAINING

The conferees 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 conferees agree to provide $1,330,245,000 instead of $1,139,663,000 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	11,238,000
High frequency recap	2,475,000
National Capital Region air defense	66,510,000
Subtotal, Other Equipment	119,823,000
Shore Facilities and Aids to Navigation	22,000,000
Personnel and Related Support:	
Direct personnel costs	80,500,000
AC&I core	500,000
Subtotal, Personnel and Related Support	81,000,000
Integrated Deepwater System:	
Aircraft:	
Maritime patrol aircraft	148,116,000
VTOL unmanned aerial vehicles (UAVs)	4,950,000
HH–60 conversion projects	49,302,000
HC–130H conversion/sustainment projects	48,955,000
HH–65 re-engining project	32,373,000
Armed helicopter equipment	55,740,000
C–130J missionization	4,950,000
Subtotal, Aircraft	344,386,000
Surface Ships:	
National security cutter, construction	417,780,000
Fast response cutter	41,580,000
IDS patrol boat long range interceptor	1,188,000
Medium endurance cutter sustainment	45,318,000
Replacement patrol boat	48,000,000
Subtotal, Surface Ships	553,866,000
C4ISR	50,000,000
Logistics	36,000,000
System engineering and management	35,145,000
Government program management	46,475,000
Subtotal, Integrated Deepwater System	1,065,872,000
Total, Acquisition, Construction, and Improvements	1,330,245,000

REPLACEMENT PATROL BOAT

The conferees remain concerned with the lack of Coast Guard leadership in addressing the impending patrol boat crisis and note Coast Guard's surface ship management assessment is ''red'' for cost, schedule and contract administration. The Coast Guard has yet to decide the deployment profile, drydocking, service life, crewing, and concept of operations of the much needed replacement patrol boat in part because the Coast Guard did not admit to the need for a replacement patrol boat until recently despite repeated direction from the conferees. Given the significant gap in patrol boat hours and the delays of the Fast Response Cutter (FRC) program, the conferees 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 $126,693,508 for replacement patrol boats to address an immediate need. This funding consists of a reappropriation of $78,693,508 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 gap 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.

C4ISR

Even though C4ISR is pointed to by the Coast Guard as a Deepwater success due to new capabilities like AIS and SIPRNET, Coast Guard listed C4ISR design efforts as over cost and behind schedule in a report submitted to the Committees on Appropriations in August 2006. The conferees understand a stop work order 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 the 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 portion of this contract. Due to past 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 in Chelsea, Massachusetts	3,000,000
Elgin, Joliet, and Eastern Railway Company Bridge in Morris, Illinois	1,000,000
Fourteen Mile Bridge in Mobile, Alabama	7,000,000
Galveston Causeway 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 House and $17,573,000 as proposed by the Senate.

MEDICARE ELIGIBLE RETIREE HEALTH CARE FUND CONTRIBUTION

The conferees include a permanent and indefinite appropriation of $278,704,000 for Medicare-eligible retiree health care fund contribution as proposed by both the House and the Senate.

RETIRED PAY

The conferees agree to provide $1,063,323,000 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 U.S. Secret Service (USSS) 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 account 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 under the Office of the Chief Financial Officer directing support in budget execution and the real-time tracking of resource hours. The conferees direct the Secret Service to apply the reprogramming and 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 refined performance metrics, as specified by the House report.

PROTECTION, ADMINISTRATION, AND TRAINING

The conferees agree to provide $961,779,000 instead of $956,399,000 as proposed by the House and $918,028,000 as proposed by the Senate. This includes: $18,400,000 for Presidential candidate nominee protection; $1,000,000 for National Special Security Events; and an additional $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 Committees on Appropriations receive the overdue 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:

Protection:	
Protection of persons and facilities	$651,247,000
Protective intelligence activities	55,509,000
National Special Security Events	1,000,000
Presidential Candidate Nominee Protection	18,400,000
White House mail screening	16,201,000
Subtotal, Protection	742,357,000
Administration Headquarters, management and administration	169,370,000
Training: James J. Rowley Training Center	50,052,000
Total, Protection, Administration, and Training	961,779,000

2008 PRESIDENTIAL CAMPAIGN

The conferees do not agree to create a new appropriation for protective activities related to the 2008 Presidential Campaign and National Special Security Events and instead provide requested funds in a separate program, project, and activity within the Protection, Administration, and Training appropriation. Funds provided for the 2008 Presidential campaign are available until September 30, 2009. The conferees direct the Secret Service to submit a comprehensive expenditure plan, as specified by the House report, for the 2008 Presidential Campaign through the 2009 Presidential inauguration. Further, the conferees direct the Secret Service to submit quarterly reports, with the first report due on January 23, 2007, on the status of filling the required special agent billets to support the post-Presidency protective detail.

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 $11,500,000 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.

INVESTIGATONS 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 an additional $1,000,000 to support the costs of re-constituting a resident office in Moscow, Russia; $44,079,000 for the Electronic Crimes Special Agent Program and Electronic Crimes Task Forces; and $8,366,000 for the National Center for Missing and Exploited Children, of which $6,000,000 is for grants and $2,366,000 is for forensic support.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

The conferees agree to provide $3,725,000 as proposed by the House and Senate. Of the

total provided under this heading, $500,000 is unavailable for obligation until the Committees on Appropriations receive the revised James J. Rowley Training Center master plan.

TITLE 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 $39,468,000 as proposed by the House. Included in this amount is $16,392,000 for the immediate Office of 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 503 and 504 of P.L. 109–90, 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 provide to the Committees on Appropriations, within 30 days after enactment, a budget execution plan by program, project, and activity.

NATIONAL CAPITAL REGION COORDINATION

The conferees are concerned that planning for evacuation of the National Capital Region during a disaster has not incorporated all of the pertinent officials from the appropriate states. Despite requests for such officials to be included by Congress and the effected states, no such joint planning efforts have occurred. Therefore, the conferees include bill language requiring the Preparedness Directorate to include the Governors of the State of West Virginia and the Commonwealth of Pennsylvania in the National Capital Region planning process for mass evacuations. 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 PROGRAM

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 conferees were unable to support a level above that recommended by the Senate. The conferees include bill language withholding the funds provided for the NPIP until the Committees on Appropriations receive and approve an expenditure plan.

The conferees are concerned with the concept of creating a Federal Preparedness Coordinator (FPC) for placement in each Federal Emergency Management Agency (FEMA) Regional Office. The conferees agree that an official overseeing preparedness by region is appropriate. However, the conferees are not convinced that creating a senior executive position in the Preparedness Directorate, who reports through a chain of command that does not include response and recovery personnel in FEMA, will further the nation's readiness. Separating preparedness and response functions is detrimental during a disaster and, as demonstrated in past disasters, leads to a lack of communication and a lack of situational awareness, with dire consequences. During emergencies, state emergency managers need clear communications and missions, not confusion and redundancy. The conferees direct the Under Secretary to focus NPIP funding on plan modernization and resolving interoperability issues, as outlined by the Under Secretary, and discourage the use of funds to hire FPCs.

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 Target 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 delay. In addition, 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 delay.

INSPECTOR GENERAL REPORT ON THE NATIONAL ASSET DATABASE

Not later than 30 days after the date of enactment of this Act, the Secretary 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.

HURRICANE KATRINA LESSONS LEARNED

One year after Hurricanes Katrina, Rita and Wilma the conferees remain 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 consider the findings and recommendations of the after action reports for Hurricane Katrina and other disasters produced by the White House, federal agencies, the Congress, the GAO, and the Inspector General, as well as state and local government commissions who have reported on communications. The conferees direct the Secretary to report to the Committees on Appropriations on the progress of this effort by March 1, 2007. The report shall also include an assessment of short-term (defined as within two years after the date of enactment of this Act), intermediate-term (defined as between two years and four years after such date of enactment), and long-term (defined as more than four years after such date of enactment) actions necessary for the Department to take in order to assist federal, state, and local governments achieve communications interoperability, including equipment acquisition, governance structure, and training.

OFFICE OF GRANTS AND TRAINING

SALARIES AND EXPENSES

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
Law Enforcement Terrorism Prevention 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	50,000,000
National Programs:	
National Domestic Preparedness Consortium	145,000,000
National Exercise Program	49,000,000
Metropolitan Medical Response System	33,000,000
Technical Assistance	18,000,000
Demonstration Training Grants	30,000,000
Continuing Training Grants	31,000,000
Citizen Corps	15,000,000
Evaluations and Assessments	19,000,000
Rural Domestic Preparedness Consortium	12,000,000
Subtotal, National Programs	352,000,000
Total, State and Local Programs	$2,531,000,000

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, water district, regional planning commission, council of government, Indian tribe with jurisdiction over Indian country, authorized tribal organization, Alaska Native village, independent authority, special district, or other political subdivision of any state shall constitute a ''local unit of government''.

The conferees urge the Department to work with state and local governments to ensure regional authorities, such as port,

transit, or tribal authorities, are given due consideration in the distribution of state formula grants.

The conferees direct the Office of Grants and Training (G and T) to continue to distribute Homeland Security Grant Program grants in a manner consistent with the fiscal year 2006 practice. The conferees disagree with House language regarding the use of authorized 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 misdirected. The Department should continue its efforts to evaluate State Homeland Security Program (SHSP), Law Enforcement Terrorism Protection Program (LETPP), 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 homeland security needs. In those areas of the country where the risk is very high, the Department shall work aggressively to ensure these applications are produced in a manner in which appropriate levels of funding reflect the level of threat. The conferees agree that states must identify gaps in levels of preparedness and how funding will close those gaps. The Department is encouraged to consider the need for mass evacuation planning and pre-positioning of equipment for mass evacuations in allocating first responder funds and in allocating training, exercises and technical assistance funds through the national programs.

The conferees include bill language requiring the GAO to report on the validity, relevance, reliability, timeliness, and availability of the risk factors, and the application of those factors in the allocation of discretionary grants to the Committees on Appropriations no later than 45 days after enactment. The Secretary is required to provide GAO with the necessary information seven days after enactment of this Act. The conferees direct the Preparedness Directorate 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 conferees agree that for SHSP, LETPP, and UASI grants, application kits shall be made available 45 days after enactment of this Act, states shall have 90 days to apply after the grant is announced, and G and T shall act on an application 90 days after receipt of an application. The conferees further agree that no less than 80 percent of these funds shall be passed by the state to local units of government within 60 days of the state receiving funds, except in the case of Puerto Rico, where no less than 50 percent of any grant under this paragraph shall be made available to local governments within 60 days after the receipt of the funds. The conferees direct the Secretary to submit a report to the Committees on Appropriations containing an assessment of state compliance in fiscal years 2005 and 2006 with the requirement to pass through funds in 60 days, accompanied by recommendations, if appropriate, to improve compliance.

The conferees are disappointed with the slow pace of discretionary transportation and infrastructure grant awards in fiscal year 2006. Bill language is included requiring port, trucking, intercity bus, intercity passenger rail transportation, and buffer zone protection grant applications to be made available 75 days after enactment; applicants shall have 45 days to apply after the grant is announced; and G and T shall act on an application within 60 days after receipt of an application.

The conferees continue and modify a provision requiring notification of the Committees on Appropriations before grant notifications are made. For Homeland Security Grant Program funds, G and T will brief the Committees on Appropriations five full business days in advance of any notifications.

The conferees expect G and T to continue all current overtime reimbursement practices. The conferees continue bill language prohibiting the use of funds for construction, except for Port Security, Rail and Transit Security, and the Buffer Zone Protection grants. However, bill language is included to allow SHSP, LETPP, and UASI grants to be used for minor perimeter security projects and minor construction or renovation of necessary guard facilities, fencing, and related efforts, not to exceed $1,000,000 as deemed necessary by the Secretary. The conferees further agree the installation of communication towers that are included in a jurisdiction's interoperable communications plan does not constitute construction for the purposes of this Act.

The Secretary of Homeland Security is encouraged to consult with the National Council on Radiation Protection and Measurements and other qualified governmental and non-governmental organizations in preparing guidance and recommendation for emergency responders to assist recovery operations, and to protect the general public with respect to radiological terrorism, threats, and events.

STATE FORMULA GRANTS

The conferees 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 conferees provide $375,000,000 for the Law Enforcement Terrorism Protection Program instead of $400,000,000 as proposed by the House and $350,000,000 as proposed by the Senate.

DISCRETIONARY GRANTS

The conferees agree to provide $1,229,000,000 instead of $1,235,000,000 as proposed by the House and $1,172,000,000 as proposed by the Senate. Within this total, $770,000,000 is made available to the Secretary for discretionary grants to high-threat, high-density urban areas. The conferees include bill language requiring the Secretary to distribute funds allocated in fiscal year 2006 for grants to non-profit organizations determined by the Secretary to be at high risk of terrorist attack. The Secretary shall consider prior threats or attacks against like organizations when determining risk, and shall notify the Committees on Appropriations of the high risk or potential high risk to each designated tax exempt grantee at least five full business days in advance of the announcement of any grant award.

The conferees agree that for discretionary transportation and infrastructure grants, Transportation Security Administration (TSA) and Infrastructure Protection and Information Security (IPIS) shall retain operational subject matter expertise of these grants and will be fully engaged in the administration of related grant programs. The Office of Grants and Training shall also continue to work with the Science and Technology Directorate (S&T) on the identification of possible research and design requirements for rail and transit security.

PORT SECURITY

The conferees agree to provide $210,000,000 as proposed by the Senate instead of $200,000,000 as proposed by the House. The conferees direct G and T to ensure all port security grants are coordinated with the state, local port authority, and the Captain of the Port, so all vested parties are aware of grant determinations and that limited resources are maximized. The conferees further direct G and T to work with IPIS to determine the threat environment at individual ports and with the Coast Guard to evaluate each port's vulnerability. The conferees expect funds to be directed to ports with the highest risk and largest vulnerabilities.

TRUCKING INDUSTRY SECURITY

The conferees agree to provide $12,000,000 for this program, $7,000,000 above the House and Senate levels, to maintain and enhance current training levels, and to work toward the Highway Watch stated goal of enrolling 1,000,000 truckers.

INTERCITY BUS SECURITY

The conferees agree to provide $12,000,000 for Intercity Bus Security grants as proposed by the Senate instead of $10,000,000 as proposed by the House. The conferees agree with language in the Senate report that intercity bus security grants will support the improvement of ticket identification, the installation of driver shields, the enhancement of emergency communications, enhancement of facility security, and further implementation of passenger screening.

RAIL AND TRANSIT SECURITY

The conferees 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 conferees are concerned the nation's rails 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 conferees encourage G and T to coordinate with short line and regional railroads to address the rail system's security and safety challenges for both manmade and natural disasters.

BUFFER ZONE PROTECTION PROGRAM

The Committee recommends $50,000,000 for the Buffer Zone Protection Program (BZPP), as proposed by the House and Senate. The conferees concur with House report language directing G and T to continue to work with IPIS to identify critical infrastructure, assess vulnerabilities at those sites, and direct funding to resolve those vulnerabilities. The conferees do not agree to language contained in the Senate report relating to BZPP grants and the protection of federal facilities. The conferees note that under current guidance, federal facilities are not eligible for BZPP grants.

COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM (CEDAP)

The conferees agree to provide $50,000,000, instead of $75,000,000 as proposed by the House and $40,000,000 as proposed by the Senate. The conferees direct the Department to award funding through CEDAP only if projects or equipment are consistent with State Homeland Security Strategies and the unmet essential capabilities identified through HSPD–8.

NATIONAL PROGRAMS

NATIONAL DOMESTIC PREPAREDNESS CONSORTIUM

The conferees 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 consistent with fiscal year 2006. The conferees concur with Senate report language directing G and T to prepare a long-range strategic plan for the National Domestic Preparedness Consortium.

METROPOLITAN MEDICAL RESPONSE SYSTEM

The conferees agree to provide $33,000,000 instead of $30,000,000 as proposed by the

House and $35,000,000 as proposed by the Senate.

TECHNICAL ASSISTANCE

The conferees agree to provide $18,000,000 as proposed by the Senate instead of $25,000,000 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.

NATIONWIDE 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 major milestones and how the implementation of the conclusions are being coordinated with the guidelines developed by the Department for state and local governments as required in Public Law 109–90. The conferees direct the Department to work with all stakeholders to resolve the findings of the Nationwide Plan Review Phase 2 in accordance with the fiscal year 2007 Senate Report.

EMERGENCY MEDICAL SERVICES

The conferees remain concerned with the lack of first responder grant funding being provided to the Emergency Medical Services (EMS) community and direct G and T to require in its grant guidance that state and local governments include EMS representatives in planning committees as an equal partner and to facilitate a nationwide EMS needs assessment. In addition, no later than January 23, 2007, the Department shall report to the Committees on Appropriations, the House Committee on Homeland Security, and the Senate Committee on Homeland Security and Governmental Affairs, on the use of Homeland Security Grant Program funds and Firefighter Assistance Grant funds for EMS.

FIREFIGHTER ASSISTANCE GRANTS

The conferees agree to provide $662,000,000 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 firefighter staffing, as authorized by section 34 of the Federal Fire Prevention and Control Act of 1974, instead of $112,100,000 as proposed by the House and $127,500,000 as proposed by the Senate.

The conferees concur with 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 108–169, the United States Fire Administration Reauthorization Act of 2003.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

The conferees agree to provide $200,000,000 instead of $186,000,000 as proposed by the House and $220,000,000 as proposed by the Senate.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The conferees agree to provide for the receipt and expenditure of fees collected, as authorized by Public Law 105–276 and as proposed by both the House and Senate.

UNITED STATES FIRE ADMINISTRATION AND TRAINING

The conferees agree to provide $46,849,000 for the United States Fire Administration and Training as proposed by the House and instead of $45,887,000 as proposed by the Senate. Of this amount, $5,500,000 is for the Noble Training Center.

The FIRE Act requires the United States Fire Administration to submit to the Congress by April 28, 2006, an assessment of capability gaps that fire departments currently possess in equipment, training and staffing. While the U.S. Fire Administration has completed the assessment, it has not been submitted to the Congress. The conferees direct the Secretary to submit the report no later than November 1, 2006.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

The conferees agree to provide $547,633,000 for Infrastructure Protection and Information Security (IPIS) instead of $549,140,000 as proposed by the House and $525,056,000 as proposed by the Senate. Funding is allocated as follows:

Management and Administration	$77,000,000
Critical Infrastructure Outreach and Partnership	101,100,000
Critical Infrastructure Identification and Evaluation	69,000,000
National Infrastructure Simulation and Analysis Center	25,000,000
Biosurveillance	8,218,000
Protective Actions	32,043,000
Cyber Security	92,000,000
National Security/Emergency Preparedness Telecommunications	143,272,000
Total	$547,633,000

BUDGET

The conferees support language contained in the House report concerning the format of the IPIS fiscal year 2008 budget justification with budget lines that align with the operational divisions and programs of IPIS as well as language directing the Department to fully display program transfers. The conferees direct the Department to work with the Committees on Appropriations to create an acceptable budget structure.

BUDGET OFFICE

The conferees direct DHS to establish a budget office within IPIS and include sufficient funds for two positions. The budget officer and staff will support the Office of Infrastructure Protection and the Office of Information Security in its efforts to align its budget with its organizational structure, better formulate and execute its resources, and perform other budgetary and financial activities, as necessary.

CRITICAL INFRASTRUCTURE IDENTIFICATION AND EVALUATION

The conferees agree to provide $69,000,000 for Critical Infrastructure Identification and Evaluation instead of $71,631,000 as proposed by the House and $67,815,000 as proposed by the Senate. The conferees support the budget request for the Protective Security Analysis Center.

CHEMICAL SITE SECURITY

The conferees support language in the House report providing $10,000,000 for the Chemical Site Security program and direct the Department to provide the Committees on Appropriations an expenditure plan showing how these resources will be used.

CHEMICAL SECTOR SECURITY RESOURCE NEEDS

The conferees include bill language withholding $10,000,000 until the Committees on Appropriations receive the report required in the statement of the managers (House Report 109–241) accompanying P.L. 109–90 on departmental resources necessary to implement mandatory security requirements for the nation's chemical sector.

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 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.

BOMBING 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 bombing 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 sector 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

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 $282,000,000 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 an 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, retention 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 Alert System with Public Television and to provide for origination of emergency alert messages from authorized local and state officials.

READINESS, MITIGATION, RESPONSE, AND RECOVERY

The conferees agree to provide $244,000,000 instead of $240,199,000 as proposed by the House and $240,000,000 as proposed by the Senate.

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 requesting an expenditure plan for catastrophic planning but do not withhold funding until such time as this plan is submitted.

HURRICANE KATRINA LESSONS LEARNED

The conferees continue to be concerned about FEMA's ability to incorporate 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 conferees direct FEMA to brief the Committees on Appropriations on the status of continuing improvements and changes to FEMA as a result of lessons learned from Hurricane Katrina.

DISASTER SPENDING PROGRAMS

The conferees are concerned by the findings of the Government Accountability Office, the DHS Inspector General, and others regarding the fraud and abuse associated with victim assistance programs and other disaster spending for the 2005 Gulf Coast hurricanes. The conferees concur with language in the House and Senate reports directing FEMA to correct weaknesses in its disaster assistance claims system. The conferees expect FEMA to include corrective actions for the disaster claims system in the brief to the Committees on Appropriations on Hurricane Katrina Lessons Learned.

The conferees 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 future caseloads. The conferees 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 entered into using 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 2304(c)(2) of title 10, United States Code. Justification details by individual contract are to include, at least: the amount of funds, 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 without impeding timely disaster response.

LOGISTICS CENTERS

The conferees direct the Department to brief the Committees on Appropriations on the strategic or business plan that guided the site selection for the logistics centers and locations for prepositioned items and any plans for future movement of assets or actions to extend or add centers or the locations of prepositioned items. The conferees concur with language in the House and Senate reports regarding pre-positioning Meals-Ready-to-Eat.

The conferees direct FEMA to use no less than $5,000,000 to develop a demonstration program with regional and local governments in the formation of innovative public and private logistical partnerships and centers to improve readiness, increase response capacity, and maximize the management and impact of homeland security resources.

The conferees agree the lack of coordinated incident management contributed to failures at all levels of government during Hurricane Katrina. The White House Report: ''The Federal Response to Hurricane Katrina: Lessons Learned'' states, ''DHS should establish and maintain a deployable communications capability to quickly gain and retain situational awareness when responding to catastrophic events''. The conferees agree and direct DHS 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 deploy 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.

NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN

The conferees encourage FEMA to assess how the National Center for Missing and Exploited Children and state family assistance call centers can best contribute to the National Response Plan in helping disaster victims locate family members. The Secretary shall submit a report to the Committees on Appropriations no later than 45 days after enactment of this Act.

NATIONAL INCIDENT MANAGEMENT SYSTEM

Of the funds provided for Readiness, Mitigation, Response, and Recovery, the conferees agree to provide $30,000,000 for the National Incident Management System (NIMS) as proposed by the House. The conferees direct FEMA to use no less than $10,000,000 to continue to implement NIMS nationwide, with a focus specifically on standards identification, testing and evaluation of equipment, and gap and lessons learned identification.

LEVEE RECERTIFICATION

The conferees understand FEMA is in the process of revising its levee certification regulations and guidance. The conferees expect FEMA to utilize the latest findings of the Army Corps of Engineers levee inventory when developing its regulations and guidance. The conferees direct FEMA to provide a status 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 inventory, the number and location 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 conferees understand the emergency preparedness demonstration program is in the information collection phase. The conferees direct FEMA to expand this pilot demonstration project so information from Hurricane Katrina victims can be added to this study. The conferees recognize this may cause the time of the study to lengthen and direct FEMA to provide an interim report to the Committees on Appropriations by March 31, 2007.

PUBLIC HEALTH PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

The conferees provide $33,885,000 for public health programs to fund the National Disaster Medical System (NDMS), as proposed in the budget, and include bill language transferring all the funding, components, and functions of the NDMS to the Department of Health and Human Service, effective January 1, 2007.

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

The conferees agree to provide $1,500,000,000, instead of $1,676,891,000, as proposed by the House and $1,582,000,000 as proposed by the Senate. The conferees include bill language as proposed by the Senate, permitting up to $13,500,000 for the Office of Inspector General to be drawn from the Disaster Relief Fund for audits and investigations related to natural disasters.

The conferees understand FEMA intends to use the almost 20,000 manufactured housing units that were not used in the 2005 hurricane season for future disasters, and encourage FEMA to do so. The conferees 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 conferees direct FEMA to take an aggressive approach in managing the manufactured housing supply in a cost-effective manner and to brief the Committees on Appropriations regarding the supply on hand, the cost of maintenance and storage, the anticipated use, and strategic storage location of unoccupied manufactured units.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

The conferees agree to provide $569,000 for administrative expenses as proposed by both the House and Senate. Gross obligations for the principal amount of direct loans shall not exceed $25,000,000 as proposed by both the House and Senate.

FLOOD MAP MODERNIZATION FUND

The conferees agree to provide $198,980,000 as proposed by both the House

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, the conferees encourage FEMA to prioritize as criteria the number of stream and coastal miles within the state, the Mississippi River Delta region, and the participation of the state in leveraging nonfederal contributions. The conferees further direct FEMA to recognize and support those states that integrate the Flood Map Modernization Program with other state programs to enhance greater security efforts and capabilities in the areas of emergency management, transportation 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, use 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 effective 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 section 1361A of the National Flood Insurance Act of 1968 and a repetitive loss property mitigation pilot program under section 1323 of the National Flood Insurance Act; and up to $90,358,000 for other flood mitigation activities, of which up to $31,000,000 is available for transfer to the National Flood Mitigation Fund. Total funding of $128,588,000 is offset by premium collections. The conferees further agree on limitations of $70,000,000 for operating expenses, $692,999,000 for agents' 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 $149,978,000 as proposed by the Senate. While the conferees are supportive of the Predisaster Mitigation program, they remain concerned by the slow pace of implementation and the obligation of the funds. This program has a large unobligated balance of $53,000,000. The conferees encourage FEMA to implement lessons learned, as described in the report on impediments to timely obligations of the Fund submitted to the Committees on Appropriations in compliance with the Senate Report 109–83 accompanying the fiscal year 2006 Department of Homeland Security Appropriations Act (P.L. 109–90) and direct FEMA to brief the Committees on Appropriations on the progress of the implementation.

EMERGENCY FOOD AND SHELTER

The conferees agree to provide $151,470,000 as proposed by both the House and Senate.

TITLE IV—RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

The conferees agree to provide $181,990,000 as proposed by the House instead of $134,990,000 as proposed by the Senate for United States Citizenship and Immigration Services (USCIS), of which $93,500,000 is available until expended. The conference agreement includes $47,000,000 for USCIS business system and information technology transformation, including converting immigration records into digital format, to remain available until expended; $21,100,000 for the Systematic Alien Verification for Entitlements (SAVE) program; and $113,890,000 to expand the Employment Eligibility Verification (EEV) program. Current estimates of fee collections are $1,804,000,000, for total resources available to USCIS of $1,985,990,000. The conferees direct that, of these collections, not to exceed $5,000 shall be for official reception and representation expenses.

The following table specifies funding by budget activity, and includes both direct appropriations and estimated collections:

Direct Appropriations:	
Business and IT Transformation	$47,000,000
Systematic Alien Verification for Entitlements (SAVE)	21,100,000
Employment Eligibility Verification (EEV)	113,890,000
Subtotal, Direct Appropriations	181,990,000
Adjudication Services (fee accounts):	
Pay and Benefits	624,600,000
Operating Expenses:	
District Operations	385,400,000
Service Center Operations	267,000,000
Asylum, Refugee and International Operations	75,000,000
Records Operations	67,000,000
Subtotal, Adjudication Services	1,419,000,000
Information and Customer Services (Immigration Examination Fee Accounts):	
Pay and Benefits	81,000,000
Operating Expenses:	
National Customer Service Center	48,000,000
Information Services	15,000,000
Subtotal, Information and Customer Services	144,000,000
Administration (Immigration Examination Fee Accounts):	
Pay and Benefits	45,000,000
Operating Expenses	196,000,000
Subtotal, Administration	241,000,000
Fraud Prevention and Detection Fee Account	31,000,000
H–1B Non-Immigrant Petitioner Fee Account	13,000,000
Total, U.S. Citizenship and Immigration Services	1,985,990,000

BUSINESS AND INFORMATION TECHNOLOGY TRANSFORMATION

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 and expenditure plan that has been reviewed by the Secretary and the Government Accountability Office. The expenditure plan should include 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 availability of such fee revenue.

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. As a result, critical enforcement actions could be delayed, or adjudicators could find themselves unable to access relevant watchlist databases, increasing the risk that immigration benefits could be granted to ineligible recipients. The conferees direct USCIS to work closely with Immigration and Customs Enforcement and the Office of the Inspector General to address these security vulnerabilities.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

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 $1,042,000 for salaries and expenses at the Counterterrorism Operations Training Facility. The increase from the budget request includes $4,691,000 for training resources proposed to be funded in Customs and 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 $64,246,000, instead of $42,246,000 as proposed by the House and $63,246,000 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 training center.

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 $104,414,000 as proposed by the Senate. This amount includes $7,594,000 for the immediate Office of the Under Secretary 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

detailees provided through the Intergovernmental Personnel Act; and contract support associated with certain projects within the portfolio will be provided within the ''Research, Development, Acquisition and Operations'' account. The conferees direct S&T to report to the Committees on Appropriations any assessment of the aforementioned costs exceeding five percent of the total program appropriation, which shall be subject to section 503 of this Act. The conferees include bill language withholding $60,000,000 until the Committees receive and approve an expenditure plan described in the bill.

FIVE-YEAR RESEARCH PLAN AND BUSINESS MODEL

The conferees expect S&T to greatly improve its research strategic plan and its budget documents. These documents should reflect the new vision for S&T as proposed by the Under Secretary. The conferees direct the Under Secretary to develop a five-year research plan, which outlines its priorities, performance measures for each portfolio and resources needed to meet its mission. This plan should also incorporate a business model for its output of services and technologies to its end user. The conferees expect the Under Secretary to brief the Committees on Appropriations no later than 180 days after the date of enactment of this Act.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

The conferees agree to provide $838,109,000 for research, development, acquisition, and operations instead of $775,370,000 as proposed by the House and $714,041,000 as proposed by the Senate.

The following table specifies funding by budget activity:

Biological Countermeasures	$350,200,000
Chemical Countermeasures	60,000,000
Explosives Countermeasures	86,582,000
Threat and Vulnerability, Testing and Assessment	35,000,000
Conventional Missions	85,622,000
Standards Coordination	22,131,000
Emergent Prototypical Technologies	19,451,000
Critical Infrastructure Protection	35,413,000
University Programs	50,000,000
Counter MANPADS	40,000,000
Safety Act	4,710,000
Cyber Security	20,000,000
Interoperability and Compatibility	27,000,000
Pacific Northwest National Laboratory	2,000,000
Total	838,109,000

BIOLOGICAL COUNTERMEASURES

The conferees agree to provide for Biological Countermeasures instead of $337,200,000 as proposed by the House and $327,200,000 as proposed by the Senate. Of the amount provided, the conferees agree to provide up to $82,800,000 for the BioWatch program. The conferees also agree to provide $23,000,000 for site selection and other pre-construction activities for the National Bio and Agrodefense Facility. The conferees expect the Department to submit a project schedule, including expected completion dates and funding requirements for all phases of the project, to the Committees on Appropriations within 45 days after the date of enactment of this Act.

BIOLOGICAL COUNTERMEASURES STRATEGIC PLAN

The conferees believe DHS should establish an architecture to outline and coordinate federal biological activities, and to chart future federal activities and goals. S&T, in consultation with the DHS Chief Medical Officer, Department of Health and Human Services, United States Department of Agriculture, and other participating federal departments, shall submit a strategic plan to the Committees on Appropriations; the House Homeland Security Committee; the House Science Committee; the Senate Commerce, Science and Transportation Committee; the Senate Energy and Natural Resources Committee; and the Senate Homeland Security and Governmental Affairs Committee outlining the various missions of each agency and how they relate to one another. Further, the strategic plan should specifically describe DHS' roles and responsibilities; its framework for deploying biological sensors, including how detector alerts will be managed; its plans to enhance advanced animal vaccine research and other agro-terrorism defense efforts; its overall fulfillment of the Department's obligations under HSPD–10; and how its other activities relate to and will be coordinated with similar efforts by other government agencies.

URBAN DISPERSION

The conferees support the House report language on Urban Dispersion recommending continued funding of this program.

EXPLOSIVES COUNTERMEASURES

The conferees agree to provide $86,582,000 for explosive countermeasures, instead of $76,582,000 as proposed by the House and a total of $86,582,000 as proposed by the Senate, of which $81,582,000 was included in the Transportation Security Administration account. The conferees include $13,500,000 for Manhattan II as proposed by the House.

The conferees are concerned about the recent discoveries by British officials of terrorist efforts to bring explosives aboard aircraft. S&T has efforts underway to find and develop practical technologies for detecting explosive substances regardless of their shape or form. The conferees direct S&T to aggressively pursue its efforts to develop such technologies and strengthen any efforts to find explosives.

TRANSPORTATION SECURITY LABORATORY (TSL)

The conferees agree to keep the TSL within S&T. The conferees direct S&T to work with Transportation Security Administration (TSA) to determine appropriate detection research and technology requirements to sustain current and advance future aviation security capabilities. S&T should clearly reflect resource needs for the TSL in the fiscal year 2008 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.

PACIFIC NORTHWEST NATIONAL LABORATORY

The conferees include $2,000,000 for construction of radiological laboratories at the Pacific Northwest National Laboratory and direct the Department to fully fund its obligations and characterize its efforts at this site in the fiscal year 2008 budget submission.

CONVENTIONAL MISSIONS

The conferees agree to provide $85,622,000 for Conventional Missions, as proposed by the House instead of $80,000,000 as proposed by the Senate. The conferees provide funding for the Regional Technology Integration initiative at the fiscal year 2007 request level. The conferees support Senate report language encouraging S&T to continue funding for technology which enables users to collect and analyze surveillance data to detect suspicious activities in the vicinity of critical ports and infrastructure. The conferees also support Senate report language continuing the Regional Research Pilot program at the fiscal year 2006 level.

NEW TECHNOLOGIES

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 technologies as singlet oxygen generating chemical and enzymatic systems, airborne rapid imaging, privacy Real ID technology, anti-microbial coating free masks, lightweight miniature cooling systems for protective gear, body armor designed to reduce back problems, security of open source systems, nanotechnology based flow cytometer, doorless maritime cargo container security technology, deployment research of water and air system biosensors, photonic and microsystem technologies for high threat problem-solving and coordinate standards for intelligent video software.

EMERGENT AND PROTOTYPICAL TECHNOLOGIES

The conferees provide $19,451,000 for Emergent and Prototypical Technologies as proposed by the House instead of $12,500,000 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 databases, websites and portals within DHS, including the Responder Knowledge Base, to integrate this information into the centralized clearinghouse.

CRITICAL INFRASTRUCTURE PROTECTION

The conferees agree to provide $35,413,000 for Critical Infrastructure Protection research, including $20,000,000 to support existing work in research and development and application of technology for community-based critical infrastructure protection efforts. The conferees provide up to $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 the 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 goals for fiscal year 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 expenditure plan for this suitability assessment.

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 program to assess the compliance of first responder communication equipment with Project 25 standards.

TUNNEL DETECTION

The conferees support the language in Senate Report 109–273 requiring a briefing by 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 providing near-term interoperability, funding requests to improve interoperability need not be limited to the purchase of new radios, but can also fund the purchase of Internet-Protocol (IP) based interoperability solutions that connect existing and future radios over an IP interoperability network. Likewise, funding requests for transmission equipment to construct mutual 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 $30,468,000 for management and administration as 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, no later than November 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 budgetary mechanisms DNDO will use to ensure it requests appropriate resources.

RADIOACTIVE SOURCES

The conferees are concerned the risks and vulnerabilities of radioactive sources may not have not 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 the total, sufficient funds are provided for the Cargo Advanced Automated Radiography Systems as well as the Radiological and Nuclear Forensic and Attributions 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 unavailable 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, which describe the role, responsibilities, and resource commitments of each.

SYSTEMS ACQUISITION

ADVANCED SPECTROSCOPIC PORTAL MONITORS

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. To date, the conferees have not received validated quantitative evidence that ASP monitors perform more effectively in an operational environment compared to current generation portal monitors. Therefore, the conferees include bill language prohibiting DNDO from full scale procurement of ASP monitors until the Secretary has certified and reports to the Committees on Appropriations that a significant increase in operational effectiveness merits such a decision. The conferees recognize the potential benefit of ASP technology and encourage continued testing and piloting of these systems.

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 strategic plan, U.S. Customs and Border Protection and DNDO are directed to achieve 100 percent radiation examination of containers entering the United States through the busiest 22 seaports of entry by December 31, 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 unexpended balances of prior appropriations may be merged with new appropriations accounts and used for the same purpose, subject to reprogramming guidelines.

Section 503. The conferees continue a provision proposed by the House and Senate that provides authority to reprogram appropriations within an account and to transfer not to exceed 5 percent between appropriations accounts with 15-day advance notification of the Committees on Appropriations. A detailed funding table identifying each Congressional control level for reprogramming purposes is included at the end of this report. These reprogramming guidelines shall be complied with by all agencies funded 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 the Committees should include a detailed table showing the proposed revisions at the account, program, project, and activity level to the funding and staffing (full-time equivalent position) 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 are concerned with the number of reprogramming proposals submitted for consideration by the Department and remind the Department that reprogramming or transfer requests should be submitted only in the case of an unforeseeable emergency or situation that could not have been predicted when formulating the budget request for the current fiscal year. Further, the conferees note that when the Department submits a reprogramming or transfer request to the Committees on Appropriations and does not receive identical responses from the House and Senate, it is the responsibility of the Department to reconcile the House and Senate differences before proceeding, and if reconciliation is not possible, to consider the reprogramming or transfer request unapproved.

The Department is not to propose a reprogramming or transfer of funds after June 30th unless there are exceptional or extraordinary circumstances such that lives or property are placed in imminent danger.

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 payment to the Department's Working Capital Fund, except for activities and amounts allowed in the President's fiscal year 2007 budget, excluding sedan service, shuttle service, transit subsidy, mail operations, parking, and competitive sourcing. The House bill contained no similar provision.

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 through 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 directing the Federal Law Enforcement Training Center (FLETC) to lead the Federal law enforcement training accreditation process.

Section 508. The conferees continue and modify a provision proposed by the House and Senate requiring notification of the Committees on Appropriations three business days before any grant allocation, discretionary grant award, discretionary contract award, letter of intent, or public announcement of the intention to make such an award totaling in excess of $1,000,000. Additionally, the Department is required to brief the Committees on Appropriations five full business days prior to announcing publicly the intention to make a State Homeland Security Program; Law Enforcement Terrorism Prevention Program; or High-Threat, High-Density Urban Areas grant award.

Section 509. The conferees continue a provision proposed by the House and Senate that no agency shall purchase, construct, or lease additional facilities for federal law enforcement training without advance approval of the Committees on Appropriations.

Section 510. 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 these training centers are operated at the highest capacity.

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 approved.

Section 512. The conferees continue a provision proposed by the House and Senate that none of the funds may be used in contravention of the Buy American Act.

Section 513. The conferees continue a provision proposed by the House and Senate related to the transfer of the authority to conduct background investigations from the Office of Personnel Management to DHS. The conferees are concerned by delays in personnel security and suitability background investigations, update investigations and periodic reinvestigations for Departmental employees and, in particular for positions within the Office of the Secretary and Executive Management, Office of the Under Secretary for Management, Analysis and Operations, Immigration and Customs Enforcement, the Directorate of Science and Technology, and the Directorate for Preparedness. The conferees direct this authority be

used to expeditiously process background investigations, including updates and reinvestigations, as necessary.

Section 514. The conferees continue and modify a provision proposed by the House and Senate to prohibit the obligation of funds for the Secure Flight program, except on a test basis, until the requirements of section 522 of Public Law 108–334 have been met and certified by the Secretary of DHS and reported by the Government Accountability Office (GAO). The conferees direct the GAO to continue to evaluate DHS and Transportation Security Administration (TSA) actions to meet the ten conditions listed in section 522(a) of Public Law 108–334 and to report to the Committees on Appropriations, either incrementally as the Department meets additional conditions, or when all conditions 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 carriers. 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.

Section 515. The conferees continue a provision proposed by the House and Senate prohibiting funds to be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

Section 516. The conferees continue a provision proposed by the House and Senate regarding 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 provision proposed by the House and Senate directing the Secretary of Homeland Security, in consultation with industry stakeholders, to develop standards and protocols for increasing the use of explosive detection equipment 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 and screeners to screen cargo on passenger aircraft when practicable and requiring TSA to report air cargo inspection statistics to the Committees on Appropriations within 45 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 rescinding $78,693,508 for the Coast Guard's service life extension program of the 110-foot Island Class patrol boat and accelerated design and production of the fast response cutter and appropriating the same amount for acquisition of replacement patrol boats and service life extensions. The Senate bill contained a similar provision in Title II.

Section 522. The conferees continue a provision proposed by the House and Senate that directs that only the Privacy Officer, appointed pursuant to section 222 of the Homeland Security Act of 2002, may alter, direct that changes be made to, delay or prohibit the transmission of a Privacy Officer report to Congress.

Section 523. The conferees continue a provision proposed by the House and Senate requiring 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 appropriated or transferred to TSA ''Aviation Security'', ''Administration'' and ''Transportation 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 notification.

Section 525. The conferees continue and modify a provision proposed by the House and Senate requiring DHS to revise, within 30 days after enactment, its management directive on Sensitive Security Information (SSI) to among other things, provide for the release of certain SSI information that is three years old unless the Secretary makes a written determination that identifies a rational reason why the information must remain SSI. The conferees expect this rational 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 determines that is needed. The conferees expect that a party will be able to demonstrate undue hardship to the judge if equivalent information is not available in one month's time. The conferees expect the criminal history records check and terrorist threat assessment on the persons seeking access to SSI in civil proceedings to be identical to that conducted for aviation workers. The conferees further expect any DHS demonstration of risk or harm to the nation in a judicial proceeding include a description of the specific risk to the national transportation system. This is consistent with demonstrations made for classified information.

Section 526. The conferees continue a provision proposed by the House and Senate extending the authorization of the Working Capital Fund in fiscal year 2007.

Section 527. The conferees continue a provision proposed by the House and Senate rescinding $16,000,000 from the unobligated balances from prior year appropriations made available for the ''Counterterrorism Fund''.

Section 528. The conferees continue and modify a provision proposed by the House requiring monthly Disaster Relief Fund financial reports. These changes are in part based on recommendations made by the Government Accountability Office in report GAO–06–834. The Senate bill contained no similar provision.

Section 529. The conferees continue and modify a provision proposed by the Senate rescinding $125,000,000 from unexpended balances of the Science and Technology Directorate, as proposed by the Senate and modified by the conferees. The House bill contained no similar provision.

Section 530. The conferees continue a provision proposed by the Senate regarding the enforcement of section 4025(1) of Public Law 108–458. The House bill contained no similar provision.

Section 531. The conferees continue and modify a provision proposed by the House and Senate requiring the Chief Financial Officer to submit monthly budget execution and staffing reports within 45 days after the close of each month.

Section 532. The conferees continue and modify a provision proposed by the House relating to undercover investigative operations authority of the Secret Service for fiscal year 2007. The Senate bill contained no similar provision.

Section 533. The conferees continue a provision proposed by the House directing the Director of the Domestic Nuclear Detection Office to operate extramural and intramural research, development, demonstration, testing, and evaluation programs so as to distribute funding through grants, cooperative agreements, other transactions and contracts. The Senate bill contained no similar provision.

Section 534. The conferees continue a provision proposed by the Senate regarding the Hancock County Port and Harbor Commission of Mississippi. The House bill contained no similar provision.

Section 535. The conferees continue and modify a provision proposed by the House and Senate regarding the importation of prescription drugs.

Section 536. The conferees continue a provision proposed by the Senate directing the Department of Homeland Security to account for the needs of household pets and service animals in approving standards for state and local emergency preparedness operational plans under the Stafford Act. The House bill contained no similar provision.

Section 537. The conferees continue a provision proposed by the House and Senate rescinding $4,776,000 of unobligated balances from prior year appropriations made available for Transportation Security Administration ''Aviation Security'' and ''Headquarters Administration''.

Section 538. The conferees continue a provision proposed by the Senate rescinding $61,936,000 from the unobligated balances of prior year appropriations for TSA ''Aviation Security''. The House bill contained no similar provision.

Section 539. The conferees continue a provision proposed by the Senate rescinding $20,000,000 from unexpended balances of the United States Coast Guard ''Acquisition, Construction, and Improvements'' account identified in House Report 109–241 for the development of the Offshore Patrol Cutter. The House bill contained no similar provision.

Section 540. The conferees include a new provision rescinding $4,100,000 from the Coast Guard's Automatic Identification System. The Senate bill contained a similar proposal. The House bill contained no similar proposal.

Section 541. The conferees continue a provision proposed by the House permitting the Army Corps of Engineers to use specific Meadowview Acres Addition lots in Augusta, Kansas, for building portions of the flood-control levee. The conferees expect FEMA to cooperate with and assist the Army Corps of Engineers with regard to this section. The Senate bill contained no similar provision.

Section 542. The conferees continue a provision proposed by the Senate permitting the City of Cuero, Texas, to use grant funds awarded under title I, chapter 6, Public Law 106–31 until September 30, 2007. The House bill contained a similar provision.

Section 543. The conferees continue a provision proposed by the House prohibiting the use of funds to contravene the federal buildings performance and reporting requirements of Executive Order 13123, part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.), or subtitle A of title I of the Energy Policy Act of 2005. The Senate bill contained no similar provision.

Section 544. The conferees continue a provision proposed by the Senate classifying the instructor staff at the Federal Law Enforcement Training Center as inherently governmental for purposes of the Federal Activities Inventory Reform Act of 1998. The House bill contained no similar provision.

Section 545. The conferees continue a provision proposed by the House prohibiting the use of funds to contravene section 303 of the Energy Policy Act. The Senate bill contained no similar provision.

Section 546. The conferees continue and modify a provision proposed by the Senate

regarding the Western Hemisphere Travel Initiative. The House bill contained no similar provision.

Section 547. The conferees continue a provision proposed by the House 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 House prohibiting funds to be used to reimburse L.B. & B. Associates, Inc. or Olgoonik Logistics LLC for attorney fees related to litigation against Local 30 of the International Union of Operating Engineers. The Senate bill contained no similar provision.

Section 549. The conferees continue and modify a provision proposed by the Senate regarding the Transportation Security Administration's Acquisition Management System. The House bill contained no similar provision.

Section 550. The conferees continue and modify a provision proposed by the Senate to require the Secretary to issue interim risk-based security regulations on high risk chemical facilities. This three-year authorization gives the Secretary and facilities flexibility to achieve the appropriate risk reduction, but also provides the Secretary the means to inspect and sanction non-compliant facilities, including authority to shut down non-compliant facilities until they comply. The provision protects sensitive information, but allows it to be shared with appropriate authorities. The House bill contained no similar provision.

Section 551. The conferees continue a provision proposed by the Senate regarding unlawful border tunnels. The House bill contained no similar provision.

Section 552. The conferees continue and modify a provision proposed by the Senate prohibiting the Secretary of Homeland Security from altering or reducing the Coast Guard's civil engineering program until Congress receives and approves any planned changes. The House bill contained no similar provision.

Section 553. The conferees continue a provision proposed by the Senate prohibiting the use of funds in contravention to Executive Order 13149, relating to fleet and transportation efficiency. The House bill contained no similar provision.

Section 554. The conferees continue a provision proposed by the Senate requiring each air carrier to submit a plan to the Transportation Security Administration on how it will participate in the voluntary provision of the emergency services program. The House bill contained no similar provision.

Section 555. The conferees continue a provision proposed by the Senate requiring the Director of the Federal Emergency Management Agency, in conjunction with the Director of the National Institute of Standards and Technology, to report on federal earthquake response plans for high-risk earthquake regions. The House bill contained no similar provision.

Section 556. The conferees continue a provision proposed by the Senate directing the Secretary of Homeland Security to revise procedures for clearing individuals who have been mistakenly placed on a terrorist database list. The House bill contained no similar provision.

Section 557. The conferees continue and modify a provision proposed by the Senate prohibiting the confiscation of firearms during certain national emergencies. The House bill contained no similar provision.

Section 558. The conferees continue and modify a provision proposed by the Senate to pilot an integrated scanning system at foreign seaports. The House bill contained no similar provision.

Section 559. The conferees include a new provision rescinding $2,500,000 from the United States Secret Service National Special Security Event Fund and re-appropriating the same amount to the same account available until expended.

Section 560. The conferees include a new provision requiring the transfer authority contained in section 505 of the Homeland Security Act, as amended by Title VI of this Act, concerning the reorganization of FEMA be subject to 31 U.S.C. 1531 (a)(2).

PROVISIONS NOT ADOPTED

The conference agreement deletes section 516 of the House bill maintaining the United States Secret Service as a distinct entity within the Department of Homeland Security. The provision is already enacted into law (section 607 of Public Law 109–177).

The conference agreement deletes section 520 of the House bill and Section 520 of the Senate bill relating to the transportation worker identification credential.

The conference agreement deletes section 534 of the Senate bill transferring the Transportation Security Laboratory to the Transportation Security Administration.

The conference agreement deletes section 536 of the House bill prohibiting the Transportation Security Administration from employing nonscreener personnel in certain situations.

The conference agreement deletes section 536 of the Senate bill prohibiting the use of funds for the Office of the Federal Coordinator for Gulf Coast Rebuilding until certain conditions are met. This issue is addressed in the statement of managers under Departmental Management and Operations.

The conference agreement deletes section 541 of the House bill reducing funds for the Office of the Secretary and Executive Management and adding funds to Fire Fighter Assistance Grants.

The conference agreement deletes section 541 of the Senate bill requiring a report on agriculture inspections. This requirement is addressed in the statement of managers under Customs and Border Protection.

The conference agreement deletes section 542 of the House bill adding funds to the Secret Service and Federal Emergency Management Agency.

The conference agreement deletes section 542 of the Senate bill requiring the conference report accompanying H.R. 5441 to contain any limitation, directive, or earmarking agreed upon by both the House and Senate.

The conference agreement deletes section 543 of the House bill relating to a limitation on funds to be used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

The conference agreement deletes section 543 of the Senate bill requiring reports submitted to the Committees on Appropriations and the annual budget justifications to be posted on the Department's website with 48 hours. The conferees note the Director of the Office of Management and Budget's decision to post budget justifications and related material on a public web site within two weeks of submitting the material to Congress (OMB circular A–11).

The conference agreement deletes section 544 of the House bill prohibiting the use of funds to provide information to foreign governments about activities of organized volunteer civilian action groups, unless required by international treaty.

The conference agreement deletes section 544 of the Senate bill providing funds to the Chief Financial Officer from the Office of Domestic Preparedness. This requirement is addressed in the statement of managers under Office of the Chief Financial Officer.

The conference agreement deletes section 545 of the Senate bill prohibiting the use of funds for the Long Range Aids to Navigation stations, except for certain geographic areas. This requirement is addressed in the statement of managers under United States Coast Guard.

The conference agreement deletes section 546 of the Senate bill regarding statutory limitations of the number of TSA employees.

The conference agreement deletes section 547 of the Senate bill requiring a report on actions to achieve interoperable communications. This issue is addressed in the statement of managers under Preparedness.

The conference agreement deletes section 549 of the Senate bill relating to data-mining. This requirement is addressed in the statement of managers under Office of the Secretary and Executive Management.

The conference agreement deletes section 551 of the Senate bill requiring the Department of Homeland Security to conduct a pilot program at the Northern Border air wing bases to test unmanned aerial vehicles. This requirement is addressed in the statement of managers under Customs and Border Protection.

The conference agreement deletes section 552 of the Senate bill requiring Immigration and Customs Enforcement to report on the costs and need of establishing a sub-office in Greeley, Colorado. This requirement is addressed in the statement of managers under Immigration and Customs Enforcement.

The conference agreement deletes section 553 of the Senate bill requiring a report on locating existing Louisiana facilities and assets of the Coast Guard in the Federal City Project of New Orleans, Louisiana. This requirement is addressed in the statement of managers under United States Coast Guard.

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 United States Coast Guard.

The conference agreement deletes section 555 of the Senate bill regarding the screening of municipal solid waste.

The conference agreement deletes section 557 of the Senate bill requiring the Secretary of Homeland Security to inspect and levy a fee to inspect international shipments of municipal solid waste.

The conference agreement deletes section 558 of the Senate bill requiring the evaluation of interoperable communications for the 2010 Olympics. This requirement is addressed in the statement of managers under Office of the Secretary and Executive Management.

The conference agreement deletes section 560 of the Senate bill reducing the amounts made available under this Act for travel, transportation, printing, and reproduction.

The conference agreement deletes section 565 of the Senate bill allowing the Coast Guard to use funds from its Operating Expenses for the National Capital Region Air Defense mission. This issue is addressed in the statement of managers under United States Coast Guard.

The conference agreement deletes section 566 of the Senate bill reflecting the sense of the Senate on combating methamphetamine. This is addressed in the statement of managers under Customs and Border Protection.

The conference agreement deletes section 567 of the Senate bill requiring the Secretary of Homeland Security to report on the

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.

The conference agreement includes new National Emergency Management authority in Title VI of this Conference Report. The Senate bill included ''United States Emergency Management Authority'' in Title VIII. The House bill contained no similar matter.

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)

	Budget Request	Conference
TITLE I - DEPARTMENTAL MANAGEMENT AND OPERATIONS		
Departmental Operations		
Office of the Secretary and Executive Management:		
Immediate Office of the Secretary	3,148	2,540
Immediate Office of the Deputy Secretary	1,648	1,185
Chief of Staff	2,901	2,560
Office of Counternarcotics Enforcement	2,878	2,360
Executive Secretary	5,001	4,450
Office of Policy	31,093	29,305
Secure Border Coordination Office	---	4,500
Office of Public Affairs	6,808	6,000
Office of Legislative and Intergovernmental Affairs	6,479	5,449
Office of General Counsel	14,065	12,759
Office of Civil Rights and Liberties	13,125	13,000
Citizenship and Immigration Services Ombudsman	5,927	5,927
Privacy Officer	4,435	4,435
Subtotal, Office of the Secretary and Executive Management	97,508	94,470
Office of Screening Coordination and Operations	3,960	---
Office of the Under Secretary for Management:		
Under Secretary for Management	2,012	1,870
Office of Security	58,514	52,640
Business Transformation Office	2,017	---
Office of the Chief Procurement Officer	16,895	16,895
Office of the Chief Human Capital Officer:		
Salaries and expenses	9,827	8,811
MAX - HR System	71,449	25,000
Subtotal, Office of the Chief Human Capital Officer	81,276	33,811
Office of the Chief Administrative Officer:		
Salaries and expenses	40,218	40,218
Nebraska Avenue Complex (NAC-DHS Headquarters)	8,206	8,206
Subtotal, Office of the Chief Administrative Officer	48,424	48,424
Subtotal, Office of the Under Secretary for Management	209,138	153,640
Office of the Chief Financial Officer:		
Salaries and expenses	26,018	26,000
Emerge2	18,362	---
Subtotal, Office of the Chief Financial Officer	44,380	26,000
Office of the Chief Information Officer:		
Salaries and expenses	79,521	79,521
Information technology services	61,013	61,013
Security activities	64,139	89,387
Wireless program	86,438	86,438
Homeland Secure Data Network (HSDN)	32,654	32,654
Subtotal, Office of the Chief Information Officer	323,765	349,013
Analysis and Operations	298,663	299,663

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Total, Departmental Operations	977,414	922,786
Office of the Federal Coordinator for Gulf Coast Rebuilding	---	3,000
Office of Inspector General		
Operating expenses	96,185	85,185
Total, title I, Departmental Management and Operations	1,073,599	1,010,971
TITLE II - SECURITY, ENFORCEMENT, AND INVESTIGATIONS		
U.S. Visitor and Immigrant Status Indicator Technology	399,494	362,494
Customs and Border Protection		
Salaries and expenses:		
Headquarters, Management, and Administration:		
Management and administration, border security inspections and trade facilitation	663,943	658,943
Management and administration, border security and control between ports of entry	594,446	589,446
Subtotal, Headquarters, Mgt, & Admin	1,258,389	1,248,389
Border security inspections and trade facilitation:		
Inspections, trade, and travel facilitation at ports of entry	1,282,102	1,326,665
Harbor maintenance fee collection (trust fund)	3,026	3,026
Container security initiative	139,312	139,312
Other international programs	8,701	8,701
Customs-Trade Partnership Against Terrorism/ Free and Secure Trade (FAST) NEXUS/SENTRI	75,909	---
Customs-Trade Partnership Against Terrorism (C-TPAT)	---	54,730
Free and Secure Trade (FAST) NEXUS/SENTRI	---	11,243
Inspection and detection technology investments	94,317	141,317
Emergency appropriations	---	100,000
Subtotal	94,317	241,317
Automated targeting systems	27,298	27,298
National Targeting Center	23,635	23,635
Other technology investments, including information technology	1,027	---
Training	24,564	24,564
Subtotal, Border security inspections and trade facilitation	1,679,891	1,860,491
Border security and control between ports of entry:		
Border security and control	2,243,619	2,239,586
Border technology	131,559	---
Training	45,688	37,924
Subtotal, Border security and control between ports of entry	2,420,866	2,277,510

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Air and Marine Personnel Compensation and Benefits	159,876	175,796
Subtotal, Salaries and expenses	5,519,022	5,562,186
Appropriations	(5,515,996)	(5,459,160)
Emergency appropriations	---	(100,000)
Trust fund	(3,026)	(3,026)
Automation modernization:		
Automated commercial environment/International Trade Data System (ITDS)	318,490	316,800
Automated commercial system and legacy IT costs	142,717	134,640
Subtotal, Automation modernization	461,207	451,440
Border security fencing, infrastructure, and technology (BSFIT)	---	28,365
Emergency appropriations	---	1,159,200
Subtotal, BSFIT	---	1,187,565
Air and Marine Interdiction, Operations, Maintenance, and Procurement:		
Operations and maintenance	265,966	236,454
Unmanned aerial vehicles	10,353	---
Procurement	61,380	133,733
Emergency appropriations	---	232,000
Subtotal	61,380	365,733
Subtotal, Air and marine interdiction, operations, maintenance, and procurement	337,699	602,187
Appropriations	(337,699)	(370,187)
Emergency appropriations	---	(232,000)
Construction:		
Construction	255,954	122,978
Construction (Border Patrol) (emergency)	---	110,000
Subtotal, Construction	255,954	232,978
Total, Direct appropriations for Customs and and Border Protection	6,573,882	8,036,356
Fee accounts:		
Immigration inspection user fee	(529,300)	(529,300)
Immigration enforcement fines	(1,724)	(1,724)
Land border inspection fee	(28,071)	(28,071)
COBRA passenger inspection fee	(387,804)	(387,804)
APHIS inspection fee	(214,287)	(214,287)
Puerto Rico collections	(97,815)	(97,815)
Small airport user fees	(6,230)	(6,230)
Subtotal, fee accounts	(1,265,231)	(1,265,231)
Total, Customs and Border Protection	(7,839,113)	(9,301,587)
Appropriations	(6,573,882)	(6,435,156)
Emergency apropriations	---	(1,601,200)
(Fee accounts)	(1,265,231)	(1,265,231)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Immigration and Customs Enforcement		
Salaries and expenses:		
Headquarters Management and Administration (non-Detention and Removal Operations):		
Personnel compensation and benefits, service and other costs	---	140,000
Headquarters managed IT investment	---	134,013
Subtotal, Headquarters management and administration	---	274,013
Legal proceedings	206,511	187,353
Investigations:		
Domestic	1,456,650	1,285,229
International	104,744	104,681
Subtotal, Investigations	1,561,394	1,389,910
Intelligence:		
Intelligence	57,932	51,379
Subtotal, Intelligence	57,932	51,379
Detention and removal operations:		
Custody Operations	1,432,702	1,381,767
Fugitive operations	173,784	183,200
Criminal Alien program	110,250	137,494
Alternatives to detention	42,702	43,600
Transportation and removal program	317,016	238,284
Subtotal, Detention and removal operations	2,076,454	1,984,345
Subtotal, Salaries and expenses	3,902,291	3,887,000
Federal protective service:		
Basic security	123,310	---
Building specific security (including capital equipment replacement/acquisition)	392,701	---
Subtotal, Federal Protective Service	516,011	---
Offsetting fee collections	-516,011	---
Automation modernization:		
ATLAS	---	15,000
Construction	26,281	26,281
Emergency appropriations	---	30,000
Subtotal, Construction	26,281	56,281
Total direct appropriations for Immigration and Customs Enforcement	3,928,572	3,958,281
Fee accounts:		
Federal Protective Service	---	(516,011)
Immigration inspection user fee	(108,000)	(108,000)
Breached bond/detention fund	(90,000)	(90,000)
Student exchange and visitor fee	(54,349)	(54,349)
Subtotal, fee accounts	(252,349)	(768,360)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Subtotal, Immigration and Customs Enforcement (gross)	(4,696,932)	(4,726,641)
Offsetting fee collections	(-516,011)	---
Total, Immigration and Customs Enforcement	(4,180,921)	(4,726,641)
Appropriations	(3,928,572)	(3,928,281)
Emergency appropriations	---	(30,000)
Fee accounts	(252,349)	(768,360)
Transportation Security Administration		
Aviation security:		
Screening operations:		
Screener workforce:		
Privatized screening	148,600	148,600
Passenger screener - personnel, compensation, and benefits	1,556,226	---
Baggage screener - personnel, compensation, and benefits	913,974	---
Passenger & Baggage screener - personnel, compensation, and benefits	---	2,470,200
Subtotal, Sceener workforce	2,618,800	2,618,800
Screening training and other:		
Passenger screeners, other	23,352	---
Baggage screeners, other	133,114	---
Screener training	88,000	---
Subtotal, Screening training and other	244,466	---
Screening Training and Other	---	244,466
Human resource services	207,234	207,234
Checkpoint support	173,366	173,366
EDS/ETD Systems:		
EDS Purchase	91,000	141,400
EDS Installation	94,000	138,000
EDS/ETD Maintenance	234,000	222,000
Operation integration	23,000	23,000
Subtotal, EDS/ETD Systems	442,000	524,400
Subtotal, Screening operations	3,685,866	3,768,266
Aviation direction and enforcement:		
Aviation regulation and other enforcement	217,516	217,516
Airport management, IT, and support	666,032	666,032
FFDO and flight crew training	30,470	25,000
Air cargo	55,000	55,000
Subtotal, Aviation direction and enforcement	969,018	963,548
Aviation security capital fund	(250,000)	(250,000)
Subtotal, Aviation security (gross)	4,654,884	4,731,814
Offsetting fee collections (non-mandatory)	-3,650,000	-2,420,000
Aviation security capital fund	(250,000)	(250,000)
Total, Aviation security (net)	1,004,884	2,311,814

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Surface transportation security:		
Staffing and operations	24,000	24,000
Rail security inspectors and canines	13,200	13,200
Subtotal, Surface transportation security	37,200	37,200
Transportation Threat Assessment and Credentialing:		
SecureFlight	40,000	15,000
Crew vetting	14,700	14,700
Screening administration and operations	---	10,000
Registered Traveler Program fees	(35,101)	(35,101)
TWIC fees	(20,000)	(20,000)
Hazardous materials fees	(19,000)	(19,000)
Alien Flight School (by transfer from DOJ) - fees	(2,000)	(2,000)
Subtotal, Transportation Threat Assessment and Credentialing (Gross)	(130,801)	(115,801)
Fee funded programs	(76,101)	(76,101)
Subtotal, Transportation Threat Assessment and Credentialing (net)	54,700	39,700
Transportation security support:		
Administration:		
Headquarters administration	296,191	294,191
Information technology	210,092	210,092
Subtotal, Administration	506,283	504,283
Intelligence	21,000	21,000
Subtotal, Transportation security support	527,283	525,283
Federal Air Marshals:		
Management and administration	628,494	628,494
Travel and training	70,800	85,800
Subtotal, Federal Air Marshals	699,294	714,294
Total, Transportation Security Administration (gross)	6,299,462	6,374,392
Offsetting fee collections	-3,650,000	-2,420,000
Aviation security capital fund	(250,000)	(250,000)
Fee accounts	(76,101)	(76,101)
Total, Transportation Security Administration (net)	2,323,361	3,628,291
United States Coast Guard		
Operating expenses:		
Military pay and allowances	2,788,276	2,788,276
Civilian pay and benefits	569,434	569,434
Training and recruiting	180,876	180,876
Operating funds and unit level maintenance	1,061,574	1,011,374
Centrally managed accounts	207,954	201,968
Intermediate and depot level maintenance	710,729	710,729
Port Security	---	15,000
Less adjustment for defense function	-340,000	-340,000

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Defense function	340,000	340,000
Subtotal, Operating expenses	5,518,843	5,477,657
Appropriations	(5,178,843)	(5,137,657)
Defense function	(340,000)	(340,000)
Environmental compliance and restoration	11,880	10,880
Reserve training	123,948	122,448
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	26,550
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	498,366	498,366
Emergency appropriations	---	55,500
Subtotal, Surface ships	498,366	553,866
C4ISR	60,786	50,000
Logistics	42,273	36,000
Systems engineering and integration	35,145	35,145
Government program management	48,975	46,475
Subtotal, Integrated deepwater systems	934,431	1,065,872
Shore facilities and aids to navigation:		
Shore operational and support projects	2,600	---

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Shore construction projects	2,850	---
Renovate USCGA Chase Hall barracks, phase I	2,000	---
Coast Guard housing - Cordova, AK	5,500	---
ISC Seattle Group, sector admin ops facility phase II	2,600	---
Replace multi-purpose building - Group Long Island Sound	1,000	---
Construct breakwater - Station Neah Bay	1,100	---
Rebuild station and waterfront at Base Galveston phase I	5,200	---
Waterways aids to navigation infrastructure	3,000	---
Undistributed distributions	---	22,000
Subtotal, Shore facilities and aids to navigation	25,850	22,000
Subtotal, Acquisition, construction, and improvements	1,169,537	1,330,245
Appropriations	(1,169,537)	(1,154,445)
Emergency appropriations	---	(175,800)
Alteration of bridges	---	16,000
Research, development, test, and evaluation	13,860	17,000
Health care fund contribution	278,704	278,704
Subtotal, U.S. Coast Guard discretionary	7,116,772	7,252,934
Retired pay (mandatory)	1,063,323	1,063,323
Total, United States Coast Guard	8,180,095	8,316,257
Appropriations	(8,180,095)	(8,140,457)
Emergency appropriations	---	(175,800)
United States Secret Service		
Protection, Administration, and Training:		
Protection:		
Protection of persons and facilities	639,747	651,247
Protective intelligence activities	55,509	55,509
National special security event	---	1,000
Presidental candidate nominee protection	---	18,400
White House mail screening	16,201	16,201
Subtotal, Protection	711,457	742,357
Field operations:		
Domestic field operations	236,093	---
International field office administration, operations and training	21,616	---
Electronic crimes special agent program and electronic crimes task forces	44,079	---
Subtotal, Field operations	301,788	---
Administration:		
Headquarters, management and administration	169,370	169,370
Grants for National Center for Missing and Exploited Children	7,811	---
Subtotal, Administration	177,181	169,370
Training:		
Rowley training center	50,052	50,052
Subtotal, Protection, Admin and Training	1,240,478	961,779

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Investigations and Field Operations:		
Domestic field operations	---	236,093
International field administration and operations	---	22,616
Electronic crimes special agent program and electronic crimes task forces	---	44,079
Forensic support and grants to NCMEC	---	8,366
Subtotal, Investigations and Field operations	---	311,154
Special Event Fund:		
National special security event fund	2,500	---
Candidate nominee protection (equip and training)	18,400	---
Subtotal, Special Event Fund	20,900	---
Acquisition, construction, improvements and related expenses (Rowley training center)	3,725	3,725
Total, United States Secret Service	1,265,103	1,276,658
Total, title II, Security, Enforcement, and Investigations	22,670,507	25,578,337
Appropriations	(22,670,507)	(23,771,337)
Emergency appropriations	---	(1,807,000)
(Fee Accounts)	(1,593,681)	(2,109,692)
TITLE III - PREPAREDNESS AND RECOVERY		
Preparedness		
Management and administration:		
Immediate Office of the Under Secretary	17,497	16,392
Office of the Chief Medical Officer	4,980	4,980
Office of National Capital Region Coordination	1,991	2,741
National Preparedness Integration Program	50,000	6,459
Subtotal, Management and administration	74,468	30,572
Grants and Training:		
State and Local Programs:		
State formula grants:		
State Homeland Security Grant Program	633,000	525,000
Emergency management performance grants	170,000	---
Citizen Corps	35,000	---
Law enforcement terrorism prevention grants	---	375,000
Subtotal, State formula grants	838,000	900,000
Discretionary grants:		
High-threat, high-density urban area	838,000	770,000
Port security grants	---	210,000
Trucking security grants	---	12,000
Intercity bus security grants	---	12,000
Rail and transit security	---	175,000
Buffer zone protection program	---	50,000
Targeted infrastructure protection	600,000	---
Subtotal, Discretionary grants	1,438,000	1,229,000
Commercial equipment direct assistance program	---	50,000

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
National Programs:		
National Domestic Preparedness Consortium	89,351	145,000
National exercise program	48,708	49,000
Technical assistance	11,500	18,000
Metropolitan Medical Response System	---	33,000
Demonstration training grants	---	30,000
Continuing training grants	3,000	31,000
Citizen Corps	---	15,000
Evaluations and assessments	23,000	19,000
Rural Domestic Preparedness Consortium	---	12,000
Management and Administration	5,000	---
Subtotal, National Programs	180,559	352,000
Subtotal, State and Local Programs	2,456,559	2,531,000
Firefighter assistance grants:		
Grants	293,450	547,000
Staffing for Adequate Fire and Emergency Response (SAFER) Act	---	115,000
Subtotal, Firefighter Assistance Grants	293,450	662,000
Emergency management performance grants	---	200,000
Subtotal, Grants and Training	2,750,009	3,393,000
Radiological Emergency Preparedness Program	-477	-477
U.S. Fire Administration and Training:		
United States Fire Administration	40,887	41,349
Noble Training Center	5,962	5,500
Subtotal, U.S. Fire Administration and Training	46,849	46,849
Infrastructure Protection and Information Security		
Management and administration	84,650	77,000
Critical infrastructure outreach and partnership	101,100	101,100
Critical infrastructure identification and evaluation	71,631	69,000
National Infrastructure Simulation and Analysis Center	16,021	25,000
Biosurveillance	8,218	8,218
Protective actions	32,043	32,043
Cyber security	92,205	92,000
National Security/Emergency Preparedness Telecommunications	143,272	143,272
Subtotal, Infrastructure Protection and Information Security	549,140	547,633
Total, Preparedness	3,419,989	4,017,577
Federal Emergency Management Agency		
Administrative and regional operations	206,259	232,760
Defense function	49,240	49,240
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)

	Budget Request	Conference
Subtotal, Readiness, mitigation, response, and recovery	233,499	244,000
Public health programs	33,885	33,885
Disaster relief	1,941,390	1,500,000
Disaster assistance direct loan program account:		
(Limitation on direct loans)	(25,000)	(25,000)
Administrative expenses	569	569
Flood map modernization fund	198,980	198,980
National flood insurance fund:		
Salaries and expenses	38,230	38,230
Flood hazard mitigation	90,358	90,358
Offsetting fee collections	-128,588	-128,588
Transfer to National flood mitigation fund	(-31,000)	(-31,000)
National flood mitigation fund (by transfer)	(31,000)	(31,000)
National predisaster mitigation fund	149,978	100,000
Emergency food and shelter	151,470	151,470
Total, Federal Emergency Management Agency	2,965,270	2,510,904
Total, title III, Preparedness and Recovery	6,385,259	6,528,481
(Limitation on direct loans)	(25,000)	(25,000)
(Transfer out) (including emergency)	(-31,000)	(-31,000)
(By transfer) (including emergency)	(31,000)	(31,000)

TITLE IV - RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

U.S. Citizenship and Immigration Services

Salaries and expenses:		
Business transformation	47,000	47,000
Systematic Alien Verification for Entitlements (SAVE)	24,500	21,100
Employment Eligibility Verification (EEV) program	110,490	113,890
Subtotal, Salaries and expenses	181,990	181,990
Adjudication services (fee account):		
Pay and benefits	(624,600)	(624,600)
District operations	(385,400)	(385,400)
Service center operations	(267,000)	(267,000)
Asylum, refugee and international operations	(75,000)	(75,000)
Records operations	(67,000)	(67,000)
Subtotal, Adjudication services	(1,419,000)	(1,419,000)
Information and customer services (fee account):		
Pay and benefits	(81,000)	(81,000)
Operating expenses:		
National Customer Service Center	(48,000)	(48,000)
Information services	(15,000)	(15,000)
Subtotal, Information and customer services	(144,000)	(144,000)

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Administration (fee account):		
Pay and benefits	(45,000)	(45,000)
Operating expenses	(196,000)	(196,000)
Subtotal, Administration	(241,000)	(241,000)
Total, U.S. Citizenship and Immigration Services	(1,985,990)	(1,985,990)
Appropriations	(181,990)	(181,990)
(Immigration Examination Fee Account)	(1,760,000)	(1,760,000)
(Fraud prevention and detection fee account)	(31,000)	(31,000)
(H1B Non-Immigrant Petitioner fee account)	(13,000)	(13,000)
Federal Law Enforcement Training Center		
Salaries and expenses:		
Law enforcement training	201,020	209,743
Accreditation	1,290	1,290
Subtotal, Salaries and expenses	202,310	211,033
Acquisition, Construction, Improvements, and Related expenses:		
Direct appropriation	42,246	42,246
Construction (emergency)	---	22,000
Subtotal	42,246	64,246
Total, Federal Law Enforcement Training Center	244,556	275,279
Appropriations	244,556	253,279
Emergency appropriations	---	22,000
Science and Technology		
Management and administration:		
Office of the Under Secretary for Science and Technology	7,594	7,594
Other salaries and expenses	188,307	127,406
Subtotal, Management and administration	195,901	135,000
Research, development, acquisition, and operations:		
Biological countermeasures:		
Defense function	337,200	350,200
Chemical countermeasures	83,092	60,000
Explosives countermeasures	86,582	86,582
Threat and vulnerability, testing and assessment	39,851	35,000
Conventional missions in support of DHS	88,622	85,622
Standards coordination	22,131	22,131
Emergent and prototypical technology	19,451	19,451
Critical infrastructure protection	15,413	35,413
University programs/homeland security fellowship	51,970	50,000
Counter MANPADs	4,880	40,000
SAFETY Act	4,710	4,710
Cybersecurity	22,733	20,000
Office of interoperability and compatibility	29,735	27,000
Pacific Northwest National Library	---	2,000
Subtotal, Research, development, acquisition, and operations	806,370	838,109
Total, Science and Technology	1,002,271	973,109

DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

	Budget Request	Conference
Domestic Nuclear Detection Office		
Management and administration	30,468	30,468
Research, development, and operations	327,320	272,500
Systems acquisition	178,000	178,000
Subtotal, Domestic Nuclear Detection Office	535,788	480,968
Total, title IV, Research and Development, Training, and Services	1,964,605	1,911,346
Appropriations	(1,964,605)	(1,889,346)
Emergency appropriations	---	(22,000)
(Fee Accounts)	(1,804,000)	(1,804,000)
TITLE 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. 538: Rescission, TSA unobligated balances	---	-61,936
Sec. 539: Rescission, USCG AC&I/OPC 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	---	(81,193)
Rescissions	(-16,000)	(-313,005)
Grand total	32,077,970	34,797,323
Appropriations, fiscal year 2007	(32,093,970)	(33,281,328)
Emergency appropriations	---	(1,829,000)
Rescissions	(-16,000)	(-313,005)
Fee funded programs	(3,397,681)	(3,913,692)
(Limitation on direct loans)	(25,000)	(25,000)
(Transfer out) (including emergency)	(-31,000)	(-31,000)
(By transfer) (including emergency)	(31,000)	(31,000)

CONFERENCE TOTAL—WITH COMPARISONS

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]

Budget estimates of new (obligational) authority, fiscal year 2007	32,077,970
House bill, fiscal year 2007	33,143,147
Senate bill, fiscal year 2007	33,441,323
Conference agreement, fiscal year 2007	34,797,323
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 2007	+2,719,353
House bill, fiscal year 2007	+1,654,176
Senate bill, fiscal year 2007	+1,356,000

HAROLD ROGERS,
ZACH WAMP,
TOM LATHAM,
JO ANN EMERSON,
JOHN E. SWEENEY,
JIM KOLBE,
ANDER CRENSHAW,
JOHN R. CARTER,
JERRY LEWIS,
MARTIN OLAV SABO,
DAVID E. PRICE,
JOSE E. SERRANO,
LUCILLE ROYBAL-ALLARD,
SANFORD D. BISHOP,
MARION BERRY,
CHET EDWARDS,
DAVID R. OBEY,
Managers on the Part of the House.

JUDD GREGG,
THAD COCHRAN,
TED STEVENS,
ARLEN SPECTER,
PETE V. DOMENICI,
RICHARD C. SHELBY,
LARRY E. CRAIG,
R.F. BENNETT,
WAYNE ALLARD,
ROBERT C. BYRD,
DANIEL K. INOUYE,
PATRICK J. LEAHY,
BARBARA A. MIKULSKI,
HERB KOHL,
PATTY MURRAY,
HARRY REID,
DIANNE FEINSTEIN,
Managers on the Part of the Senate.

N O T I C E

Incomplete record of House proceedings.

Today's House proceedings will be continued in the next issue of the Record.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, SECOND SESSION

Vol. 152 WASHINGTON, THURSDAY, SEPTEMBER 28, 2006 No. 124

Senate

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,
Washington, DC, September 28, 2006.

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.

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

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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 we 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 appropriations, 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, there will now be a period for the transaction of morning business for up to 30 minutes, with the first half of the time under the control of the majority leader or his designee and the second half of the time under the control of the Democratic leader or his designee.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

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 not be overlooked as we conclude a hectic month.

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 committees, 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 improve the Department of Homeland Security, including urgently needed reform and reinforcement of the Federal Emergency Management Agency.

The recommendations for improvements the result 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 kinds of protections 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.

FEMA's Administrator, under the reforms included in the appropriations bill, will become the President's principal adviser for all-hazards emergency management.

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 I—the region the Presiding Officer and I are 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 does not happen again.

We also addressed issues such as chronic staffing 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.

The second major 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, bioterror 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

attack could cause considerable casualties among nearby populations. Language in the DHS appropriations bill would, for the first time, empower DHS to set performance-based security standards for high-risk chemical facilities. That is approximately 3,400 facilities across this country.

Very importantly, this legislation will allow the Secretary of Homeland Security to shut down a noncompliant plant. I fought very hard for this authority to be included in the appropriations bill. It does no good to empower the Secretary to set these risk-based, performance-based standards but then provide the tools to enforce them.

I recognize there are many chemical plants and chemical companies across this country which have voluntarily taken strong steps to improve their security in the wake of the attacks on our country on 9/11. Unfortunately, the Department of Homeland Security has told us there are many plants which have not improved their security at all or which have taken insufficient measures. We can no longer rely on just voluntary compliance with industry standards.

So this legislation is landmark legislation. It closes a dangerous gap in our homeland security, and it has been included in the Homeland Security appropriations bill.

I would note that the language includes a three-year sunset. The reason for that is we will want to evaluate the effectiveness of this approach, the effectiveness of the regulations, and also consider other measures that were not included in this bill. The committee I am privileged to chair unanimously reported chemical-security legislation that was more comprehensive than the measures included in the appropriations bill. This will give us a chance to evaluate the efforts that have been taken, that will be taken, and then to go back and look at some of the issues that were not included.

I want to be very clear. This is a major step forward. It will help close a dangerous gap in our homeland security, and it is significant progress in eliminating or at least lessening a significant risk to our country.

These are three significant steps forward: the reform of FEMA, the port security bill, and the new authority for DHS to set security measures for chemical facilities. Each of them was made possible because of bipartisan cooperation. At times in this Chamber, we berate ourselves for failing to achieve consensus on legislation that is so important to the American people, but we did it in these three cases—or we are on the verge of doing it—and it is because we did have good cooperation and strong leadership. It was not easy. But the legislation we are passing will advance our ability to protect the American people.

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 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. When someone 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 wrong?

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—any American, 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.

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 safeguards America's national security. That is why I support the concept of military commissions: to protect U.S. intelligence and expedite judicial proceedings vital to military action under the Uniform Code of Military Justice. As we develop such means, we must also ensure our actions are not counterproductive to our overall effort to protect America at all levels.

The administration and the Republican leadership on this issue would have the American people believe—and this is the 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.

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 due 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 60 years ago when they determined how to deal with Nazi leaders guilty of horrendous crimes. There were strong and persuasive voices at that time crying out for the summary execution of those men who had commanded with ruthless efficiency the slaughter of 6 million innocent Jews and 5 million other innocent men and women. After World War Two, our country was forced to decide whether the accused criminals deserved trial or execution.

There was an article written recently by Professor Luban, a professor at Georgetown University, titled ''Forget Nuremberg—How Bush's new torture bill eviscerates the promise of Nuremberg.'' I ask unanimous consent that the entire article be printed in the RECORD.

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

FORGET NUREMBERG: HOW BUSH'S NEW TORTURE 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 up is not possible with a U.S. senator. 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 were sending 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 field manual on interrogation defined 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 some of the worst bits of the proposed ''compromise legislation'' on detainee treatment. But the fact is, virtually every word of the proposed bill is a capitulation, including ''and'' and ''the.'' And 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 include anyone who has ever provided lodging or given a cell phone to a Taliban foot soldier out of sympathy with his cause. Now, not only the foot soldier but also his mom can be detained indefinitely at Guantanamo.

But the real tragedy of the so-called compromise is what it does to the legacy of Nuremberg—a legacy we would have been celebrating next week at the 60th anniversary of the judgment.

What does the bill do to Nuremberg? Section 8(a)(2) holds that when it comes to applying the War Crimes Act, ''No foreign or international sources of law shall supply a basis for a rule of decision in the courts of the United States in interpreting the prohibitions enumerated in subsection 2441(d).'' That means the customary international law of war is henceforth expelled from U.S. war-crime law—ironic, to say the least, because it was the U.S. Army's Lieber Code that formed the basis for the Law of Armed Conflict and that launched the entire worldwide enterprise of codifying genuinely international humanitarian law.

Ironic also because our own military takes customary LOAC as its guide and uses it to train officers and interrogators. Apparently there is no need to do that anymore, at least when it comes to war crimes. That means goodbye, International Committee of the Red Cross; the Swiss can go back to their fondue and cuckoo clocks. It also means goodbye, jurisprudence of the Yugoslav tribunal, which the United States was instrumental in forming.

And also goodbye, Nuremberg.

Sept. 30 and Oct. 1 mark the 60th anniversary of the tribunal's judgment. If the opening chapters of Telford Taylor's superb The Anatomy of the Nuremberg Trials make one thing crystal clear, it's the burning desire of the United States to create international law using those trials. Great Britain initially opposed the Nuremberg trials and urged simply shooting top Nazis, out of fear they would use the trials for propaganda. Stalin favored conducting trials, but only to establish punishments, not guilt. Like Great Britain, he thought punishing the top Nazis should be a political, and not a legal, decision. The trials happened as they did only because the United States insisted on them for purposes of establishing future law—a task that summary justice at executive sayso could never have done.

At the London conference that wrote the Nuremberg Charter, France and Russia both objected to criminalizing aggressive war for anybody but the Axis countries. But Supreme Court Justice Robert Jackson, the American representative, insisted that creating universally binding international law was the prime purpose of the tribunal.

A compromise left the international status of Nuremberg law ambiguous—the tribunal's jurisdiction covered only the Axis countries, but nowhere does the charter suggest that the crimes it was trying were only crimes if committed by the Axis powers. Because of this ambiguity, the status of the Nuremberg principles as international law was not established until 1950, when the U.N. General Assembly proclaimed seven Nuremberg Principles to be international law. The American agenda had finally prevailed.

Well, forget all that as well. The Nuremberg Principles, like the entire body of international humanitarian law, will now have no purchase in the war-crimes law of the United States. Who cares whether they were our idea in the first place? Principle VI of the Nuremberg seven defines war crimes as ''violations of the laws or customs of war, which include, but are not limited to . . . ill-treatment of prisoners of war.'' Forget ''customs of war''—that sounds like customary international law, which has no place in our courts anymore. Forget ''ill-treatment''—it's too vague. Take this one: Principle II, ''The fact that internal law does not impose a penalty for an act which constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law.'' Section 8(a)(2) sneers at responsibility under international law. Or Principle IV: ''The fact that a person acted pursuant to order of his Government or of a superior does not relieve him from responsibility under international law , provided a moral choice was in fact possible to him.'' Moral, shmoral. The question is, do you want the program or don't you?

The Nuremberg trials presupposed something about the human conscience: that moral choice doesn't take its cues solely from narrow legalisms and technicalities. The new detainee bill takes precisely the opposite stance: Technicality now triumphs over conscience, and even over common sense. The bill introduces the possibility for a new cottage industry: the jurisprudence of pain. It systematically distinguishes ''severe pain''—the hallmark of torture—from (mere) ''serious'' pain—the hallmark of cruel and degrading treatment, usually thought to denote mistreatment short of torture. But then it defines serious physical pain as ''bodily injury that involves . . . extreme physical pain.'' To untutored ears, ''extreme'' sounds very similar to ''severe''; indeed, it sounds even worse than ''severe.'' But in any case, it certainly sounds worse than ''serious.'' Administration lawyers can have a field day rating painful interrogation tactics on the Three Adjective Scale, leaving the rest of us to shake our heads at the essential lunacy of the enterprise.

And then there is section 8(3), which says that ''the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions.'' Section (B) makes it clear that his interpretation ''shall be authoritative (as to non-grave breach provisions).''

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 the president the constitutional power to grant himself additional powers.'' It ended thusly: ''Republicans fearful that the president's new power undermines their ability to grant him power have proposed a new law that would allow senators to permit him to grant himself power.'' How life imitates art! In the end, the three courageous Republican holdouts didn't want the president unilaterally trashing Geneva. Now it turns out that the principle they were fighting for was simply Congress' prerogative to grant him the unreviewable power to do so.

Mr. DODD. He pointed out something that needs to be made clear. He said:

Make one thing crystal clear, it's the burning desire of the United States to create international law using those trials. Great Britain initially opposed the Nuremberg trials and urged simply shooting top Nazis out of fear, they would use the trials for propaganda. Stalin favored conducting trials only to establish punishments, not guilt. Like Great Britain, he thought punishing the top Nazis should be a political, and not a legal, decision. The trials happened as they did only because the United States insisted on them for purposes of establishing future law—a task that summary justice at executive say-so could never have done.

At the London conference that wrote the Nuremberg Charter, France and Russia both objected to criminalizing aggressive war for anybody but the Axis countries. But Supreme Court Justice Robert Jackson, the American representative insisted that creating universally binding international law was the prime purpose of the tribunal.

And he prevailed in that argument.

The history is particularly poignant to me because my father, who served in this body, from whose desk I speak this morning, served as Robert Jackson's No. 2, as the executive trial counsel at Nuremberg. Mr. President, the Nuremberg trials rendered their first judgment 60 years ago. What an irony indeed that 60 years ago this Saturday, one of the great, if not the greatest, trials of the 20th century was taking us to a point where we are now codifying and moving to international law. The enemies of the United States were not given the opportunity to walk away from their crimes. Rather, they were given the right to face their accusers, the right to confront evidence against them, the right to a fair trial. Underlying that decision was the conviction that this Nation must not tailor its most fundamental principles to the conflict of the moment and the recognition that if we did, we would be walking in the very footsteps of the enemies we despised.

As we approach this 60th anniversary, I think it is important to reflect on the implications of the past as we face new challenges, new enemies, and new decisions. Much as our actions in the postwar period affected our Nation's standing in the world, so, too, do our actions in the post- 9/11 era.

The Armed Services Committee, and I have great respect for my friend, JOHN WARNER, decided not to rubberstamp the administration's legislation. Instead they worked in a bipartisan way to craft a more narrowly tailored approach. Unfortunately, the bill we are discussing today is not the one that passed out of that committee. The bill before us today was worked out between several of our Republican colleagues and the White House and does not contain the improvements over the Bush administration's original proposal. I remain concerned about several provisions in the pending legislation.

The bill would strip detainees of their habeas corpus rights. The eloquent remarks of ARLEN SPECTER yesterday should be read by everyone. This longstanding tradition of our country that is about to be abandoned here will be one of the great mistakes I think history will record. There are strong beliefs among Senators on both sides that this provision is not only inadvisable but flatly unconstitutional as well. We must do everything in our power to protect our country from threats to our national security, but it is also incumbent upon every one of us to protect the very foundation upon which our Nation was established. This legislation will not achieve those aims.

I support the efforts, certainly of those who are trying to improve this bill, but I wish to conclude these remarks by quoting Justice Jackson. Justice Jackson said at the conclusion of the Nuremberg trials:

We must never forget that the record on which we judge these defendants today—is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our lips as well.

To rubberstamp the administration's bill, in my view, would poison one of the most fundamental principles of American democracy. I urge my colleagues not to move in that direction.

Also, if I can, I wish to read from this article which was written by Mr. Luban, talking about the Nuremberg trials, because it is an important moment in our history. He said:

The Nuremberg trials presupposed something about the human conscience: that moral choice doesn't take its cues solely from narrow legalisms and technicalities. The new detainee bill takes precisely the opposite stance: technicality now triumphs over conscience, and even over common sense. The bill introduces the possibility for a new cottage industry: the jurisprudence of pain. It systematically distinguished ''severe pain''—the hallmark of torture—from mere ''serious'' pain—the hallmark of cruel and degrading treatment, usually thought to denote mistreatment short of torture. But then it defines serious pain as ''bodily injury that involves . . . extreme physical pain.'' To untutored ears, ''extreme'' sounds very similar to ''severe''; indeed, it sounds even worse than ''severe.'' But in any case, it certainly sounds worse than ''serious.''

Administration lawyers can have a field day in the coming years reading painful interrogation tactics on the Three Adjective Scale, leaving the rest of us to shake our heads at the essential lunacy of the enterprise.

It is about conscience. It is the fundamental principle which we enshrined and fought for. It was the United States of America that stood and insisted that our allies try to do something to avoid future conflicts, 60 years ago this Saturday. To watch the Senate, on the anniversary of the Nuremberg trials, step away from that great tradition, those great principles enshrined at that time, I think is one of the saddest days I have ever seen in this Senate in my almost 30 years serving 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 politics is written into these decisions. This is the United States of America.

The PRESIDING OFFICER (Ms. Murkowski). The time of the Senator has expired.

Mr. DODD. I yield the floor.

Several Senators addressed the Chair.

Mr. WARNER. Madam President, will the distinguished leader allow me to say a few words?

I listened very intently. The Senator from Connecticut and I have, over many years, formed a very close personal and professional working relationship. I know the deep, abiding respect you have for your father and his work, particularly at that historic moment in the history of world jurisprudence, the Nuremberg trials. I regret that you perceive that this bill on the floor falls short of your idea 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 regard to the 1949 treaty, which, as you know, was in four parts, and the Common Article 3 to all four of those treaties, preserving this Nation's obligations under that treaty.

So while we have our differences, I just wish to conclude that I respect you greatly for the admiration you have for your father, as do I have for my father, who was a doctor during that period. I thank you for the opportunity 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 affection for what he and a group of Americans did at a time when others said abandon the rule of law: They stood up at a time when it was tempting not to do so. World opinion certainly was against them in many ways. These were dreadful human beings. These people murdered millions, incinerated millions of people. Yet people such as my father and Robert Jackson and others stood up and said: No, we are going to be different than they are. The rule of law is so critically important to us that we want to show the civility of this great country of ours and how the last part of the 20th century can be conducted differently. It is not just my affection for my father; it is more the affection for what they did in

a moment, against public opinion, to set the gold standard and set us apart.

We have been known as the nation of Nuremberg. My fear is now we will be known as the nation of Guantanamo, and I worry about that.

Mr. WARNER. We have our differences, if I may say, but that was a war of state-sponsored nations and aggressions, men wearing uniforms, men acting at the direction of recognized governments. Today's war is a disparate bunch of terrorists, coming overnight, no uniforms, no principles, guided by nothing. We are doing the best we can as a nation, under the direction of our President, to defend ourselves.

Mr. DODD. If our colleague would yield, I do not disagree, but I don't think there is a choice between upholding the principles of America and fighting terrorism. Every generation of Americans will face their own threats. This is ours. Every previous generation faced serious threats, and they did not abandon the principles upon which this country is founded. I am fearful we are going to do that today.

Mr. WARNER. I disagree with my friend, and I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. For this little conclusion, I will use leader time.

I ask unanimous consent that 5 minutes from Senator ROCKEFELLER and Senator KENNEDY—they both have a half hour on their respective amendments—be transferred to Senators CLINTON and JOHN KERRY. They will each have 5 minutes to speak. And that I have 12 minutes under my control remaining on the bill and that time be equally divided between Senators FEINSTEIN and FEINGOLD. They will each have 6 minutes to speak on the bill.

Mr. WARNER. Madam President, reserving the right to object, and I will not object, but I listened carefully. You courteously advised me that this request works within the confines of the standing unanimous consent, is my understanding, in terms of the allocation of time.

Mr. REID. This adds no time to the bill.

Mr. WARNER. That is correct. I wanted to make that clear to my colleagues.

Mr. LEAHY. Reserving the right to object. I shall not, of course. As a matter of clarification, there is still some specific time reserved to the Senator from Vermont; is that correct?

The PRESIDING OFFICER. There remains 23 minutes on the bill.

Mr. REID. That is 23 minutes, plus the good offices of Senator SPECTER may give the Senator additional time.

Mr. LEAHY. Thank you.

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 Virginia.

Mr. WARNER. Madam President, just for purposes of advising colleagues, there remains on the Specter amendment 16 minutes under the control of the Senator from Virginia. I desire to allocate about 4 minutes to Senator KYL, 2 to 3 minutes to Senator SESSIONS, and to wrap it up, 2 to 3 minutes to Senator GRAHAM. But we will alternate or do as the Senator from Michigan—you have 33 minutes, I believe, under the control of Senator SPECTER and those in support of his amendment.

Mr. LEVIN. Madam President, parliamentary inquiry: How much time is remaining to Members on this side, including on the bill?

The PRESIDING OFFICER. Senator SPECTER's side controls 33 minutes.

Mr. LEVIN. On the Democratic side?

The PRESIDING OFFICER. Senator WARNER controls 16 minutes, and the proponent of the amendment controls 33.

Mr. LEVIN. And on the bill itself, is there time left?

The PRESIDING OFFICER. Senator REID has allocated the remainder of the debate time on the bill itself.

Mr. LEVIN. All time is allocated?

The PRESIDING OFFICER. Correct.

Mr. LEVIN. Madam President, I ask unanimous consent that I be allowed to proceed for 30 seconds.

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

Mr. LEVIN. Madam President, I wish to thank the Senator from Connecticut for one of the most passionate statements I have ever heard on this floor—heartfelt, right on target. The distinctions made in this bill which will allow statements to be admitted into evidence that were produced by cruel treatment is unconscionable. It is said that, well, statements made after December 30 of 2005 won't be allowed, but those that are produced by cruel and inhuman treatment prior to December 30 of 2005 are OK. It is unconscionable. It is unheard of. It is untenable, and the Senator from Connecticut has pointed it out very accurately, brilliantly. I thank him for his statement.

Mr. WARNER. Madam President, we will proceed on Specter's amendment. In due course, I will find the time to comment on my colleague's 30 seconds. I want to keep this thing in an orderly progression. I would like to add the Senator from Texas, Mr. CORNYN, in the unanimous consent agreement to be recognized as one of the wrap-up speakers on those in opposition to the amendment.

I yield the floor.

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 make the government'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 ''perverse 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 of the United States. The fact that the Hamdi plurality rejected this type of geographical gamesmanship in one context casts doubt on the theory that it endorsed it in a closely related context. (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, cf. 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 argument that the constitutional writ 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 principles noting that ''[a]ll agree'' 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 called upon to consider the legality 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 524, the plurality once again emphasizes: ''there remains the question of what process is constitutionally due to a citizen who disputes his enemy-combatant status.'' On page 531: ''We reaffirm today the fundamental nature of a citizen's right to be free from involuntary confinement by his own government without due process of law.'' On page 532: ''neither the process proposed by the Government nor the process apparently envisioned by the District Court below strikes the proper constitutional balance when a United States citizen is detained in the United States as an enemy combatant.'' On page 533: ''We therefore hold that a citizen-detainee seeking to challenge his classification as an enemy combatant must receive notice of the factual basis for his classification, and a fair opportunity to rebut the Government's factual assertion before a neutral decisionmaker.'' On page 535: military needs ''are not so weighty as to trump a citizen's core rights to challenge meaningfully the Government's case and to be heard by an impartial adjudicator.'' And on page 536–37: ''it would turn our system of checks and balances on its head to suggest that a citizen could not make his way to court with a challenge to the factual basis for his detention by his government.''

Whatever loose language may have been used in the plurality's statement of general principles at the outset of its analysis, it is apparent that the only issue that the plurality actually studied and intended to address is the constitutional rights of the U.S. citizen.

Another thing that augurs against interpreting the Hamdi plurality opinion to extend constitutional habeas rights to alien enemy combatants whenever they are held inside the United States is that, elsewhere in its opinion, the plurality is quite critical of a geographically-based approach to enemy combatant's rights. At page 524, the plurality responds to a passage in Justice Scalia's dissent that it reads as arguing that the government's ability to hold someone as an enemy combatant turns on whether they are held inside or outside of the United States. The plurality opinion states that making the ability to hold someone as an enemy combatant turn on whether they are held in or out of the United States:

> creates a perverse incentive. Military authorities faced with the stark choice of submitting to the full-blown criminal process or releasing a suspected enemy combatant captured on the battlefield will simply keep citizen-detainees abroad. Indeed, the Government transferred Hamdi from Guantanamo Bay to the United States naval brig only after it learned that he might be an American citizen. It is not at all clear why that should make a determinative constitutional difference.

It is doubtful that this same plurality—one that sees ''perverse'' effects in rules that would encourage the government to hold enemy combatants outside of the United States in order to avoid burdensome litigation—also intended to rule that full constitutional habeas rights attach to alien enemy combatants as soon as they enter U.S. airspace.

Finally, Senator SPECTER's argument that the ambiguous reference to ''individuals'' on page 525 of Hamdi extends habeas rights to foreign enemy combatants held inside U.S. territory is inconsistent with the common sense interpretive rule that one does not ''hide elephants in mouseholes.'' *Whitman* v. *American Trucking Association*, 531 U.S. 457, 468 (2001). Although this rule of construction typically is applied by the court to our enactments, I see no reason why its logic would not operate when applied in reverse, by members of this body to the court's opinions.

For the Hamdi court to have extended constitutional habeas rights to alien enemy soldiers held inside the United States would have been a major decision of enormous consequence to our nation's warmaking ability. As the Hamdi plurality itself noted, ''detention to prevent a combatant's return to the battlefield is a fundamental incident of waging war.'' As I noted yesterday, during World War II the United States detained over 425,000 enemy war prisoners inside the United States. Yet as Rear Admiral Hutson—no supporter of section 7 of the MCA—noted in his testimony at Monday's Judiciary Committee hearing, aside from one petition filed by an American of Italian descent, no habeas petitions challenging detention were filed by any of these World War II enemy combatants. It is simply inconceivable that all of the 425,000 enemy combatants held inside 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 find some accommodations for them 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 turn on whether we could find 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 question before the court. This 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 disagree with the reading 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 hardly 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. There 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 statutory, 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 time? 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 grandparents did or 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 fundraising 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 charitable fundraising for 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. And perhaps an overzealous 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, this is 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 know 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, or if you do not 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 who live and work among us, to say nothing of 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 just those 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 the 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 battlefield, but it would apply to any alien picked up anywhere in the world and suspected of possibly supporting enemies of the United States.

We do not need this bill for those truly 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.

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 any alien awaiting—what a bureaucratic term, to determine your basic human rights, ''any alien awaiting''—a Government determination as to whether the alien is an enemy combatant. The Government would be free to delay as long as it liked—for years, for decades, for the length of the conflict which is so undefined and may last for generations.

One need only look at Guantanamo. Even our own Government says 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 stand here proudly and 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 against the Specter-Leahy 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 three respects. First, 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 checks in our legal system that provide against arbitrarily detaining people for life without charge. It will remove the mechanism the Constitution provides to stop the Government from overreaching and lawlessness.

This is so wrong. It grieves me, after three decades in this Senate, to stand here knowing we are thinking of doing this. It is so wrong. It is unconstitutional. It is un-American. It is designed to ensure the Bush-Cheney 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 that. We have a rubberstamp 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 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. We will be weaker 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 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 those detained by the U.S. government who have been or may be deemed to be enemy combatants: Detainees will have no ability to challenge the conditions of their detention in court unless and until the 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 specifies 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,'' 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 either bill that Congress is currently seeking to place upon the executive's claimed power.

We recognize the need to prevent and punish crimes of terrorism and 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 this effort would endanger 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 squared with the principles of transparency and rule of law on which our constitutional democracy rests.

The Congress would gravely disserve our global reputation as a 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 Latrobe Smith Professor of International Law, Yale Law School.

Harold J. Krent, Dean & Professor, Chicago-Kent College of Law.

Lydia Pallas Loren, 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 Tulsa College of Law.

Evan Caminker, Dean and Professor of Law, University of Michigan Law School.

Judge 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 Crossley, 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. Farage 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. Paris, 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. Goldner, 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 Pernell, Dean and Professor, Northern Illinois University College of Law.

Rex R. Perschbacher, 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 Pitegoff Dean and Professor of Law, University of Maine School of Law.

Efrén Rivera 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 Juárez, 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, Seattle, Washington.

Brad Saxton, Dean & Professor of Law, Quinnipiac University School of Law.

Stewart J. Schwab, the Allan R. Tessler Dean & Professor of Law, Cornell Law School.

Geoffrey B. Shields, President and Dean and Professor of Law, Vermont Law School.

Aviam Soifer, 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. Blumberg 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 so much further than that. It takes an entirely dismissive 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 it. It does not require a 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?

Is our Government is so weak or 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 by doing to 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 deadliest attack on 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, 6 weeks before a midterm election, as the fundraising letters are running around, the Bush-Cheney administration and its supplicants in Congress deem a complete abolition of the writ the highest priority, a priority so urgent that we are allowed no time to properly review, debate, and amend a bill we first saw in its current bill less than 72 hours ago. There must be a lot of fundraising letters going out.

Notwithstanding the harm the administration has done to national security—first by missing their chance to stop September 11 and then with their mismanaged misadventures in Iraq—there is no new national security crisis. Apparently, there is only a Republican political crisis. And that, as we know, is why this un-American, unconstitutional legislation is before us today.

We have a profoundly important and dangerous choice to make today. The danger is not that we adopt a pre-9/11 mentality. We adopted a post-9/11 mentality in the PATRIOT Act when we declined to suspend the writ, and we can do so again today.

The danger, as Senator FEINGOLD has stated in a different context, is that we adopt a pre-1776 mentality, one that dismisses the Constitution on which our American freedoms are founded.

Actually, it is worse than that. Habeas corpus was the most basic protection of freedom that Englishmen secured from their King in the Magna Carta. The mentality adopted by this bill, in abolishing habeas corpus for a broad swath of people, is not a pre-9/11 mentality, it is a pre-1215—that is the year, 1215—mentality, a mentality we did away with in the Magna Carta and our own Constitution.

Every one of us has sworn an oath to uphold the Constitution. In order to uphold that oath, I believe we have a duty to vote for this amendment—the Specter-Leahy amendment—and against this irresponsible and flagrantly unconstitutional bill. That is what I will do.

The Senator from Vermont answers to the Constitution and to his conscience. I do not answer to political pressure.

Madam President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Virginia.

Mr. WARNER. Madam President, we have colleagues on this side who are ready to proceed. Now, there is a great deal of time left on the other side, but in order of preference, I say to Senator SESSIONS, if you are ready to proceed.

Mr. SESSIONS. Madam President, I will be pleased to do so.

Mr. WARNER. Madam President, might I inquire of the amount of time under my control for those in opposition to the amendment?

The PRESIDING OFFICER. Senator WARNER controls 11 minutes.

Mr. WARNER. Eleven minutes.

The PRESIDING OFFICER. Senator SPECTER controls 20 minutes.

Mr. SESSIONS. Madam President, if the chairman would approve, I would ask for 3 minutes.

Mr. WARNER. Yes. And following that, Senator CORNYN for such time as he may need.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, habeas corpus—the right to have your complaints heard while in custody—is a part of our Constitution. But we have to remember habeas corpus did not mean everything in the whole world when it was adopted. So what did ''habeas'' mean? What does it mean today and at the time it was adopted? It was never, ever, ever, ever intended or imagined that 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 to provide it to 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 and GRAHAM, and I associate myself generally with those remarks, but I want to recall that in a spate 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, primarily. 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 the CIA was out talking with people who had criminal records who may have been involved in violence, and this was somehow making our CIA complicitous 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. Madam President, I ask unanimous consent for an additional minute.

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

Mr. SESSIONS. After 9/11, we realized 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.

Madam President, I yield the floor.

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 correct.

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, with not 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 laws 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 may 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 permit an individual to be convicted on the basis of coerced testimony and hearsay, would not allow full judicial review of the conviction, and yet would allow someone convicted under these rules to be put to death. That is just simply unacceptable.

Not only that, this legislation would deny detainees at Guantanamo Bay and elsewhere—people who have been held for years but have not been tried or even charged with any crime—the ability to challenge their detention in court. The legislation before us is better than that originally proposed by the President, which would have largely codified the procedures the Supreme Court has already rejected. And that is thanks to the efforts of some of my Republican colleagues, for whom I have great respect and admiration. But this bill remains deeply flawed, and I cannot support it.

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 laws of our great Nation to challenge 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. But that argument is circular. The writ of habeas allows those who might be mistakenly detained 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 larger 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 designated by 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 and 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 undergirds our entire 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 ought to be 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 suspension 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 alleged 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. But people 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 effect would be to give greater protections to the likes of Khalid Sheikh Mohammed than to the vast majority of the Guantanamo detainees.

How does this make any sense? Why would we turn our back on hundreds of years of history and our Nation's commitment to liberty?

We have already, in the Detainee Treatment Act, said that no new habeas challenges can be brought by detainees at Guantanamo Bay. The Supreme Court found in Hamdan v. Rumsfeld that the Detainee Treatment Act did not apply to Hamdan's pending habeas petition, and went forward with considering his argument that the President's military commission structure was illegal. And I would think that we should all be pleased that it did so, because otherwise we would have had to wait for several more years for Hamdan's trial to be completed before he would have had any chance to challenge the President's military commission system in court. The Supreme Court's decision striking down those commissions would have occurred several years later. And we would be right back where we are now, but with several more years of delay.

There is another reason why 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. And this provision will only serve to harm others' perception of our system of government.

A group of retired diplomats sent a very moving letter explaining 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 larger world.

They went on to explain further:

> The perception of hypocrisy on our part—a sense that we demand of others a behavioral ethic we ourselves may advocate but fail to observe—is an acid which can overwhelm our diplomacy, no matter how well intended and generous.

That is a direct 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 dedicated patriotic 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 that 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, the 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 perpetrated 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 suggest 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 combatant status review tribunal, with elaborate procedures to make sure there is a fair hearing, but then a right to appeal to the District of Columbia 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 facts—but also to attack the constitutionality of the system should they choose 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? But the fact is, to do what the 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 provided an 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 being 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 there ought to be a fair process 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's side on the bill.

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

Mr. BOND. Mr. President, I appreciate the opportunity to talk generally about the bill. I have already spoken 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 grandchildren—none 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, 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 reauthorization 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 troops or allies?

Some propose to handcuff our ability to discover terrorist plots. They propose to make it hard to listen in on a potential terrorist calling from a foreign country, or to a foreign country to discuss terror plans.

If al-Qaida 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 amendment.

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, are 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 be used and we print them in the Federal Register, they will be in an al-Qaida 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-Qaida 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 vulnerable to prosecution and handcuff their efforts and leave the rest of us vulnerable to terror plots that went undiscovered.

Right now, these people are worried and they are buying insurance. People who are trying to carry out the very important intelligence missions of the United States, if they ask any questions, or if they don't give them four square meals a day and keep them in a comfortable motel, they are afraid they are going to get sued. We need to give protection to the people who are operating within the law as we are laying it out to make sure they don't cross over the line.

The problem we have is that if the critics take away the valuable tools we have in breaking apart terror plots, we are going to be significantly less safe. As the President said, the CIA interrogation program has already succeeded in breaking apart terror conspiracies and preventing several terror attacks. Critics within the program are preventing us from punishing terrorists and gaining valuable information that could prevent future attacks.

One thing I, along with the President and my Republican colleagues, share with the war critics is a strong opposition to torture. It is abhorrent, evil, and has no place in the world. What I oppose is how terror war critics would go soft on terror suspects, allowing them comforts they surely don't deserve.

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 deserve? Cookie care packages?

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 Ramzi 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 Srebenica, Bosnia allowing the genocide of its men and boys?

Where 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.

Some say that the 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 made 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 went 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 been watching too many Law and Order TV shows if they think some hokey good cop—bad cop law enforcement approach will work on al-Qaida.

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 our fight against terror. 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 compass of America's future points to this bill. We live in an age 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 war secrets, giving 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 that the remaining time on the Specter amendment under the control of Senator SPECTER, and the time in opposition under my control, be now utilized by colleagues, such that we can move to that vote.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. That is not a unanimous consent request, is it?

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 on the use 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 minutes on the bill. I have 47 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.

Mrs. FEINSTEIN. Mr. President, I strongly believe the true test of a nation comes when we face hard decisions and hard times. It is really not the easy decisions that test our character and our commitment to fundamental principles and values. It is when the easy answer is not the right answer, but is politically expedient.

We face one of those times right now. The war against terror has challenged our country to fight a nontraditional enemy—one that is not part of any State or military. The enemy does not wear a uniform, it has no code of ethics, and it relishes in the killing of innocents. It strikes in cowardly ways. They have also challenged us as to whether we can continue during this period in fighting this enemy to abide by the bedrock of our justice system, the Constitution.

Before us on the floor of the Senate is a bill to address how our country will interpret the Geneva Conventions, and how we will treat those we apprehend and detain in this nontraditional, asymmetric war.

I truly believe that how we answer these challenges will not only test our commitment to our Constitution, but it will also test our very foundation of justice. It sends a message, also, to other countries—a message that will ultimately dictate how our soldiers and personnel are treated should they be captured by others.

Earlier this month, a bipartisan group of Senators worked together to develop a solution to these complex issues, and the Armed Services Committee reported a compromise military commissions bill to the Senate by a vote of 15 to 9.

Unfortunately, that is not the bill that is before this body today. Instead, House and Senate Republicans met with the White House and made changes that significantly altered the impact of this legislation and changed the bill in such a manner that I cannot at present support its passage without substantial amendment.

I do not believe the bill before us is constitutional. It is being rushed through a month before a major election in which the leadership of this very body is challenged.

The first of my concerns is the issue of habeas corpus. I very much support the amendment offered by the chairman of the Judiciary Committee. The bill before us eliminates a basic right of the American justice system, and that is the right of habeas corpus review. It is constitutionally provided to ensure that innocent people are not held captive or held indefinitely.

Habeas corpus has been a cornerstone of our legal system. It goes back, as it has been said, to the days of the Magna Carta. Our Founding Fathers enshrined this right in the Constitution because they understood mistakes happen and there is need for someone to appeal a mistake or a wrong conviction.

Just a few weeks ago, a man named Abu Bakker-Qassim, who was held at

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. Qassim said it was only because of 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 been—or if abuses are taking place—and its likely some have—there must be an avenue to address these problems. Eliminating habeas corpus rights is a serious mistake and it will open the door to other efforts to remove habeas corpus.

Next, I am very concerned about the ability to use coerced testimony. This will be the first time in modern history that United States military tribunals will be free to admit evidence that was obtained through abusive tactics so long as the judge determines it is reliable and relevant or so long as it was obtained before December 30, 2005.

We have heard from countless witnesses that coerced testimony is inherently unreliable. We don't want to send the message that coercion is an acceptable tactic to use on Americans as well.

The fact is we had testimony in the Judiciary Committee from the head of all of the Judge Advocate Corps who said they did not believe torture worked.

I am very concerned about the definition of torture and the lack of clarity on cruel and inhumane treatment—especially combined with giving the President discretion to decide what he believes interrogation methods are permissible.

We have already seen through press reports that this administration pushes the boundaries on allowable interrogation techniques and these abuses cannot continue.

Finally, I am concerned about the rules for what evidence may be used to convict someone and then their limited ability to have a court review their case.

If one is not allowed to know what the basis of conviction was and then is only given limited judicial review of their conviction, how can we be confident that we are not holding innocent people who were caught in the wrong place at the wrong time—such an outcome severely harms our standing in the global community.

I believe these issues are too important for us to rush through a bill of this magnitude.

These are difficult times and difficult issues. However, I do not believe the expediency of the moment or the political winds of an impending election should lead us to abandon our core values as a Nation.

The Founding Fathers created specific constitutional limitations. And since that time the United States 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 Oregon.

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 I do know if we are going 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 our rule of law 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 inconveniences 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 provide the President with this unilateral authority by enacting legal restrictions aimed at stripping courts of jurisdiction to hear habeas claims. In doing so, the President does not have to show any cause for detaining an individual labeled an ''unlawful enemy combatant.''

Stripped of jurisdiction by recent legislation, U.S. courts will not have the ability to hear an individual's request to learn why he is even being detained. Providing detainees with the right to ask a court to evaluate the legality of their detention I believe would not cost U.S. lives. However, it will test American laws.

Claims have been made that providing detainees the right to hear why they are being detained necessitates providing them with classified information. I do not believe this to be true. Similar to the military commission legislation, it would only allow a judge or an attorney with security clearance to see the evidence against the defendant to evaluate its reliability and probative value.

Permanent detention of foreigners without reason damages our moral integrity regarding international rule of law issues. To quote: ''History shows that in the wrong hands, the power to jail people without showing cause is a tool of despotism.'' A responsibility this Nation has always assumed is to ensure that no one is held prisoner unjustly.

Stripping courts of their authority to hear habeas claims is a frontal attack on our judiciary and its institutions, as well as our civil rights laws. Habeas corpus is a cornerstone of our constitutional order, and a suspension of that right, whether for U.S. citizens or foreigners under U.S. control, ought to trouble us all. It certainly gives me pause.

The right to judicial appeal is enshrined in our Constitution. It is part and parcel of the rule of law. The Supreme Court has described the writ of habeas corpus as ''the fundamental instrument for safeguarding individual freedom against arbitrary and lawless State action.''

Some of the darkest hours in our Nation's history have resulted from the suspension of habeas corpus, notably the internment of Japanese Americans during World War II.

Obviously, I am not here to question the wisdom of Abraham Lincoln. We have had 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, I 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 claims 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 detainment 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 he:

> 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 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 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 intend to vote for 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. SPECTER. 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 Specter-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, not just 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 corpus 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 detainee was tortured 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 to a foreign country 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-stripping provision, this 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 use coerced testimony, 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 made by the government. Courts 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 rights 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 law.

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 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 a person of liberty without some independent review to ensure that the detention has a reasonable basis in law and fact. That right must be preserved. Fair hearings do not jeopardize our security. They are what our country stands for.

We have received similar letters from nine distinguished retired Federal

judges, from hundreds of law professors from around the United States, and from many others.

If we don't strike this court-stripping language in the bill before us, if instead of Congress being a check on excessive executive power, Congress attempts to write a blank check to the executive branch, our expectation is that the courts will find this provision to be a legislative excess and strike it down as unconstitutional. We have a chance to do the right thing and not just to rely on the courts. This body is the body of last resort legislatively when it comes to protecting that great writ of habeas corpus which is in the Constitution. I hope we live up to that responsibility today.

Mr. BYRD. Mr. President, the military commissions bill before us would strip from the U.S. Constitution of one of its most precious protections: the writ of habeas corpus. The Great Writ. The bill would deny those who are detained indefinitely—even those who may be innocent—the opportunity to challenge their detention in court.

Habeas corpus is a procedure whereby a Federal court may review whether an individual is being improperly detained. The concept of habeas corpus is deeply rooted in the English common law and was specifically referenced in the Magna Carta of 1215, which stated:

> No Freeman shall be taken, or imprisoned, or be disseised of his Freehold, or Liberties, or free Customs, or be outlawed, or exiled, or any otherwise destroyed; nor will we pass upon him, nor condemn him, but by lawful Judgment of his Peers, or by the Law of the Land.

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 people against their will without due process of law.

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 debate today could imprison indefinitely, without access to the courts, not just suspects picked up overseas but even those taken into custody on U.S. soil.

Some persons detained at Guantanamo 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 some detainees may be innocent. Some 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 notable 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 ''suspended,'' meaning temporarily. 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 that were built into our system by the Framers? They included an explicit prohibition against blanket suspension of the writ of habeas corpus precisely to protect innocent persons from being subject to arbitrary and unfair action by the state.

This flagrant attempt to deny a fundamental right protected by the Constitution reveals how White House and Pentagon advisers continue to chip away at the separation of powers. They relentlessly pursue their dangerous goal of consolidating power in the hands of the Executive at the expense of the Congress, the judiciary, and, sadly, the People. How can we even contemplate such an irresponsible and dangerous course as this de facto canceling of the writ of habeas corpus.

The Constitution of the United States is a time-tested contract between our people and their Government, for which thousands of American military men and women have died. Why would we seek to violate its terms? Aren't we fighting the terrorists precisely to preserve individual liberties and the rule of law? If we as a people jettison the very democratic ideals that have made our Nation great and we become, instead, exactly like those whom we seek to imprison—standing for nothing and capable of anything—then what are we fighting for? And if we indefinitely and illegally detain innocent parties of other nations, with what credibility can we request that they release our own?

Mr. President, I ask my colleagues to join me in support of the amendment that has been offered to preserve the writ of habeas corpus.

Mr. REID. Mr. President, I have received a letter from over 100 law professors and other distinguished citizens expressing their opposition to the habeas corpus provisions in the military tribunal bill. They urge support for the Specter-Leahy amendment to remedy that flaw. I ask unanimous consent that the letter be printed in the RECORD.

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

Hon. BILL FRIST,
Majority Leader, U.S. Senate, Washington, DC.
Hon. DENNIS HASTERT,
Speaker, House of Representatives, Washington, DC.
Hon. HARRY REID,
Democratic Leader, U.S. Senate, Washington, DC.
Hon. NANCY PELOSI,
Democratic Leader, House of Representatives, Washington, DC.

DEAR SENATOR FRIST, SENATOR REID, SPEAKER HASTERT AND REP. PELOSI: We agree with the views set forth in the undated letter sent this month to Members of Congress from Judge John J. Gibbons, Judge Shirley M. Hufstedler, Judge Nathaniel R. Jones, Judge Timothy K. Lewis, Judge William A. Norris, Judge George C. Pratt, Judge H. Lee Sarokin, Judge William S. Sessions, and Judge Patricia M. Wald.

These nine distinguished, retired federal judges expressed deep concern about the lawfulness of a provision in the Military Commissions Act of 2006 stripping the courts of jurisdiction to test the lawfulness of Executive detention outside the United States.

This matter is even more urgent now. The provision would eliminate habeas for all alleged alien enemy combatants, whether lawful or unlawful, even if they are detained in the United States.

We concur with the request made by the judges that Congress remove the provision stripping habeas jurisdiction from the proposed Military Commissions Act.

Respectfully, (100 Signatures)

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, how much time is remaining?

The PRESIDING OFFICER. On which side?

Mr. GRAHAM. On the Warner side.

The PRESIDING OFFICER. Senator WARNER has 4 minutes in opposition to the Specter amendment.

Mr. WARNER. Mr. President, I yield that to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. GRAHAM. Mr. President, this has been a very spirited debate and I am going to give you a spirited answer to what I am proposing with my vote. No. 1, my moral compass is very much intact, and when people mention moral compasses and the conscience of the Senate, I am going to sleep very good casting my vote. I think I have a decent moral compass about what we should be doing to people: What is humane, what is not; what is right, what is wrong. I have tried to balance the interests of our troops and the interests

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 prospectively 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 habeas cases left unattended 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 of our country 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 wavering neutrals.

I agree with that.

> It would be difficult to devise a more effective fettering of a field commander than to allow the very enemies he has ordered to reduce to submission to call him to account in his own civil courts and divert his efforts and attention from the military offensive abroad to the legal defensive at home.

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 litigiousness would be 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 I am 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, under the Combatant Status Review Tribunal system, 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 basic 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 redefine the rights of an enemy combatant, noncitizen—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 being no objection, 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 Army medic in firefight and who comes from family with longstanding al Qaeda ties moves for preliminary injunction forbidding interrogation of him or engaging in ''cruel, inhuman, or degrading'' 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 that their counsel be given high-speed internet access at their lodging on the base and be allowed to use classified DoD telecommunications facilities, all on the theory that otherwise their ''right to counsel'' is unduly burdened.

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. ''Paracha—Motion for PI re Conditions''—Motion by high level al Qaeda detainee complaining about base security procedures, speed of mail delivery, and medical treatment; seeking an order that he be transferred to the ''least onerous conditions'' at GTMO and asking the court to order that 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, 8th, 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 policies and show detainees DVDs that are purported to be family videos.

7. ''Petitioners' Supp. Opposition''—Filing by detainee requesting that, as a condition of a stay of litigation pending related 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 of confinement.

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 ''tafsir'' 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 what might be interpreted to be in favor of enemy combatants, but that is not what this Senator is doing. What I am trying to establish is a course of judicial procedure 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 1936, 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 brutal, coerced confession and, 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 witness firsthand on a daily basis 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 issue 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. That is point No. 1.

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 Rasul 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 privilege of 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 Rasul 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 would take our civilized 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 the 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 whether due process is decided. 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 should 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 allows 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 protection against 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 document of the Constitution itself 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 the 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 stress to the body is 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 impedes 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 over 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.

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

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

The question is on agreeing to the amendment. 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 (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—48

Akaka	Feingold	Mikulski
Baucus	Feinstein	Murray
Bayh	Harkin	Nelson (FL)
Biden	Inouye	Obama
Bingaman	Jeffords	Pryor
Boxer	Johnson	Reed
Byrd	Kennedy	Reid
Cantwell	Kerry	Rockefeller
Carper	Kohl	Salazar
Chafee	Landrieu	Sarbanes
Clinton	Lautenberg	Schumer
Conrad	Leahy	Smith
Dayton	Levin	Specter
Dodd	Lieberman	Stabenow
Dorgan	Lincoln	Sununu
Durbin	Menendez	Wyden

NAYS—51

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

NOT VOTING—1

Snowe

The amendment (No. 5087) was rejected.

Mr. WARNER. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, the managers of the bill have been 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.

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 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, Mrs. CLINTON, Mr. WYDEN, Ms. 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 PROGRAMS.

(a) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY REPORTS ON DETENTION AND INTERROGATION PROGRAM.—

(1) QUARTERLY REPORTS REQUIRED.—Not later than three months after the date of 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 during the preceding three months.

(2) ELEMENTS.—In addition to any other matter necessary to keep the congressional intelligence committees fully and currently informed about 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) A description of any detention facility operated or used by the Central Intelligence Agency.

(B) A description of the detainee population, including—

(i) the name of each detainee;

(ii) where each detainee was apprehended;

(iii) the suspected activities on the basis of which each detainee is being held; and

(iv) where each detainee is being held.

(C) A description of each interrogation technique authorized for use and guidelines on the use of each such technique.

(D) A description of each legal opinion of the Department of Justice and the General Counsel of the Central Intelligence Agency that is applicable to the detention and interrogation program.

(E) The actual use of interrogation techniques.

(F) A description of the intelligence obtained as a result of the interrogation techniques utilized.

(G) Any violation of law or abuse under the detention and interrogation program by Central Intelligence Agency personnel, other United States Government personnel or contractors, or anyone else associated with the program.

(H) An assessment of the effectiveness of the detention and interrogation program.

(I) An appendix containing all guidelines and legal opinions applicable to the detention and interrogation program, if not included in a previous report under this subsection.

(b) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY REPORTS ON DISPOSITION OF DETAINEES.—

(1) QUARTERLY REPORTS REQUIRED.—Not later than three months after the date of 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 detainees who, during the preceding three months, were transferred out of the detention program of the Central Intelligence Agency.

(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:

(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.

(C) For each detainee who was transferred to the custody of the Attorney General for prosecution in a United States district court, the name of the detainee and a description of the activities that may be the subject of the prosecution.

(D) 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.

(E) For each detainee who was rendered or otherwise transferred to the custody of another nation during or before the preceding three months—

(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 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 17 of the Central Intelligence Agency 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 the enactment of this Act, and promptly upon any subsequent approval of interrogation techniques for use by the Central Intelligence Agency, the Attorney General shall submit to the congressional intelligence committees—

(1) 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

(2) an explanation of why each approved technique complies with the Constitution of the United States and all applicable treaties, statutes, Executive orders, and regulations.

(e) FORM OF REPORTS.—Except as provided in subsection (d)(1), each report under this section shall be submitted in classified form.

(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:

(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.

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 black sites under 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 funding of every CIA 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 to meaningful congressional oversight for the first time in 4 years by requiring 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, whether the detainee was transferred to the custody of the Attorney General to stand trial in civilian court, or whether the detainee was rendered or otherwise transferred to the custody of another nation.

There needs to be 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—they say this constantly to us—they do 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 other terror suspects to prevent 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 rendition 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, and 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 under 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 mission 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 how the Senate finds itself rushed 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 treatment of detainees, 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 directly impact America's moral 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 captured.

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 clear for saying to a President and an administration that we would trust them.

Today, we face a different choice—to prevent an irreversible mistake, not to correct one. It is to stand and be counted so that election-year politics do not further compromise our moral authority and the safety of our troops.

Every Senator must ask him 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 incident 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 down this road.

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 he has promised to submit his interpretations of the Geneva Conventions 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 has done away with something as specific as habeas corpus, of which the Constitution says: ''[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.''

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 that he was taught at Fort Benning, GA, about the importance of the Geneva Conventions. He didn't know what it meant until he arrived in Baghdad. Paul wrote:

> America's moral integrity was the single most important weapon my platoon had on the streets of Iraq. It saved innumerable lives, encouraged cooperation with our allies and deterred Iraqis from joining the growing insurgency. But those 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 can afford now is to leave Article 3 of the Geneva Conventions open to reinterpretation, as President Bush proposed to do and can still do under the compromise bill that emerged last week.

We each need to ask ourselves, in the rush to find a ''compromise'' we can all embrace, are we strengthening America's moral authority or eroding it? Are we on the sides of 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 Conventions, we will cede 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 more 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 protects our troops, 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, Senator WARNER, and 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 meaning and application of the Geneva Conventions. This bill gives an administration that lobbied for torture exactly what it wanted.

We are supposed to believe that there is an effective check on this expanse of Presidential power with the requirement that the President's interpretations be published in the Federal Register.

We shouldn't kid ourselves. Let's assume the President publishes his interpretation of permissible acts under the Geneva Convention. The 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 guess 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.

Could 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 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 keep setting the rules—rules his administration have spent years now trying to blur.

Presidential discretion is not the only problem. The definitions of what constitute ''grave breaches'' of Article 3 are murky. Even worse, they are not consistent with either the Detainee Treatment Act or the recently revised Army Field Manual. These documents prohibit ''cruel, inhumane, or degrading treatment'' defined as ''the cruel, unusual, and inhumane treatment or punishment 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.'' Nowhere 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 an 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 word of the President of 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 reserving 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 this 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 undermined 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.

They are 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 intelligence, put it:

> No good intelligence is going to come from abusive practices. I think history tells us that. I think the empirical evidence of the last five years, hard years, tell us that. Any piece of intelligence which is obtained under duress, through the use of abusive techniques, would be of questionable credibility. And additionally, it would do more harm than good when it inevitably became known that abusive practices were used. We can't afford to go there.

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 elimination 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 aliens 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 Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion 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 determines is an ''enemy combatant,'' even if they are lawfully on U.S. soil and otherwise entitled to full constitutional 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 discretion that he is an unlawful combatant, and hold him in jail—be it Guantanamo Bay or a secret CIA prison—indefinitely. Once the Combatant Status Review Tribunal determines that person is an enemy combatant, that is the end of the story—even if the determination is based on evidence that even a military 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 fundamental: whether people can be locked up forever without even getting 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 Government 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 effectively gather 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 our system of checks and balances; 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 Senator's time has expired.

Mr. WARNER. Mr. President, I yield 5 minutes to our colleague from Missouri.

The PRESIDING OFFICER. The Senator 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, this military commissions bill, is absolutely essential if we are going to continue to have good intelligence and move forward with the program of interrogating 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 unnecessary, but the simple fact is, the unintended effect is it would complicate the passage of this important military commissions bill. It would either delay or perhaps even derail this bill, which is absolutely essential if we are to get our CIA agents back in the field doing appropriately limited interrogation techniques to find out what attacks are planned against the United States.

The President has pointed out, the interrogation is the thing that has uncovered plots that could have been very serious. We need to have our CIA professionals 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, the intelligence was inadequate 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. But 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 question 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 comply 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, he requires every 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 spread 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 learned about comply—even though 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 don't know is most important. They don't 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-Qaida 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 catch someone 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 regarding the bill.

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 all 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 shameful. 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 one of the most valuable 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 terrorists 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 attack Heathrow Airport 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 program to continue. The CIA must be allowed to continue going after those who have information about planned terrorist attacks against our Nation and our friends. The CIA must be allowed to go after those who are in combat with us.

I applaud the White House, the Senate leadership, and the Armed Services Committee for working together to craft a bill that, No. 1, authorizes military tribunals and establishes the trial and evidentiary rules for such tribunals; and No. 2, clarifies the standards the CIA must comply with in conducting terrorist interrogations. We must keep the bill in its current form, fending off amendments that would put the CIA's program in jeopardy.

Regarding the Byrd sunset amendment, we don't know when the global war on terror will end, so we cannot arbitrarily tie one hand behind the CIA's back by suddenly terminating the interrogation program with a sunset provision.

We have already voted on the habeas corpus amendment, and I am glad we did not add habeas provisions to this bill. We cannot give terrorists the right to bring a habeas corpus petition that seeks release from prison on the grounds of unlawful imprisonment, as the Specter amendment would. Such legislation will clog our already overburdened courts.

Additionally, such petitions are often frivolous and disrupt operations at Guantanamo Bay. Examples of the frivolous petitions that have been filed include an al-Qaida terrorist complaining

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 not necessary.

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. I think we have done the right thing. Giving terrorist suspects access to the court known as the second highest court in America provides an adequate opportunity for review of detainees' cases.

I laud 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 stupid at a maximum, if we decide that the kinds of enemies we have will not be subject to the CIA terrorist interrogation program we have now. The program must continue.

The administration has informed me that this bill, in its current form, will allow the CIA terrorist interrogation program to continue. I sought that information as a critical piece of information before I started looking at all of the amendments to see where we were. Therefore, this bill must pass, and it must pass in its current form.

We must remember that we are dealing with terrorists, not white-collar criminals. We are not even dealing with the types of prisoners of war there were in the Second World War, some of whom, from the German area, might have been severely abusing the rights of prisoners-of-war. But we still did not in any way have the situation we have now with reference to prisoners of war in the Second World War.

We must remember that we are dealing with terrorists who know no limits, follow no rules, have no orderliness about them. They are just going to do what we let them do. We must give our best—the CIA—the tools they need to do their job to fight this war on terror against these terrorists.

It is my privilege to be on the side of this bill. I believe the American people will be on the side of this bill. Some thought early that it was the wrong thing to do. Just as it happens with many bills, we got off on the wrong foot. But we are back straight, with both feet on the right path, and we must pass the bill as is.

I wonder if those who want to destroy this bill or make it ineffective would really ask the American people in honesty and sincerity, do they want the CIA program to continue or are they really trying to say we should not allow the program? If my colleagues are on the side of the latter, they ought to tell us and tell the American people. Then we would understand whom they are for and there would be no question in the American people's minds.

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.

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 the Intelligence 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 from West Virginia, 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 to ask.

I just mentioned the prospective future of the CIA's interrogation program. That is because without this legislation, there will be no CIA program. Let's be clear. If we adopt what I believe is an unnecessary amendment, contrary with 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 CIA will be unable to interrogate captured unlawful alien combatants.

Forgive me, Mr. President, but I think the American people deserve better than to have this Nation's efforts against al-Qaida bog down because some in this body—and I don't question their intent—are insisting on an unnecessary symbolic and redundant series of reporting requirements that could and will be answered through the regular committee oversight. All we have to do is ask and then to listen and then to respond. Where are our priorities? Where should they be?

As I have listened to the debate on this bill in the relative safety and comfort of Capitol Hill, I cannot help but wonder whether some of us have lost our perspective. While we must do our duty as elected officials—and we will do that—we cannot forget that we are a nation at war. Consequently, our first and foremost duty should be to support our troops and intelligence officers at home and abroad, not to mandate four times a year reporting requirements that are unprecedented in scope and detail. The CIA will not be detecting and interdicting unlawful alien combatants; it will be writing one report after another.

I am on the side of our hard-working intelligence officers and against the terrorists. I think that is an obvious choice. I think most Members would think they would be in that position. But I do not believe in making their job more difficult by legislating additional reporting requirements which are needless and burdensome and which will likely delay enactment of this vital national security legislation.

If this were to pass, we can be reasonably certain that it will have a chilling effect on interrogation operations. We are sending a signal to our intelligence officers to be risk averse, the very thing we don't want to do. In fact, the very implication of this amendment is they are unable to carry out their duties with honor and respect for the law, and that, my colleagues, is just not true.

So let us do our duty, as we should, and get this bill done and to the President.

Mr. President, I oppose the amendment and I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I wonder if I may engage my distinguished chairman in a colloquy. I am privileged to serve on his committee. Some years ago I served on the committee and at one time was vice chairman of the committee. So I draw on, if I may say

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 years 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. The Senator from Kansas, as 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. Yes.

Mr. ROBERTS. Let me repeat what I said in my statement—and I share the distinguished Senator's views, more 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 problems, 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, with what has gone wrong allegedly or otherwise with the interrogation and detention program, and we get an update as to where are those cases. If there was egregious behavior, what is happening to those people? Are they being prosecuted? 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, if I were an 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 I think those 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 four mandated reports. It is going to be a rather unique situation when we have a lot of work to do. We have briefings, as the Senator from Virginia indicated, every week. We have one this afternoon—it is terribly important—requested by members. Yet I think we are going to have to hire more people to do this if, in fact, we do this, and I think the CIA will as well.

I am not too sure, again, if I were an individual interrogator that I would want to stay in the business.

Mr. WARNER. Mr. President, I thank my colleague. Another observation of all of us who have had the responsibility of being a chairman and ranking member of committees, I know it is sometimes difficult to get witnesses to appear, but I found thus far, certainly with General Hayden—and I have known him for a number of years—I have a high degree of confidence in his ability to administer this Agency, the CIA. It is of great importance to this Senator because it is in Virginia, if I may say. I view the agency and each and every one of its employees as someone for whom I have an obligation to speak on their behalf when necessary.

I find that General Hayden is very forthcoming, very responsive. When the Chair and ranking member desire to see him, my understanding is he makes himself available. It is not as if we have to wait until a report comes, read it, and then decide to bring him down. The Chair, in consultation with the ranking member—he and his team are quite responsive; am I not correct in that?

Mr. ROBERTS. I am happy to respond to the distinguished chairman. What he has described is accurate. It may be the situation with General Hayden, 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 great preponderance 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.

It is just that—I don't want to call it a book report, but that is about where we are. It is on some very important matters. I know members of the committee feel very strongly about this. I can't recall a time when members on the committee have asked me for help to get information from the executive or from the CIA or from any of our intelligence agencies where I haven't worked overtime to get that job done.

I thank the chairman for his question.

Mr. WARNER. Mr. President, I thank my distinguished colleague. I think we have framed for the full Senate the parameters of what I regard are the points to be considered at such time we vote on this amendment.

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 isn't 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 the opposition to the amendment say 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 pass. In a heartbeat, it is done. So what is in 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 the 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 called 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 detention 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 heard 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 now for 2½ years. I haven't asked once, 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 on Benjamin Powell's 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 of a memo which is so 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 relative to the operation of the Feith 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 has used 4 minutes.

Mr. LEVIN. I thank the Chair, and I thank my good friend from West Virginia for trying to get some institutional support behind these requests that are made by Senators and committees frequently for documents.

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 minus that 1 minute be assigned to the Senator from Michigan for use or allocation on the bill itself.

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

from the distinguished Senator from Massachusetts.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 5088

Mr. KENNEDY. Mr. President, I believe my amendment No. 5088 is at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 5088.

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

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

The amendment is as follows:

AMENDMENT NO. 5088

(Purpose: To provide for the protection of United States persons in the implementation of treaty obligations)

On page 83, between lines 8 and 9, insert the following:

(2) PROTECTION OF UNITED STATES PERSONS.—The Secretary of State shall notify other parties to the Geneva Conventions that—

(A) the United States has historically interpreted the law of war and the Geneva Conventions, including in particular common Article 3, to prohibit a wide variety of cruel, inhuman, and degrading treatment of members of the United States Armed Forces and United States citizens;

(B) during and following previous armed conflicts, the United States Government has prosecuted persons for engaging in cruel, inhuman, and degrading treatment, including the use of waterboarding techniques, stress positions, including prolonged standing, the use of extreme temperatures, beatings, sleep deprivation, and other similar acts;

(C) this Act and the amendments made by this Act preserve the capacity of the United States to prosecute nationals of enemy powers for engaging in acts against members of the United States Armed Forces and United States citizens that have been prosecuted by the United States as war crimes in the past; and

(D) should any United States person to whom the Geneva Conventions apply be subjected to any of the following acts, the United States would consider such act to constitute a punishable offense under common Article 3 and would act accordingly. Such acts, each of which is prohibited by the Army Field Manual include forcing the person to be naked, perform sexual acts, or pose in a sexual manner; applying beatings, electric shocks, burns, or other forms of physical pain to the person; waterboarding the person; using dogs on the person; inducing hypothermia or heat injury in the person; conducting a mock execution of the person; and depriving the person of necessary food, water, or medical care.

Mr. KENNEDY. Mr. President, I understand we have an hour evenly divided on the amendment.

The PRESIDING OFFICER. Under the agreement, the Senator has 25 minutes under his control.

Mr. KENNEDY. Mr. President, I yield myself 10 minutes on the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

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 certain 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.

Those 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 for humane treatment, 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 objection to 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 do this those we capture, we are saying to 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 American personnel 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 in water. The torture 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, throwing 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 inflicted 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 their governments are going to use any of these techniques on any 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.

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 MCCAIN—had been subject 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 reviews of what 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 the circumstances 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 moved toward early retirement 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 any individual was to get information 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; to make the Army Field Manual 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 national 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 a smart 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 going 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 it is our duty now to be careful in 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, suffering 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,'' 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 struggling as 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, 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 and the blatant politics behind it 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 9/11 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:

SEPTEMBER 12, 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, 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 Detainee Treatment 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. That was particularly important, because the Administration determined that it was not bound by the basic humane treatment standards contained in Geneva Common Article 3. Now that the Supreme Court has made clear that treatment of al Qaeda prisoners is governed by the Geneva Convention standards, the Administration is seeking to redefine Common Article 3, so as to downgrade those standards. We urge you to reject this effort.

Common Article 3 of the Geneva Conventions provides the minimum standards for humane treatment and fair justice that apply to anyone captured in armed conflict. These standards were specifically designed to ensure that those who fall outside the other, more extensive, protections of the Conventions are treated in accordance with the values of civilized nations. The framers of the Conventions, including the 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 servicemen and women when they engage in conflicts covered by Common Article 3. Preserving the integrity of this standard 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 not imagine that our enemies will take notice of the technical distinctions when they hold U.S. prisoners captive. If degradation, humiliation, physical and mental brutalization of prisoners is decriminalized or considered permissible under a restrictive interpretation of Common Article 3, we will forfeit all credible objections should such barbaric practices 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 should they be captured. If we allow that standard to be eroded, we put their safety at greater risk.

Last week, the Department of Defense issued a Directive reaffirming that the military will uphold the requirements of Common Article 3 with respect to all prisoners in its custody. We welcome this new policy. Our servicemen and women have operated for too

long with unclear and unlawful guidance on detainee 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 on detainee treatment, 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 under some circumstances, while forbidding them under others. This would replace an absolute standard—Common Article 3—with a relative one. To do so will only 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 emphasized 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 they become prisoners, 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, USN (Ret.); Admiral Jay L. Johnson, USN (Ret.); General Paul J. Kern, USA (Ret.); General Merrill A. McPeak, USAF (Ret.); Admiral Stansfield Turner, USN (Ret.); General William G.T. Tuttle, Jr., USA (Ret.); Lieutenant General Daniel W. Christman, USA (Ret.); Lieutenant General Paul E. Funk, USA (Ret.); Lieutenant General Robert G. Gard Jr., USA (Ret.); Lieutenant General Jay M. Garner, USA (Ret.); Vice Admiral Lee F. Gunn, USN (Ret.); Lieutenant General Arlen D. Jameson, USAF (Ret.); Lieutenant General Claudia J. Kennedy, USA (Ret.).

Lieutenant General Donald L. Kerrick, USA (Ret.); Vice Admiral Albert H. Konetzni Jr., USN (Ret.); Lieutenant General Charles Otstott, USA (Ret.); Vice Admiral Jack Shanahan, USN (Ret.); Lieutenant General Harry E. Soyster, USA (Ret.); Lieutenant General Paul K. Van Riper, USMC (Ret.); Major General John Batiste, USA (Ret.); Major General Eugene Fox, USA (Ret.); Major General John L. Fugh, USA (Ret.); Rear Admiral Don Guter, USN (Ret.); Major General Fred E. Haynes, USMC (Ret.); Rear Admiral John D. Hutson, USN (Ret.); Major General Melvyn Montano, ANG (Ret.); Major General Gerald T. Sajer, USA (Ret.); Major General Michael J. Scotti, Jr., USA (Ret.).

Brigadier General David M. Brahms, USMC (Ret.); Brigadier General James P. Cullen, USA (Ret.); Brigadier General Evelyn P. Foote, USA (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. Sagsveen, USA (Ret.); Brigadier General John K. Schmitt, USA (Ret.); Brigadier General Anthony Verrengia, USAF (Ret.); Brigadier General Stephen N. Xenakis, USA (Ret.); Ambassador Pete Peterson, USAF (Ret.); Colonel Lawrence B. Wilkerson, USA (Ret.); Honorable Richard Danzig; Honorable William H. Taft IV; Frank Kendall III, Esq.

THE AMERICAN JEWISH COMMITTEE,
New York, NY, September 27, 2006.

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. 6061, absent correcting amendments.

To be sure, the 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 opens the door to the admission of evidence in military commissions obtained by coercive techniques in contravention of constitutional standards and international treaty.

It permits the prosecution to introduce evidence that has not been provided to a 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 our defense must be 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,
President.

RICHARD T. POLTIN,
Legislative Director and Counsel.

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK,
New York, NY, September 27, 2006.

Re Military Commission Act of 2006.

Hon. BILL FRIST,
U.S. Senate Majority Leader,
Washington, DC.

DEAR MAJORITY LEADER FRIST: I am writing on behalf of the New York City 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 a particularly deep historical engagement with the law of armed conflict and military justice.

The Association has now reviewed the amended version of this legislation introduced on September 22, 2006, following the compromise agreement between Senators WARNER, MCCAIN and GRAHAM, on one side, 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. We 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 process, and the interests of our members who presently or may in the future serve their nation in the uniformed services or in the intelligence services.

The compromise clarifies many of the most important failings of the prior draft by bringing the military commissions process far closer to the standards established by the Uniform Code of Military Justice and the Manual on Courts-Martial. The Association shares the view presented by the service judge advocates general that the existing court-martial system, which in many respects is exemplary, provides an appropriate process for trial of traditional battlefield detainees as well as the command and control structures of terrorist organizations engaged in combat with the United States, and that the commissions should closely follow that model. The changes produced 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. Hearsay can also be admitted into evidence unless the accused carries a burden (traditionally accorded to the party offering the evidence, i.e., the prosecution) to show that the hearsay is not probative or reliable. This shift of burden is inconsistent with historical practice and would probably taint the proceedings themselves, particularly if the accused is not given access to the facts underlying 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 demonstrating 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 ''serious physical pain or suffering,'' but defines that category in a way that does not encompass many types of serious physical suffering that can be and are commonly the result of ''cruel treatment'' prohibited by Common Article 3. The Common Article 3 offense of ''cruel treatment'' will remain prohibited, even if not specifically criminalized by this provision. There is really no basis to doubt that Common Article 3 prohibits techniques such as waterboarding, long-time

standing, and hypothermia or cold cell if indeed they are not precluded as outright torture. However, the language of the current draft would create a crime defined in terms different from the accepted Geneva meanings, thereby introducing ambiguity where none previously existed.

This ambiguity produces risks for United States personnel since it suggests that 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 prisoner of war treatment under the Third Geneva Convention. This may include reconnaissance personnel, special forces operatives, private military contractors and intelligence service paramilitary professionals. Erosion of Common Article 3 standards thus directly imperils the safety of United States personnel in future conflicts. We strongly share the perspective of five former chairs of the Joint Chiefs of Staff in their appeal to Congress to avoid any erosion of these protections.

The draft also seeks to strike the ability of hundreds of detainees held as ''enemy combatants'' to seek review of their cases through petitions of habeas corpus. The Great Writ has long been viewed as one of the most fundamental rights under our legal system. It is an essential guarantor of justice in difficult cases, particularly in a conflict which the Administration suggests is of indefinite duration, possibly for generations. Holding individuals without according them any right to seek review of their status or conditions of detention raises fundamental questions of justice. This concern is compounded by the draft's provision that the Geneva Convention is unenforceable, thus leaving detainees with no 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 legislative initiative. He appealed at that time for caution and proper deliberation in the legislative process and urged that a commission of military law experts be convened to advise Congress on the weighty issues presented. The current legislative project continues to show severe flaws which are likely to prove embarrassing to the United States if it is enacted. We therefore strongly urge that the matter receive further careful consideration before it is acted upon and that the advice of prominent military justice and international humanitarian law experts be secured and followed 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 provisions of the Administration's proposed Military Commissions Act of 2006.

There are those who would like to portray the legislation as a choice between supporting the rights of terrorists and keeping the United States safe. We reject this argument. We believe that adopting policies against terrorism which honor our values and our international commitments makes us safer and is the smarter strategy.

We do not believe that the United States should decriminalize cruel and inhuman interrogations. The Geneva Convention rules against brutal interrogations have long had the strong support of the U.S. because they protect our citizens. We should not be sending a message to the world that we now believe that torture and cruel treatment is sometimes acceptable. Moreover, the Administration's own representatives at the Pentagon have strongly affirmed in just the last few days that torture and abuse do not produce reliable information. No legislation should have your support if it is at all ambiguous on this issue.

Nor do we believe that it is in the interest of the United States to create a system of military courts that violate basic notions of due process and lack truly independent judicial oversight. Not only does this violate our most cherished values and send the wrong message to the world, it also runs the risk that the system will again be struck down resulting in even more delay.

We believe that we must have policies that reflect what is best in the United States rather than compromising our values out of fear. As John McCain has said, ''This is not about who the terrorists are, this is about who we are.'' We urge you to reject the Administration's ill-conceived proposals which will make us both less safe and less proud as a nation.

Sincerely,

Marilynn Rosenthal, Nicholas H. Ruth, Adele Welty, Nissa Youngren, Terry Greene, John LeBlanc, Andrea LeBlanc, Ryan Amundson, Barry Amundson, Colleen Kelly, Terry Kay Rockefeller, John William Harris.

David Potorti, Donna Marsh O'Connor, Kjell Youngren, Blake Allison, Tia Kminek, Jennifer Glick, Lorie Van Auken, Mindy Kleinberg, Anthony Aversano, Paula Shapiro, Valerie Lucznikowska, Lloyd Glick.

James and Patricia Perry, Anne M. Mulderry, Marion Kminek, Alissa Rosenberg-Torres, Kelly Campbell, Bruce Wallace, John M. Leinung, Kristen Breitweiser, Patricia Casazza, Michael A. Casazza, Loretta J. Filipov, Joan Glick.

SEPTEMBER 20, 2006.

Re Evangelical religious leaders speak out on cruel, inhuman, degrading treatment.

DEAR MEMBERS OF CONGRESS: The Congress faces a defining question of morality in the coming hours: whether it is ever right for Americans to inflict cruel and degrading treatment on suspected terrorist detainees. We are writing to express our strong support for the approach taken on this issue by Senators McCain, Warner and Graham and a strong, bipartisan majority of the Senate Armed Services Committee.

We read credible reports—some from FBI agents—that prisoners have been stripped naked, sexually humiliated, chained to the floor, and left to defecate on themselves. These and other practices like ''waterboarding'' (in which a detainee is made to feel as if he is being drowned) may or may not meet the technical definition of torture, but no one denies that these practices are cruel, inhuman, and degrading.

Today, the question before the Congress is whether it will support Sen. McCain's efforts to make it clear to the world that the U.S. has outlawed such abuse or support an Administration proposal which creates grave ambiguity about whether prisoners can legally be abused in secret prisons without Red Cross access.

Evangelicals have often supported the Administration on public policy questions because they believe that no practical expediency, however compelling, should determine fundamental moral issues of marriage, abortion, or bioethics. Instead, these questions should be resolved with principles of revealed moral absolutes, granted by a righteous and loving Creator.

As applied to issues of cruel, inhuman and degrading treatment, the practical application of this moral outlook is clear: even if it is expedient to inflict cruelty and degradation on a prisoner during interrogation (and experts seem very much divided on this question), the moral teachings of Christ, the Torah and the Prophets do not permit it for those who bear the Imago Dei.

It will not do to say that the President's policy on the treatment of detainees already rules out torture because serious ambiguities still remain—ambiguities that carry heavy moral implications and that are intended to preserve options that some would rather not publicly defend.

The terrorist attacks of September 11 were one of the most heinous acts ever visited upon this nation. The Commander in Chief must provide U.S. authorities with the practical tools and policies to fight a committed, well-resourced, and immoral terrorist threat. At the same time, the President must also defend the deepest and best values of our moral tradition.

As Christians from the evangelical tradition, we support Senator McCain and his colleagues in their effort to defend the perennial moral values of this nation which are embodied in international law and our domestic 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 pastor, Community Presbyterian Church, Danville, CA.

Frederica Mathewes-Green, author and commentator.

Dr. Brian D. McLaren, founder, Cedar Ridge Community Church, Spencerville, MD.

Rev. Dr. Richard Mouw, 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 would fundamentally alter our Nation's conduct in the world and the rights of Americans here at home. And we are debating it too hastily in a debate 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 soldiers.

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 befitted the ''world's greatest deliberative body.'' Legitimate, serious concerns raised by our senior military and intelligence community have been marginalized, difficult issues glossed over, and debates we should have had have been shut off in order to pass a misconceived bill before Senators return home to campaign for reelection.

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 the compromise 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.

Fellow Senators, we all 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 we are under stress and under threat. We must show that we uphold our most profound values.

We need a set of rules that will stand up to judicial scrutiny. We in this Chamber know that a hastily written bill driven by partisanship will not withstand the scrutiny of judicial oversight.

We need a set of rules that will protect our values, protect our security, and protect our troops. We need a set of rules that recognizes how serious and dangerous the threat is, and enhances, not undermines, our chances to deter and defeat our enemies.

Our Supreme Court in its Hamdan v. Rumsfeld decision ruled that the Bush administration's previous military commission system had failed to follow the Constitution and the law in its treatment of detainees.

As the Supreme Court noted, the Bush administration has been operating under a system that undermines our Nation's commitment to the rule of law.

The question 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 before us allows the admission into evidence of statements derived through cruel, inhuman and degrading interrogation. That sets a dangerous precedent that will endanger our own men and women in uniform overseas. Will our enemies be less likely to surrender? Will informants be less likely to come forward? Will our soldiers be more likely to face torture if captured? Will the information we obtain be less reliable? These are the questions we should be asking. And based on what we know about warfare from listening to those who have fought for our country, the answers do not support this bill. As Lieutenant John F. Kimmons, the Army's Deputy Chief of Staff for Intelligence said, ''No good intelligence is going to come from abusive interrogation practices.''

The bill also makes significant changes to the War Crimes Act. As it is now written, the War Crimes Act makes it a federal crime for any soldier or national of the U.S. to violate, among other things, Common Article 3 of the Geneva Conventions in an armed conflict not of an international character. The administration has voiced concern that Common Article—which prohibits ''cruel treatment or torture,'' ''outrages against human dignity,'' and ''humiliating and degrading treatment''—sets out an intolerably vague standard on which to base criminal liability, and may expose CIA agents to jail sentences for rough interrogation tactics used in questioning detainees.

But the current bill's changes to the War Crimes Act haven't done much to clarify the rules for our interrogators. What we are doing with this bill is passing on an opportunity to clearly state what it is we stand for and what we will not permit.

This bill undermines the Geneva Conventions by allowing the President to issue Executive orders to redefine what permissible interrogation techniques happen to be. Have we fallen so low as to debate how much torture we are willing to stomach? By allowing this administration to further stretch the definition of what is and is not torture, we lower our moral standards to those whom we despise, undermine the values of our flag wherever it flies, put our troops in danger, and jeopardize our moral strength in a conflict that cannot be won simply with military might.

Once again, there are those who are willing to stay a course that is not working, giving the Bush-Cheney administration a blank check—a blank check to torture, to create secret courts using secret evidence, to detain people, including Americans, to be free of judicial oversight and accountability, to put our troops in greater danger.

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 also 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 strongly that defendants, no matter who 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 is worth putting aside our differences—it is too important.

Our values are central. Our national security interests in the world are vital. And nothing should be of greater concern to those of us in this chamber than the young men and women who are, right now, wearing our Nation's uniform, serving in dangerous territory.

After all, our standing, our morality, our beliefs are tested in this Chamber and their impact and their consequences are tested under fire, they are tested when American lives are on the line, they are tested when our strength and ideals are questioned by our friends and by our enemies.

When our soldiers face an enemy, 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 hate 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 nonviolent 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, so do we. It's 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, electric shock, burns, 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 the votes come, and I'm of 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 techniques mentioned 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 extreme 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—those who are working for the United States in the war on terror. The administration's obfuscation comes at a great risk.

This amendment provides the clarity and sends a message to the world that these techniques are prohibited. They are prohibited from our military bringing them to bear on any combatants. 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 torture, are going to be held by the United States interrogation 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 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 withhold 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 Senator from Virginia and the Senator from Michigan remain in place. We will now, to accommodate our distinguished senior colleague, go off of the Kennedy amendment and proceed to address his amendment.

The PRESIDING OFFICER. That would be the case.

Without objection, it is so ordered.

The Senator from West Virginia is recognized.

AMENDMENT NO. 5104

(Purpose: To prohibit the establishment of new military commissions after December 31, 2011)

Mr. BYRD. Mr. President, I thank the Chair, and I also thank my very able and distinguished friend from Virginia.

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. This amendment which I shall offer is essential to the ability of the Congress to retain its power of oversight and as an important check on future executive actions.

As I stand here now, Members are readying themselves to beat a path home to their States—I understand that—so they may get in their final politicking. Unfortunately, though, in the feverish climate of a looming election, the most important business of the Senate may suffer. 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 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 actions by the President to establish these commissions. These attempts were to reassert 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 Congress alone, to make our country's laws and specifically to make rules concerning captures on land and water.

Let me say that again. I will repeat the verbiage of the Constitution: to make our country's laws and specifically to ''make rules concerning captures on land and water.''

Nothing came of these proposals. Since then, the Congress has ignored its responsibilities and this most important issue has been shoved aside.

What is this new impetus spurring congressional action and a renewed interest in the issue? Did Congress find its way back to embracing its Article I duties? No. Did the executive branch wake up to realize it is not within its purview to dictate the laws of the land? No. It was the Supreme Court's decision in the Hamdan case.

While the President grabbed the wheel and the Congress dozed, the Court stepped in to remind us of the separation of powers and the constitutional role of each branch, thank God. Yes, thank God for the separation of powers envisioned by our forefathers. Thank God for the Supreme Court. Yes, I said this before; I say it again: Thank God for the Supreme Court.

It is no coincidence that the traditional pathways of legislation through the committee and amendment process and ample opportunity for debate are the best recourse against the enactment of bad, bills.

This is the way the Senate was designed to operate and this is how it separates in the best interests of the people.

Unfortunately, because of the timing of the Supreme Court's decision and the charged atmosphere of the midterm elections, we are again confronted with slap-happy legislation that is changing by the minute.

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 to its views 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 place in jeopardy those things we hold most dear. Apparently, the Senate has not recognized the error of its ways. This legislation is complex. This legislation defines the processes and the procedures 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 constitutes torture. 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 hasty congressional action. 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 the use 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 legislate 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 acting in haste. You have heard that haste makes waste. If ever there were a piece 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 opportunity 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 PRESIDING OFFICER. The 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 5104:

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 conduct to finality of any proceedings of a military commission established under this section before that date.''.

The PRESIDING OFFICER. Who yields time?

The Senator from Virginia.

Mr. WARNER. Mr. President, we are about to receive a copy of the amendment. But I listened very carefully to my distinguished 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 body should discharge 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 those who 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 lot of that 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 Korean war. Most 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 I feel that in 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 a bill which provides 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 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 that 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 could be misconstrued. This war we are engaged in, most notably on the fronts of Afghanistan and Iraq today, we see where it could spread across our globe and has—not to the degree of the significance of Iraq or Afghanistan, but it has spread. Other nations have become the victims, subject to the threats, subject to the overt actions such as took place in Spain and other places of the world. We should not have overhanging this important bill any such restriction as you wish to impose by virtue of what we commonly call a sunset. I think that would not be correct. It could send the wrong message. We have to rely upon the integrity of the two branches of the Congress to be ever watchful in their oversight, ever unrestrained in the authority they have under the Constitution. As we commonly say around here, what the Congress does one day, it can undo the next day.

If, in the course of exercising our authority under the doctrine of the separation of powers—how many times have I heard the distinguished Senator from West Virginia discuss the doctrine of the separation of powers? So often. I remember when we were vigilantly trying to protect those powers reserved unto the Congress from an encroachment by the executive branch.

So for that reason I most respectfully say that I do not and I urge other colleagues not to support this amendment but to continue in their trust in this institution, in the Senate and in the House, to exercise their constitutional responsibilities in such a way that we will not let the executive branch at any time transcend what we believe are certain parameters that we have set forth in this bill regarding the trials and the conduct of interrogations.

I think an extraordinary legislation that I was privileged to be involved in, which garnered 90-some votes, was the Detainee Act, sponsored by our distinguished colleague, Mr. MCCAIN. 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, as to 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.

I know 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 another Senator 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 words that other Senators say in a debate. 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:

> 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 conduct to finality of any proceedings of a military commission established under this section before that date.''

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 protection against 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 we had an automatic 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. But it does 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 now.

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 dissidents, 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—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 for that. But we were very 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, if in fact 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 want to send a message 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 eyes of the world 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 such assurances 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 how those commissions will conduct themselves 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 don't 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. I think this is wise on 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 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 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 work during the previous 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, then 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 naive 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 30-second 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.

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 work that has been 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 obviously shown we have 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 every tool necessary to do this, and 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 tribunals 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 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 proponent of the amendment.

The PRESIDING OFFICER. The proponent 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.

Instead of allowing 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 offered.

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 why 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.

I have 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. Instead, we have rushed through a bill that stands a good chance of being challenged once again in the Supreme Court.

This is not how a serious administration would approach the problem of terrorism. I know the President came here 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.

Now let me make clear—for those who plot terror against the United

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 shouldn't have 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 locked away forever.

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 through 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 the U.S. 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 to 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 extraordinarily modest amendment that would allow us to go back in 5 years' time and make sure what 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 generically call terrorists. In the 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 under the time limit and you don't 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, and I think every Member of this body, 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 to vote on the stacked votes. But under the time reserved for the bill, I have, of course, the distinguished Senator from Arizona, Mr. MCCAIN, and Senator GRAHAM are going to be given by me such time as they desire, and then subject to the time utilized by those two Senators, I would hope to have time for Senator HUTCHISON, Senator CHAMBLISS, and again Senator CORNYN, Senator GRASSLEY, and Senator MCCONNELL, the distinguished majority whip.

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 we have on this side, because of the interest in the amendment process, used up our time and had to use time on the bill, so that on our side we only have—how much time left on the bill, if I could inquire of the Chair?

The PRESIDING OFFICER. The Senator from Michigan has 4 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 recognize the situation we are in. I hope we will withhold our comments until those on the other side who have been indicated as having time allocated 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 the question of the separation of powers is 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 its 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 several states in this world—not the Congress directing that they must do so—such communications with foreign governments. But in the balance of powers, it is beyond the purview of the Congress to say to the Secretary of State: You shall do thus and so.

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 maybe fall within the category of cruel and inhuman conduct, and therefore, they would become violations of Article 3. We can't foresee all of those situations. Again, it is the responsibility of this body to administer, to see that this bill becomes law in a manner of oversight.

Senator KENNEDY's amendment, depending on how the vote comes—and I am of 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 techniques mentioned in the amendment are consistent with the Geneva Conventions or that they could legitimately be employed against our troops or anyone else. We must not leave that impression as a consequence of the decision soon to be made by way of a 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 3 of the Geneva Conventions. These are clearly prohibited by our bill. Rather than listing specific techniques, Congress has exercised its proper constitutional role by defining such conduct in broad terms as a crime under the War Crimes Act. The techniques in Senator KENNEDY's amendment are not consistent with the Common Article 3 and would strongly protest their use against our troops or any others.

So I say with respect to my good friend, this is not an amendment that I would in any way want to be a part of this bill.

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, one of the reasons this amendment is being rejected is because of the burden that 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 our State Department? Or, rather is he objecting because, we can't foresee all of the different kinds of techniques that might be used against individuals and therefore we shouldn't list these. We list them in the Army Field Manual specifically. They are not pulled out of the air; they are listed specifically in the Army Field Manual. That is where they come from. And a number of the Members on the other side of the aisle have said that those techniques are prohibited. So we have taken the Department of Defense list and incorporated it.

Then the last argument is that: Well, if it is rejected, we don't want this to be interpreted as a green light for these techniques. There must be stronger arguments. Maybe I am missing something around here. With all respect, I have difficulty in understanding why the Senator from Virginia, the chairman of the Armed Services Committee, does not address the fundamental issue which is included in this amendment, and that is this amendment protects Americans who are out on the front lines of the war on terror, the SEALS, the CIA, others who are fighting, and it gives warning to any country: You go ahead with any of these techniques and you are committing a war crime and will be held accountable.

Now, if I could get a good answer to that, I would welcome it, but I haven't heard it yet. With all respect, I just haven't heard why the Senator is refusing and effectively denying—opposition to this amendment is denying that kind of protection. I read, and it was when the Senator was here, when we found out that similar kinds of techniques were used against Americans in World War II, and we sentenced offenders to 10, 15 years and even executed some. Now we are saying: Oh, no, we 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 they are. How often are they used? 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 has consumed 3 minutes.

Mr. KENNEDY. I yield myself 1 minute. I want to put in the RECORD the excellent letter from Jack Vessey, who is a distinguished former Joint Chief of Staff:

> 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 Koreans in 1950 to 1953, and 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 held to our own values. We should continue to do so.

The Kennedy amendment does it. 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 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 undermine the moral basis which has generally guided our conduct in war throughout our history. Second, it could give opponents a 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 Officer. The 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 conduct of Americans in war. Number XXV, 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. In waging war, we do not terrorize helpless non-combatants, if it is within our power to avoid so doing. Wanton killing, torture, cruelty or the working of unusual hardship on enemy prisoners or populations 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 Koreans in 1950–53, and 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 held to our own values. We should continue to do so.

Thank you for your own personal courage in maintaining those values, both in war and on the floor of the Senate. I hope that my information about weakening American support for Common Article 3 of the Geneva Convention is in error, and if not that the Senate will reject any such proposal.

Very respectfully,

GENERAL JOHN W. VESSEY, USA (Ret.).

The PRESIDING OFFICER. The Senator from Virginia is recognized.

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—from torture. And the response 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. President, I am prepared to call the roll on this one.

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 yeas and nays 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, together with the guidance 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. CHAMBLISS. Mr. President, I rise today in support of the Military Commissions Act of 2006. This historic legislation is the result of much work, thought, and debate.

I commend the administration, I commend Senator WARNER, Senator MCCAIN, Senator GRAHAM, and all those who were involved in the ultimate compromise we have come to on this very sensitive and very complex issue. I am pleased we were able to find common ground on this critical issue and ensure that the President can authorize the appropriate agencies to move forward with an appropriate interrogation program.

There is no question that this program provides essential intelligence that is vital to America's success in the war on terrorism. At the same time, it honors our agreement under the Geneva Conventions and underscores to other nations that America is a nation of laws. This has been a difficult issue and I am pleased that both sides worked so diligently to achieve this result. In this new era of threats, where the stark and sober reality is that America must confront international terrorists committed to the destruction of our way of life, this bill is absolutely necessary. Our prior concept of war has been completely altered, as we learned so tragically on September 11, 2001. We must address threats in a different way. If we are going to get at the root of terrorist activity, we need to be able to get critical information to do so.

There has been much discussion during the course of the drafting of this bill about the rule of law, and the rule of law relative to detainees is, indeed, reflected in this bill. It provides for tribunals, for judges, for counsel, for discovery, and for rules of evidence.

Most importantly, however, in my view, is that while this bill provides important rule of law procedures for illegal enemy combatants, it does not give them the same protections which we afford lawful enemy combatants or our own military personnel, and that is a critical distinction. And that is how it ought to be. We have made that distinction for no other reason than to provide incentive for every nation across the world to observe international agreements for the proper treatment of captives. It bears repeating—this bill applies to the trial of illegal enemy combatants—those who make no pretense whatsoever of conformity with even minimal standards or international norms of civilized behavior when it comes to the treatment of those they capture.

We hear repeatedly that we should be concerned about what we do, for fear that we encourage others to treat our captured service men and women in a similar manner. But let's be very clear here and state what every American knows to be true. The al-Qaida terrorists treat our captured service men and women by beheading them and by dragging their bodies through the streets.

They need no encouragement or excuse for their actions by reference to our treatment of their captives.

As a result of the Supreme Court's ruling, we are creating military commissions that provide rule of law protections which are embodied in this bill—courts, judges, legal counsel, and rules of evidence. So this bill appropriately meets our international obligations and America's sense of what is right and it is in keeping with our highest values.

However, this bill will allow the President to move forward with a terrorist interrogation program that will ensure that we continue to get critical information about those who are plotting to carry out hateful acts against America and against Americans.

I commend the President for his determination to respond to the new reality confronting us. I commend Chairman WARNER and my colleagues on the Armed Services Committee who worked in good faith to craft a bill which is the right bill to respond to the challenges we face. And again, I am pleased we were able to find common ground on this critical issue and ensure that the President can move forward with an appropriate interrogation program.

I think it is important that we send a bill to the White House, to the desk of the President that is exactly the same as the bill that has already been passed by the House so we can put this program in place immediately. The way we do that is to continue to defeat all the amendments that have been put forward, and that we send the President the same bill that has already been passed by the House so that this program can be reinitiated immediately.

I yield the floor.

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 with regard to 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. I thank the chairman.

The PRESIDING OFFICER. The Senator from South Carolina.

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 arrived at this moment.

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, who was a former Secretary of the Navy, who tried to have 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 respect him in so many ways. 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 if it were not for the insistence 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 the fact 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 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. Even 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 a 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.

But we don't 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 lawful 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. Within our Uniform 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 the 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, and 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 trial procedure where the jury 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 secrets 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 of war that our Nation can be proud of, that will work in a way to render justice, and if a condition is abstained, it will be something we can be proud of as a nation. I am hopeful that the world would see the condition based on evidence, not vengeance.

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 we have had downed 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 blared 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 on 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 evidentiary standard 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 all four branches of 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 Detainee Treatment Act 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 is the same 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 that needs to continue. 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 inhumane as a nation. The reason we need a CIA program classified in nature to get good information is because in this war information saves lives.

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 way you find that out is to have good intelligence. But you have to do it with your value system.

Abu Ghraib was an aberration, but it has hurt this country. Anytime 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 that signs the treaty to outlaw domestically gray areas of the treaty?

In Article 129 and 130 of the Geneva Conventions, it puts the burden on each country to do it internally, to create laws to discipline their own personnel who may violate the treaty in a grave way. It lists six offenses that would be considered grave breaches of the treaty under the conventions. 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, serious physical injury, cruel and inhumane treatment mentally and physically of a detainee is a 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 boundaries 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 a 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, not to sanction torture, not 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 program to go forward in a way not to violate the Geneva Conventions, 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, for the 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 it is 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. Our own troops are being 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 is impeding 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 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 competent evidence and whether the procedures they used 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 was 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, interrogation policies, and 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 practices: namely, have a committee 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 Senator brought together in this bill, in this deliberation, a 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 recognition. I thank the Senator for his invaluable contribution to 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 contribution 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 this important piece of legislation. His work and demeanor have always been constructive and civil, and any disagreements we have had are befitting 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 Senator'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.

Mr. President, not everyone who has been engaging in this debate has been as constructive. We have heard some outlandish statements that bear correction, some suggesting this bill would actually permit the use of torture. Nothing—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 manner 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 absolutely critical 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 minutes provides that kind of clear direction. What it says is that we in the U.S. Congress are stepping up to take the responsibility ourselves to provide that kind of clarity that will allow our intelligence authorities to gain this important intelligence 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 have provided much valuable intelligence that has saved American lives. We know the CIA's high-value terrorist detainee program works. For example, detainees have provided the names of approximately 86 individuals whom al-Qaida deemed suitable for Western operations. Half of these individuals have now been removed from the battlefield and are no longer a threat to the United States of America or our allies.

This program is effective and has saved American lives and must be preserved. Yet there are people who would go so far as to intimate that we are torturing people. But we are not torturing people. But we are using legal, aggressive interrogations consistent with the U.S. Constitution, U.S. laws, and our 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 panoply of rights preserved 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 unnecessarily 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 suggest that 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.

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 Beslan 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 people would go away, America would be less safe and we would not be able to stand here and say that due to the vigilance of the American people, due to the vigilance of the U.S. Congress and the executive branch of Government, we have been successful, thank goodness, in preventing another terrorist attack on our own soil, after 5 years from September 11, 2001.

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 criminals who sit detained at Guantanamo Bay may be brought to justice, people like Khalid Shaikh Mohammed, who was the mastermind of the 9/11 plot that killed nearly 3,000 Americans.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished colleague from Texas. He has been a valuable addition to those who are trying to structure this piece of legislation.

Momentarily, I will seek a unanimous consent request ordering the votes and the allocation of such time as remains between Senators.

So at this point in time, I will suggest the absence of a quorum, unless the Senator from Massachusetts would like to take the additional 3 minutes that he has at this time on his amendment.

Mr. KENNEDY. Yes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just quickly, the proceedings we are going to have—if I can inquire—I use the 3 minutes, and then we are moving toward a series of votes; is that right?

Mr. WARNER. That is correct, I say to the Senator.

Mr. KENNEDY. Then, I would ask when I have 30 seconds left—Mr. President, I have 3½ minutes; am I correct?

The PRESIDING OFFICER. Three minutes.

Mr. KENNEDY. Three minutes.

Mr. WARNER. Mr. President, I may have misunderstood my colleague. That is the 3 minutes remaining on your amendment held in abeyance.

Mr. KENNEDY. That is correct.

Mr. President, I yield myself the 3 minutes.

AMENDMENT NO. 5088

Mr. President, just for the benefit of the membership, in my hand is the Army manual. In the Army manual are the prohibitions for instructions to all the interrogators of the United States, that they cannot use these kinds of harsh tactics which have been recognized by Members as torture.

This amendment says if any country is going to use those similar tactics against those who would be representing the United States in the war on terror—for example, the Central Intelligence Agency; for example, the SEALs; for example, contractors working for the 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.

Well, we thought it was not unconstitutional 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 measures, 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 Secretary of 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? If the chairman of the Armed Services Committee feels that way, we could strike that provision and just say it is the policy of the United States. Then we would not be instructing anyone. Either way, this is about protecting Americans. It is about protecting Americans.

I believe those Americans who are out there in the hills and in the mountains of Afghanistan today and tonight, those people who are in the hills and mountains and deserts of Iraq, those people who are out in Southeast Asia or all over the world in order to try to deal with the problems of terrorism ought to know, if they are in danger of getting captured, if any of their host countries are going to perform this kind of procedure and torture on them, they will be war criminals.

That is what this amendment is about. I hope it will be accepted. It should be.

Mr. President, I yield what time I have to my ranking member.

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

Mr. WARNER. Mr. President, at this time we are waiting for clearance by the leadership of the UC. But I will ask at this time we get the yeas and nays on all the votes, the amendments and final passage.

Mr. ROCKEFELLER. Mr. President, without objecting, does any unanimous consent request allow me to close on my amendment for 2 minutes?

Mr. WARNER. Mr. President, the UC, as presently drafted, gives 2 minutes to each side for the purpose of addressing amendments.

Mr. ROCKEFELLER. I thank the Senator.

Mr. WARNER. Mr. President, I once again restate the request for the yeas and nays on the amendments and final passage. I ask unanimous consent that it be in order to ask for the yeas and nays on the amendments and final passage.

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

Mr. WARNER. Mr. President, I ask for the yeas and nays on the amendments and final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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. Mr. President, I ask unanimous consent that any remaining time be yielded back, other than as noted below, and 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 and, as set forth 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. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, I did not understand the part about the fence.

Mr. WARNER. Can the Senator repeat that?

Mr. LEAHY. I did not understand the part about the timing of the fence bill.

Mr. WARNER. I will repeat it.

Mr. LEAHY. Just that part.

Mr. WARNER. It reads as follows: Following that time, the Senate proceed to passage of the bill; further, 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.

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 prevented 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 legally sound 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 28 of this year, 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

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?

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

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,
Washington, DC, September 28, 2006.

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 Congress 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, methods, locations and individuals involved in sensitive operations. In addition, detailing in public law the amount of sensitive information that CIA must provide to Congress will chill some of 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—and that of Sen. Rockefeller—I fully supported briefing the entire SSCI membership.

On September 6, 2006, I briefed the full SSCI membership 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. Yes. The question is on agreeing to the amendment of the Senator from West Virginia.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Maine (Ms. SNOWE).

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

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—46

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

NAYS—53

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

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. 5104

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. Friends, Senators, lend me your ears. Friends, Senators, lend me your ears. I voted to report a fair and balanced bill from the Armed Services Committee, but the legislation before the Senate today bears little resemblance to that legislation. It has been changed so many times, we don't know the real implications of this ever-changing bill. The Byrd-Obama-Clinton-Levin amendment sunsets the authority of the President to convene new military commissions after 5 years. There is nothing wrong with that.

This amendment ensures that Congress will not simply stand aside and ignore its oversight responsibilities after this bill is enacted. This amendment will not stop any trials of suspected terrorists that commence before the sunset date. It simply forces Congress to revisit—revisit—the weighty constitutional implications of this bill in 5 years' time and then be in a position, on the basis of new knowledge and experience, to make a decision again.

It is a very reasonable amendment. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Virginia is 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 President 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 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. 5104.

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	Bayh	Bingaman
Baucus	Biden	Boxer

Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Menendez
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Specter
Stabenow
Wyden

NAYS—52

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

NOT VOTING—1

Snowe

The amendment (No. 5104) was rejected.

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

Mr. MCCONNELL. 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.

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 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 PRESIDING OFFICER (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

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

NAYS—53

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

NOT VOTING—1

Snowe

The amendment (No. 5088) was rejected.

Mr. WARNER. 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.

Mr. WARNER. I ask the Presiding Officer to read the unanimous consent that is in place so all Members understand what is to take place.

The PRESIDING OFFICER. Senator LEAHY will be recognized for his remaining 12 minutes. Senator LEVIN is under the control of 4 minutes, Senator WARNER is under the control of 16 minutes, to be followed by closing remarks by the two leaders. Following that time, the Senate will proceed to passage of the bill. Further, that there then be 5 minutes equally divided prior to the vote on the motion to invoke cloture on border fence legislation.

Mr. WARNER. The Chair will now recognize Senator LEAHY?

Mr. LEVIN. Mr. President, my understanding is that was the allocation of time, not necessarily the order of speaking.

The PRESIDING OFFICER. The agreement does not appear to be in any particular order.

Mr. WARNER. Mr. President, at the appropriate time, I will allocate 14 minutes to the distinguished Senator from Arizona, Mr. MCCAIN.

At this point in time, I recognize the extraordinary contributions of the staff persons who worked on this bill, and I shall include the entire list.

We worked under the direction of Charlie Abell, Scott Stucky, David Morriss, Rick DeBobes, Peter Levine, Chris Paul, Pablo Chavez, Richard Fontaine, Jen Olson, Adam Brake, James Galyean, and legislative counsel Charlie Armstrong.

I assure Members it was a challenge from beginning to end. I cannot recall seeing a more professional group of staffers serving their Members in the Senate.

Mr. LEVIN. I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged to either side or to any party.

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

The clerk will call the roll.

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 conferees have exempted these facilities from security requirements—a decision that I understand was due in large part to the Senator's opposition to including these facilities within the protections of that bill.

Although I would like to have seen stronger chemical security provisions than those I understand are forthcoming from the Homeland Security appropriations conference, I anticipate supporting that measure. I would support including wastewater facilities in that measure. But I will not support a bill like S. 2781 that provides weaker protections.

By contrast, I long ago introduced S. 1995, The Wastewater Treatment Works Security Act of 2005. I feel certain that if I asked unanimous consent to pass this bill, the Senator would object to my request. I prefer a more constructive pathway to providing essential protection to our communities.

We should fill this gap in our Nation's security, and in order to do so, we need full and fair opportunity to offer amendments to cure the serious deficiencies in this bill.

Mr. President, I ask unanimous consent to insert a statement in the RECORD concerning my objection to consideration of the Wastewater Security bill.

The PRESIDING OFFICER. The objection is heard.

Mr. INHOFE. Mr. President, I wanted to call the Senate's attention to the fact we do have wastewater legislation that has passed both the House and the Senate, in the House by a vote of 413 to 2. It is something which is desperately needed. We need to attend to that as soon as possible.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

COMMON ARTICLE 3 AND WAR CRIMES PROVISIONS OF THE MILITARY COMMISSIONS ACT

Mr. LEVIN. Senators WARNER and MCCAIN, over the last year, you have played an instrumental role in bringing needed clarity to the rules for the treatment of detainees in U.S. custody. I understand that you also played a key role in negotiating the provisions of the military commissions bill regarding the War Crimes Act and Common Article 3 of the Geneva Conventions. As you said last year when the Detainee Treatment Act was adopted, this is not an area in which ambiguity is helpful. For this reason, I hope that you will help me in providing a clear record of our intent on these issues.

In particular, section 8(a)(3) of the bill provides that ''the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions'', that these interpretations shall be issued by Executive order, and that such an Executive order ''shall be authoritative (as to non-grave breach provisions of Common Article 3) as a matter of United States law, in the same manner as other administrative regulations.''

Would you agree that nothing in this provision gives the President or could give the President the authority to modify the Geneva Conventions or U.S. obligations under those treaties?

Mr. MCCAIN. First, I say to my good friend from Michigan that this legislation clearly defines grave breaches of Common Article 3, which are criminalized and ultimately punishable by death. It is critical for the American public to understand that we are criminalizing breaches of Common Article 3 that rise to the level of a felony. Such acts—including cruel or inhuman treatment, torture, rape, and murder, among others—will clearly be considered war crimes.

Where the President may exercise his authority to interpret treaty obligations is in the area of ''nongrave'' breaches of the Geneva Conventions—those breaches that do not rise to the level of a war crime. In interpreting the conventions in this manner, the President is bounded by the conventions themselves. Nothing in this bill gives the President the authority to modify the conventions or our obligations under those treaties. That understanding is at the core of this legislation.

Mr. WARNER. I concur with the Senator from Arizona.

Mr. LEVIN. Would you agree that nothing in this provision gives the President, or could give the President, the authority to modify the requirements of the Detainee Treatment Act?

Mr. WARNER. The purpose of this legislation is to strengthen, not to weaken or modify, the Detainee Treatment Act. For the first time, this legislation is required to ''take action to ensure compliance'' with the DTA's prohibition on cruel, inhuman, or degrading treatment, as defined in the U.S. reservation to the Convention Against Torture. He is directed to do so through, among other actions, the establishment of administrative rules and procedures. Nothing in this legislation authorizes the President to modify the requirements of the DTA, which were enshrined in a law passed last December. I would point out as well to the distinguished ranking member that the President himself never proposed to weaken the DTA. Rather, he proposed to make compliance with the DTA tantamount to compliance with Common Article 3 of the Geneva Conventions. That proposal is not included in this legislation.

Mr. MCCAIN. I agree entirely with Senator WARNER's comments.

Mr. LEVIN. Would you agree that any interpretation issued by the President under this section would only be valid if it is consistent with U.S. obligations under the Geneva Conventions and the Detainee Treatment Act?

Mr. MCCAIN. That is correct.

Mr. WARNER. I agree.

Mr. LEVIN. Section 8(b) of the bill would amend the War Crimes Act to provide that only ''grave breaches'' of Common Article 3 of the Geneva Conventions constitute war crimes under U.S. law. The provision goes on to define those grave breaches to include, among other things, torture, and ''cruel or inhuman treatment''. The term ''cruel or inhuman treatment' is defined to include acts ''intended to inflict severe or serious physical or mental pain or suffering.''

Would you agree that the changes to the War Crimes Act in section 8(b) do not in any way alter U.S. obligations under the Geneva Conventions or under the Detainee Treatment Act?

Mr. MCCAIN. The changes to the War Crimes Act are actually a responsible modification in order to better comply with America's obligations under the Geneva Conventions to provide effective penal sanction for grave breaches of Common Article 3. It is important to note, as has the Senator from Michigan, that in this section ''cruel or inhuman treatment'' is defined for purposes of the War Crimes Act only. It does not infringe, supplant, or in any way alter the definition of cruel, inhuman, or degrading treatment or punishment prohibited in the DTA and defined therein with reference to the 5th, 8th, and 14th amendments to the U.S. Constitution. Nor do the changes to the War Crimes Act alter U.S. obligations under the Geneva Conventions.

Mr. WARNER. I would associate myself with the comments from the Senator from Arizona.

Mr. LEVIN. Would you agree that nothing in this section or in this bill requires or should be interpreted to authorize any modification to the new Army Field Manual on interrogation techniques, which was issued last month and provides important guidance to our solders on the field as to what is and is not permitted to the interrogation of detainees?

Mr. WARNER. The executive branch has the authority to modify the Army Field Manual on Intelligence Interrogation at any time. I welcomed the new version of the field manual issued last

month and agree that it provides critical guidance to our solders 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 form 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 as an act intended to inflict severe or serious physical or mental pain or suffering. It further makes clear that such mental suffering need not be prolonged to be prohibited. The mental suffering need only be more than transitory. It is important to note that 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 technique 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 burn or physical disfigurement or a serious nature,'' 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 us. 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 Service 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 produced 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 to serve 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 Guanatanamo who we know based on the military's own records are not guilty of anything. Yet they have not been let go.

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 who are 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 international 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 also 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 Geneva 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 before 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 about 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 this 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 Republican 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 less safe if we turn our backs 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 where 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 we were attacked on our own soil. 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 authorized 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 wouldn't do all we could 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 stood united in the proposition 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 Abraham Lincoln 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 arbitrary prosecution for undefined 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 codifying procedures for 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 than our own servicemembers would receive elsewhere, more than is required by the Geneva Conventions—yet some are still demanding more.

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 protect 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 American soldiers. It is beyond reasonable, 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 once 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 question in its 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 from raising to our Federal courts 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. It is 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 the meaning of Geneva, it is merely reasserting 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 headed by the Supreme Court. So, though the President certainly has the constitutional authority to interpret our Nation's treaty obligations, such interpretation is subject to judicial review. It is not the intent of Congress to infringe 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, a set of treaty obligations that forms 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—habeas corpus.

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 will face a serious court challenge, and 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 check-writing scam or trying to foil a bank heist. We are at war against extremists 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 our intelligence-gathering efforts can 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 September 11 attacks. 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 premium that should be placed 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 pay dues and become a member. 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 which al-Qaida members were under orders to set off explosives high enough in the building so the victims could not escape through the windows.

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 Shibh.

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? Thousands or even 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 respond with one hand tied 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 tool and allows 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 identities of U.S. 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 files was supplied to the 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 defendants, individuals who tried to destroy the World Trade Center in 1993, was later given directly to bin Laden himself.

Since we are at war, we should not be revealing classified information to the enemy. 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 in 2001 ''provide 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 unapologetically 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 operate no differently under 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 itself set for CSRTs. And it 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 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 enemies—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 Guantanamo sparked by Rasul 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 detainee lawyers have even bragged about what a burden their activities have been 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 effectuated.

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 alternative would have been 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 lawsuits. Under the 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 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 properly detained as 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, 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 supported by probable cause, simply because the suspect was not later convicted of a crime. Similarly, under 2241 (e)(2), detainees will not be able to sue their captors and custodians if the United States determines that it was the right decision to take the individual into custody.

Mr. SESSIONS. Mr. President, I would like to make a few comments about section 7 of the bill that is before us today. This section makes a number of improvements to the Detainee Treatment Act, which was passed by the Congress and signed into law on December 30 of last year. First, section 7 will fulfill one of the original objectives of the DTA: to get the lawyers out of Guantanamo Bay. As my colleague Senator GRAHAM has noted, these lawyers have even bragged about the fact that their presence and activities at Guantanamo have made it harder for the military to do its job. Mr. Michael Ratner, the director of the Center for Constitutional Rights, which coordinated much of the detainee habeas litigation, had this to say about his activities to a magazine:

> The litigation is brutal for [the United States.] It's huge. We have over one hundred lawyers now from big and small firms working to represent the detainees. Every time an attorney goes down there, it makes it that much harder [for the U.S. military] to do what they're doing. You can't run an interrogation . . . with attorneys. What are they going to do now that we're getting court orders to get more lawyers down there?

This is what Congress thought that it was putting an end to when it enacted the DTA in 2005. That act provided that ''no court, justice, or judge shall have jurisdiction to hear or consider'' claims filed by Guantanamo detainees, except under the review standards created by that Act. The DTA was made effective immediately upon the date of its enactment. And as Justice Scalia noted in his Hamdan v. Rumsfeld dissenting opinion, the DTA's jurisdictional removal made no exception for lawsuits that were pending when the statute was enacted. Justice Scalia also pointed out that ''[a]n ancient and unbroken line of authority attests that statutes ousting jurisdiction unambiguously apply to cases pending at their effective date.'' He also noted that up until the Hamdan decision, ''one cannot cite a single case in the history of Anglo-American law . . . in which a jurisdiction-stripping provision was denied immediate effect in pending cases, absent an explicit statutory reservation.''

The Hamdan majority, on the other hand, found that the Supreme Court's

precedents governing jurisdictional statutes were trumped in that case by a legislative intent to preserve the pending lawsuits. This congressional intent, the majority concluded, was manifested in minor changes that had been made to the language of the bill and, most expressly, in statements made by Senators regarding the intended effect of the bill. As Senator GRAHAM has explained in detail in remarks in the CONGRESSIONAL RECORD on August 3, at 152 Cong. Rec. S8779, it appears that the Supreme Court was misled about the legislative history of the DTA by the lawyers for Hamdan. Those lawyers misrepresented the nature of the statements made in the Senate and caused the court to believe that Congress had an intent other than that reflected in the text of the statute. It certainly was not my intent, when I voted for the DTA, to exempt all of the pending Guantanamo lawsuits from the provisions of that act.

Section 7 of the Military Commissions Act fixes this feature of the DTA and ensures that there is no possibility of confusion in the future. Subsection (b) provides that the bill's revised litigation bar ''shall take effect on the date of the enactment of this Act, and 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 conditions of detention of an alien detained by the United States since September 11, 2001.'' I don't see how there could be any confusion as to the effect of this act on the pending Guantanamo litigation. The MCA's jurisdictional bar applies to that litigation ''without exception.''

The new bill also bars all litigation by anyone found to have been properly detained as an enemy combatant, regardless of whether the detainee has been through the DC Circuit under the DTA or has been through a Combatant Status Review Tribunal hearing. The previous version of this bar, in the DTA, allowed detainees to bring conditions-of-confinement lawsuits after their release if their detention was not reviewed by the DC Circuit. Obviously, the Government could not force the detainee to appeal, and there are some who were released before CSRT hearings were instituted. The new bill states that as long as the military decides that it was appropriate to take the individual into custody as an enemy combatant, as a security risk in relation to a war, that person cannot turn around and sue our military after he is released. It should not be held against our soldiers that they take someone into custody, believing in good faith that he appears to be connected to hostilities against the United States, and then determine that the individual is not an enemy combatant and release the person. The fact of release should not be an invitation to litigation, so long as the military finds that it was appropriate to take the individual into custody in the first place.

The biggest change that the MCA makes to section 2241(e) 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 Rasul decision would seem to have required that enemy combatants held in this country during wartime can sue. If that court allowed enemy combatants held in Cuba to sue, 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 every enemy war prisoner 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, if need be, we can 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 lawsuits, 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 1005(e) of the DTA 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 there 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 detainee, and they allow the court to ask whether those standards are constitutional and are consistent with nontreaty Federal law. I think that those standards speak for themselves, that they clearly allow only a very limited review. In particular, they do not allow the courts to second-guess the military's evidentiary findings. The courts simply are not in a position, they do not have the expertise, to judge whether particular evidence suggests that an individual is an enemy combatant.

I would like to note here that this is the consensus view of the DTA at this time, at least for now. I have no doubt that in the future, lawyers will argue that these standards invite the court to reweigh the evidence, to take in evidence outside of the CSRT record, and to decide if the military was right about its factual judgment. At this time, however, both proponents and opponents of section 7 of the MCA seem to agree on what kind of review it will allow. Earlier today, for example, I heard Senator SPECTER, who opposes section 7, criticize the paragraph 2 and 3 review standards on the Senate floor. He said, ''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 it was—the ruling was consistent with the standards and procedures specified by the Secretary of Defense. Now, to comply with the standards and procedures determined by the Secretary of Defense does not mean—excludes on its face—a factual determination as to what happens to the detainees.''

I have also come into possession of a so-called fact sheet on the DTA review standards that is being distributed on Capitol Hill by Human Rights First, a group that is lobbying Senators to oppose the MCA and to support the Specter amendment that was defeated earlier today. This fact sheet is titled, ''The Limited Review Allowed Under the DTA is No Substitute for Habeas.'' Here is what the Human Rights First fact sheet says:

> The DTA restricts the court to determining whether the prior CSRTs followed their own procedures.
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> * * * * *
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> It has been suggested that the court of appeals, in reviewing the CSRT decisions, can fix the problem simply by choosing to review the evidence itself. But that is simply not the way the statute reads. The government has taken the firm position in Bismullah that no review even of ''significant exculpatory evidence'' is permitted under the DTA. If Congress believes that the courts should be allowed to review the evidence—and they clearly should be—then it should change the statute to say so. It is no solution to hope that the courts will ignore the actual statutory language and rewrite the statute to correct the deficiency.

There you have it. Senators have been told in floor debate by the chairman of the Judiciary Committee that the DTA ''excludes on its face'' any factual determination with regard to the Guantanamo detainees. The groups lobbying Senators with regard to the MCA have pointed out that having courts make their own factual determinations, to judge the sufficiency of the evidence behind the military's findings, ''is simply not the way the statute reads.'' We are informed that the Justice Department has taken the ''firm position'' that no evidentiary review is permitted under the DTA. And we are told that if we disagree with this system, if we think that ''the courts should be allowed to review the evidence,'' then we ''should change the statute to say so.'' The Senate is clearly on notice as to how the DTA review

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 before 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 oversight of the civilian criminal justice system. I particularly found to be true Mr. Barr's emphasis that the proper role of the courts in this area is not accurately described as ''deference'' to military decisions because deference implies that the ultimate decisions still lie with the courts. As Mr. 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.''

Here is an extended excerpt from Attorney General Barr's testimony regarding the detention of alien 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. Nevertheless, in the case of the detainees at Guantanamo, the Deputy Secretary of Defense and the Secretary of the Navy have established Combatant Status Review Tribunals (''CSRTs'') to permit each detainee a fact-based review of whether they are properly classified as enemy combatants and an opportunity to contest such designation.

As to the detention of enemy combatants, World War II provides a dramatic example. During that war, we held hundreds of thousands of German and Italian prisoners in detention 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. courts; and the American military was not required to engage in evidentiary proceedings to establish that each was a combatant. They were held until victory was achieved, at which time they were repatriated. The detainees at Guantanamo are being held under the same principles, except, unlike the Germans and Italians, they are actually being afforded an opportunity to contest their designation as enemy combatants.

Second, once hostile forces are captured, the subsidiary question arises whether they belonged to an armed force covered by the 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 various 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 various requirements of the Convention. The threshold determination in deciding whether the Convention applies is a ''group'' decision, not an individualized decision. The question is whether the military formation to which the detainee belonged was covered by the Convention. This requires that the military force be that of a signatory power and that it also comply with the basic requirements of Article 4 of the Treaty, e.g., the militia must wear distinguishing uniforms, retain a military command structure, and so forth. Here, the President determined that neither al-Qaeda nor Taliban forces qualified under the Treaty.

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 charging an individual with violations of the laws of war. This involves individualized findings of guilt. Throughout our history we have used military tribunals to try enemy forces accused of engaging in 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 analog. While the vast majority of Axis prisoners were simply held as enemy combatants, military commissions were convened at various times during the war, and in its immediate aftermath, to try particular Axis prisoners for war crimes. One notorious example was the massacre of American troops at Malmedy during the Battle of the Bulge. The German troops responsible for these violations were tried before military commissions.

Let me turn to address some of the challenges being made to the way we are proceeding with these al-Qaeda and Taliban detainees.

I. THE DETERMINATION THAT FOREIGN PERSONS ARE ENEMY COMBATANTS

The Guantanamo detainees' status as enemy combatants has been reviewed and rereviewed within the Executive Branch and the military command structure. Nevertheless, the argument is being advanced that foreign persons captured by American forces on the battlefield have a Due Process right under the Fifth Amendment to an evidentiary hearing to fully litigate whether they are, in fact, enemy combatants. In over 225 years of American military history, there is simply no precedent for this claim.

The easy and short answer to this claim is that it has been, as a practical matter, mooted by the military's voluntary use of the CSRT process, which gives each detainee the opportunity to contest his status as an enemy combatant. As discussed below, those procedures are clearly not required by the Constitution. Rather they were adopted by the military as a prudential matter.

Nonetheless, those procedures would plainly satisfy any conceivable due process standard that could be found to apply. In its recent Hamdi decision, the Supreme Court set forth the due process standards that would apply to the detention of an American citizen as an enemy combatant. The CSRT process was modeled after the Hamdi provisions and thus provides at least the same level of protection to foreign detainees as the Supreme Court said would be sufficient to detain an American citizen as an enemy combatant. Obviously, if these procedures are sufficient for American citizens, they are more than enough for foreign detainees who have no colorable claim to due process rights.

Moreover, most of the guarantees embodied in the CSRT parallel and even surpass the rights guaranteed to American citizens who wish to challenge their classification as enemy combatants. The Supreme Court has indicated that hearings conducted to determine a detainee's prisoner-of-war status, pursuant to the Geneva Convention, could satisfy the core procedural guarantees owed to an American citizen. In certain respects, the protocols established in the CSRTs closely resemble a status hearing, as both allow all detainees to attend open proceedings, to use an interpreter, to call and question witnesses, and to testify or not testify before the panel. Furthermore, the United States has voluntarily given all detainees rights that are not found in any prisoner-of-war status hearing, including procedures to ensure the independence of panel members and the right to a personal representative to help the detainee prepare his case. Nevertheless, there appear to be courts and critics who continue to claim that the Due Process Clause applies and that the CSRT process does not go far enough. I believe these assertions are frivolous.

I am aware of no legal precedent that supports the proposition that foreign persons confronted by U.S. troops in the zone of battle have Fifth Amendment rights that they can assert against the American troops. On the contrary, there are at least three reasons why the Fifth Amendment has no applicability to such a situation. First, as the Supreme Court has consistently held, the Fifth Amendment does not have extra-territorial application to foreign persons outside the United States. As Justice Kennedy has observed, ''[T]he Constitution does not create, nor do general principles of law create, any juridical relation between our country and some undefined, limitless class of non-citizens who are beyond our territory.'' Moreover, as far as I am aware, prior to their capture, none of the detainees had taken any voluntary act 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 on virtually 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 proof and that such a judgment must be made by a ''neutral'' arbiter based on an adversarial evidentiary hearing. What we are seeing today is an extreme manifestation of this—an effort to take the judicial rules and standard applicable in the domestic law enforcement context and extend them to the fighting of wars. In my view, nothing 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 of law enforcement, the government's role is disciplinary—sanctioning an errant member of society for transgressing the internal

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 decision to sacrifice 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. Both the original Constitution and the Bill of Rights contain a number of specific constraints on the Executive's law enforcement powers, many of which expressly provide for a judicial role as a neutral arbiter or ''check'' on executive power. In this realm, the Executive's subjective judgments are irrelevant; it must gather and present objective evidence of guilt satisfying specific 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 nation faces an external threat. In armed conflict, the body politic is not using its domestic disciplinary powers to sanction an errant member, rather it is exercising its national defense powers to neutralize the external threat and preserve the very foundation of all our civil liberties. Here the Constitution is not concerned with handicapping the government to preserve other values. 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 here—namely, what and 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. If the concept of Commander-in-Chief means anything, it must mean that the office holds the final authority to direct how, and against whom, military power is to be applied to achieve the 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 ultimate substantive decision rests with the President and that courts have no authority to substitute their judgments 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 judgment of what 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 tidy evidentiary standards, some 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? Does anyone really believe that the Constitution prohibits the President from using coercive military force against a foreign person—detaining him—unless he can satisfy a particular objective standard of evidentiary proof?

Let me 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 from which the troops believe they had received sniper fire. The troops believe they are probably a sniper team. Is it really being suggested that the Constitution vests these men with due process rights as against the American soldiers? 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? Alternatively, suppose the fleeing men are captured and held as enemy combatants. Does the due process clause really mean that they have to be released unless the military can prove they were enemy combatants? Does the Due Process Clause mean that the American military must divert its energies and resources from fighting the war and dedicate them to investigating the claims of innocence of these two men?

This illustrates why military decisions are not susceptible to judicial administration and supervision. There are simply no judicially-manageable standards to either govern or evaluate military operational judgments. Such decisions inevitably involve the weighing of risks. One can easily imagine situations in which there is an appreciable risk that someone is an enemy combatant, but significant uncertainty and not a preponderance of evidence. Nevertheless, the circumstances may be such that the President makes a judgment that prudence dictates treating such a person as hostile in order to avoid an unacceptable risk to our military operations. By their nature, these military judgments must rest upon a broad range of information, opinion, prediction, and even surmise. The President's assessment may include reports from his military and diplomatic advisors, field commanders, intelligence sources, or sometimes just the opinion of frontline troops. He must decide what weight to give each of these sources. He must evaluate risks in light of the present state of the conflict and the overall military and political objectives of the campaign.

Furthermore, extension of due process concepts from the domestic prosecutive arena as a basis for judicial supervision of our military operations in time of war would not only be wholly unprecedented, but it would be fundamentally incompatible with the power to wage war itself, so altering and degrading that capacity as to negate the Constitution's grant of that power to the President.

First, the imposition of such procedures would fundamentally alter the character and mission of our combat troops. To the extent that the decisions to detain persons as enemy combatants are based in part on the circumstances of the initial encounter on the battlefield, our frontline troops will have to concern themselves with developing and preserving evidence as to each individual they capture, at the same time as they confront enemy forces in the field. They would be diverted from their primary mission—the rapid destruction of the enemy by all means at their disposal—to taking notes on the conduct of particular individuals in the field of battle. Like policeman, they would also face the prospect of removal from the battlefield to give evidence at post-hoc proceedings.

Nor would the harm stop there. Under this due process theory, the military would have to take on the further burden of detailed investigation of detainees' factual claims once they are taken to the rear. Again, this would radically change the nature of the military enterprise. To establish the capacity to conduct individualized investigations and adversarial hearings as to every detained combatant would make the conduct of war—especially irregular warfare—vastly more cumbersome and expensive. For every platoon of combat troops, the United States would have to field three platoons of lawyers, investigators, and paralegals. Such a result would inject legal uncertainty into our military operations, divert 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-à-vis every other fighting force in the world.

Second, the introduction of an ultimate decision maker outside of the normal chain of command, or altogether outside the Executive Branch, would disrupt the unitary chain of command and undermine the confidence of frontline troops in their superior officers. The impartial tribunals could literally overrule command decisions regarding battlefield tactics and set free prisoners of war whom American soldiers have risked or given their lives to capture. The effect of such a prospect on military discipline and morale is impossible to predict.

The Supreme Court's decision in Rasul v. Bush does not undercut these long-standing principles. In Rasul, the Supreme Court addressed a far narrower question—whether the habeas statute applies extraterritorially—and expressly refrained from addressing these settled constitutional questions. The Court, in concluding that the habeas statute reached aliens held at Guantanamo Bay, relied on the peculiar language of the statute and the ''extraordinary territorial ambit' of the writ at common law.'' Of course, the idiosyncrasies of the habeas statute do not have any impact on judicial interpretation of the reach of the Fifth Amendment or other substantive constitutional provisions. Moreover, the Court's recognition in Rasul 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 requisite detention on sovereign United States territory, demands that the aliens only ''receive constitutional protections'' when they have also ''developed substantial connections with this country.'' Thus, 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 sorely lacking with respect to enemy combatants.

Whatever else may be said, there can be no dispute that these individuals did not arrive at Guantanamo Bay by free choice. Captured enemy combatants that have been transported to Guantanamo Bay for detention thus are not entitled to Fifth Amendment due process rights. It should also be noted that the Supreme Court's decision in Rasul 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 Guantanamo Bay. The Court nowhere suggested that the Constitution grants such aliens a right of access to American courts.

An important consequence follows: Congress remains free to restrict or even to eliminate entirely the ability of enemy aliens at Guantanamo Bay to file habeas petitions. Congress could consider enacting legislation that does so—either by creating special procedural rules for enemy alien detainees, by requiring any such habeas petitions to be filed in a particular court, or by prohibiting enemy aliens from haling 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 act's passage and enactment.

Mr. HARKIN. Mr. President, since my years as a pilot with the U.S. Navy, nothing has been more important to me than protecting the American people and ensuring the security of our country.

Today, we are at war with extremists who want to do grievous harm to America. We all want to fight these extremists and defeat them. We all want to ensure that those who committed or supported acts of terror are brought to justice. The only disagreement is about how best to do that. What is the smartest, most effective way to fight and defeat our enemies?

Unfortunately, as the newly declassified National Intelligence Estimate testifies very clearly, our current course is, in many ways, playing into the hands of the terrorists. It is stirring up virulent anti-Americanism around the world, it is drawing new recruits to the jihadists' cause, and it is making America less safe.

We have to do a better job, and we can do a better job. It is not good enough to be strong and wrong. We need to be strong and smart. This is especially true when it comes to our policies on interrogating and trying suspected terrorists. Again, we all want to extract information from these suspects. We all want to try them and, if guilty, punish them. The only disagreement is about how best to do that. What is the smartest, most effective way to interrogate and to try these suspected terrorists?

There is plenty of evidence that our current course, which clearly includes torturing suspects and imprisoning them without trial, is not working. To take just one case in point, consider the Canadian citizen, whom we now know to be completely innocent, who was arrested by the CIA—I use the word ''arrested'' loosely. He was picked up by the CIA, bound, gagged, blindfolded, and sent to Syria for interrogation under torture. Not surprisingly, he told his torturers exactly what they wanted to hear—that he had received terrorist training in Afghanistan. The truth, of course, is that he was never in Afghanistan, had no terrorist ties, and is completely innocent.

The cost to the United States for this miscarriage of justice, in terms of our forfeited reputation and moral standing, has been disastrous—just as the revelations of torture and abuse at Abu Ghraib. What is more, it has endangered our troops in the field—now and in the future—should they fall into the hands of captors who say they have the right to subject American prisoners to the same torture and abuse.

Again, it is not enough to be strong and wrong. We need to be strong and smart. We need to be true to 230 years of American jurisprudence, our Constitution, and the humane values that define us as Americans.

Back during the dark days of McCarthyism in the 1950s, former Senator Joseph McCarthy went on a rampage. What he was basically saying to the American people is that we have to become like the Communists in order to defeat them. Cooler heads prevailed but not until Senator McCarthy had done a lot of damage in this country, not until a lot of innocent people were blacklisted, denied employment, many of whom committed suicide because they had no place to turn. The dark days of Joseph McCarthy come back to us in the guise of this military tribunal bill.

We do not have to become like the jihadists. We don't have to become like the terrorists in order to defeat them. The best way to defeat them is the same way we defeated Joseph McCarthy and the Communists. We stayed true to our American ideals, our American jurisprudence, and the humane values we cherish as a free society. Regrettably, the bill before us fails this test. I cannot, in good conscience, support it.

The bill includes no barrier on the President's reinterpreting our obligations under the Geneva Conventions as he pleases, allowing practices such as simulated drowning, induced hypothermia, and extreme sleep deprivation. The President can allow all of those to continue, in contravention of the Geneva Conventions.

The bill before us rewrites the War Crimes Act in a way that fails to give clarity as to interrogation techniques that are allowed or forbidden, effectively allowing the administration—any administration—to continue the abusive techniques I just mentioned.

The bill creates a very bizarre double standard, immunizing, on the one hand, policymakers and the CIA and its contractors for committing acts of torture—immunizing them—while leaving our military troops subject to prosecution under the Uniform Code of Military Justice for the exact same practices. Let me repeat that. The bill creates this double standard: it immunizes the CIA, for example, and any contractors with the CIA, for committing acts of torture, while at the same time those same acts, if committed by a military person, would subject that military person to prosecution under the Uniform Code of Military Justice.

What kind of a signal does this send? What kind of signal is this? The bill completely eliminates the ability of noncitizens to bring a habeas corpus petition, effectively removing the only remaining check on the administration's decision regarding torture and other abuses.

Indeed, the habeas provisions in this bill would permit—get this—the bill would permit a legal permanent resident of the United States—a legal permanent resident of the United States—to be snatched off the street in the dark of night, bound, blindfolded, subject to indefinite detention, even torture, with absolutely no way for that person to challenge it in court.

Is that what we want to become as a nation? A legal permanent resident in the United States, of which there are millions in this country, taken out of his or her home at night, and we don't know what happens to them? They go into the dark dungeons of who knows where. Maybe Guantanamo Bay.

Habeas corpus is the only independent remedy available to people being held in indefinite detention who, in fact, have no connection to terrorism.

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 are on one side and they have 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. So we don't know.

We have instances where people have been thrown into Guantanamo, 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 Guantanamo, 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 some calls to try 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? If we don't allow it, we are giving the green light to every other would-be dictator anywhere in the world to do the same thing—any government anywhere.

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 to be 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 if these techniques are 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 Vietcong 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 and said: If you 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 were well hidden, and without the maps we never would have found them. Fortunately, I had a camera and a hidden tape recorder which proved useful when I returned to the United States.

Supporters of the war claim 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 human rights.

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 even supervising 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, just as 37 years ago when 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 knew, no one had ever taken pictures of it and no one had really ever 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. Thankfully, one courageous young soldier decided this was wrong, it was inhumane, it was not upholding the highest human standards of America, and it was in violation of the Geneva Conventions. Had he not taken those pictures, it would be denied forever that ever happened at Abu Ghraib.

So now, as if we learned nothing from that previous tragedy of the tiger cages 36 years ago or Abu Ghraib just a couple of years ago, here we go again denying obvious instances of torture and abuse, effectively giving the green light to torture by U.S. Government agents and contractors and watering down the War Crimes Act.

This is a betrayal of our laws. It is a betrayal of our values. It is a betrayal of everything that makes us unique and proud to be Americans.

The administration apparently thinks that we will just go along with this betrayal because there is an election in 6 weeks. Apparently they think we are afraid of being branded weak on terrorism. Indeed, some are no doubt hoping that we will vote against this bill so they can use it as a bludgeon against 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 the same acts of torture and 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 embassy. It is about protecting 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 be strong and smart. It is time to be true to who we are as Americans. It is time to say no to indefinite—indefinite—incarceration. It is time to say no to taking away the right of someone put away to at least have the charges pressed against them. 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 WARNER, 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 would be problematic 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 to get 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. My colleagues may be willing to trust the legal judgment and competence of this administration. But I am not.

Since 9/11, several major cases have gone to the Supreme Court that relate to the laws governing the war on al-Qaida and the President's powers. And the administration has been wrong too many times—wrong about whether habeas corpus rights applied to detainees in Guantanamo Bay, wrong about whether U.S. citizens detained as enemy combatants had a right to meaningful due process, and wrong about whether the military commissions 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 imprint 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 not smart because 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 made plain 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 a sense of powerlessness.'' 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 through his father 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 he is rendering the Senate and hopefully will continue to render the Senate in the coming years.

When I step down under the caucus, 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 yield?

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 their 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, 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 Mr. Bush chooses'' 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 the interests of 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:

DEPARTMENT OF THE AIR FORCE,
HEADQUARTER U.S. AIR FORCE,
Washington DC, August 28, 2006.

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 congressional 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. , 126 S.Ct. 2749 (2006), the President's powers in wartime are at their greatest when specifically authorized by Congress. While different approaches are feasible, I believe the Nation will be best served by a fresh start to the military commission process. 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) provide superb starting points. The processes and procedures in the UCMJ and MCM have served us well and can be readily adapted to meet the needs of military conmnssions.

As I have testified, Congress could enact a UCMJ Article 135a to establish the basic substantive requirements for military commissions, and an executive 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 the UCMJ and MCM can be readily adapted to meet the needs of military commissions and still meet the requirements of criminal justice systems established by common 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 strongly held view that all 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 statute that allows 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: Such 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 of the perception that the pre-Hamdan military commission process was unfair and did not afford ''all the judicial guarantees which are recognized as indispensable by civilized peoples.''

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 on terrorism.

Inextricably tied to that concept is an awareness of reciprocity. We cannot hold out as acceptable a military 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 pro se is well recognized in our jurisprudence. In the context of military commissions, it presents difficult issues. Current procedures allow an accused to expressly waive the right to be represented and conduct his defense personally. That option should be available if the accused competently demonstrates to the military judge he understands the potential disadvantages and consequences of self-representation and he voluntarily and knowingly waives the right to representation. The military judge should have the authority to require that a defense counsel remain present even if the waiver is granted and to revoke the waiver if the accused is disruptive or fails to follow basic rules of decorum and procedure. This right is obviously contingent on the accused's presence throughout the proceeding as well as access to the evidence.

Again, I recommend that Congress detail the basic evidentiary requirements in the legislation and then permit an executive order to flesh out the details, just as the MCM provides evidentiary details for the UCMJ. Evidence should be admissible if, in the judgment of an experienced military judge, there are guarantees of its trustworthiness, the evidence has probative value, and the interests of justice are best served by its admission.

There has been some comment that the admission of hearsay is improper. In my view, such criticisms reflect a misunderstanding of the rules of evidence used in Federal, military and state trials today. Under the Military Rules of Evidence (MRE), hearsay is not admissible except as provided in the MREs or by statute. The MREs further define statements that are not hearsay and provide for exceptions conditioned on the availability of the declarant. Additionally, there is a residual hearsay rule that permits the introduction of other statements, having equivalent circumstantial guarantees of trustworthiness, if the court determines that the statement is material evidence; has more probative value than other available evidence; and serves the interests of justice. The Supreme Court recently narrowed the application of residual hearsay as it applies to out-of-court statements that are testimonial in nature. Such statements are now barred unless there is a showing that the witness is unavailable and the accused had a prior opportunity to cross-examine the witness. The overall application of the residual hearsay rule is functionally very much like that used in international tribunals and requires a military judge to find the evidence is probative and reliable. These existing procedures provide a meaningful starting point for addressing the hearsay issues arising in military commissions.

As to the use of classified evidence, I believe the procedures of MRE 505 adequately protect national security. MRE 505 is based on the Classified Information Procedures Act (CIP A) (Title 18, U.S.C. App III). CIP A is designed to prevent unnecessary or inadvertent disclosures of classified information and advise the government of the national security implications of going forward with certain evidence. MRE 505 achieves a reasonable accommodation of the United States' interest in protecting information and 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 rely on and know about the evidence 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 defense counsel to respond appropriately.

Concerns about the admissibility of statements made by an accused primarily involve the current requirement to provide Miranda warnings (codified more broadly in the UCMJ at Article 31) and whether the statement is the product of torture or coercion.

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 the established 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 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 inducement. Each situation is 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 not 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. That jurisdiction would be most appropriately vested in the United States Court of Appeals for the District of Columbia Circuit (consistent with the Detainee Treatment Act of 2005).

I hope this information is helpful. Please let me know if additional information or comments from me on this matter are desired.

Sincerely,

JACK L. RIVES,
Major General, USAF,
The Judge Advocate General.

DEPARTMENT OF THE NAVY,
OFFICE OF THE JUDGE ADVOCATE GENERAL, WASHINGTON NAVY YARD,
Washington, DC, Aug. 31, 2006.

Hon. JOHN MCCAIN,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCAIN. Thank you for your letter of August 23, 2006 requesting my personal views on military commission legislation.

Before proceeding with discussion of specific issues, I would like to note that I have had the opportunity to provide comment to the DoD General Counsel and the Department of Justice regarding draft commission legislation. As of this writing, I have not seen the final version of the Administration's draft.

Although existing courts-martial rules are not practical for the prosecution of unlawful enemy combatants, they provide a good starting point for the drafting of Commission legislation. I recommend that legislation establish the jurisdiction of military commissions, set baseline standards of structure, procedure, and evidence consistent with U.S. law and the law of war, and prescribe all substantive offenses. It also should authorize the President to promulgate supplemental rules of practice. In this regard, I believe we should follow the military justice model, whereby Congress establishes the legal framework (the Uniform Code of Military Justice, or in this case a Code for Military Commissions) and the President promulgates supplemental rules of practice (a Manual for Courts-Martial, or in this case a Manual for Military Commissions) .

Within that context, I recommend that the jurisdiction of military commissions be expanded to permit prosecution of all unlawful enemy combatants who engage in or attempt to engage in hostilities against the United States. In particular, we need the ability to prosecute before military commissions irregular belligerents who violate the laws of war while acting on behalf of foreign governments as well as terrorists not associated with al Qaida and/or the Taliban.

With regard to baseline standards of structure, procedure, and evidence, it is critically important that independent military judges preside at military commissions and have authority to make final rulings on all matters of law. Similarly, defense counsel must have an independent reporting chain of command, free from both actual and perceived influence of prosecution and convening authorities.

The introduction of evidence outside the presence of an accused is, in my view, inconsistent with U.S. law and the law of war. The Supreme Court held in *Hamdan* v. *Rumsfeld*, 126 S.Ct. 2749 (2006), that absent a sufficient practical need to deviate from existing U.S. laws and criminal trial procedures, an accused must be present at trial and have access to all evidence presented against him. A four-justice plurality also opined that Common Article 3 of the 1949 Geneva Conventions requires, at a minimum, that an accused be present at trial and have access to the evidence presented against him. 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 would be ''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 commissions 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 alternative 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. 55–style process might conceivably result in the Government being unable to introduce evidence against an accused under certain circumstances, it is my view that we are better served by fully honoring the law of war, which requires that we afford even terrorists the judicial guarantees which are recognized as indispensable amongst civilized peoples when we choose to prosecute. For it is that 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 necessary to protect 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 should have the discretion and authority to inquire into the underlying factual circumstances and exclude any statement derived from coercion, in order to protect the integrity of the proceeding.

As I noted earlier, the legislation should enumerate all offenses triable by military commission. Conspiracy should be included, but only conspiracies to commit one of the substantive offenses specifically enumerated and there must be a requirement to prove the defendant committed an overt act in furtherance of the conspiracy. This would mean, for example, that conspiracy to commit murder in violation of the laws of war would be a cognizable offense, but affiliation with a terrorist organization, standing alone, would not be cognizable.

I would also like to address Common Article 3 of the Geneva Conventions. Common Article 3 is a baseline standard that U.S. Armed Forces have trained to for decades. Its application to the War on Terror imposes no new requirements on us. However, if Congress desires to clarify the Common Article 3 phrase ''outrages upon personal dignity, in particular humiliating and degrading treatment,'' this would be beneficial. The legislation might consider requiring an objective standard be used in interpreting this phrase, and define the language to encompass willful acts of violence, brutality, or physical injury, and so severely humiliating or degrading as to constitute an attack on human dignity. Examples of such conduct include forcing detainees to perform sexual acts, threatening a detainee with sexual mutilation, systematically beating detainees, and forcing them into slavery: Such an approach would accurately reflect established war crimes jurisprudence and adoption would prevent the perception that we are attempting to abrogate our obligations under the 1949 Geneva Conventions.

Thank you again for this opportunity to provide personal comment on military commission legislation. I hope that this information is helpful.

Sincerely,

BRUCE MACDONALD,
Rear Admiral, JAGC, U.S. Navy,
Judge Advocate General.

DEPARTMENT OF THE NAVY,
HEADQUARTERS U.S. MARINE CORPS,
Washington, DC, Aug. 31, 2006.

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 written recommendations from the service Judge Advocates General on the military commissions legislation Congress is expected to consider in September. You specifically asked for our personal views on the most pressing issues involving the legislation. I appreciate the opportunity to provide my personal perspective and comments.

Although I assumed the position of Staff Judge Advocate to the Commandant of the Marine Corps on 25 August, I am certainly familiar with the process to date, including the previous testimony of my predecessor, Brigadier General Kevin M. Sandkuhler, and the Judge Advocates General. Like them, I believe that military commissions, in some form, are both appropriate and necessary in prosecuting alleged terrorists while continuing to wage the Global War on Terror. I also believe that there is middle ground to be found between the Uniform Code of Military Justice (UCMJ) and the original military commissions process, which would comport with the requirements of Common Article 3 of the Geneva Conventions.

Any legislation must be approached with an eye toward both precedent and reciprocity. We must account for the values for which our nation has always stood, and also be cognizant of the fact that the solution we create may influence how our service members are judged internationally in the future.

I share in the strong position previously expressed by the Judge Advocates General

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. This may require the government to balance the need for prosecution on particular charges against the need to protect certain classified information. This balancing concept is not new. Domestically, the government must often weigh the sanctity of sensitive information against having to disclose it for use in a successful prosecution believe that the indispensable ''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 prosecute an accused using classified information, Military Rule of Evidence (MRE) 505 should serve as the evidentiary benchmark.

The commissions should be presided 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 comment here on what I believe are two more notable evidentiary issues: hearsay and statements by an accused.

Regarding hearsay evidence, the residual hearsay exception found in the Military Rules of Evidence (MRE) provides a solid foundation upon which to build for the commissions. This exception requires that a 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 if it is inadmissible 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 facilitate the prosecution of all unlawful enemy combatants, and not merely members of al Qaida, 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:

. . . through the use of coercion, unlawful influence, or unlawful inducement. Each situation is 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 not be permitted to consider evidence that is found to be unlawfully coerced and thus involuntary.

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 and flag officers expressed grave concern about redefining our Geneva obligations, including five former Chairmen of the Joint Chiefs of Staff.

Mr. President, I ask unanimous consent to have printed in the RECORD letters from GEN Colin Powell, GEN Jack Vessey, and GEN Hugh Shelton, and a letter from the former Commandant of the Marine Corps, General Krulak.

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

SEPTEMBER 13, 2006.

DEAR SENATOR MCCAIN: I just returned to town and learned about the debate taking place in Congress to redefine Common Article 3 of the Geneva Convention. I do not support such a step and believe it would be inconsistent with the McCain amendment on torture which I supported last year.

I have read the powerful and eloquent letter sent to you by one of my distinguished predecessors as Chairman of the Joint Chiefs of Staff, General Jack Vessey. I fully endorse in tone and tint his powerful argument. The world is beginning to doubt the moral basis of our fight against terrorism. To redefine 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 is Jack Vessey. It was written 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 undermine the moral basis which has generally guided our conduct in war throughout our history. Second, it could give opponents a 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 Officer. The 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 conduct of Americans in war. Number XXV, 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. In waging war, we do not terrorize helpless non-combatants, if it is within our power to avoid so doing. Wanton killing, torture, cruelty or the working of unusual hardship on enemy prisoners or populations 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 Koreans in 1950–53, and 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 held to our own values. We should continue to do so.

Thank you for your own personal courage in maintaining those values, both in war and on the floor of the Senate. I hope that my information about weakening American support for Common Article 3 of the Geneva

Convention is in error, and if not that the Senate will reject any such proposal.

Very respectfully,

GENERAL JOHN. W. VESSEY, USA (Ret.).

SEPTEMBER 20, 2006.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I have followed with great interest the debate over whether to redefine in law Common Article 3 of the Geneva Conventions. I join my distinguished predecessors as Chairman of the Joint Chiefs of Staff, Generals Vessey and Powell, in expressing concern regarding the contemplated change. Such a move would, I believe, hinder our efforts to win America's wars and protect American soldiers.

Common Article 3 and associated Geneva provisions have offered legal protections to our troops since 1949. American soldiers are trained to Geneva standards and, in some cases, these standards constitute the only protections remaining after capture. Given 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 would 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, as well as a war on the battlefield, this would be an egregious mistake. I firmly believe that not only is such a move unnecessary, it potentially subjects our men and women in uniform to 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, our men and women in field will have the clarity they require, we can still interrogate terrorists, and our service personnel will have the undiluted protections offered by the Geneva Convention.

Respectfully,

GENERAL H. HUGH SHELTON.

SENATOR MCCAIN: This is the first time I have publically spoken about the administration policy regarding the war against terror but my professionalism and my conscience leads me to comment on the proposed ''interpretation/change'' to the Geneva Convention.

My concerns are as follows:

I. A redefinition or reinterpretation of the Geneva Convention, a document that has been taught to every recruit and officer candidate since its inception, would immediately attack the moral dimension with which every Soldier, Sailor, Marine and Airman is inculcated during their time as a member of the US Armed Forces. By weakening the moral link that these young men and women depend on . . . by allowing a redefinition of a lawful Convention . . . we run the risk of undermining the foundation upon which they willingly fight and die for our Country.

2. The mothers and fathers who give their sons and daughters to our care brought their children up to do ''right'' . . . to obey the law . . . to take the moral high ground. We do these parents a grave disservice by ''legalizing'' a different standard for their children.

3. This issue is NOT about what our enemy does to our servicemen and women when captured! This issue is all about how we, as Americans, act. Do we walk our talk. Do we change the rules of the game because our enemy acts in a horrific manner. Do we give up our honor because our enemy is without honor? If we do, we begin to mimic the very behavior we abhor.

4. Many countries already look at the United States as arrogant. This redefinition/reinterpretation would only serve to strengthen that conviction. The idea that the United States would ''pick and choose'' what portion of the Geneva Convention to follow . . . and what portion to ''redefine/reinterpret'' . . . goes against who we are as a people and as a Nation. The unintended consequence of this type of action is that it opens the door for other nations to make interpretations of their own . . . across a gamut of issues. The world is a dangerous place and our actions might well serve as precedents during the first battle of the NEXT war.

5. Finally, Duty-Honor-Country and Semper Fidelis are NOT just ''bumper stickers''. These words, and others like them, form the ethos of our Armed Forces. When you start to tamper with the laws governing warfare . . . laws recognized by countries around the world . . . you run the risk of bringing into question the very ethos that these men and women hold dear.

Semper Fidelis,

C.C. KRULAK,
General, USMC (Ret),
31st Commandant of the Marine Corps.

Mr. MCCAIN. These men express one common view: that modifying the Geneva Conventions would be a terrible mistake and would put our personnel at greater risk in this war and the next. If America is seen to be doing anything other than upholding the letter and spirit of the conventions, it will be harder, not easier, to defeat our enemies. I am pleased that this legislation before the Senate does not amend, redefine, or modify the Geneva Conventions in any way. The conventions are preserved intact.

The bill does provide needed clarity for our personnel about what activities constitute war crimes. For the first time, there will be a list of nine specific activities that constitute criminal violations of Common Article 3, punishable by imprisonment or even death. There has been much public discussion about specific interrogation methods that may be prohibited. But it is unreasonable to suggest that any legislation could provide an explicit and all-inclusive list of what specific activities are illegal and which are permitted. Still, I am confident that the categories included in this section will criminalize certain interrogation techniques, like waterboarding and other techniques that cause serious pain or suffering that need not be prolonged—I emphasize ''that need not be prolonged.''

Some critics of this legislation have asserted that it gives amnesty to U.S. personnel who may have committed war crimes since the enactment of 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 an ''outrage upon personal dignity.'' Observers have commented that, though such outrages are difficult to define precisely, we all know them when we see them. However, neither I nor any other responsible Member of this body should want to prosecute and potentially sentence to death any individual for violating such a vague standard.

The specificity that the bill provides to the War Crimes Act—and its retroactive effect—will actually make prosecuting war criminals a realistic goal. None of my colleagues should object to that goal.

It is also important to note that the acts that we propose to enumerate in the War Crimes Act are not the only activities prohibited under this legislation. The categories enumerated in the War Crimes Act list only those violations of Common Article 3 that are so grave as to constitute felonies potentially punishable by death. The legislation states explicitly that there are other, nongrave breaches of Common Article 3.

This legislation also requires the President to publish his interpretations of the Geneva Conventions, including what violations constitute nongrave breaches, in the Federal Register—in the Federal Register—for every American to see. These interpretations will have the same force as any other administrative regulation promulgated by the executive branch and, thus, may be trumped—may be trumped—by law passed by Congress.

Simply put, this legislation ensures that we respect our obligations under Geneva, recognizes the President's constitutional authority to interpret treaties, and brings accountability and transparency to the process of interpretation by ensuring that the Executive's interpretation is made public—the Executive's interpretation is made public. The legislation would also guarantee that Congress and the judicial branch will retain their traditional roles of oversight and review with respect to the President's interpretation of nongrave breaches of Common Article 3.

In short, whereas last year only one law—the torture statute—was deemed to apply to the treatment of all enemy detainees, now there is a set of overlapping and comprehensive legal standards that are in force: the Detainee Treatment Act, with its prohibition on cruel, inhuman, and degrading treatment as defined by the fifth, eighth, and fourteenth amendments to the Constitution, Common Article 3 of the Geneva Conventions, and the War Crimes Act. This legislation will allow—my colleagues, have no doubt—this legislation will allow the CIA to continue interrogating prisoners within the boundaries established in the bill.

Let me state this flatly: It was never our purpose to prevent the CIA from detaining and interrogating terrorists. On the contrary, it is important to the war on terror that the CIA have the ability to do so. At the same time, the CIA's interrogation program has to abide by the rules, including the standards of the Detainee Treatment Act.

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 any Government personnel prosecuted under the War Crimes Act for actions they reasonably believed to be legal at the time. That is a longstanding precedent. In addition, it would eliminate any private right 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 a private right of action—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 enable detainees to sue 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 this legislation in good faith.

This point is critical, because our personnel deserve not only the legal protections written into this legislation, but also the undiluted protections offered since 1949 by the Geneva Conventions. Should the United States be seen as amending, modifying, or redefining 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, lest we invite others to do the same. America has more personnel deployed, in more places, than any other country in the world, and this unparalleled exposure only serves to further demonstrate the critical importance of our fulfilling the letter and the spirit of our international obligations. To do any differently 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.

For these reasons, this bill makes clear that the United States will fulfill all of its obligations under those Conventions. We expect the CIA to conduct interrogations in a manner that is fully consistent not only with the Detainee Treatment Act and the War Crimes Act, but with all of our obligations under Common Article 3 of the Geneva Conventions.

Finally, I note that there has been opposition to this legislation from some quarters, including the New York Times editorial page. Without getting into a point-by-point rebuttal here on the floor, I simply say that I have been reading the CONGRESSIONAL RECORD trying to find the bill that page so vociferously denounced. The hyperbolic attack is aimed not at any bill this body is today debating, nor even at the administration's original position. I can only presume that some would prefer that Congress simply ignore the Hamdan decision and pass no legislation at all. That, I suggest to my colleagues, would be a travesty.

This is a very long, difficult task. This is critical for the future security of this Nation, and we have done the very best we can. I believe we have come up with a good product. I believe good-faith negotiations have taken place. I hope we will pass this legislation very soon. I think you will find that people will be brought to justice and we can move forward with trials with treating people under the Geneva Conventions and restoring America's prestige in the world.

I thank my colleagues.

Mr. WARNER. 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 strength that America should defend 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 make sure we could retain it. 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 stirringly 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 DODD 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 these hearings is an attribute of our strength.''

He was right and his wisdom was echoed this week at our Judiciary Committee hearing when Admiral Hutson and Lieutenant Commander Swift 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 cowering 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 Iraq war has become a ''cause celebre'' that has inspired a new generation of terrorists. It hasn't stopped terrorists, it has inspired new terrorists. Surely, the shameful mistreatment of detainees at Guantanamo, at Abu Ghraib, at secret CIA prisons, and that by torturers in other countries to whom we have turned over people, have become other ''causes celebre'' and recruiting tools for our enemies.

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, without any proceeding or without any recourse, putting them into the secret prisons we condemned during the Cold War, is what our worse critics claim 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 are being created. But now we understand that 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 will become more diverse, leading to increasing attacks worldwide.'' Attacks have been increasing worldwide over the last 5 years of these failing 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 emerge'' and further that the ''operational threat will grow,'' particularly abroad ''but also in the homeland.''

This is truly chilling. The Bush-Cheney administration not only failed to stop 9/11 from happening, but for 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 agencies suggest is the way out of this dangerous quagmire? The National Intelligence Estimate suggests we have to ''go well beyond operations to capture or kill terrorist leaders,'' and we must foster democratic reforms. When America can be seen abandoning its basic American democratic values, its checks and balances, its great and wonderful legal traditions, and can be seen as becoming more autocratic and less accountable, how will that foster democratic reforms elsewhere? ''Do as I say and not as I do'' is a model that has never successfully inspired peoples around the world, and it doesn't inspire me.

The administration has yet to come clean to the Congress or the American people in connection with the secret legal justifications it has generated and secret practices it has employed in detaining and interrogating hundreds, if not thousands, of people. Even they cannot dismiss the practices at Guantanamo as the actions of a few ''bad apples.''

With Senate adoption of the antitorture amendment last year and the recent adoption of the Army Field Manual, I had hoped that 5 years of administration resistance to the rule of law and to the U.S. military abiding by its Geneva obligations might be drawing to a close. Despite the resistance of the Vice President and the administration, the new Army Field Manual appears to outlaw several of what the Administration euphemistically calls ''aggressive'' tactics and that much of the world regards as torture and cruel and degrading treatment. In rejecting the Kennedy amendment today, the Senate has turned away from the wise counsel and judgment of military professionals. Of course, the President in his signing statement already undermined enactment of the antitorture law.

The administration is now obtaining license—before, they just did it quietly and against the law and on their own say-so, but now they are obtaining license—to engage in additional harsh techniques that the rest of the world will see as abusive, as cruel, as degrading, and even as torture. Fortunately, a growing number of our own people see it that way, too.

What is being lost 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 in the name of the United States? Where are the legal justifications and technicalities the administration's lawyers have been seeking to exploit for 5 years? The Republican leadership's legislation strips away all accountability and erodes our most basic national values without so much as an accounting of these facts 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.

Secrecy for all time is to be the Republican rule of the day. Congressional oversight is no more. Checks and balances are no more. The fundamental check that was last provided by the Supreme Court is now to be taken away. This is wrong. This should be unconstitutional. It is certainly unconscionable. 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 else's view, and we will remove, piece by piece, every single law that might have allowed checks and balances.

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 legislation authorizing military commissions. Time was of the essence when this administration took control in January 2001 and did not act on the dire warnings of terrorist action. Time was of the essence in August and early September 2001 when the 9/11 attacks could still have been prevented. This administration ignored warnings of a coming attack and even proposed cutting the antiterror budget on September 10, the day before the worst foreign terrorist attack on U.S. soil in our history. This administration was focused on Star Wars, not terrorism. Time was of the essence when Osama bin Laden was trapped in Tora Bora. But this administration was more interested in going after Sadaam Hussein, who the President recently admitted had ''nothing'' to do with 9/11.

After 5 years of this administration's unilateral actions that have left us less safe, time is now of the essence to take real steps to keep us safe from terrorism. Real steps like those included in the Real Security Act, S. 3875. We should be focusing on getting the terrorists and securing the nuclear material that this administration has allowed for the last 5 years to be unaccounted for around the world. We should be doing the things Senator KERRY and others are talking about, such as strengthening our special forces and winning the peace in Afghanistan, where the Taliban has regrouped and is growing in strength.

Instead, the President and the Republican Senate leadership call for rubberstamping more flawed White House proposals just in time for the runup to another election and for the fundraising appeals to go out.

I had hoped that this time, for the first time, even though the Senate is controlled by the President's party, we could act as an independent branch of the Government and serve as a check on this administration. After this debate and the rejection of all amendments intended to improve this measure, I see that day has long passed. I will continue to speak out. That is my privilege as a Senator. But I weep for our country and for the American values, the principles on which I was raised and which I took a solemn oath to uphold. I applaud those Senators who stood up several times on the floor today and voted to uphold the best of American values.

Going forward, the bill departs even more radically from our most fundamental values. And provisions that were profoundly troubling a week ago when the Armed Services Committee marked up the bill have gotten much worse in the course of closed-door revisions over the past week. For example, the bill has been amended to eliminate habeas corpus review even for persons inside the United States, and even for persons who have not been determined to be enemy combatants. It has moved from detention of those who are captured having taken up arms against the United States on a battlefield to millions of law-abiding Americans that the Government might suspect of sympathies for Muslim causes and who knows what else—without any avenue for effective review.

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 had Senator KENNEDY and Congressman LEWIS on terrorist watch lists, and could not get them off. This is a Government which repeatedly releases confidential family information about our Armed Forces and veterans. It is a Government which just refuses to admit any mistakes or to make any corrections but regards all of its representatives, from Donald Rumsfeld to Michael Brown, as doing a ''heckuva job.''

The proponents of this bill talk about sending messages. What message does it send to the millions of legal immigrants living in America, participating in American families, working for American businesses, and paying American taxes? Its message is that our Government may at any minute pick them up and detain them indefinitely without charge, and without any access to the courts or even to military tribunals, unless and until the Government determines that they are not enemy combatants—a term that the bill now defines in a tortured and unprecedentedly broad manner. And that power and any errors cannot be reviewed or corrected by a court. What message does that send about abuse of power? What message does that send to the world about America's freedoms?

Numerous press accounts have quoted administration officials who believe that a significant percentage of those detained at Guantanamo have no connection to terrorism. In other words, the Bush-Cheney administration has been holding for several years, and intends to hold indefinitely without trial or any recourse to justice, a substantial number of innocent people who were turned in by anonymous bounty hunters or picked up by mistake in the fog of war or as a result of a tribal or personal vendetta. The most important purpose of habeas corpus is to correct errors like that—to protect the innocent. It is precisely to prevent such abuses that the Constitution prohibits the suspension of the writ of habeas corpus ''unless when in Cases of Rebellion or Invasion the public Safety may require it.'' But court review has now embarrassed the Bush administration, as the U.S. Supreme Court has three times rejected its lawyers' schemes. And, so how does the administration respond? It insists that there be no more judicial check on its actions and errors.

When the Senate accedes to that demand, it abandons American principles and all checks on an imperial Presidency. The Senator from Vermont will not be a party to retreat from America's constitutional values. Vermonters don't retreat.

Senator SMITH, speaking this morning about the habeas provisions of this bill, quoted Thomas Jefferson, who said:

> The habeas corpus secures every man here, alien or citizen, against everything which is not law, whatever shape it may assume.

Jefferson said on another occasion:

> I would rather be exposed to the inconveniences attending too much 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 stripping provisions of this bill.

I agree with Mr. Starr that we should not suspend—and we should certainly not eliminate—the Great Writ. I also agree 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 American constitutional traditions.'' 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 9/11 attacks, and in the face of the continuing terrorist threat, now is not the time for the United States to abandon its principles. Admiral Hutson 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 secrecy and 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 of detainees. 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 and on military commissions. Justice O'Connor reminded the nation before her retirement that even war is not a ''blank check'' when it comes to the rights of Americans. The Senate should not be a rubberstamp for policies that undercut America's values.

In reality, we already have clarity. Senior military officers tell us they know what the Geneva Conventions require, and the military trains its personnel according to these standards. We have never had trouble urging other countries around the world to accept and enforce the provisions of the Geneva Conventions. There was enough clarity for that. What the administration appears to want, instead, is to use new legislative language to create loopholes and to narrow our obligations not to engage in cruel, degrading, and inhuman treatment.

In fact, the new legislation muddies the waters. It saddles the War Crimes Act with a definition of cruel or inhuman treatment so oblique that it appears to permit all manner of cruel and extreme interrogation techniques. Senator MCCAIN said this weekend that some techniques like waterboarding and induced hypothermia would be banned by the proposed law. But Senator FRIST and the White House disavowed his statements, saying that they preferred not to say what techniques would or would not be allowed. That is hardly clarity; it is deliberate confusion.

Into that breach, this legislation throws the administration's solution to all problems: more Presidential power. It allows the administration to promulgate regulations about what conduct would and would not comport with the Geneva Conventions, though it does not require the President to specify which particular techniques can and cannot be used. This is a formula for still fewer checks and balances and for more abuse, secrecy, and power-grabbing. It is a formula for immunity for past and future abuses by the Executive.

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 baseline 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 overreaching, disregarding the law and 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 despicable 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 not have been able to be brought to justice under the administration's formulation.

The President and the Congress should not be in the business of immunizing people who have broken the law and made us less safe. 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 cruel and inhuman 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 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 investigating the case found that his 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 departs 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 includes 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 begin denying that person 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 and help our 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 conscience and my commitment to the people of Vermont and the Nation, cannot—I will not—support this bill.

The PRESIDING OFFICER (Mr. CHAFEE). Who yields time? The Senator from Michigan.

Mr. LEVIN. Mr. President, I believe I have 4 minutes allocated.

The PRESIDING OFFICER. There is 3½ minutes remaining.

Mr. LEVIN. Mr. President, less than 2 weeks ago, the Armed Services Committee voted on a military commissions bill. The committee endorsed that bill on a bipartisan basis with a 15-to-9 vote. Yesterday, 43 of us voted for the same bill on the Senate floor.

The bill would have provided the administration with the tools that it needed to detain enemy combatants, conduct interrogations, and prosecute detainees for any war crimes they may have committed.

Unfortunately, that bill went off the tracks after it was approved by the Armed Services Committee. Instead of bringing to the Senate floor the bill that had been adopted by the Armed Services Committee on a bipartisan basis, we are voting now on a dramatically different bill based on changes made at the insistence of an administration that has been relentless in its determination to legitimize the abuse of detainees, to protect those who authorize the abuses, and to distort military commission procedures in order to ensure criminal convictions.

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 cruelty 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 came out of 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 may 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 abuses of detainees.

The bill before us contains provision after provision designed to ensure that the administration will not be held accountable for the abuse of prisoners in U.S. custody, for violations of U.S. law, or for the use of such tactics that have turned much of the world against us.

Over the last 2 days, we have debated the habeas corpus provision in the bill. Most of that debate has focused on the writ 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 deprives individuals of 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 details of 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 in the future will not be prosecutable. In other words, this bill carves out a window to immunize actions of this administration 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 Act last year. That law 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 accountable for their actions.

Last year, this Congress took an important stand 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. 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.

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 our own values as a Nation. We need 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.

The PRESIDING OFFICER. The minority leader.

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 ago, history changed in an instant. 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 caught. They have a right to ask whether our military and intelligence resources were unwisely diverted from that solemn task.

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, he introduced a 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 and ignore the advice of uniformed 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 proposal for one-sided trials 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 names I have given you.

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 administration bill these Senators fought so hard against.

I believe the bill approved by the Senate Armed Services Committee would have given the President all necessary authority. It was supported by the chairman and a bipartisan majority of that committee, as well as our Nation's uniformed military lawyers.

The bill before us diverges from the committee bill in many ways, but let me talk about two.

First, it makes less clear that the United States will abide by our obligations under the Geneva Conventions. The President says the United States does not engage in torture and there should be no ambiguity on that point, but this bill gives the President authority to reinterpret our obligations and limits judicial oversight of that process, putting our own troops at risk on the battlefield.

A four-star general, former Secretary of State, former Chairman of the Joint Chiefs of Staff, GEN Colin Powell, wrote:

The world is beginning to doubt the moral basis of our fight against terrorism. To redefine Common Article 3 would add to those doubts. Furthermore, it would put our own troops at risk.

Second, this bill authorizes a vast expansion of the President's power to detain people, even U.S. citizens, indefinitely and without charge. There are no procedures for doing so. There is no due process provided, and no time limit on the detention is set.

At the same time, the bill would deprive Federal judges of the power to review the legality of many such detentions. Judges—all judges—would have no power to review the legality of many such detentions. This is true even in the case of a lawful permanent resident arrested and held in the United States, and even if that person happens to be completely innocent.

The Framers of our Constitution understood the need for checks and balances. This bill has thrown that principle right out the window.

Many of the worst provisions were not in the committee-reported bill and were not in the compromise announced last Friday. They were added over the weekend. Remember, there was a bill 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 friend, the ranking member of the Armed Services Committee, Senator CARL 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. This 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 Americans or on others. 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 the perpetrators of these attacks to be brought to justice. They should not have to wait longer. We should get 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 in keeping with our Constitution and, in this manner, 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. He should 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 standstill 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. These methods 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—of reliable intelligence.

Past interrogations have guided us to the precise location of terrorists in hiding, explained how al-Qaida leaders communicate with operatives in Iraq, and identified voices in intercepted calls. 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 such 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 on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass?

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).

Further, if present and voting, the Senator from Maine (Ms. SNOWE) would have voted ''yea.''

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

The result was announced—yeas 65, nays 34, as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—65

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

NAYS—34

Akaka	Dodd	Levin
Baucus	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Feingold	Murray
Bingaman	Feinstein	Obama
Boxer	Harkin	Reed
Byrd	Inouye	Reid
Cantwell	Jeffords	Sarbanes
Chafee	Kennedy	Schumer
Clinton	Kerry	Wyden
Conrad	Kohl	
Dayton	Leahy	

NOT VOTING—1

Snowe

The bill (S. 3930), as amended, was passed, as follows:

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 authority 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 under the Constitution 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 948a
''II. Composition of Military Commissions 948h
''III. Pre-Trial Procedure 948q
''IV. Trial Procedure 949a
''V. Sentences 949s
''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.

''§ 948a. Definitions

''In this chapter:

''(1) UNLAWFUL ENEMY COMBATANT.—(A) The term 'unlawful enemy combatant' means—

''(i) a person who has engaged in hostilities or who has purposefully and materially supported hostilities against the United States or its co-belligerents who is not a lawful enemy combatant (including a person who is part of the Taliban, al Qaeda, or associated forces); or

''(ii) a person who, before, on, or after the date of the enactment of the Military Commissions Act of 2006, has been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense.

''(B) CO-BELLIGERENT.—In this paragraph, the term 'co-belligerent', with respect to the United States, means any State or armed force joining and directly engaged with the United States in hostilities or directly supporting hostilities against a common enemy.

''(2) LAWFUL ENEMY COMBATANT.—The term 'lawful enemy combatant' means a person who is—

''(A) a member of the regular forces of a State party engaged in hostilities against the United States;

''(B) a member of a militia, volunteer corps, or organized resistance movement belonging to a State party engaged in such hostilities, which are under responsible command, wear a fixed distinctive sign recognizable at a distance, carry their arms openly, and abide by the law of war; or

''(C) a member of a regular armed force who professes allegiance to a government engaged in such hostilities, but not recognized by the United States.

''(3) ALIEN.—The term 'alien' means a person who is not a citizen of the United States.

''(4) CLASSIFIED INFORMATION.—The term 'classified information' means the following:

''(A) Any information or material that has been determined by the United States Government pursuant to statute, Executive order, or regulation to require protection against unauthorized disclosure for reasons of national security.

''(B) Any restricted data, as that term is defined in section 11 y. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y)).

''(5) GENEVA CONVENTIONS.—The term 'Geneva Conventions' means the international conventions signed at Geneva on August 12, 1949.

''§ 948b. Military commissions generally

''(a) PURPOSE.—This chapter establishes procedures governing the use of military commissions to try alien unlawful enemy combatants engaged in hostilities against the United States for violations of the law of war and other offenses triable by military commission.

''(b) AUTHORITY FOR MILITARY COMMISSIONS UNDER THIS CHAPTER.—The President is authorized to establish military commissions under this chapter for offenses triable by

military commission as provided in this chapter.

''(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.—(1) The following provisions of this title shall not apply to trial by military commission under this chapter:

''(A) 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.

''(B) Sections 831(a), (b), and (d) (articles 31(a), (b), and (d) of the Uniform Code of Military Justice), relating to compulsory self-incrimination.

''(C) Section 832 (article 32 of the Uniform Code of Military Justice), relating to pretrial investigation.

''(2) Other provisions of chapter 47 of this title shall apply to trial by military commission under this chapter only to the extent provided by this chapter.

''(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 chapter 47 of 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 the law of war 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 made punishable under this chapter.

''(c) DETERMINATION OF UNLAWFUL ENEMY COMBATANT STATUS DISPOSITIVE.—A finding, whether before, on, or after the date of the enactment of the Military Commissions Act of 2006, by a Combatant Status Review Tribunal or another competent tribunal established under the authority of the President or the Secretary of Defense that a person is an unlawful enemy combatant is dispositive for purposes of jurisdiction for trial by military commission under this chapter.

''(d) PUNISHMENTS.—A military commission under this chapter may, under such limitations as the Secretary of Defense may prescribe, adjudge 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 Senate and the House of Representatives a report on any trials conducted by military commissions under this chapter during such year.

''(b) FORM.—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.
''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; absent and additional members.

''§ 948h. 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

''(a) IN GENERAL.—Any commissioned officer of the armed forces on active duty is eligible to serve on a military commission under this chapter.

''(b) DETAIL OF MEMBERS.—When convening a military commission under this chapter, the convening authority shall detail as members of the commission such members of the armed forces eligible under subsection (a), as in the opinion of the convening authority, are best qualified for the duty by reason of age, education, training, experience, length of service, and judicial temperament. No member of an armed force is eligible to serve as a member of a military commission when such member is the accuser or a witness for the prosecution or has acted as an investigator or counsel in the same case.

''(c) EXCUSE OF MEMBERS.—Before a military commission under this chapter is assembled for the trial of a case, the convening authority may excuse a member from participating in the case.

''§ 948j. Military judge of a military commission

''(a) DETAIL OF MILITARY JUDGE.—A military judge shall be detailed to each military commission under this chapter. The Secretary of Defense shall prescribe regulations providing for the manner in which military judges are so detailed to military commissions. The military judge shall preside over each military commission to which he has been detailed.

''(b) QUALIFICATIONS.—A military judge shall be a commissioned officer of the armed forces who is a member of the bar of a Federal court, or a member of the bar of the highest court of a State, and who is certified to be qualified for duty under section 826 of this title (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 military judge is a member.

''(c) 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.

''(d) CONSULTATION WITH MEMBERS; INELIGIBILITY TO VOTE.—A military judge detailed to a military commission under this chapter may not consult with the members of the commission except in the presence of the accused (except as otherwise provided in section 949d of this title), trial counsel, and defense counsel, nor may he vote with the members of the commission.

''(e) OTHER DUTIES.—A commissioned officer who is certified to be qualified for duty as a military judge of a military commission under this chapter may perform such other duties as are assigned to him by or with the approval of the Judge Advocate General of the armed force of which such officer is a member or the designee of such Judge Advocate General.

''(f) PROHIBITION ON EVALUATION OF FITNESS BY CONVENING AUTHORITY.—The convening authority of a military commission under this chapter shall not prepare or review any report concerning the effectiveness, fitness, or efficiency of a military judge detailed to the military commission which relates to his performance of duty as a military judge on the military commission.

''§ 948k. Detail of trial counsel and defense counsel

''(a) DETAIL OF COUNSEL GENERALLY.—(1) Trial counsel and military defense counsel shall be detailed for each military commission under this chapter.

''(2) Assistant trial counsel and assistant and associate defense counsel may be detailed for a military commission under this chapter.

''(3) Military defense counsel for a military commission under this chapter shall be detailed as soon as practicable after the swearing of charges against the accused.

''(4) The Secretary of Defense shall prescribe regulations providing for the manner in which trial counsel and military defense counsel are detailed for military commissions under this chapter and for the persons who are authorized to detail such counsel for such commissions.

''(b) TRIAL COUNSEL.—Subject to subsection (e), trial counsel detailed for a military commission under this chapter must be—

''(1) a judge advocate (as that term is defined in section 801 of this title (article 1 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 is a member; or

''(2) a civilian who—

''(A) is a member of the bar of a Federal court or of the highest court of a State; and

''(B) is otherwise qualified to practice before the military commission pursuant to regulations prescribed by the Secretary of Defense.

''(c) MILITARY DEFENSE COUNSEL.—Subject to subsection (e), military defense counsel detailed for a military commission under

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 the highest court of a State; and

''(2) certified as competent to perform duties as defense counsel before general courts-martial by the Judge Advocate General of the armed force of 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 (b)(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 under this chapter shall detail to or employ for the commission qualified court reporters, who shall make a verbatim recording of the proceedings of and testimony taken before the commission.

''(b) INTERPRETERS.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission under this chapter may detail to or employ for the military commission interpreters who shall interpret for the commission and, as necessary, for trial counsel and defense counsel and for the accused.

''(c) TRANSCRIPT; RECORD.—The transcript of a military commission under this chapter shall be under the control of the convening authority of the commission, who shall also be responsible for preparing the record of the proceedings.

''§ 948m. Number of members; excuse of members; absent and additional 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 949m(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 proceed with the new members 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 PROCEDURE

''Sec.
''948q. Charges and specifications.
''948r. Compulsory self-incrimination prohibited; treatment of statements obtained by torture and other statements.
''948s. Service of charges.

''§ 948q. Charges and specifications

''(a) CHARGES AND SPECIFICATIONS.—Charges and specifications against an accused in a military commission under this chapter shall be signed by a person subject to chapter 47 of this title under oath before a commissioned officer of the armed forces authorized to administer oaths and shall state—

''(1) that the signer has personal knowledge of, or reason to believe, the matters set forth therein; and

''(2) that they are true in fact to the best of the signer's knowledge and belief.

''(b) NOTICE TO ACCUSED.—Upon the swearing of the charges and specifications in accordance with subsection (a), the accused shall be informed of the charges against him as soon as practicable.

''§ 948r. Compulsory self-incrimination prohibited; treatment of statements obtained by torture and other statements

''(a) IN GENERAL.—No person shall be required to testify against himself at a proceeding of a military commission under this chapter.

''(b) EXCLUSION OF STATEMENTS OBTAINED BY TORTURE.—A statement obtained by use of torture shall not be admissible in a military commission under this chapter, except against a person accused of torture as evidence that the statement was made.

''(c) STATEMENTS OBTAINED BEFORE ENACTMENT OF DETAINEE TREATMENT ACT OF 2005.—A statement obtained before December 30, 2005 (the date of the enactment of the Defense Treatment Act of 2005) in which the degree of coercion is disputed may be admitted only if the military judge finds that—

''(1) the totality of the circumstances renders the statement reliable and possessing sufficient probative value; and

''(2) the interests of justice would best be served by admission of the statement into evidence.

''(d) STATEMENTS OBTAINED AFTER ENACTMENT OF DETAINEE TREATMENT ACT OF 2005.—A statement obtained on or after December 30, 2005 (the date of the enactment of the Defense Treatment Act of 2005) in which the degree of coercion is disputed may be admitted only if the military judge finds that—

''(1) the totality of the circumstances renders the statement reliable and possessing sufficient probative value;

''(2) the interests of justice would best be served by admission of the statement into evidence; and

''(3) the interrogation methods used to obtain the statement do not amount to cruel, inhuman, or degrading treatment prohibited by section 1003 of the Detainee Treatment Act of 2005.

''§ 948s. Service of charges

''The trial counsel assigned to a case before a military commission under this chapter shall cause to be served upon the accused and military defense counsel a copy of the charges upon which trial is to be had. Such charges shall be served in English and, if appropriate, in another language that the accused understands. Such service shall be made sufficiently in advance of trial to prepare a defense.

''SUBCHAPTER IV—TRIAL PROCEDURE

''Sec.
''949a. Rules.
''949b. Unlawfully influencing action of military commission.
''949c. Duties of trial counsel and defense counsel.
''949d. Sessions.
''949e. Continuances.
''949f. Challenges.
''949g. Oaths.
''949h. Former jeopardy.
''949i. Pleas of the accused.
''949j. 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 action.
''949o. Record of trial.

''§ 949a. Rules

''(a) PROCEDURES AND RULES OF EVIDENCE.—Pretrial, trial, and post-trial procedures, including elements and modes of proof, for cases triable by military commission under this chapter may be prescribed by the Secretary of Defense, in consultation with the Attorney General. Such procedures shall, so far as the Secretary considers practicable or consistent with military or intelligence activities, apply the principles of law and the rules of evidence in trial by general courts-martial. Such procedures and rules of evidence may not be contrary to or inconsistent with this chapter.

''(b) RULES FOR MILITARY COMMISSION.—(1) Notwithstanding any departures from the law and the rules of evidence in trial by general courts-martial authorized by subsection (a), the procedures and rules of evidence in trials by military commission under this chapter shall include the following:

''(A) The accused shall be permitted to present evidence in his defense, to cross-examine the witnesses who testify against him, and to examine and respond to evidence admitted against him on the issue of guilt or innocence and for sentencing, as provided for by this chapter.

''(B) The accused shall be present at all sessions of the military commission (other than those for deliberations or voting), except when excluded under section 949d of this title.

''(C) The accused shall receive the assistance of counsel as provided for by section 948k.

''(D) The accused shall be permitted to represent himself, as provided for by paragraph (3).

''(2) In establishing procedures and rules of evidence for military commission proceedings, the Secretary of Defense may prescribe the following provisions:

''(A) Evidence shall be admissible if the military judge determines that the evidence would have probative value to a reasonable person.

''(B) Evidence shall not be excluded from trial by military commission on the grounds that the evidence was not seized pursuant to a search warrant or other authorization.

''(C) A statement of the accused that is otherwise admissible shall not be excluded from trial by military commission on grounds of alleged coercion or compulsory self-incrimination so long as the evidence complies with the provisions of section 948r of this title.

''(D) Evidence shall be admitted as authentic so long as—

''(i) the military judge of the military commission determines that there is sufficient basis to find that the evidence is what it is claimed to be; and

''(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 to the evidence.

''(E)(i) Except as provided in clause (ii), hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial 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 provide 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 949j(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—

''(i) by the danger of unfair prejudice, confusion of the issues, or misleading the commission; or

''(ii) by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

''(3)(A) 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 defense to the rules of evidence, procedure, and decorum applicable to trials by military commission.

''(B) Failure of the accused to conform to the rules described in subparagraph (A) may result in a partial or total revocation by the military judge of the right of self-representation under paragraph (1)(D). In such case, the detailed defense counsel of the accused or an appropriately authorized civilian counsel shall perform the functions necessary for the defense.

''(c) DELEGATION OF AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary of Defense may delegate the authority of the Secretary to prescribe regulations under this chapter.

''(d) NOTIFICATION TO CONGRESSIONAL COMMITTEES OF CHANGES TO PROCEDURES.—Not later than 60 days before the date on which any proposed modification of the procedures in effect for military commissions under this chapter goes into effect, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report describing the modification.

''§ 949b. Unlawfully influencing action of military commission

''(a) IN GENERAL.—(1) No authority convening a military commission under this chapter may censure, reprimand, or admonish the military commission, or any member, military judge, or counsel thereof, with respect to the findings or sentence adjudged by the military commission, or with respect to any other exercises of its or his functions in the conduct of the proceedings.

''(2) No person may attempt to coerce or, by any unauthorized means, influence—

''(A) the action of a military commission under this chapter, or any member thereof, in reaching the findings or sentence in any case;

''(B) the action of any convening, approving, or reviewing authority with respect to his judicial acts; or

''(C) the exercise of professional judgment by trial counsel or defense counsel.

''(3) Paragraphs (1) and (2) do not apply with respect to—

''(A) general instructional or informational courses in military justice if such courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of military commissions; or

''(B) statements and instructions given in open proceedings by a military judge or counsel.

''(b) PROHIBITION ON CONSIDERATION OF ACTIONS ON COMMISSION IN EVALUATION OF FITNESS.—In the preparation of an effectiveness, fitness, or efficiency report or any other report or document used in whole or in part for the purpose of determining whether a commissioned officer of the armed forces is qualified to be advanced in grade, or in determining the assignment or transfer of any such officer or whether any such officer should be retained on active duty, no person may—

''(1) consider or evaluate the performance of duty of any member of a military commission under this chapter; or

''(2) give a less favorable rating or evaluation to any commissioned officer because of the zeal with which such officer, in acting as counsel, represented any accused before a military commission under this chapter.

''§ 949c. 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 948k of this title.

''(3) 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, district, or possession of the United States or before a Federal court;

''(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.

''(4) Civilian defense counsel shall protect any classified information received 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.

''(5) If the accused is represented by civilian counsel, detailed military counsel shall act as associate counsel.

''(6) The accused is not entitled to be represented by more than one military counsel. However, the person authorized under regulations prescribed under section 948k of this title to detail counsel, in that person's sole discretion, may detail additional military counsel to represent the accused.

''(7) Defense counsel may cross-examine each witness for the prosecution who testifies before a military commission under this chapter.

''§ 949d. Sessions

''(a) SESSIONS WITHOUT PRESENCE OF MEMBERS.—(1) At any time after the service of charges which have been referred for trial by military commission under this chapter, the military judge may call the military commission into session without the presence of the members for the purpose of—

''(A) hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

''(B) hearing and ruling upon any matter which may be ruled upon by the military judge under this chapter, whether or not the matter is appropriate for later consideration or decision by the members;

''(C) if permitted by regulations prescribed by the Secretary of Defense, receiving the pleas of the accused; and

''(D) performing any other procedural function which may be performed by the military judge under this chapter or under rules prescribed pursuant to section 949a of this title and which does not require the presence of the members.

''(2) Except as provided in subsections (c) and (e), any proceedings under paragraph (1) shall—

''(A) be conducted in the presence of the accused, defense counsel, and trial counsel; and

''(B) be made part of the record.

''(b) PROCEEDINGS IN PRESENCE OF ACCUSED.—Except as provided in subsections (c) and (e), all proceedings of a military commission under this chapter, including any consultation of the members with the military judge or counsel, shall—

''(1) be in the presence of the accused, defense counsel, and trial counsel; and

''(2) be made a part of the record.

''(c) DELIBERATION OR VOTE OF MEMBERS.—When the members of a military commission under this chapter deliberate or vote, only the members may be present.

''(d) CLOSURE OF PROCEEDINGS.—(1) The military judge may close to the public all or part of the proceedings of a military commission under this chapter, but only in accordance with this subsection.

''(2) 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—

''(A) protect information the disclosure of which could reasonably be expected to cause damage to the national security, including intelligence or law enforcement sources, methods, or activities; or

''(B) ensure the physical safety of individuals.

''(3) A finding under paragraph (2) may be based upon a presentation, including a presentation ex parte or in camera, by either trial counsel or defense counsel.

''(e) EXCLUSION OF ACCUSED FROM CERTAIN PROCEEDINGS.—The military judge may exclude the accused from any portion of a proceeding upon a determination that, after being warned by the military judge, the accused persists in conduct that justifies exclusion from the courtroom—

''(1) to ensure the physical safety of individuals; or

''(2) to prevent disruption of the proceedings by the accused.

''(f) PROTECTION OF CLASSIFIED INFORMATION.—

''(1) NATIONAL SECURITY PRIVILEGE.—(A) Classified information shall be protected and is privileged from disclosure if disclosure would be detrimental to the national security. 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; or

''(iii) the substitution of a statement of relevant facts that the classified information would tend to prove.

''(B) PROTECTION OF SOURCES, METHODS, OR ACTIVITIES.—The military judge, upon motion of trial counsel, shall permit trial counsel to introduce otherwise admissible evidence before the military commission, while protecting from disclosure the sources, methods, or activities by which the United States acquired the evidence if the military judge finds that (i) 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, trial counsel may object to any question, line of inquiry, or motion to admit evidence that would require the disclosure of classified information. Following such an objection, the military judge shall take suitable action to safeguard such classified information. Such action may include the review of trial counsel's claim of privilege by the military judge in camera and on an ex parte basis, and the delay of proceedings to permit trial counsel to consult with the department or agency concerned as to whether the national security privilege should be asserted.

''(3) CONSIDERATION OF PRIVILEGE AND RELATED MATERIALS.—A claim of privilege under this subsection, and any materials submitted in support thereof, shall, upon request of the Government, be considered by the military judge in camera and shall not be disclosed to the accused.

''(4) ADDITIONAL REGULATIONS.—The Secretary of Defense may prescribe additional regulations, consistent with this subsection, for the use and protection 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.

''§ 949e. Continuances

''The military judge in a military commission under this chapter may, for reasonable cause, grant a continuance to any party for such time, and as often, as may appear to be just.

''§ 949f. Challenges

''(a) CHALLENGES AUTHORIZED.—The military judge and members of 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, and after any challenges for cause against such additional members are presented and decided, each accused and the trial counsel are entitled to one peremptory challenge against members not 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 or for a particular case, shall be as prescribed in regulations of the Secretary of Defense. Those regulations may provide that—

''(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 or competent for 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 military commission under this chapter upon any charge or specification is a trial in the sense of this section until the finding of guilty has become final after review of the case has been fully completed.

''§ 949i. Pleas of the accused

''(a) ENTRY OF PLEA OF NOT GUILTY.—If an accused in a military commission under this chapter after a plea of guilty sets up matter inconsistent with the plea, or if it appears that the accused has entered the plea of guilty through lack of understanding of its meaning and effect, or if the accused fails or refuses to plead, a plea of not guilty shall be entered in the record, and the military commission shall proceed as though the accused had pleaded not guilty.

''(b) FINDING OF GUILT AFTER GUILTY PLEA.—With respect to any charge or specification to which a plea of guilty has been made by the accused in a military commission under this chapter and accepted by the military judge, a finding of guilty of the charge or specification may be entered immediately without a vote. The finding shall constitute the finding of the commission unless the plea of guilty is withdrawn prior to announcement of the sentence, in which event the proceedings shall continue as though the accused had pleaded not guilty.

''§ 949j. Opportunity to obtain witnesses and other evidence

''(a) RIGHT OF DEFENSE COUNSEL.—Defense counsel in a military commission under this chapter shall have a reasonable opportunity 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—

''(1) shall be similar to that which courts of the United States having criminal jurisdiction may lawfully issue; and

''(2) shall run to any place where the United States shall have jurisdiction thereof.

''(c) PROTECTION OF CLASSIFIED INFORMATION.—(1) With respect to the 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.

''(2) The military judge, upon motion of trial counsel, shall authorize trial counsel, 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 evidence if the military judge finds that the sources, methods, or activities by which the United States acquired such evidence are classified. The military judge may require trial counsel to provide, to the extent practicable, an unclassified summary of the sources, methods, or activities by which the United States acquired such evidence.

''(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.

''§ 949k. 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. Mental disease or defect does not otherwise constitute a defense.

''(b) BURDEN OF PROOF.—The accused in a military commission under this chapter has the burden of proving the defense of lack of mental responsibility by clear and convincing evidence.

''(c) FINDINGS FOLLOWING ASSERTION OF DEFENSE.—Whenever lack of mental responsibility of the accused with respect to an offense is properly at issue in a military commission under this chapter, the military judge shall instruct the members of the commission as to the defense of lack of mental responsibility under this section and shall charge them to find the accused—

''(1) guilty;

''(2) not guilty; or

''(3) subject to subsection (d), not guilty by reason of lack of mental responsibility.

''(d) MAJORITY VOTE REQUIRED FOR FINDING.—The accused shall be found not guilty by reason of lack of mental responsibility under subsection (c)(3) only if a majority of the members present at the time the vote is taken determines that the defense of lack of mental responsibility has been established.

''§ 949l. Voting and rulings

''(a) VOTE BY SECRET WRITTEN BALLOT.—Voting by members of a military commission under this chapter on the findings and on the sentence shall be by secret written ballot.

''(b) RULINGS.—(1) The military judge in a military commission under this chapter shall rule upon all questions of law, including the admissibility of evidence and all interlocutory questions arising during the proceedings.

''(2) Any ruling made by the military judge upon a question of law or an interlocutory question (other than the factual issue of mental responsibility of the accused) is conclusive and constitutes the ruling of the military commission. However, a military judge may change his ruling at any time during the trial.

''(c) INSTRUCTIONS PRIOR TO VOTE.—Before a vote is taken of the findings of a military commission under this chapter, the military judge shall, in the presence of the accused and counsel, instruct the members as to the elements of the offense and charge the members—

''(1) that the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond a reasonable doubt;

''(2) that in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt must be resolved in favor of the accused and he must be acquitted;

''(3) that, if there is reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no reasonable doubt; and

''(4) that the burden of proof to establish the guilt of the accused beyond a reasonable doubt is upon the United States.

''§ 949m. Number of votes required

''(a) CONVICTION.—No person may be convicted by a military commission under this chapter of any offense, except as provided in section 949i(b) of this title or by concurrence of two-thirds of the members present at the time the vote is taken.

''(b) SENTENCES.—(1) No person may be sentenced by a military commission to suffer death, except insofar as—

''(A) the penalty of death is expressly authorized under this chapter or the law of war for an offense of which the accused has been found guilty;

''(B) trial counsel expressly sought the penalty of death by filing an appropriate notice in advance of trial;

''(C) the accused is convicted of the offense by the concurrence of all the members present at the time the vote is taken; and

''(D) all the members present at the time the vote is taken concur in the sentence of death.

''(2) No person may be sentenced to life imprisonment, or to confinement for more than 10 years, by a military commission under this chapter except by the concurrence of three-fourths of the members present at the time the vote is taken.

''(3) All other sentences shall be determined by a military commission by the concurrence of two-thirds of the members present at the time the vote is taken.

''(c) NUMBER OF MEMBERS REQUIRED FOR PENALTY OF DEATH.—(1) Except as provided in paragraph (2), in a case in which the penalty of death is sought, the number of members of the military commission under this chapter shall be not less than 12.

''(2) In any case described in paragraph (1) in which 12 members are not reasonably available because of physical conditions or military exigencies, the convening authority shall specify a lesser number of members for the military commission (but not fewer than 9 members), and the military commission may be assembled, and the trial held, with not fewer than the number of members so specified. In such a case, 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.

''§ 949n. Military commission to announce action

''A military commission under this chapter shall announce its findings and sentence to the parties as soon as determined.

''§ 949o. Record of trial

''(a) RECORD; AUTHENTICATION.—Each military commission under this chapter shall keep a separate, verbatim, record of the proceedings in each case brought before it, and 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 record of a military commission under this chapter may contain a classified annex.

''(b) COMPLETE RECORD REQUIRED.—A complete record of the 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 the accused as soon as it is authenticated. If the record contains classified information, or a 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 access to the unredacted record, as provided in regulations prescribed by the Secretary of Defense.

''SUBCHAPTER V—SENTENCES

''Sec.
''949s. Cruel or unusual punishments prohibited.
''949t. Maximum limits.
''949u. Execution of confinement.

''§ 949s. Cruel or unusual punishments prohibited

''Punishment by flogging, or by branding, marking, or tattooing on the body, or any other cruel or unusual punishment, may not be adjudged by a military commission under this chapter or inflicted under this chapter upon any person subject to this chapter. The use of irons, single or double, except for the purpose of safe custody, is prohibited under this chapter.

''§ 949t. Maximum limits

''The punishment which a military commission under this chapter may direct for an offense may not exceed such limits as the President or Secretary of Defense may prescribe for that offense.

''§ 949u. Execution of confinement

''(a) IN GENERAL.—Under such regulations as the Secretary of Defense may prescribe, a sentence of confinement adjudged by a military commission under this chapter may be carried into execution by confinement—

''(1) in any place of confinement under the control of any of the armed forces; or

''(2) in any penal or correctional institution under the control of the United States or its allies, or which the United States may be allowed to use.

''(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

''Sec.
''950a. Error of law; lesser included offense.
''950b. Review by the convening authority.
''950c. Appellate referral; waiver or withdrawal of appeal.
''950d. Appeal by the United States.
''950e. Rehearings.
''950f. Review by Court of Military Commission Review.
''950g. Review by the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court.
''950h. Appellate counsel.
''950i. Execution of sentence; procedures for execution of sentence of death.
''950j. Finality or proceedings, findings, and sentences.

''§ 950a. Error of law; lesser included offense

''(a) ERROR OF LAW.—A finding or sentence of a military commission under this chapter may 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 includes a lesser included offense.

''§ 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) Except as provided in subparagraph (B), a submittal under paragraph (1) shall be made in writing within 20 days after the accused has been given an authenticated record of trial under section 949o(c) of this title.

''(B) If the accused shows that additional time is required for the accused to make a

submittal under paragraph (1), the convening authority may, for good cause, extend the applicable period under subparagraph (A) for not more than an additional 20 days.

''(3) The accused may waive his right to make a submittal to the convening authority under paragraph (1). Such a waiver shall be made in writing and may not be revoked. For the purposes of subsection (c)(2), the time within which the accused may make a submittal under this subsection shall be deemed to have expired upon the submittal of a waiver under this paragraph to the convening authority.

''(c) ACTION BY CONVENING AUTHORITY.—(1) The authority under this subsection to modify the findings and sentence of a military commission under this chapter is a matter of the sole discretion and prerogative of the convening authority.

''(2)(A) The convening authority shall take action on the sentence of a military commission under this chapter.

''(B) Subject to regulations prescribed by the Secretary of Defense, action on the sentence under this paragraph may be taken only after consideration of any matters submitted by the accused under subsection (b) or after the time for submitting such matters expires, whichever is earlier.

''(C) In taking action under this paragraph, the convening authority may, in his sole discretion, approve, disapprove, commute, or suspend the sentence in whole or in part. The convening authority may not increase a sentence beyond that which is found by the military commission.

''(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, may—

''(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.

''(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, order a proceeding in revision or a rehearing.

''(2)(A) Except as provided in subparagraph (B), a proceeding in revision may be ordered by the convening authority if—

''(i) there is an apparent error or omission in the record; or

''(ii) the record shows improper or inconsistent action by the military commission with respect to the findings or sentence that can be rectified without material prejudice to the substantial rights of the accused.

''(B) In no case may a proceeding in revision—

''(i) reconsider a finding of not guilty of a specification or a ruling which amounts to a finding of not guilty;

''(ii) reconsider a finding of not guilty of any charge, unless there has been a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation; or

''(iii) increase the severity of the sentence unless the sentence prescribed for the offense is mandatory.

''(3) A rehearing may be ordered by the convening authority if the convening authority disapproves the findings and sentence and states the reasons for disapproval of the findings. If the convening authority disapproves the finding and sentence and does 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 sufficient 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 subsection (b), 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 OF REVIEW.—(1) In each case subject to appellate review under section 950f 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 signed 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 action is served on the accused or on defense counsel under section 950b(c)(4) of this title. The convening authority, for good cause, may extend the period for such filing by not more than 30 days.

''(c) WITHDRAWAL OF APPEAL.—Except in a case in which the sentence as approved under section 950b of this title extends to death, the accused may withdraw an appeal at any time.

''(d) EFFECT OF WAIVER OR WITHDRAWAL.—A waiver of the right to appellate review or the withdrawal of an appeal under this section bars review under section 950f of this title.

''§ 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 of any order or ruling of the military judge that—

''(A) terminates proceedings of the military commission with respect to a charge or specification;

''(B) excludes evidence that is substantial proof of a fact material in the proceeding; or

''(C) relates to a matter under subsection (d), (e), or (f) of section 949d of this title or section 949j(c) of this title.

''(2) The United States may not appeal under paragraph (1) an order or ruling that is, or amounts to, a finding of not guilty by the military commission with respect to a charge or specification.

''(b) NOTICE OF APPEAL.—The United States shall take an appeal of an order or ruling under subsection (a) by filing a notice of appeal with the military judge within five days after the date of such order or ruling.

''(c) APPEAL.—An appeal under this section shall be forwarded, by means specified in regulations prescribed the Secretary of Defense, directly to the Court of Military Commission Review. In ruling on an appeal under this section, the Court may act only with respect to matters of law.

''(d) APPEAL FROM ADVERSE RULING.—The United States may appeal an adverse ruling on an appeal under subsection (c) to the United States Court of Appeals for the District of Columbia Circuit by filing a petition for review in the Court of Appeals within 10 days after the date of such ruling. Review under this subsection shall be at the discretion of the Court of Appeals.

''§ 950e. Rehearings

''(a) COMPOSITION OF MILITARY COMMISSION FOR REHEARING.—Each rehearing under this chapter shall take place before a military commission under this chapter composed of members who were not members of the military commission which first heard the case.

''(b) SCOPE OF REHEARING.—(1) Upon a rehearing—

''(A) the accused may not be tried for any offense of which he was found not guilty by the first military commission; and

''(B) no sentence in excess of or more than the original sentence may be imposed unless—

''(i) the sentence is based upon a finding of guilty of an offense not considered upon the merits in the original proceedings; or

''(ii) the sentence prescribed for the offense is mandatory.

''(2) Upon a rehearing, if the sentence approved after the first military commission was in accordance with a pretrial agreement and the accused at the rehearing changes his plea with respect to the charges or specifications upon which the pretrial agreement was based, or otherwise does not comply with pretrial agreement, the sentence as to those charges or specifications may include any punishment not in excess of that lawfully adjudged at the first military commission.

''§ 950f. Review by Court of Military Commission Review

''(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Court of Military Commission Review which shall be composed of one or more panels, and each such panel shall be composed of not less than three appellate military judges. For the purpose of reviewing military commission decisions under this chapter, the court may sit in panels or as a whole in accordance with rules 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 by section 948j(b) of this title or shall be a civilian with comparable qualifications. No person may be serve as an appellate military judge in any case in which that person acted as a military judge, counsel, or reviewing official.

''(c) CASES TO BE REVIEWED.—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.

''(d) SCOPE OF REVIEW.—In a case reviewed by the Court of Military Commission Review under this section, the Court may act only with respect to matters of law.

''§ 950g. Review by the United States Court of Appeals for the District of Columbia Circuit and the Supreme Court

''(a) EXCLUSIVE APPELLATE JURISDICTION.—(1)(A) Except as provided in subparagraph (B), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of a final judgment rendered by a military commission (as approved by the convening authority) under this chapter.

''(B) The Court of Appeals may not review the final judgment until all other appeals under this chapter have been waived or exhausted.

''(2) A petition for review must be filed by the accused in the Court of Appeals not later than 20 days after the date on which—

''(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 under section 950f of this title.

''(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.

''§ 950h. Appellate counsel

''(a) APPOINTMENT.—The Secretary of Defense shall, by regulation, establish procedures for the appointment of appellate counsel for the United States and for the accused in military commissions under this chapter. Appellate counsel shall meet the qualifications for counsel appearing before military commissions under this chapter.

''(b) REPRESENTATION OF UNITED STATES.—Appellate counsel appointed under subsection (a)—

''(1) shall represent the United States in any appeal or review proceeding under this chapter before the Court of Military Commission Review; and

''(2) may, when requested to do so by the Attorney General in a case arising under this chapter, represent the United States before the United States Court of Appeals for the District of Columbia Circuit or the Supreme Court.

''(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 949c(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.

''§ 950i. 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 there is a final judgment as to the legality of the proceedings (and with respect to death, approval under subsection (b)).

''(2) A judgment as to legality of 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 and the case is not otherwise under review by that Court; 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 acting on the case (if other than the Secretary), may suspend the execution of any sentence or part thereof in the case, except a sentence of death.

''§ 950j. 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 as approved, reviewed, or affirmed as required by this chapter, are final and conclusive. Orders publishing the proceedings of military commissions under this chapter are binding upon all departments, courts, agencies, and officers of the United States, except as otherwise provided by the President.

''(b) PROVISIONS OF CHAPTER SOLE BASIS FOR REVIEW OF MILITARY COMMISSION PROCEDURES AND ACTIONS.—Except as otherwise provided in this chapter and notwithstanding any other provision of law (including section 2241 of title 28 or any other habeas corpus provision), no court, justice, or judge shall have jurisdiction to hear or consider any claim or cause of action whatsoever, including any action pending on or filed after the date of the enactment of the Military Commissions Act of 2006, relating to the prosecution, trial, or judgment of a military commission under this chapter, including challenges to the lawfulness of procedures of military commissions under this chapter.

''SUBCHAPTER VII—PUNITIVE MATTERS

''Sec.
''950p. Statement of substantive offenses.
''950q. Principals.
''950r. Accessory after the fact.
''950s. Conviction of lesser included offense.
''950t. Attempts.
''950u. Solicitation.
''950v. Crimes triable by military commissions.
''950w. Perjury and obstruction of justice; contempt.

''§ 950p. Statement of substantive offenses

''(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 preclude trial for crimes that occurred before the date of the enactment of this chapter.

''§ 950q. Principals

''Any person is punishable as a principal under this chapter who—

''(1) commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures its commission;

''(2) causes an act to be done which if directly performed by him would be punishable by this chapter; or

''(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.

''§ 950r. Accessory after the fact

''Any person subject to this chapter who, knowing that an offense punishable by this chapter has been committed, receives, comforts, or assists the offender in order to hinder or prevent his apprehension, trial, or punishment shall be punished as a military commission under this chapter may direct.

''§ 950s. Conviction of lesser included offense

''An accused may be found guilty of an offense necessarily included in the offense charged or of an attempt to commit either the offense charged or an attempt to commit either the offense charged or an offense necessarily included therein.

''§ 950t. Attempts

''(a) IN GENERAL.—Any person subject to this chapter who attempts to commit any offense punishable by this chapter shall be punished as a military commission under this chapter may direct.

''(b) SCOPE OF OFFENSE.—An act, done with specific intent to commit an offense under this chapter, amounting to more than mere preparation and tending, even though failing, to effect its commission, is an attempt to commit that offense.

''(c) EFFECT OF CONSUMMATION.—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 consummated.

''§ 950u. 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.

''§ 950v. Crimes triable by military commissions

''(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, or use, effectively contribute to the opposing force's war-fighting or war-sustaining capability; and

''(ii) the total or partial destruction, capture, or neutralization of which would constitute 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 personnel.

''(3) PROTECTED PROPERTY.—The term 'protected property' means property specifically protected by the law of war (such as buildings dedicated to religion, education, art,

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 purposes or is not otherwise a military objective. Such term includes objects properly identified by one of the distinctive emblems of the Geneva Conventions, but does not include civilian property that is a military objective.

''(4) CONSTRUCTION.—The intent specified for an offense under paragraph (1), (2), (3), (4), or (12) of subsection (b) precludes the applicability of such offense with regard to—

''(A) collateral damage; or

''(B) death, damage, or injury incident to a lawful attack.

''(b) OFFENSES.—The following offenses shall be triable by military commission under this chapter at any time without limitation:

''(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 punishment as a military commission under this chapter may direct.

''(2) ATTACKING CIVILIANS.—Any person subject to this chapter who intentionally engages in an attack upon a civilian population as such, or individual civilians not taking active part in hostilities, 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.

''(3) ATTACKING CIVILIAN OBJECTS.—Any person subject to this chapter who intentionally engages 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.

''(4) ATTACKING PROTECTED PROPERTY.—Any person subject to this chapter who intentionally engages in an attack upon protected property shall be punished as a military commission under this chapter may direct.

''(5) PILLAGING.—Any person subject to this chapter who intentionally and in the absence of military necessity appropriates or seizes property for private or personal use, without the consent of a person with authority to permit such appropriation or seizure, shall be punished as a military commission under this chapter may direct.

''(6) DENYING QUARTER.—Any person subject to this chapter who, with effective command or control over subordinate groups, declares, orders, or otherwise indicates to those groups that there shall be no survivors or surrender accepted, with the intent to threaten an adversary or to conduct hostilities such that there would be no survivors or surrender accepted, 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 compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or 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 punishment, other than death, as a military commission under this chapter may direct.

''(8) EMPLOYING POISON OR SIMILAR WEAPONS.—Any person subject to this chapter who intentionally, as a method of warfare, employs a substance or weapon that releases a substance that causes death or serious and lasting damage to health in the ordinary course of events, through its asphyxiating, bacteriological, or toxic properties, 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.

''(9) USING PROTECTED PERSONS AS A SHIELD.—Any person subject to this chapter who positions, or otherwise takes advantage of, a protected person with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, 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.

''(10) USING PROTECTED PROPERTY AS A SHIELD.—Any person subject to this chapter who positions, or otherwise takes advantage of 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.—

''(A) OFFENSE.—Any person subject to this chapter who commits an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind, 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.

''(B) SEVERE MENTAL PAIN OR SUFFERING DEFINED.—In this section, the term 'severe mental pain or suffering' has the meaning given that term in section 2340(2) of title 18.

''(12) CRUEL OR INHUMAN TREATMENT.—

''(A) OFFENSE.—Any person subject to this chapter who commits an act intended to inflict severe or serious physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions), including serious physical abuse, upon another within his custody or control shall be punished, if death results to the victim, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to the victim, by such punishment, other than death, as a military commission under this chapter may direct.

''(B) DEFINITIONS.—In this paragraph:

''(i) The term 'serious physical pain or suffering' means bodily injury that involves—

''(I) a substantial risk of death;

''(II) extreme physical pain;

''(III) a burn or physical disfigurement of a serious nature (other than cuts, abrasions, or bruises); or

''(IV) significant loss or impairment of the function of a bodily member, organ, or mental faculty.

''(ii) The term 'severe mental pain or suffering' has the meaning given that term in section 2340(2) of title 18.

''(iii) The term 'serious mental pain or suffering' has the meaning given the term 'severe mental pain or suffering' in section 2340(2) of title 18, except that—

''(I) the term 'serious' shall replace the term 'severe' where it appears; and

''(II) as to conduct occurring after the date of the enactment of the Military Commissions Act of 2006, the term 'serious and nontransitory mental harm (which need not be prolonged)' shall replace the term 'prolonged mental harm' where it appears.

''(13) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—

''(A) OFFENSE.—Any person subject to this chapter who intentionally causes serious bodily injury to one or more persons, including 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 punishment, other than death, as a military commission under this chapter may direct.

''(B) SERIOUS BODILY INJURY DEFINED.—In this paragraph, the term 'serious bodily injury' means bodily injury which involves—

''(i) a substantial risk of death;

''(ii) extreme physical pain;

''(iii) protracted and obvious disfigurement; or

''(iv) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

''(14) MUTILATING OR MAIMING.—Any person subject to this chapter who intentionally injures one or more protected persons by disfiguring the person or persons by any mutilation of the person or persons, or by permanently disabling any member, limb, or organ of the body of the person or persons, without any legitimate medical or dental purpose, 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.

''(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 by death or such other punishment as a military commission under this chapter may direct.

''(16) DESTRUCTION OF PROPERTY IN VIOLATION OF THE LAW OF WAR.—Any person subject to this chapter who intentionally destroys property belonging to another person in violation of the law of war shall punished as a military commission under this chapter may direct.

''(17) USING TREACHERY OR PERFIDY.—Any person subject to this chapter who, after inviting the confidence or belief of one or more persons 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 capturing 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 punishment, other than death, as a military commission under this chapter may direct.

''(18) IMPROPERLY USING A FLAG OF TRUCE.—Any person subject to this chapter who uses a flag of truce to feign an intention to negotiate, surrender, or otherwise suspend hostilities when there is no such intention shall be punished as a military commission under this chapter may direct.

''(19) IMPROPERLY USING A DISTINCTIVE EMBLEM.—Any person subject to this chapter who intentionally uses a distinctive emblem

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.

''(20) 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.

''(21) 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 anal or genital opening of the victim 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) SEXUAL ASSAULT OR ABUSE.—Any person subject to this chapter who forcibly or with coercion or threat of force engages in sexual contact with one or more persons, or causes one or more persons to engage in sexual contact, shall be punished as a military commission under this chapter may direct.

''(23) HIJACKING OR HAZARDING A VESSEL OR AIRCRAFT.—Any person subject to this chapter who intentionally seizes, exercises unauthorized control over, or endangers the safe navigation of a vessel or aircraft that is not a legitimate military objective 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.

''(24) TERRORISM.—Any person subject to this chapter who intentionally kills or inflicts great bodily harm on 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.

''(25) PROVIDING MATERIAL SUPPORT FOR TERRORISM.—

''(A) OFFENSE.—Any person subject to this chapter who provides material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of terrorism (as set forth in paragraph (24)), or who intentionally provides material support or resources to an international terrorist organization engaged in hostilities against the United States, knowing that such organization has engaged or engages in terrorism (as so set forth), shall be punished as a military commission under this chapter may direct.

''(B) MATERIAL SUPPORT OR RESOURCES DEFINED.—In this paragraph, the term 'material support or resources' has the meaning given that term in section 2339A(b) of title 18.

''(26) WRONGFULLY AIDING THE ENEMY.—Any person subject to this chapter who, in breach of an allegiance or duty to the United States, knowingly and intentionally aids an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished as a military commission under this chapter may direct.

''(27) SPYING.—Any person subject to this chapter who with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign power, collects or attempts to collect information by clandestine means or while acting under false pretenses, for the purpose of conveying such information to an enemy of the United States, or one of the co-belligerents of the enemy, shall be punished by death or such other punishment as a military commission under this chapter may direct.

''(28) CONSPIRACY.—Any person subject to this chapter who conspires to commit one or more substantive offenses triable by military commission under this chapter, and who knowingly does any 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 related to military commissions under this chapter.

''(b) CONTEMPT.—A military commission under this chapter may punish for contempt 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 subtitle A, of title 10, United States Code, are each amended by inserting after the item relating to chapter 47 the following new item:

''47A. Military Commissions ..... 948a''.

(b) SUBMITTAL 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. 4. AMENDMENTS TO UNIFORM CODE OF MILITARY JUSTICE.

(a) CONFORMING AMENDMENTS.—Chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended as follows:

(1) APPLICABILITY TO LAWFUL ENEMY COMBATANTS.—Section 802(a) (article 2(a)) is amended by adding at the end the following new paragraph:

''(13) Lawful enemy combatants (as that term is defined in section 948a(2) of this title) who violate the law of war.''.

(2) EXCLUSION OF APPLICABILITY TO CHAPTER 47A COMMISSIONS.—Sections 821, 828, 848, 850(a), 904, and 906 (articles 21, 28, 48, 50(a), 104, and 106) are amended by adding at the end the following new sentence: ''This section does not apply to a military commission established under chapter 47A of this title.''.

(3) INAPPLICABILITY OF REQUIREMENTS RELATING TO REGULATIONS.—Section 836 (article 36) is amended—

(A) in subsection (a), by inserting '', except as provided in chapter 47A of this title,'' after ''but which may not''; and

(B) in subsection (b), by inserting before the period at the end '', except insofar as applicable to military commissions established under chapter 47A of this title''.

(b) PUNITIVE ARTICLE OF CONSPIRACY.—Section 881 of title 10, United States Code (article 81 of the Uniform Code of Military Justice), is amended—

(1) by inserting ''(a)'' before ''Any person''; and

(2) by adding at the end the following new subsection:

''(b) Any person subject to this chapter who conspires with any other person 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 court-martial or military commission may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a court-martial or military commission may direct.''.

SEC. 5. TREATY OBLIGATIONS NOT ESTABLISHING GROUNDS FOR CERTAIN CLAIMS.

(a) IN GENERAL.—No person may invoke the Geneva Conventions or any protocols thereto in any habeas corpus or other civil action or proceeding to which the United States, or a current or former officer, employee, member of the Armed Forces, or other agent of the United States is a party as a source of rights in any court of the United States or its States or territories.

(b) GENEVA CONVENTIONS DEFINED.—In this section, the term ''Geneva Conventions'' means—

(1) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(2) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(3) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(4) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

SEC. 6. IMPLEMENTATION OF TREATY OBLIGATIONS.

(a) IMPLEMENTATION OF TREATY OBLIGATIONS.—

(1) IN GENERAL.—The acts enumerated in subsection (d) of section 2441 of title 18, United States Code, as added by subsection (b) of this section, and in subsection (c) of this section, constitute violations of common Article 3 of the Geneva Conventions prohibited by United States law.

(2) PROHIBITION ON GRAVE BREACHES.—The provisions of section 2441 of title 18, United States Code, as amended by this section, fully satisfy the obligation under Article 129 of the Third Geneva Convention for the United States to provide effective penal sanctions for grave breaches which are encompassed in common Article 3 in the context of an armed conflict not of an international character. No foreign or international source of law shall supply a basis for a rule of decision in the courts of the United States in interpreting the prohibitions enumerated in subsection (d) of such section 2441.

(3) INTERPRETATION BY THE PRESIDENT.—

(A) As provided by the Constitution and by this section, the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions and to promulgate higher standards and administrative regulations for violations of treaty obligations which are not grave breaches of the Geneva Conventions.

(B) The President shall issue interpretations described by subparagraph (A) by Executive Order published in the Federal Register.

(C) Any Executive Order published under this paragraph shall be authoritative (except

as to grave breaches of common Article 3) as a matter of United States law, in the same manner as other administrative regulations.

(D) 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) GENEVA CONVENTIONS.—The term ''Geneva Conventions'' means—

(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3217);

(ii) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(iii) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(iv) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(B) THIRD GENEVA CONVENTION.—The term ''Third Geneva Convention'' means the international convention referred to in subparagraph (A)(iii).

(b) REVISION TO WAR CRIMES OFFENSE UNDER FEDERAL CRIMINAL CODE.—

(1) IN GENERAL.—Section 2441 of title 18, United States Code, is amended—

(A) in subsection (c), by striking paragraph (3) and inserting the following new paragraph (3):

''(3) which constitutes a grave breach of common Article 3 (as defined in subsection (d)) when committed in the context of and in association with an armed conflict not of an international character; or''; and

(B) by adding at the end the following new subsection:

''(d) COMMON ARTICLE 3 VIOLATIONS.—

''(1) PROHIBITED CONDUCT.—In subsection (c)(3), the term 'grave breach of common Article 3' means any conduct (such conduct constituting a grave breach of common Article 3 of the international conventions done at Geneva August 12, 1949), as follows:

''(A) TORTURE.—The act of a person who commits, or conspires or attempts to commit, an act specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control for the purpose of obtaining information or a confession, punishment, intimidation, coercion, or any reason based on discrimination of any kind.

''(B) CRUEL OR INHUMAN TREATMENT.—The act of a person who commits, or conspires or attempts to commit, an act intended to inflict severe or serious physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions), including serious physical abuse, upon another within his custody or control.

''(C) PERFORMING BIOLOGICAL EXPERIMENTS.—The act of a person who subjects, or conspires or attempts to subject, one or more persons within his custody or physical control to biological experiments without a legitimate medical or dental purpose and in so doing endangers the body or health of such person or persons.

''(D) MURDER.—The act of a person who intentionally kills, or conspires or attempts to kill, or kills whether intentionally or unintentionally in the course of committing any other offense under this subsection, one or more persons taking no active part in the hostilities, including those placed out of combat by sickness, wounds, detention, or any other cause.

''(E) MUTILATION OR MAIMING.—The act of a person who intentionally injures, or conspires or attempts to injure, or injures whether intentionally or unintentionally in the course of committing any other offense under this subsection, one or more persons taking no active part in the hostilities, including those placed out of combat by sickness, wounds, detention, or any other cause, by disfiguring the person or persons by any mutilation thereof or by permanently disabling any member, limb, or organ of his body, without any legitimate medical or dental purpose.

''(F) INTENTIONALLY CAUSING SERIOUS BODILY INJURY.—The act of a person who intentionally causes, or conspires or attempts to cause, serious bodily injury to one or more persons, including lawful combatants, in violation of the law of war.

''(G) RAPE.—The act of a person who forcibly or with coercion or threat of force wrongfully invades, or conspires or attempts to invade, the body of a person by penetrating, however slightly, the anal or genital opening of the victim with any part of the body of the accused, or with any foreign object.

''(H) SEXUAL ASSAULT OR ABUSE.—The act of a person who forcibly or with coercion or threat of force engages, or conspires or attempts to engage, in sexual contact with one or more persons, or causes, or conspires or attempts to cause, one or more persons to engage in sexual contact.

''(I) TAKING HOSTAGES.—The act of a person 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 compelling any nation, person other than the hostage, or group of persons to act or refrain from acting as an explicit or implicit condition for the safety or release of such person or persons.

''(2) DEFINITIONS.—In the case of an offense under subsection (a) by reason of subsection (c)(3)—

''(A) the term 'severe mental pain or suffering' shall be applied for purposes of paragraphs (1)(A) and (1)(B) in accordance with the meaning given that term in section 2340(2) of this title;

''(B) the term 'serious bodily injury' shall be applied for purposes of paragraph (1)(F) in accordance with the meaning given that term in section 113(b)(2) of this title;

''(C) the term 'sexual contact' shall be applied for purposes of paragraph (1)(G) in accordance with the meaning given that term in section 2246(3) of this title;

''(D) the term 'serious physical pain or suffering' shall be applied for purposes of paragraph (1)(B) as meaning bodily injury that involves—

''(i) a substantial risk of death;

''(ii) extreme physical pain;

''(iii) a burn or physical disfigurement of a serious nature (other than cuts, abrasions, or bruises); or

''(iv) significant loss or impairment of the function of a bodily member, organ, or mental faculty; and

''(E) the term 'serious mental pain or suffering' shall be applied for purposes of paragraph (1)(B) in accordance with the meaning given the term 'severe mental pain or suffering' (as defined in section 2340(2) of this title), except that—

''(i) the term 'serious' shall replace the term 'severe' where it appears; and

''(ii) as to conduct occurring after the date of the enactment of the Military Commissions Act of 2006, the term 'serious and nontransitory mental harm (which need not be prolonged)' shall replace the term 'prolonged mental harm' where it appears.

''(3) INAPPLICABILITY OF CERTAIN PROVISIONS WITH RESPECT TO COLLATERAL DAMAGE OR INCIDENT OF LAWFUL ATTACK.—The intent specified for the conduct stated in subparagraphs (D), (E), and (F) or paragraph (1) precludes the applicability of those subparagraphs to an offense under subsection (a) by reasons of subsection (c)(3) with respect to—

''(A) collateral damage; or

''(B) death, damage, or injury incident to a lawful attack.

''(4) INAPPLICABILITY OF TAKING HOSTAGES TO PRISONER EXCHANGE.—Paragraph (1)(I) does not apply to an offense under subsection (a) by reason of subsection (c)(3) in the case of a prisoner exchange during wartime.

''(5) DEFINITION OF GRAVE BREACHES.—The definitions in this subsection are intended only to define the grave breaches of common Article 3 and not the full scope of United States obligations under that Article.''.

(2) RETROACTIVE APPLICABILITY.—The amendments made by this subsection, except as specified in subsection (d)(2)(E) of section 2441 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).

(c) ADDITIONAL PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.—

(1) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(2) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this subsection, the term ''cruel, inhuman, or degrading treatment or punishment'' means cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

(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, is amended by striking both the subsection (e) added by section 1005(e)(1) of Public Law 109–148 (119 Stat. 2742) and the subsection (e) added by added by section 1405(e)(1) of Public Law 109–163 (119 Stat. 3477) and inserting the following new subsection (e):

''(e)(1) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien detained by the United States who has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.

''(2) Except as provided in paragraphs (2) and (3) of section 1005(e) of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note), no court, justice, or judge shall have jurisdiction to hear or consider any other action against the United States or its agents relating to any aspect of the detention, transfer, treatment, trial, or conditions of confinement of an alien who is or was detained by the United States and has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and

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 conditions of detention 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(b)) 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 any criminal prosecution that—

(1) relates to the detention and interrogation of aliens described in such section;

(2) is grounded in section 2441(c)(3) of title 18, United States Code; and

(3) relates to actions occurring between September 11, 2001, and December 30, 2005.

SEC. 9. REVIEW OF JUDGMENTS OF MILITARY COMMISSIONS.

Section 1005(e)(3) of the Detainee Treatment Act of 2005 (title X of Public Law 109–148; 119 Stat. 2740; 10 U.S.C. 801 note) is amended—

(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 (i)—

(i) by striking ''pursuant to the military order'' and inserting ''by a military commission''; and

(ii) by striking ''at Guantanamo Bay, Cuba''; and

(B) in clause (ii), by striking ''pursuant to such military order'' and inserting ''by the military commission''; and

(4) in subparagraph (D)(i), by striking ''specified in the military order'' and inserting ''specified for a military commission''.

SEC. 10. DETENTION COVERED BY REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.

Section 1005(e)(2)(B)(i) of the Detainee Treatment Act of 2005 (title X of Public Law 109–148; 119 Stat. 2742; 10 U.S.C. 801 note) is amended by striking ''the Department of Defense at Guantanamo Bay, Cuba'' and inserting ''the United States''.

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 thank 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 clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on 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 Congress 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 1986, 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 focus its efforts on 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 respond to 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 would 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. Without its continued support and a 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.

Last May, we passed by 63 votes, with 1 favorable vote missing, a comprehensive 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 Representatives 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 $9 billion.

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.

This is a waste of money. 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 Representatives 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 and 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 93 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 comprehensively about how to fix an absolutely broken immigration system.

I urge support of cloture.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on 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.]

YEAS—71

Alexander	Allen	Bayh
Allard	Baucus	Bennett
Biden	Ensign	Murkowski
Bond	Enzi	Nelson (FL)
Brownback	Feinstein	Nelson (NE)
Bunning	Frist	Pryor
Burns	Graham	Roberts
Burr	Grassley	Rockefeller
Byrd	Gregg	Santorum
Chambliss	Hagel	Sessions
Coburn	Hatch	Shelby
Cochran	Hutchison	Smith
Coleman	Inhofe	Specter
Collins	Isakson	Stabenow
Conrad	Johnson	Stevens
Cornyn	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Lincoln	Thomas
Dayton	Lott	Thune
DeMint	Lugar	Vitter
DeWine	Martinez	Voinovich
Dole	McCain	Warner
Domenici	McConnell	Wyden
Dorgan	Mikulski	

NAYS—28

Akaka	Harkin	Menendez
Bingaman	Inouye	Murray
Boxer	Jeffords	Obama
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Chafee	Kohl	Salazar
Clinton	Lautenberg	Sarbanes
Dodd	Leahy	Schumer
Durbin	Levin	
Feingold	Lieberman	

NOT VOTING—1

Snowe

The PRESIDING OFFICER. On this vote, the yeas are 71, the nays are 28. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The clerk will please report the bill.

The legislative clerk read as follows:

A bill (H.R. 6061) to establish operational control over the international land and maritime borders of the United States.

Pending:

Frist amendment No. 5036, to establish military commissions.

Frist amendment No. 5037 (to amendment No. 5036), to establish the effective date.

Motion to commit the bill to the Committee on the Judiciary, with instructions to report back forthwith, with an amendment.

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.

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.

Frist amendment No. 5040 (to amendment No. 5039), to amend the effective date.

Mr. KENNEDY. In May, the Senate passed a historic bipartisan bill that bolsters national security, ensures economic prosperity and protects families. The House passed a very different bill.

The logical next step would have been to appoint conferees and begin negotiating a compromise.

But, instead of working to get legislation to the President's desk, the House Republican leadership frittered away the summer, embarking on a political road show featuring 60 cynical onesided hearings, and wasting millions of precious taxpayer dollars.

Repeatedly, the American people have told us that they want our immigration system fixed, and fixed now. They know this complex problem requires border security, a solution for the 12 million undocumented, and a fair temporary worker program for future workers. All security experts agree.

So what does the Republican leadership have to show for its months of fist pounding and finger pointing?

All they have is old and failed plan—a fence bill. It makes for a good bumper sticker, but it is not a solution. It is a feel good vote that will do nothing but waste $9 billion.

The fence proposal we have before us: Goes far beyond what Secretary Chertoff needs; it doubles the size of the fence we have already approved. From 370 miles to 850 miles. It is also expensive. Estimates range from $3 million per mile. And it will not work. Fences will not stop illegal overstayers—who account for 40–50 percent of current undocumented population, or the many who continue to come here to work.

What the Republican leadership does not seem to get is that comprehensive immigration reform is all about security.

The American people want realistic solutions, not piecemeal feel-good measures that will waste billions of precious taxpayer dollars and do nothing to correct a serious problem.

Sacrificing good immigration policy for political expediency and hateful rhetoric is not just shameful—it is cowardly.

Let us be frank. This is about politics not policy.

I urge my colleagues to choose good policy over political expedience and oppose this cloture motion.

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 means of securing our borders against illegal transit. In fact, S. 2611, the Comprehensive Immigration Reform Act of 2006, would direct

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 necessity, feasibility, 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, like this fence, without also creating a realistic immigration system to allow 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 border 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 I proceed to the immediate consideration of the conference report to accompany H.R. 5631, the Defense appropriations bill. I further ask unanimous consent that there be 2 hours of debate equally divided between the majority and minority, with that debate time not counting against the 30 hours postcloture, and that a vote on adoption of the conference report occur at 10 a.m. on Friday, September 29.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5631), making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by all of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House 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 Defense appropriations conference report for fiscal year 2007 with my colleague from Hawaii, our cochairman, Senator INOUYE.

Two nights ago, in a strong measure of bipartisan support for our men and women in uniform, the House of Representatives passed this bill. There are only 4 days left in the fiscal year. The 2007 Defense appropriations conference report must be signed into law by the President before Saturday at midnight.

Finishing debate on this bill tonight and passing it tomorrow morning will ensure that this bill will get to the President in time so there will be no lapse in money available to our men and women in uniform to conduct the ongoing activities throughout the world.

This bill includes the continuing resolution for those appropriations bills which have not been completed. This continuing resolution, or CR, as we call it, was negotiated on a bicameral, bipartisan basis. It is what we call a clean CR. There is no other problem associated with this CR. It has been supported on both sides of the aisle, and we are grateful to the Members in both the House and the Senate for that approval.

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 the 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 the recapitalization 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 conferenced later this year with the House Appropriations subcommittee responsible 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. This 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 this change, 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. This bill undoubtedly will pass this body, and probably 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 large portion 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.

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 responsible. They are not listed. That is OK if we want to do things that way, but it is not OK if you are going to do that and not at least assess the effect of the earmarks.

We passed in this Chamber, 96 to 1, that we would, in fact, ask the Defense Department to assist in how effective the earmarks are in accomplishing their mission. My disappointment is, that is not in the bill. If out of that $5 billion to $8 billion worth of earmarks, $2 billion or $3 billion is waste, think what we could have done for the defense of this country. Think what we could have done for those who are depending on us and we cannot fully supply their needs, whether it is early childhood education, Head Start, or the AIDS drug assistance program, just to name a few.

We will try again next year. We will try to get the earmarks published, out in the open, and into the sunlight, so the American people can see what we are directing, to whom we are directing it, and who is doing the directing. I will be back on every bill until we come clean with the American people on the political games we are playing with earmarks. We either need to have the agencies say what they are doing with them and whether they meet their mission or we need to be upfront on who is doing what, why, and what for.

I appreciate the hard work of the chairman and Senator INOUYE in terms of bringing this bill to the floor. More importantly, I appreciate those who dedicate their lives to this country by becoming a part of our Armed Services and setting an example we could very well learn from in this body when it comes to earmarks just by following their example of service, courage, and integrity.

With that, I yield the floor.

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

Mr. HARKIN. Mr. President, I ask unanimous consent for time off of Senator INOUYE's time.

The PRESIDING OFFICER. Without objection, the Senator from Iowa is recognized.

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 and diligent staffs to shape 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 of the Defense Appropriations Subcommittee conferees 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 we are 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 the collective wisdom of 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 rushing the intelligence community. But it has been more than

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 the first step—determining the scope of the issues to be covered—is still not 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 in Iraq, 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 in 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 civil war, and my colleagues and I look forward to such an assessment. It is also our view that an unclassified summary, consistent with the protection of sources and methods, should be made available when the estimate is completed.

We continue to believe the National Intelligence Estimate should be as thorough and comprehensive as possible. To this end, we would also benefit significantly by having it include the following areas:

An assessment addressing 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:

U.S. SENATE,
WASHINGTON, DC,
September 28, 2006.

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 2007 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 will ask 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 ethic, 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.

It's obviously important that we obtain an open and honest assessment from the intelligence community, particularly on the question of whether Iraq is in or is descending into civil war, and we look forward to the assessment from the intelligence community. It is also our view that an unclassified summary of the judgments, consistent with the protection of sources and methods, should be made available when the NIE is completed.

Additionally, we continue to believe the NIE should be as thorough and comprehensive as possible. To this end, we would also benefit significantly by having the following areas addressed in a new Iraq NIE:

An assessment addressing the threat from violent extremist-related terrorism, including al Qaida, ill 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;

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 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.

We 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 months since you announced your decision to ask 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 R. BIDEN, Jr.
CARL LEVIN.
HARRY REID.
EDWARD M. KENNEDY.
JACK REED.

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 Vermonters 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 that they are not there 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 failed to capture 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 this selective 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 a key finding of 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 elsewhere. But if we leave Iraq to the terrorists, it will only inspire more terrorists to join the fight.

In other words, defeating terrorists in Iraq not only secures the new democracy there but prevents future attacks here.

The New York Times editorial board rightly pointed out that ''[t]he current situation will get worse if American forces leave.''

Mr. President, it is a banner day when the New York Times editorial board contradicts my colleagues across the aisle, and the Times is certainly right, at least in this regard: a policy of retreat will not stop terrorists there—or prevent attacks here.

I have said it before, but it bears repeating. Terrorism against the United States didn't start on 9/11 or the day our troops entered Baghdad—But attacks here at home did stop when we started fighting al-Qaida where they live rather than responding after they hit.

We don't need to guess what will happen if we leave Iraq to the terrorists. We already have a real-world example of what will happen. Recall that Afghanistan was a wholly owned subsidiary of al-Qaida before 9/11. It was from there that they planned and executed—with impunity—attacks against the United States and our allies. Think what Iraq would be like if we let al-Qaida take possession of the country—like bin Laden wants us to do.

And remember what the 9/11 Commission concluded, and I quote: ''If, for example, Iraq becomes a failed state, it will go to the top of the list 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, bin Laden 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 will come down and lodge 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 last week. At 9:30 tonight 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 treatment 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 I ask again the Senators from New York, New Jersey, and California, those who have holds 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 the reauthorization, they would still receive $304 above the national average per case. And not only that, at the end of the year, they have $29 million left over.

In New Jersey, they get $310 per case above the national average. Now, under the reauthorization, they would still get $88 more per case above the national average, and they have a little slush fund at the end of the year: $17.7 million.

These States have simply raised objections about what funds they will receive this year compared to last year. These States will still be overpaid per case, just no longer grossly overpaid. For example, New York is paid $509 more per AIDS case, as I showed my colleagues, than the national average and would get $304. They have been unable to spend $29 million in Ryan White funding. They can't spend the money they are taking in now. Yet those States' Senators still want more at the expense of many other States that are currently underfunded.

Now, these States have not objected to the underlying policies. Again, I must emphasize that these couple of States have been grossly overpaid for years, receiving well over the national average per patient with HIV. Even under this new bill, they will continue to be overpaid, although not quite as much.

Now, California is a little different situation. When the law was passed last time, we put some provisions into law, and we set a deadline for HIV/AIDS cases for fiscal year 2005 to have a conversion. Now, the Secretary opted to delay that until 2007 to give the States more time, and the CDC in 2005 urged all the States to transition immediately. California decided to transition in 2006. CDC offered resources and people in 2006 to help them make the transition. California declined.

There is a deadline. California will lose $74 million in 4 years under the current law for not meeting the deadline. When we pass this bill, under the new law, California would gain $60 million over the 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.

Let me show you another chart. On the left-hand side, the States in red will have losses under the current law: 100,000 Americans get left out. This will happen on September 30 unless we pass a bill. On September 30, there will be huge penalties to these States. The bottom right shows the States that will gain under the reauthorization that we are doing, and you will notice that there are five States that will not gain, but only two of them are objecting. These five Senators who didn't come to the floor 2 days ago still continue to obstruct the Senate from passing a bill that can save more than 100,000 lives, including the lives of a growing number of women and minorities who are afflicted by this devastating disease.

As you can see from this chart, without this new law, people across the

country who are suffering from HIV and AIDS will be hurt unless we pass the new bipartisan, bicameral bill. That means that we have worked on this for a long period of time, and we have people from both sides of the aisle in agreement. We even have people on both ends of the building in agreement, and, in fact, the bill that the House is passing tonight is the same bill that we worked out and are ready to pass over here.

So holding up passage of this new law is wrong. By doing so, these Senators are denying growing numbers of minorities and women living with HIV and AIDS equal protection under the Ryan White CARE Act.

This chart shows Americans are at risk. More than half of the HIV/AIDS cases are not counted under the Federal law in the States that are marked in red. Those are ones that are not getting half of the money that they need right now, half that they ought to have if the bill was fair.

So we need to pass this bill. We need to pass this bill by September 30. Let's see, today is the 28th. We only have 2 days to pass this bill. And if we don't pass the bill, a whole bunch of States are going to be penalized severely under the old law.

I have gotten letters from several of the Senators who are worried about what is going to happen to their States under the old law come just 2 days from now. If the bill is not authorized by September 30, hundreds and thousands of people in the States and the District of Columbia will lose access to lifesaving services.

Therefore, Senators from three States are holding up a bill that would help Connecticut, Georgia, Kentucky, New Hampshire, Pennsylvania, Delaware, Illinois, Maine, Oregon, Washington State, California, Hawaii, Massachusetts, Maryland, Montana, Rhode Island, Vermont, and the District of Columbia. Hundreds of thousands of people living with HIV and AIDS who live in these States will be needlessly hurt if a few Senators continue obstructing good policy.

As you can see from the chart, more than half of the HIV/AIDS cases are not counted under current law. As we all know, the Ryan White Program provides critical health care services for people who are infected with HIV/AIDS. These individuals rely on this vital program for drugs and other services. We need to pass this legislation so that we can provide them with the treatment they desperately need.

I urge the Senators who are holding up this bill to stop playing the numbers game so that Ryan White CARE Act funding can address the epidemic of today, not 2 days or 2 years ago.

The HIV/AIDS epidemic of today affects more women, more minorities, and more people in rural areas in the South than ever before. While we have made significant progress in understanding and treating this disease, there is still much more to do to ensure equitable treatment for all Americans infected with HIV and AIDS. We must ensure that those infected with HIV and living with AIDS will receive our support and our compassion regardless of their race, regardless of their gender, regardless of where they live.

Therefore, I urge my colleagues to support this key legislation and stop playing the numbers game so we can assist those with HIV in America.

UNANIMOUS CONSENT REQUEST—S. 2823

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 580, S. 2823, the Ryan White Act. I ask unanimous consent the Enzi substitute at the desk be agreed to, the committee reported amendment as amended be agreed to, the bill as amended be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

The Senator from Minnesota.

Mr. DAYTON. Mr. President, reserving the right to object, I want to say that 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, 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 the formula adds money for Minnesota, but I find it unsurprising that they are doing what any of us I 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 reserving the right to object. I directed two questions to the chairman, if I may, Mr. President.

Mr. ENZI. Mr. President, I will go ahead and answer the questions, then, and hope this changes your mind on being the one willing to make the objection.

Would I protect my State if my State were losing money? I think we are elected to the Senate by the people in our States, but our obligation is to the people of the United States. And were my State grossly overpaid on an average, and I was still going to be grossly overpaid afterwards, and my State couldn't use the money each year that it received, I think I would have a terrible time trying to object to this bill. I hope we do not play that kind of numbers game, we don't get that parochial on bills around here.

Another bill I have been working on is the Older Americans Act, and it has a formula in it. Again, there are States that lose under that bill. But there are people who have been willing to work out a formula like we did on this. We must have run about 300 different programs trying to come up with something as equitable as possible. We even put in the 3 years hold harmless for people who were being grossly overpaid.

I think we have come up with as reasonable a bill as we possibly can. We need to get it passed, and we need to get it passed by September 30 so the penalties don't kick into effect for those States that have a big penalty coming up and that are desperately in need of making sure they get enough money to take care of the cases they presently have.

Mr. COBURN. Will the chairman yield for a question?

Mr. DAYTON. Mr. President, I haven't had my question answered.

Mr. ENZI. I have one more answer that I need to do.

The PRESIDING OFFICER. The Senator from Wyoming has the floor. His unanimous consent request is pending.

Is there objection?

Mr. ENZI. 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 would lose money unless 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

that the dollars don't follow the person, that the State gets the money even if they have run out of people with HIV/AIDS, and if there are decreasing numbers of them they should not continue to get those dollars. What you are asking is we continue to give those dollars even if we run out of people. All we are trying to do with this bill is make sure the dollars follow the person. You get more people, you get more money. You get less people, you get less money. It is take care of the people.

It is not an economic development bill.

Mr. DAYTON. Mr. President, I appreciate the answers of the chairman. I respect him very highly for what he has done. I must, however, object on behalf of my colleagues whom I believe are doing properly what they must and should do to protect their own States. So I do object.

The PRESIDING OFFICER. Objection is heard. The Senator from Oklahoma.

Mr. COBURN. Mr. President, it really strikes me strange, when we are talking about protecting money from States that already have full treatment programs, and people are dying across this country because there is inequity in the funding for those States. If that is the basis for an objection, that is an obscene objection.

We are talking about people dying who have no access to medicines, who have no access to treatment, while we have—let me get to the specifics—while we have in New York alone, last year—the city of New York spent $9 million on hotel rooms averaging $329 a night to house people. They spent money, $2.2 million, on people who were dead, paying for rented rooms they weren't even in. And we are talking about objecting to fair treatment and access to care for people who have none now because we don't want to see the fluff associated with other programs decline.

The President has asked us to pass this bill. On October 1, lots of changes take place. They are going to impact lots of people in lots of States.

I find it unconscionable that somebody would have somebody object for them rather than to come down and defend their objection. If you object to making sure African-American women across this country have access to lifesaving drugs, you ought to come to the floor and say you object to that because that is what an objection means for this bill starting October 1. There is already a lack. There are people dying in three States right now because they have waiting lists for drugs for HIV for people who have no other resources to take care of themselves.

Last year I offered an amendment on this floor, fully paid for and offset, for $60 million for additional ADAP funds that would have taken care of the very people who are going to suffer from this bill, and the very same Senators who are blocking this bill voted 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 charge for getting 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 $1.5 billion—over 600 earmarks. Nobody volunteered 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 want to continue to do what we are doing, having the privileges and prerogatives of a Senator or a Congressman to grease the skids of our own 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. Shame on us if we allow this to continue to be held up.

New York State carried over $27 million. The Department of HHS—here is another. This past weekend, HHS spent $400,000 sending people—78 employees—to Hollywood, FL, of which 2 out of the 3 days didn't have anything to do with the conference. It was a party. As a matter of fact, as a quote from the New York Times states, at the last AIDS conference in Toronto, 78 HHS employees went, and as the New York Times said, this was a star-studied rock concert, a circus-like atmosphere that made it seem more like a convention and social gathering than a scientific meeting. For these and other reasons a number of leading scientists have stopped attending and some supporters claimed the quality of the presentations have declined at recent conferences.

We can find more money. We can find money from earmarks. We can find money from conferences. We can find money from waste, fraud, and abuse. What we cannot find is the integrity to treat everybody equally in this country because we want to protect the parochial interests of our city or our State. That is wrong.

It is wrong that they are not down here defending that immoral position. I challenge them to come down and defend it.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, I thank Chairman ENZI and Ranking Member KENNEDY 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 we are 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 to 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 their 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 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—$1,029 per individual infected with HIV/AIDS. Can any Member who blocks this 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 but North Carolina should get $1,129 per person? Can they tell me that is equitable? It is not only not equitable, it is unjust. It is unfair. It is wrong.

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 get pharmaceuticals, to stay alive. This is not the vision of America we 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 HIV-positive people 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 more 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 individuals who is infected is enrolled 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, and 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 urban areas; they are not in 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.

When we look at how we 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 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 if, in fact, we 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 many there are in North Carolina 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 you get because 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 down here arguing that this program has to be changed. It is not happening, and 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 30 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 is the national average. 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.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank Senator ENZI, our chairman, for his great leadership and persuasive remarks earlier on this important issue.

My good friend, Dr. COBURN, has personally treated people with AIDS and has dealt with women who have had babies with AIDS. It is a matter deeply important to him.

Senator BURR is a force in our committee. He works extremely hard. His remarks go to the core of what we are all about here. He explained it in great detail. I am so appreciative of that.

I will just say a few things that I believe are important.

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 because it appears that 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 is showing a faster increase in 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-American women.

Senator BURR 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 passing legislation that deals 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 now. 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 they are doing in some of those centers. 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 came in 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. 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 going to protect themselves and 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. And it would allow them to get on medication at the earliest possible time. So we made some real progress in that area. It can save lives and money in the long run.

I salute the chairman. How the Senator has time 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). 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 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.

STANDARDS CONVERSION

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, target key 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 system. 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 used for the funding formula.

Mr. SANTORUM. So, I understand that you have given States like my own Pennsylvania more time to change their system, so that they don't have losses just due to system issues when people still need care. 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 $4.8 million and California would gain $15.4 million.

Mr. SANTORUM. Will CDC provide assistance to States that need to make this change? How will the Federal Government assist?

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, restating that they would provide that assistance.

Mr. President, Senator HATCH was the chairman of this committee when the original Ryan White HIV/AIDS treatment bill went through. He is the one that selected the name of Ryan White. He has an explanation of how that came about and the differences this bill has made and the urgency with which this needs to be done right now.

Mr. HATCH. Mr. President, I rise to support the effort to call up and immediately adopt S. 2823, 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 BURR 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 after his birth, he was diagnosed with severe hemophilia. Fortunately for Ryan and his parents, there was a new blood-based product just 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 creates painful pressure. Twice a week, 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 have 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 to other students. His situation 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 restrooms 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 his home.

Later, Ryan transferred to a different school where he was well-received by faculty and students who were fully educated into the nature of HIV. Ryan was a great student with an exceptional work ethic and perseverance. He was respected by his fellow students because of his admirable traits. They understood he was a human being—just like them, but living with a terrible disease.

Before he died on April 8, 1990, Ryan White worked to educate people on the nature of HIV and AIDS, to show that it was not a lifestyle disease and that, with a few precautions, it was safe to associate with people who were HIV-positive. His character sought to overcome stigma. He became an inspiration to patients and advocates throughout the United States and the rest of the world.

By the spring of 1990, over 128,000 people had been diagnosed with AIDS in the United States and 78,000 had died of the disease.

The Ryan White CARE Act was originally enacted in 1990 in response to the need for HIV primary care and support services. At that time, the focus of public policy was on research, public education, surveillance, and prevention. The CARE Act was the first approach developed to help people with HIV and AIDS to obtain primary care and support services to save and improve their lives. There is no doubt that the CARE Act has played a critical role in the Nation's response to the AIDS epidemic.

The CARE Act was reauthorized in 1996 and 2000 to address the fact that the epidemic continued to spread and that primary care and support services provided through the act were still vitally important to people living with HIV and AIDS.

Today, more than 944,000 cases of AIDS have been reported to the Centers for Disease Control and prevention, the CDC. Nearly 530,000 men, women, and children have died as the epidemic has spread over the last 25 years to both new populations and new geographic areas.

The public health burden and the economic burden of the AIDS epidemic have not been reduced since the CARE Act was passed. The continued need for services grows faster than the resources available.

Steady expansion and shifted demographics of the epidemic and the increasing survival rates for people living with AIDS have increased the stress on local health care systems 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 reevaluates funding formulas so that money for the program follows the epidemic. It keeps money for the AIDS Drug Assistance Program—known as ADAP—within ADAP, and 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. No matter what changes we make, they will always raise issues and questions. 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 there are actual real people being 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 me to fight for their continued access 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 last reauthorization 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 devastating 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 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 in case we go 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]

LAWMAKERS 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.

''It's shameful and disgraceful,'' shouted Rep. Eliot Engel, D–N.Y., denouncing amendments to the $2.1 billion Ryan White CARE Act that could take millions of dollars out of New York's health care coffers.

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 patients 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. Henry Waxman, D–Calif. ''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, when 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 postcloture, 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 services 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 rollcall 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 rollcall 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.

DECENCY BLOCKING EDUCATIONAL CAMPAIGN

Mr. STEVENS. Mr. President, the television, cable, and satellite industries recently launched the ''Be the Boss of What Your Kids Watch'' campaign. This campaign, which is headed up by my good friend Jack Valenti, educates parents about how to protect their children from inappropriate television programming.

When Senator INOUYE and I first became co-chairmen of the Senate Commerce Committee, several groups and individuals approached us; they were concerned about decency in media content. In November 2005, our Committee began the process of bringing each of these groups together. We convened an Open Forum on Decency and held hearings. In all, more than 30 groups and individuals shared their concerns and insights with us.

The ''Be the Boss'' campaign is one noteworthy initiative which developed from these efforts. Surveys show that only three percent of Americans know how to use the V-chip, a feature in every television set which enables parents to block programs based on ratings. This $300 million ad campaign seeks to teach parents how to use this—and other—blocking technologies and will help them better monitor television programs.

In July, Jack Valenti and Peggy Conlon, the president of the Ad Council, kicked off the ''Be the Boss'' campaign when they showed our committee their first two public service announcements. Thanks to these announcements, and the campaign web site, www.thetvboss.org. parents now have information about the V-chip, cable and satellite controls, and television ratings.

Earlier this week, kits containing information about this campaign were delivered to every Member of Congress. I urge my colleagues to share these valuable resources with their constituents, and I thank Jack Valenti and his colleagues for their leadership on this issue.

I yield the floor.

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, John enrolled 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. It is not easy being in Federal law enforcement, but his family was always supportive. Joined by his wife Beth and their two daughters, Amanda and Megan, the Baileys came to Nevada in 1977.

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 a 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 the Nevada Gaming Control Board, I worked with John to clean up the gaming 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 decided to 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, 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 houses the Historical 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 history display the prehistory 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 northeastern Nevada. They welcome school groups, sponsor speaker series and slide shows, and host local artists. At the same time, the Historical Society extended 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

crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On November, 9, 1996, Alan Fitzgerald Walker was murdered in his home in Fayetteville, AR. The tires on his car were slashed and anti-gay notes were written on the doors of the vehicle. Prosecutors say Adam Blackford and Yitzak Marta met Walker outside of a gay night club and murdered him. Marta testified at Blackford's trial that the motivation for this crime was the victim's sexual orientation.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

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 embarrassed 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 60 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 science. O'Brien said my claim that the Antarctic was actually cooling and gaining ice was incorrect. But both the journals Science and Nature have published studies recently finding—on balance—Antarctica is both cooling and gaining ice.

CNN's O'Brien also criticized me for saying polar bears are thriving in the Arctic. But he ignored that the person I was quoting is intimately familiar with the health of polar bear populations. Let me repeat what biologist 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 extinct, or 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 failed attempt to refute me.

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 it 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'm so glad that we have leaders like you who are willing to stand up against the onslaught of liberal media, Hollywood and the foolish elected officials on this topic. Please keep up the fight.''

Steven 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 everything 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 ''alarmist doomcasting'' 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 newspaper 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 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 events 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 propaganda to derail the economic health of our Nation.

WASTEWATER TREATMENT WORKS

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 water and wastewater facilities. POTWs not only release treated effluent into the Nation's waters but also consist of miles of pipes that run underground and are often large enough for someone to stand in. They are literally underground roadways.

In the 107th Congress, the House of Representatives passed by voice vote legislation—H.R. 5169—to provide POTWs with the resources they needed to conduct vulnerability assessments and secure their facilities. The bill, H.R. 866, was again introduced in the 108th Congress and passed by a vote of 413–2, with every Democrat who voted supporting the bill. I was pleased to introduce the companion to this legislation, S. 1039 with my colleague and then subcommittee Chairman, MIKE CRAPO. Last year, despite reporting the bill on a bipartisan vote of 13 to 6, members of the Senate minority objected to Senate consideration of S. 1039.

S. 2781 is a variation of S. 1039 with some important improvements, like the addition of site security plans and a more streamlined grantmaking progress. Senator LINCOLN CHAFEE, chairman of the Fisheries, Wildlife and Water Subcommittee and Senator LISA MURKOWSKI, a distinguished member of the EPW Committee joined me in sponsoring S. 2781.

Our bill passed the EPW Committee on a voice vote. Unfortunately, once again, my colleague from Vermont has objected to consideration of wastewater security legislation by the full Senate.

My colleagues in the minority argue that my bill is insufficient because it does not impose on POTW's unfunded federal mandates and because it does not assume that local officials are ignoring the security of their facilities.

POTWs are arms of local government. They are largely owned and operated by the Nation's cities and towns. In 1995 Congress passed the Unfunded Mandates Reform Act in which we pledged not to impose costly regulatory burdens on our partners in local government. Just as it is our obligation as U.S. Senators to serve the public good, preserve the public trust and protect the citizenry, so it is the obligation of locally elected, appointed and employed officials.

Why do so many of my colleagues assume that we at the Federal level care more about the citizens of the Nation's towns than the locally elected officials do? Why do so many of them assume that they know more about how to evacuate citizens, secure local treatment plants and protect local citizens than the very people who live in those towns whose jobs it is to protect them?

S. 2781 would simply provide towns with resources to conduct vulnerability assessments and to secure their facilities. It provides funds to research the means to secure the collection systems that are made up of the miles of underground pipes. There are logistical and financial problems with trying to secure these systems that need to be addressed, particularly before imposing an unfunded Federal mandate on the Nation's towns. My bill would support the already ongoing activities of many of the national wastewater associations and the Environmental Protection Agency, EPA, to develop assessment tools and industry security standards as well as conduct security trainings. The national water associations make up the Security Coordinating Council and regularly meet with the Environmental Protection Agency, the Agency charged with overseeing security at POTWs. The SCC and EPA are developing a sector security plan to, among other things, establish measures of security improvements.

My colleagues will argue that this is not enough. Local governments cannot be trusted to proceed on their own with a little Federal guidance because to date, they really have not done anything to secure their facilities. However, one need look no further than a March 2006 GAO report to see how much in fact they are doing. According to GAO, 74 percent of the largest 206 treatment works had completed or were in the process of completing a vulnerability assessment. Further, the majority of treatment works had 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 a chlorine alternative. 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 on technology, 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 who decide for themselves to switch treatment technologies with grant money to make the switch. However, my bill maintains 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 for not covering 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, stepdaughter, 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 1952, at the age of 33, Broyhill was elected as a Republican from Virginia's newly created 10th District to the 83d 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 Federal employees 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:

> [t]here 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 take care of 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 Chairman of my 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 most interesting couple 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 yard signs during any 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—to be elected under the Republican banner.

Congressman Broyhill was instrumental in building his father's real estate business, M.T. Broyhill & Sons. The company was started in Hopewell, and the family later relocated to northern 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 pay tribute today to the life 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 of 25 years, Suzy. He also has 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 region. Now, 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 sincere as some had hoped. As the military junta fumbles through its next steps, it is critical that the United States show strong leadership in helping this critical ally reinstitute 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 authority to 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 juntas. 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 in southern Thailand. This is worrisome if the military council relies on a strictly military approach to the unrest.

The coup is also bad for the region. Events in Thailand are sending the wrong message to democracies 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, going to have a direct impact on Thailand's ability to serve as a broker 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 maintain warm relations with the Thai military. Our close political and military relationship goes back decades and is a vital component of U.S. national security policies in the region. But this friendship must take into consideration the dangerous behavior of those who led this coup. We must resist the temptation to give the leaders of this coup a free pass. Instead, we must take strong action.

We need to signal a real sense of urgency to restoring legitimacy to the democratic institutions within Thailand. It is imperative that the Thai military restore the authority of democratic institutions in Thailand expeditiously. President Bush needs to weigh in decisively. The U.S. Government must signal that it will not accept this new interim authority as the status quo and that the Thais must take immediate actions to restore democracy to Thailand. There are four specific things that must occur.

First, the United States must pressure the military council to schedule national elections immediately. General Sonthi has promised elections by October 2007. This is insufficient. Elections should be held at the earliest possible date, understanding the logistical requirements involved in preparing to hold a national election. This is essential and is the only way the military council can prove that it does intend to reintroduce democracy to Thailand.

Second, the administration must immediately put into place sanctions that are required under U.S. law. This means cutting off military assistance now. As we learned in Indonesia, this in itself will send a powerful message to the Thai military that usurping democracy does not pay. The administration would do itself a favor by making the conditions for reinstituting military-to-military relations clear from the outset. Still, this must be a clean break and must be leveraged in the future to help restore democracy.

Third, the United States must work vigorously with other key players in the region to create a united front of disapproval for the coup. The United States can't be alone in its criticisms or in applying pressure on the Thai junta. Secretary Rice's use of the phrase ''U-Turn'' doesn't cut it. We need a strong message that recognizes the grave nature of these developments. ASEAN members, in particular, have a strong role to play. Thailand's neighbors and regional partners must speak out about this coup in strong ways and must use their economic, political, and social leverage to help reinstall democracy in Thailand.

Finally, and until national elections can be carried out, the military council must lift all restrictions on democratic parties, the press, and political leaders. This includes Thaksin supporters. Those who broke the law under the Thaksin Government should be held accountable in the courts of law, not a military junta. Political opposition parties must be allowed to convene, 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 action 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 to 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 them 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 killed 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 about 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:

[From the Wall Street Journal, Friday, Sept. 15, 2006]

GIVING BACK—DONOR TO TURN WINE INTO BREAD

(By Kelly 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 $4.8 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 $25,000-a-plate dinner at his New York restaurant, Veritas, to benefit Holy Cross.

The Sotheby's auction represents a rare mix of beneficence and big auctioneer. In a more typical charity wine auction, nonprofits enlist local auctioneers to sell bottles donated by wineries or collectors. This season brings a range of such events: In Chicago, Hart Davis Hart Wine Co. is holding a Sept. 28 auction at Tru restaurant ($1,500 a plate) to help children with spina bifida. In Harrisburg, Pa., 600 people will bid to benefit the Whitaker Center for Science and the Arts. In California, Napa Valley winemaker John Schwartz, of Amuse Bouche, says he gets 25 letters a week from charities requesting wine. Mr. Schwartz is organizing his own Oct. 27 wine auction, in Phnom Penh, Cambodia, to benefit a Cambodian orphanage.

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 reach top connoisseurs. He also moved the auction date up a year to take advantage of the strong wine and art market. Mr. Smith is betting a high-profile sale will bring high prices, but by going with a big auctioneer he is also subject to its seller's commission rates (20 percent is standard, though Sotheby's says it will charge less because it's for a good cause). And he'll have to pay higher capital-gains taxes, as much as 28 percent, because the wine will be sold rather than given outright.

Mr. Smith started drinking wine while serving in the Marines (an early favorite was 89-cent bottles of Beaujolais) and has since gained a reputation for collecting top wines. One reason he isn't donating cash: His 65,000-bottle Connecticut cellar is at capacity. ''I'm raising money for Holy Cross but I'm also making more room,'' he says.

Mr. Smith, a 1954 graduate and trustee of the Jesuit liberal-arts college, has given the school $20 million over the years. Now he wants to fix its ''disgraceful'' field house. Father Michael McFarland, college president, says he's awed by Mr. Smith's generosity—and relieved he can accept auction proceeds rather than thousands of bottles: ''We don't even have a wine cellar—just a couple cases stuffed under a sink.''

VOTE EXPLANATION

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 insidiously tried to hold hostage a 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 richest families in our country. I want to make clear that I would not have voted to allow this bill to proceed and that my inability to cast a vote in no way undercut the effort to stop this outrageous legislation. Since it was necessary for proponents of the legislation to find 60 votes irrespective of the number of votes against cloture cast by those of us in opposition, the very act of not voting for the cloture motion was, in effect, a vote against the motion.

At the time of the vote, I issued a press statement expressing my disappointment over the Senate's failure to enact a minimum wage hike and my dismay at the Republican proponents' tactic of linking the wage hike to an estate tax giveaway that would have increased an already out-of-control Federal budget deficit. In that statement, I rejected the Republicans proponents' hollow claim to favor a minimum wage increase. In fact, they have actively opposed a minimum wage increase for years; in this trifecta bill, they were using the wage hike only as 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 for many years. It is a problem for workers in 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 minimum wage was last raised almost 10 years ago. We need to act this year to pass a minimum wage increase—without tying it to an excessive cut in the estate tax. It is also essential that we pass the tax ''extenders'' which will support families paying college tuition, promote work opportunities for low-income Americans, and give incentives to businesses pursuing important research and development. These and other important tax extenders were also taken hostage by the Republicans' irresponsible estate tax scheme.

I have cosponsored a separate bill that would raise the minimum wage and extend these important tax incentives for middle-class families and businesses. I will continue to work with my colleagues to accomplish these goals without paying the high cost of excessive estate tax cuts to the wealthiest sliver of the population.

Mr. President, I also wish to express my support for the pension reform legislation which passed the Senate on August 2. Had I been present, I would have voted in favor of the conference report.

While we all recognize that the legislation that passed was not perfect, it marked the end of a long and difficult legislative process that necessarily involved a great deal of compromise on all sides. It represents a success in terms of bipartisan cooperation in the Senate, something we need to see much more of in the future so we can truly begin to address many of the serious and complex problems our nation faces.

Senate passage of the pension reform bill was the culmination of more than a year of work by lawmakers concerned about record unfunded liabilities at the PBGC—which is supposed to be the bulwark against pension collapse—as well as what had become a widespread epidemic 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. Those with funding shortfalls generally would have 7 years to make up the difference. Companies at risk of default would be subject to other restrictions and would have to make accelerated contributions.

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 in a 401(k). This will accomplish a relatively simple but tremendously effective change to ensure that more Americans are saving for their retirement

The legislation also contains many other improvements and protections to the necessarily complex system we have constructed to address the retirement security of tens of millions of our citizens. The bill would provide needed reforms to both single employer and multiemployer plans; to defined benefit as well as defined contribution plans; and to hybrid ''cash balance'' plans. It also provides greater security to spouses with respect to their share of a spouse's retirement plan after death or divorce.

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 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 Judge 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 and laughs.

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* in 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, where 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 time on the court, Judge Williams has been instrumental in reestablishing 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 his 30 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. Besides myself, 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 wonderful 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 Abingdon, VA, 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, admired and respected by all who are fortunate enough to know 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 GEORGE ALLEN, 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 in the U.S. Navy 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 civilian 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 our country, and certainly for those who live and work in the coal-mining regions of Virginia's beautiful Western District. 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 1988, 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 mentorship of the many judicial law clerks who have had the opportunity to work with him, 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, Your Honor.'' Your longevity and commitment to our Constitution, to our third branch of government, and to those four words that are forever engraved into the marble at the United States Supreme Court—''Equal Justice Under Law''—remain the hallmarks of your remarkable career.

HONORING CAROLE GRUNBERG

Mr. WYDEN. Today I honor Carole Grunberg 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 of Representatives. I want to take 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 directors, Carole was 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

Poindexter'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 glidepath 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 partner—and 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 Nation.

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 Kokesh, Jr.

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, VOINOVICH, ALEXANDER, SUNUNU, MURKOWSKI, MARTINEZ, DODD, KERRY, NELSON (FL), OBAMA, CORNYN, BAYH, 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 Shaw, Corey Johnson, Alicia Moon, Brian Dooley, Jennifer Martell, Collin McCracken, Amanda Hastings, Shane Watkins, Timothy Gerry, Darrin 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 ROBERT LAURENZ

• Mr. THUNE. Mr. President, today I recognize Robert Laurenz, who was named the South Dakota Minority Small Business Person of the Year by the Small Business Administration. This is a prestigious award that reflects the quality of small businesses that are found in South Dakota.

Mr. Laurenz's business, Dakota 2000, Inc., was founded in 1995 and supports Federal, State, local, and tribal government agencies with information technology services. Dakota 2000, Inc., sells millions of goods and services annually and has successfully completed contracts with several government agencies. Businesses such as Dakota 2000, Inc., are vital to the health and economic well-being of South Dakota's future.

It gives me great pleasure to rise with Robert Laurenz and to congratulate him on receiving this well-earned award. I wish him and Dakota 2000, Inc., continued success in the years to come.•

TRIBUTE TO JAMES T. CASSIDY, MD

• Mr. BOND. Mr. President, today I wish to honor and recognize the immeasurable contribution Dr. James 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 Master 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

rheumatology. Yet 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 travel 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 Dr. Cassidy that a mother of one of his patients and two other mothers from other States formed the American Juvenile Arthritis Organization, AJAO, 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 of children 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 suffered debilitating pain from juvenile arthritis. Throughout the years he persistently encouraged 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 thanked him for supporting them and giving them the opportunity to live life as they never thought they could.

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 is an organization that provides computer adaptive technology and training to blind and visually impaired individuals. The men and women who volunteer their time and energy to this organization provide an important service to the people of Southern California and our Nation.

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 them 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 lives 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, counseling, 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. Craig Schneider funds the organization 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, and more and 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.●

TRIBUTE TO 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 Macon, 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 alive today.

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 concern 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 signature event. That it was not is a testament to the science, technology, and public service and dedication of your agency and of your employees. Thanks to all of you for what you do for Montana. It is a job well done.●

CONGRATULATIONS TO SERGEANT LEIGH ANN HESTER

● Mr. BUNNING. Mr. President, I would like to recognize and congratulate U.S. Army SGT Leigh Ann Hester, a recent recipient of the United Service Organization's 'Service Member of the Year' Award. This honor is presented annually to one enlisted member from each branch of the Armed Forces and must be given to a soldier who demonstrates remarkable courage and skill, often risking their own lives to save the lives of others.

On March 20, 2005, Sergeant Leigh Ann Hester of the 617th Military Police Company, a National Guard unit out of Richmond, KY, was escorting a convoy of 26 supply vehicles when they were suddenly ambushed. According to military accounts of the firefight, about 40 insurgents attacked the convoy as it was traveling south of Baghdad, launching their assault from trenches alongside the road using rifles, machine guns, and rocketpropelled grenades. Despite being outnumbered five to one and coming under heavy enemy fire, Sergeant Hester led her team through the 'kill zone' and into a flanking position, where she assaulted a trench line with grenades and M203 grenade-launcher rounds.

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 is 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 was only 23 years old at the time of this encounter. She was born in 1982 in Bowling Green, KY, later moved to Nashville, TN, and she joined the National Guard in April of 2001. As she continues the legacy of military service in her family—her uncle, Carl Sollinger, served honorably in Vietnam, and her grandfather, Oran Sollinger, was awarded a Bronze Star for his valor in World War II—Sergeant 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, community, and 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, each of whom explained 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 released by 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 the Federal 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 their 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. In 1979, she became the director of the Good Neighbor Mission in Saginaw, a food pantry that serves the local needy. In 1991, Betty founded the Restoration Community Outreach Center. This center has enabled thousands struggling with substance abuse, mental illness, or physical disabilities to get the necessary assistance to begin to repair their lives.

Over the years, Betty has received numerous awards for her efforts, including the 1996 U.S. Department of Housing and Urban Development Certificate of Recognition for Dedicated Service to the Homeless, the 2002 Salvation Army Appreciation Award and the 2005 Saginaw City Council Certificate of Recognition. She has created a legacy that will reverberate in the city of Saginaw for many years to come, and her commitment to serving the needy should serve as an example for us all.

Betty is survived by her husband of 42 years, Judge Martin, one son, Bernard Smith Abernathy, one step-daughter, Joyce Ann Martin, and nine grandchildren. I know my colleagues in the Senate join me in offering my condolences to her family, colleagues, and friends. I hope they take comfort in the amount of good she has done over the years.●

RETIREMENT OF JOHN STENCEL

● Mr. SALAZAR. Mr. President, today I honor John Stencel, who will soon retire as president of the Rocky Mountain Farmers Union. John has been a tireless advocate for rural America, and he can retire with the comfort that he has profoundly influenced an entire generation of farmers and ranchers in Colorado and across the Nation.

For almost 50 years John has worked with the Rocky Mountain Farmers Union, during which time he has served as a steady and pragmatic compass. He early on saw the benefits of cooperatives so that small farmers could add significant value to their products. He has embraced the potential of biobased fuels as an innovative pathway to power production and transportation fuel needs. He has recognized that responsible stewardship of the land should be a top priority for farmers and ranchers, as clean water, energy conservation, and biodiversity all enhance our society.

John is a tireless advocate for the future sustainability of the rural way of life. His leadership has shaped the next 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 ensures that 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 isn't only based on 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 from his service to the Rocky Mountain Farmers Union, I take comfort in the longevity of our friendship and his steadfast leadership for rural America, and I wish him nothing but the best.●

TRIBUTE IN HONOR OF JIMMY WILLIAMSON

● Mr. SHELBY. Mr. President, today I honor Mr. Jimmy Williamson, who will become the first Alabamian to serve as chairman of the board for the American Institute of Certified Public Accountants.

This is a tremendous honor, both for Jimmy and for Alabama. The American Institute of Certified Public Accountants serves as the national professional association for more than 350,000 certified public accountants. Jimmy's education, experience, and passion for finance make him the best choice to take the helm of the organization.

Jimmy, a past president of the Alabama Society of CPAs, is a senior partner and stockholder in the MDA Professional Group accounting firm where he specializes in profit sharing plans, fringe benefits, nonqualified deferred compensation plans, estate and personal financial planning, business acquisitions, and investment review and analysis. I am also proud to say that Jimmy and I share an interest in fraud prevention and detection, one of the most important financial issues we face today. His professional work and leadership on committees, that are too plentiful to name, make him uniquely qualified and prepared for this position. I am proud to recognize his professional achievements and congratulate him on this important post.●

TRIBUTE IN HONOR OF BILL CHANDLER

● Mr. SHELBY. Mr. President, today I honor William ''Bill'' Chandler, a pillar of the Montgomery, AL community. Bill devoted 50 years of his life to developing the YMCA in Montgomery and influencing the lives of thousands of youth.

Bill, known as ''Mr. YMCA'' in Montgomery, was a father figure to many young men and women in need of guidance. Bill believed that civic education and open discussions were important to developing youth into productive citizens. He was instrumental in creating and implementing innumerable youth programs focused on leadership development including the Alabama Youth Legislature, the YMCA Youth Conference on National Affairs, Lions International Youth Camp, and the Hi-Y and Tri-Hi-Y programs. Without a doubt, many of Montgomery's, Alabama's, and the Nation's leaders have been directly influenced by Mr. Chandler and the programs he championed.

Mr. Chandler also proved himself to be an effective leader and businessman as president of the Montgomery YMCA. Under his leadership, Montgomery's single YMCA grew into the 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.

Mr. Chandler also served as an important leader in Alabama throughout times of racial tension in Montgomery and the State. He worked to open facilities in all parts of the Montgomery community to serve people from all walks of life and was at the forefront of providing integrated services. In 1983, when racial discord was near its boiling point in Montgomery, Mr. Chandler worked with community and civil rights leaders to develop the biracial Youth One Montgomery organization to allow Black and White youth to conduct an open dialog and better understand the issues surrounding race.

Bill Chandler, a graduate of Rice University and the University of Georgia, served with distinction as an officer in the U.S. Navy during World War II. An accomplished athlete himself, Bill was also responsible for the creation of a city sports league and the Jimmy Hitchcock award to honor character in high school athletes.

Bill was an inspiration to many, and I am truly grateful for the endless contributions he made to the youth in Alabama. He was preceded in death by his wife, Martha Spidle Chandler and will be missed by his three children, Carroll Chandler Phelps, Elizabeth Chandler Walston, and William Robert Chandler; his seven grandchildren; and his sister, Evelyn Chandler Berg. His dedication to community service will be remembered and shared by those whose lives he touched for generations to come.●

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. Touched 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 provide that family. They 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, 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 continues to be home to 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 THOMAS R. ETLING

● Mr. TALENT. Mr. President, today I wish to recognize the efforts of a good friend and to highlight his service to our Nation. Thomas R. Etling, of Chesterfield MO, is privileged to have served for 26 years as an adjunct faculty member of the Saint Louis Community College at Florissant Valley. In his years in the Business and Human Relations Division, he has taught a variety of subjects ranging from statistics, to marketing and human relations.

Throughout Mr. Etling's career, he has been honored with several distinctions for his hard work and dedication in the classroom. During the 2001–2002 academic year, he was selected as Adjunct Faculty Member of the Year. In 2004, Mr. Etling was named the Business Teacher of the Year, the first adjunct faculty member to be so honored.

Outside the classroom, Mr. Etling has continued to dedicate his time to serving the academic community. He has served on several committees, most notably as a member of the Academic Council and the Assessment Committee. Currently, he is working with the dean of the business division to develop a mentoring program to assist students who have the entrepreneurial spirit to help them develop their ideas. For this program, he has recruited a number of successful local business leaders and other faculty members. Mr. Etling looks forward to continuing to work for the success of the students and the college. I thank him for setting such a great example for us all.●

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.)

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:23 a.m., a message from the House of Representatives, delivered by Ms. Chiappardi, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

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.

H.R. 683. An act to amend the Trademark Act of 1946 with respect to dilution by blurring or tarnishment.

H.R. 1036. An act to amend title 17, United States Code, to make technical corrections relating to Copyright Royalty Judges, and for other purposes.

H.R. 3127. An act 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.

The enrolled bills were subsequently signed by the President pro tempore (Mr. STEVENS).

ENROLLED BILLS SIGNED

The following enrolled bills, previously signed by the Speaker of the House, were signed today, September 28, 2006, by the President pro tempore (Mr. STEVENS).

S. 176. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

S. 244. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Wyoming.

H.R. 2066. An act to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes.

H.R. 5074. An act to amend the Railroad Retirement Act of 1974 to provide for continued payment of railroad retirement annuities by the Department of the treasury, and for other purposes.

H.R. 5187. An act to amend the John F. Kennedy Center Act to authorize additional appropriations for the John F. Kennedy Center for the Performing Arts for fiscal year 2007.

At 3:35 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1556. An act to designate a parcel of land located on the site of the Thomas F. Eagleton United States Courthouse in St. Louis, Missouri, as the ''Clyde S. Cahill Memorial Park''.

H.R. 1711. An act to provide assistance to the State of New Mexico for the development of comprehensive State water plans, and for other purposes.

H.R. 2069. An act to authorize the exchange of certain land in Grand and Uintah Counties, Utah, and for other purposes.

H.R. 2110. An act to provide for a study of options for protecting the open space characteristics of certain lands in and adjacent to

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 Museum of American Latino Heritage 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 Weber Basin Project, Utah, to provide additional water for the Weber Basin Project to fulfill the purposes for which that project was authorized.

H.R. 4750. 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 supply reliability, increase the capacity of water storage, and improve water management efficiency in the Republican River Basin between Harlan County Lake in Nebraska and Milford Lake in Kansas.

H.R. 4766. An act to amend the Native American Programs Act of 1974 to provide for the revitalization of Native American languages through 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. 4981. An act to amend the National Dam Safety Program Act.

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 Juncos 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 nutrient loss in the Upper Mississippi River Basin, and for other purposes.

H.R. 5483. An act to increase the disability earning 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 Secretary 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. 5585. An act to improve the netting process 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 211 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 reinsurance, and for other purposes.

H.R. 5690. An act to adjust the boundaries of the Ouachita 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 in the case of Pueblo of Isleta v. 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 improve monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and for other purposes.

H.R. 6014. 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 clarify certain provisions of law applicable 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 on the hedge fund 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 concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 478. Concurrent resolution supporting the goals and ideals of ''Lights on Afterschool'', a national celebration of afterschool programs.

The message also announced that the House has passed the following bills, without amendment:

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. 2430) 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 her 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 Mr. Hays, 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 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.

S. 2146. An act to extend relocation expenses test programs for Federal employees.

The message further announced that the House has agreed to the amendment of the Senate 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.

At 7:01 p.m., a message from the House of Representatives, delivered by Ms. Niland, 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. 4545. 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 Post Office Building'' .

H.R. 6162. An act to require financial accountability with respect to certain contract actions related to the Secure Border Initiative of the Department of Homeland Security.

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. 222. Concurrent resolution supporting the goals and ideals of National Pregnancy and Infant Loss Remembrance Day.

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; it agrees to 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. LUNGREN of California, Mr. LINDER, Mr. SIMMONS, Mr. MCCAUL of Texas, Mr. REICHERT, THOMPSON of Mississippi, Ms. LORETTA SANCHEZ of California, Mr. MARKEY, Ms. HARMAN, and Mr. PASCRELL;

From the Committee on Energy and Commerce for consideration of titles VI and X and section 1104 of the Senate amendment, and modifications committed to conference: Mr. BARTON 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, 608, 706, 801, 802, and 1107 of the Senate amendment, and modifications committed to conference: Mr. BOEHLERT, Mr. SODREL, and Mr. MELANCON;

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. RANGEL, 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 including in the 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 and to indemnify manufacturers and health care professional for the administration of medical products needed for biodefense.

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.

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 today, September 28, 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. 244. An act to extend the deadline for commencement 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 laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–8463. A communication from the Principal Deputy, Office of the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, the report of an officer authorized to wear the insignia of the grade of rear admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–8464. A communication from the Attorney Advisor, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Deepwater Ports'' ((RIN1625–AA20)(USCG–1998–3884)) received on September 22, 2006; to the Committee on Commerce, Science, and Transportation.

EC–8465. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant 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 from the Government of the Netherlands 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, a certification regarding the proposed transfer of major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more from the Government of the United Kingdom to the Government of Chile; 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 manufacturing license agreement for the manufacture of significant military equipment abroad (Sweden); 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, a certification regarding the proposed transfer of major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more from the Republic of Germany to the Republic of Korea; 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 a rule entitled ''Amendment to the International Traffic in Arms Regulations: Partial Lifting of Arms Embargo Against Haiti'' (22 CFR Part 126) received on September 27, 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 certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more to Italy; to the Committee on Foreign Relations.

EC–8473. 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 Jamieson Avenue, in Alexandria, Virginia, 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. 3963. 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 B of the Medicare program, and for other purposes; to the Committee on Finance.

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.

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. 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, Labor, and Pensions.

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.

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.

By Mr. 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.

By Mr. ALLEN:

S. 3970. 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. CORNYN, Mr. NELSON of Florida, Mr. CRAPO, Mr. LOTT, Mr. DEWINE, and Mr. COLEMAN):

S. 3971. A bill to hold 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. BURR, and Ms. MURKOWSKI):

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. CORNYN, Mrs. BOXER, Mr. KERRY, Mrs. DOLE, and Mr. BOND):

S. 3973. A bill to ensure local governments have the flexibility needed to enhance decision-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 permit a special amortization deduction for intangible assets acquired from eligible small businesses to take account of the actual 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. 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 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 but 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 Finance.

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.

By Mr. LEVIN:

S. 3979. 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 assured compensation 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 and to indemnify manufacturers and health care professional for the administration of medical products needed for biodefense; read the first time.

By Mr. HARKIN (for himself, Mr. LEAHY, Ms. MIKULSKI, and Mr. KERRY):

S. 3984. 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.

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 Health, Education, Labor, and Pensions.

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.

By Mr. BIDEN:

S. 3989. A bill to establish a Homeland Security and Neighborhood Safety Trust Fund and refocus Federal priorities toward 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 ''Hamilton 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, Ms. CANTWELL, Mrs. CLINTON, Mr. SCHUMER, Mr. INOUYE, 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

S. 484

At the request of Mr. WARNER, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 484, 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.

S. 908

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, State legislatures, 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.

S. 911

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.

S. 1082

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.

S. 1172

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.

S. 1173

At the request of Mr. DEMINT, 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.

S. 1687

At the request of Ms. MIKULSKI, the names 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.

S. 1911

At the request of Mr. PRYOR, 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.

S. 1915

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 donation of horses and other equines to be slaughtered for human consumption, and for other purposes.

S. 2010

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.

S. 2123

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.

S. 2395

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.

S. 2506

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.

S. 2824

At the request of Mr. DEMINT, the name of the Senator from Oklahoma (Mr. COBURN) 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.

S. 3128

At the request of Mr. BURR, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 3128, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 3508

At the request of Mr. SUNUNU, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 3508, a bill to authorize the Moving to Work Charter program to enable public housing agencies to improve the effectiveness of Federal housing assistance, and for other purposes.

S. 3516

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 permanently extend the floor on the Medicare work geographic adjustment under the fee schedule for physicians' services.

S. 3523

At the request of Mrs. FEINSTEIN, the name of the Senator from Texas (Mr. CORNYN) 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 on the period of limitations while such claims are pending.

S. 3677

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.

S. 3678

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.

S. 3681

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.

S. 3696

At the request of Mr. BROWNBACK, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 3696, a bill to amend the Revised Statutes of the United States to prevent the use of the legal system in a manner that extorts money from State and local governments, and the Federal Government, and inhibits such governments' constitutional actions under the first, tenth, and fourteenth amendments.

S. 3705

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 or setting to children, including children with developmental, physical, or mental health needs, and for other purposes.

S. 3707

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.

S. 3737

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.

S. 3744

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.

S. 3791

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.

S. 3795

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.

S. 3802

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 insuring organizations authorized to enroll Medicaid beneficiaries.

S. 3819

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.

S. 3847

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) 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''.

S. 3853

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''.

S. 3862

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, and to require the Secretary to protect information obtained as part of any voluntary animal identification system.

S. 3884

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.

S. 3913

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.

S. 3918

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.

S. 3931

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.

S. 3936

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.

S. 3943

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 using contingency paper ballots in the November 7, 2006, Federal general election.

S. 3952

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.

AMENDMENT NO. 5029

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.

AMENDMENT NO. 5033

At the request of Mr. LUGAR, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of amendment No. 5033 proposed to H.R. 3127, 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.

AMENDMENT NO. 5066

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.

AMENDMENT NO. 5087

At the request of Mr. SPECTER, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of amendment No. 5087 proposed to S. 3930, 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, 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.

As medicine 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 not kept pace. In fact, a recent Medicare policy 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 effective 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 ⅓ of the nationally certified lymphedema therapists can no longer provide this service to Medicare beneficiaries. Failure to treat lymphedema often results in long hospitals 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 save 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 that my colleagues will consider joining me in this important effort to restore physician judgment, patient choice, and common sense to the Medicare program.

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:

S. 3963

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 1862(a)(20) of the Social Security Act (42 U.S.C. 1395y(a)(20)) is amended by striking ''(other than any licensing requirement 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. 1395x) is amended—

(1) in subsection (s)(2)—

(A) in subparagraph (Z), by striking ''and'' at the end;

(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 (ccc)(1)) and lymphedema therapist services (as defined in subsection (ccc)(3)).''; and

(2) by adding at the end the following new subsection:

''Athletic Trainer Services and Lymphedema Therapist Services

''(ccc)(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, as would otherwise be covered if furnished by a physician (as so defined) or as an incident to a physician's professional service, to an individual—

''(A) 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 defined by paragraph (1) or (3) of section 1861(r)) which the lymphedema therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician (as so defined) or as incident to a physicians professional service, to an individual—

''(A) 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

''(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;

''(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. 1395k(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—

(A) by striking ''and (V)'' and inserting ''(V)''; and

(B) by inserting before the semicolon at the end the following: '', and (W) with respect to athletic trainer services and lymphedema therapist services under section 1861(s)(2)(BB), the amounts paid shall be 80 percent of the lesser of the actual charge for the service or the fee schedule amount under section 1848 for the same service performed by a physician''.

(c) INCLUSION OF SERVICES IN THE THERAPY CAP.—Services provided by a certified athletic trainer or a certified lymphedema therapist (as those terms are defined in section 1861(ccc) of the Social Security Act, as added by subsection (a)) shall be subject to the limitation on payments described in section 1833(g) of such Act (42 U.S.C. 13951(g)) in the same manner those services would be subject to limitation if the service had been provided by a physician personally.

(d) INCLUSION OF ATHLETIC TRAINERS AND LYMPHEDEMA THERAPISTS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) of the Social Security Act (42 U.S.C.1395u(b)(18)(C)) is amended by adding at the end the following new clauses:

''(vii) A certified athletic trainer (as defined in section 1861(ccc)(1)).

''(viii) A certified lymphedema therapist (as defined in section 1861(ccc)(2)).''.

(e) COVERAGE OF CERTAIN PHYSICAL MEDICINE AND REHABILITATION SERVICES PROVIDED IN RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) of the Social Security Act (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking ''or by a clinical social worker (as defined in subsection (hh)(1))'' and inserting '', by a clinical social worker (as defined in subsection (hh)(1)), by a certified athletic trainer (as defined in subsection (ccc)(2)), or by a certified lymphedema therapist (as defined in subsection (ccc)(4))''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 2007.

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, 1841, and spent 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 while in Missouri organized that State's first school for African Americans.

In 1869 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 for the Mississippi State 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 Pensions, 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 Presidents Chester Arthur, Benjamin Harrison and William McKinley.

Senator Bruce joined the board of Howard University in Washington, D.C. where he received an honorary degree. He died in Washington on March 17, 1898, at the age of 57.

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 growth in the Latino population across the Nation. There are now 35 million Latinos 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, or treatable, 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. Also, 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. Finally, 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 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) As of 2006, there are 18,000,000 Latinas residing in the United States. The number of Latinas is expected to grow considerably. It is estimated that by the year 2050, 1 out of every 4 women in the United States will be a Latina.

(2) Latinas are particularly at risk for being uninsured. 37 percent of Latinas are uninsured, almost double the national average.

(3) With respect to sexually transmitted diseases—

(A) the HIV infection rate is 7 times more for Latinas than their white counterparts, and Latinas represent 18 percent of new HIV infections among women;

(B) the AIDS case rate for Latinas is more than 5 times more than the rate for white women;

(C) the rate of chlamydia for Latinas is 4 times more than the rate for white women; and

(D) among Latinas, the gonorrhea incidence is nearly double that of white women.

(4) With respect to cancer—

(A) The national incidence rate for cervical cancer in Latinas over the age of 30 is nearly double that of non-Latinas;

(B) 1 in 12 Latinas nationwide will develop breast cancer; and

(C) while white women have the highest rates of breast cancer, Latinas have among the lowest rates of breast cancer screening, diagnosis and treatment and, as a result, are more likely to die from breast cancer compared to white women.

(5) The prevalence of diabetes is at least 2 to 4 times more among Latinas than among white women. More than 25 percent of Latinas aged 65 to74 have Type II diabetes.

(6) Heart disease is the main cause of death for all women, and heart disease risk and death rates are higher among Latinas partly because of higher rates of obesity and diabetes.

(7) Therefore, despite their growing numbers, Latinas continue to face serious health concerns (including sexually transmitted diseases, diabetes, and cancer) that are otherwise preventable, or treatable, with adequate health access.

SEC. 3. HEALTH ACCESS FOR UNINSURED AND LOW-INCOME INDIVIDUALS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

"TITLE XXIX—HEALTH ACCESS FOR UNINSURED AND LOW-INCOME INDIVIDUALS

"SEC. 2901. HEALTH CARE ACCESS FOR PREVENTABLE HEALTH PROBLEMS.

''(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(1) a high-performing hospital or community health center that serves medically underserved areas with large numbers of uninsured and low-income individuals, such as Latina populations;

''(2) a State or local government; or

''(3) a private nonprofit entity.

''(b) IN GENERAL.—The Secretary shall award grants to eligible entities to enable the eligible entities to provide programs and activities that provide health care services to uninsured and low-income individuals in medically underserved areas.

''(c) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(d) AUTHORIZED ACTIVITIES.—An eligible entity receiving 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 in a culturally and linguistically appropriate manner, including—

''(1) family planning services and information;

''(2) prenatal and postnatal care; and

''(3) assistance and services with respect to asthma, cancer, HIV disease and AIDS, sexually transmitted diseases, mental health, diabetes, and heart disease.

''(e) 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.

"SEC. 2902. FOCUS ON UNINSURED AND LOW-INCOME POPULATIONS.

''(a) PRIORITIZING 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—

''(1) represent medically underserved areas or populations with a large number of uninsured and low-income individuals; and

''(2) otherwise meet all requirements for the grant or assistance.

''(b) RESEARCH BENEFITTING POPULATIONS WITH A LACK OF HEALTH DATA.—

''(1) GRANTS AUTHORIZED.—From amounts appropriated under paragraph (3) for a fiscal year, the Secretary shall award grants to research institutions in order to enable the institutions—

''(A) to conduct research on the health status of populations for which there is an absence of health data, such as the Latina population; or

''(B) to work with organizations that focus on populations for which there is an absence of health data, such as the Latina population, on developing participatory community-based research methods.

''(2) APPLICATION.—A research institution desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $18,000,000 for fiscal year 2007 and each of the succeeding fiscal years.

"SEC. 2903. EDUCATION AND OUTREACH.

''(a) JOINT EFFORT FOR HEALTH OUTCOMES.—In order to improve health outcomes for uninsured and low-income individuals, the Secretary shall, through a joint effort with health care professionals, health advocates, and community-based organizations in medically underserved areas, provide outreach, education, and delivery of comprehensive health services to uninsured and low-income individuals in a culturally competent manner.

''(b) TARGETED HEALTH EDUCATION PROGRAMS.—The Secretary shall carry out a health education program targeted specifically to populations of uninsured and low-income individuals, including the Latina population, through community centered informational forums, public service announcements, and media campaigns.

''(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.''.

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.

Mrs. BOXER. Mr. President, today I rise to reintroduce the HOPE (Hispanas 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 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 incidences 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 nongovernmental organizations for teenage 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 these grants.

The bill would also provide grants to States and non-governmental organizations to establish multimedia public awareness campaigns to combat teenage 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,

SECTION 1. SHORT TITLE.

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. 399Q. YOUTH PREGNANCY PREVENTION.

''(a) AT-RISK TEEN PREGNANCY PREVENTION GRANTS.—

''(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to carry out teenage pregnancy prevention activities that are targeted at areas with large ethnic minorities and other youth at-risk of becoming pregnant.

''(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

''(A) be a State or local 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.

''(b) 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) ACTIVITIES.—The purpose of the campaigns established under a grant under paragraph (1) shall be to prevent teenage pregnancy through the use of advertising using television, radio, print media, billboards, posters, the Internet, and other methods determined appropriate by the Secretary.

''(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), $20,000,000 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 without question while others 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 in to 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 every 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 Assessment 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 in force with respect to the United States. The report shall, with respect to each free trade agreement, contain an analysis and assessment of the analysis and predictions made by the International Trade Commission, the United States Trade Representative, and other Federal agencies, before implementation of the agreement and actual results of the agreement on the United States economy.

(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; and

(D) is reducing or eliminating barriers to trade and investment.

(2) An assessment and quantitative analysis of how each agreement is meeting the specific objectives and goals set out in connection with the implementation of that agreement, the impact of the agreement on the United States economy as a whole, and on specific industry sectors, including the impact the agreement is having on—

(A) the gross domestic product;

(B) exports and imports;

(C) aggregate employment, and competitive positions of industries;

(D) United States consumers; and

(E) the overall competitiveness of the United States.

(3) 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

(I) 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.

(4) 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.

(5) 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 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 1987 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 consequence.

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, which, in this war on terrorism, 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 our intelligence. As 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. Additional GAO auditors were cleared 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.

Second, and 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 bases 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 'watchdog' 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' role is to 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; Department of Defense; 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 Rule 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,'' before the 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, which is 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 we need to get 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 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. Moreover, the Intelligence 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 ''Overview of 'Classified' 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 ''Central Intelligence Agency, Observations on GAO Access to Information on CIA Programs and Activities'' (GAO–01–975T) before the House Committee on Government Reform, the GAO noted, as a practical matter, ''our access is generally limited to obtaining information on threat assessments when the CIA does not perceives [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 same problems persist.

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 said, ''in the 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 9–11 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 evaluation of intelligence sources and 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 evaluations—other than those relating to sources and methods, or covert actions—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 unanimous 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:

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, September 14, 2006.

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 in the 1970s, including the creation 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 existing statutory procedures that govern how the executive branch is to keep the congressional intelligence committees informed of U.S. intelligence activities; and looks at the circumstances under which the two intelligence committees are expected to keep congressional standing committees, as well as both chambers, informed of intelligence activities.

If I can be of further assistance, please call at 707–7739.

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 willing to cede primary jurisdiction over the Central Intelligence Agency (CIA) to the two new select intelligence committees, these congressional standing committees wanted to retain jurisdiction over the intelligence activities of the other departments and agencies they oversaw. According to one observer, the standing committees asserted 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 badly.''

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, however, stipulates that the intelligence committees in turn are responsible for alerting the respective chambers or congressional standing committees of any intelligence activities requiring 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 its respective House, or to any appropriate committee or committees of its respective House, any matter relating to intelligence activities 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 Jacob Javits in an Apr. 30, 1980 letter 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: ''Nothing in this [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 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.

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:

The select committee, for the purposes of accountability to the [House/Senate] shall make regular and periodic reports to the [House/Senate] on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the [House/Senate] or to any other appropriate committee or committees of the [House/Senate] any matters requiring the attention of the [House/Senate] or such other appropriate committee or committees.

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 inform colleagues on standing committees 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 statute obligates 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 intelligence oversight responsibilities with other standing committees, to the extent that certain intelligence activities affect matters that fall under the jurisdiction of a committee other than the intelligence committees.

Finally, the resolutions establishing the intelligence committees provide for 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 respective intelligence committee shall make that determination.

CONGRESSIONAL RESEARCH SERVICE, JULY 18, 2006.

MEMORANDUM

Subject: Overview of ''Classified'' and ''Sensitive but Unclassified'' Information

From: Harold C. Relyea, Specialist in American National Government, Government and Finance Division

Prescribed in various ways, federal policies may require the protection of, or a privileged status for, particular kinds of information. This memorandum provides a brief introduction to, and overview of, two categories of such information policy. The first category is demarcated largely in a single policy instrument—a presidential executive order—with a clear focus and in considerable detail: the classification of national security information in terms of three degrees of harm the disclosure of such information could cause to the nation, resulting in Confidential, Secret, and Top Secret designations. The second category is, by contrast with the first, much broader in terms of the kinds of information it covers, to the point of even being nebulous in some instances, and is expressed in various instruments, the majority of which are non-statutory: the marking of sensitive but unclassified (SBU) information for protective management, although its public disclosure may be permissible pursuant to the Freedom of Information Act (FOIA). These two categories are reviewed in the discussion set out below.

SECURITY CLASSIFIED INFORMATION

Current security classification arrangements, prescribed by an executive order of the President, trace their origins to a March 1940 directive issued 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 defense community to classify information, to establish a broader basis for protecting military information in view of growing global hostilities, and to manage better a discretionary power seemingly of increasing importance to the entire executive branch. Prior to this 1940 order, information had been designated officially secret by armed forces personnel pursuant to Army and Navy general orders and regulations. The first systematic procedures for the protection of national defense information, devoid of special markings, were established by War Department General Orders No. 3 of February 1912. Records determined to be ''confidential'' were to be kept under lock, ''accessible only to the officer to whom intrusted.'' Serial numbers were issued for all such ''confidential'' materials, with the numbers marked on the documents, and lists of same kept at the offices from which they emanated. With the enlargement of the armed forces after the entry of the United States into World War I, the registry system was abandoned and a tripartite system of classification markings was inaugurated in November 1917 with General Orders No. 64 of the General Headquarters of the American Expeditionary Force.

The entry of the United States into World War II prompted some additional arrangements for the protection of information pertaining to the nation's security. Personnel cleared to work on the Manhattan Project for the production of the atomic bomb, for instance, in committing themselves not to disclose protected information improperly, were ''required to read and sign either the Espionage Act or a special secrecy agreement,'' establishing their awareness of their secrecy obligations and a fiduciary trust which, if breached, constituted a basis for their dismissal.

A few years after the conclusion of World War II, President Harry S. Truman, in February 1950, issued E.O. 10104, which, while superseding E.O. 8381, basically reiterated its text, but added a fourth Top Secret classification designation to existing Restricted, Confidential, and Secret markings, making American information security categories consistent with those of our allies. At the time of the promulgation of this order, however, plans were underway for a complete overhaul of the classification program, which would result in a dramatic change in policy.

E.O. 10290, issued in September 1951, introduced three sweeping innovations in security classification policy. First, the order indicated the Chief Executive was relying upon ''the authority vested in me by the Constitution and statutes, and as President of the United States'' in issuing the directive. This formula appeared to strengthen the President's discretion to make official secrecy policy: it intertwined his responsibility as Commander in Chief with the constitutional obligation to ''take care that the laws be faithfully executed.'' Second, information was now classified in the interest of ''national security,'' a somewhat new, but nebulous, concept, which, in the view of some, conveyed more latitude for the creation of official secrets. It replaced the heretofore relied upon ''national defense'' standard for classification. Third, the order extended classification authority to nonmilitary entities throughout the executive branch, to be exercised by, presumably, but not explicitly limited to, those having some role in ''national security'' policy.

The broad discretion to create official secrets granted by E.G. 10290 engendered widespread criticism from the public and the press. In response, President Dwight D. Eisenhower, shortly after his election to office, instructed Attorney General Herbert Brownell to review the order with a view to revising or rescinding it. The subsequent recommendation was for a new directive, which was issued in November 1953 as E.O. 10501. It withdrew classification authority from 28 entities, limited this discretion in 17 other units to the agency head, returned to the ''national defense'' standard for applying secrecy, eliminated the ''Restricted'' category, which was the lowest level of protection, and explicitly defined the remaining three classification areas to prevent their indiscriminate use.

Thereafter, E.G. 10501, with slight amendment, prescribed operative security classification policy and procedure for the next two decades. Successor orders built on this reform. These included E.O. 11652, issued by President Richard M. Nixon in March 1972, followed by E.O. 12065, promulgated by President Jimmy Carter in June 1978. For 30 years, these classification directives narrowed the bases and discretion for assigning official secrecy to executive branch documents and materials. Then, in April 1982, this trend was reversed with E.O. 12356, issued by President Ronald Reagan. This order expanded the categories of classifiable information, mandated that information falling within these categories be classified, authorized the reclassification of previously declassified documents, admonished classifiers to err on the side of classification, and eliminated automatic declassification arrangements.

President William Clinton returned security classification policy and procedure to the reform trend of the Eisenhower, Nixon, and Carter Administrations with E.O. 12958 in April 1995. Adding impetus to the development and issuance of the new order were changing world conditions: the democratization of many eastern European countries, the demise of the Soviet Union, and the end of the Cold War. Accountability and cost considerations were also significant influences. In 1985, the temporary Department of Defense (DOD) Security Review Commission, chaired by retired General Richard G. Stilwell, declared that there were ''no verifiable figures as to the amount of classified material produced in DOD and in defense industry each year.'' Nonetheless, it concluded that ''too much information appears to be classified and much at higher levels than is warranted.'' In October 1993, the cost of the security classification program became clearer when the General Accounting Office (GAO) reported that it was ''able to identify government-wide costs directly applicable to national security information totaling over $350 million for 1992.'' After breaking this figure down—it included only $6 million for declassification work—the report added that ''the U.S. government also spends additional billions of dollars annually to safeguard information, personnel, and property.'' E.O. 12958 set limits for the duration of classification, prohibited the reclassification of properly declassified records, authorized government employees to challenge the classification status of records, reestablished the balancing test of E.O. 12065 weighing the need to protect information vis-a-vis the public interest in its disclosure, and created two review panels—one on classification and declassification actions and one to advise on policy and procedure.

Most recently, in March 2003, President George W. Bush issued E.O. 13292, amending E.O. 12958. Among the changes made by this order were adding infrastructure vulnerabilities or capabilities, protection services relating to national security, and weapons of mass destruction to the categories of classifiable information; easing the reclassification of declassified records; postponing the automatic declassification of protected records 25 or more years old, beginning in mid-April 2003 to the end of December 2006; eliminating the requirement that agencies prepare plans for declassifying records; and permitting the Director of Central Intelligence to block declassification actions of the Interagency Security Classification Appeals Panel, unless overruled by the President.

The security classification program has evolved during the past 66 years. One may not agree with all of its rules and requirements, but attention to detail in its policy and procedure result in a significant management regime. The operative executive order, as amended, defines its principal terms. Those who are authorized to exercise original classification authority are identified. Exclusive categories of classifiable information are specified, as are the terms of the duration of classification, as well as classification prohibitions and limitations. Classified information is required to be marked appropriately along with the identity of the original classifier, the agency or office of origin, and a date or event for declassification. Authorized holders of classified information who believe that its protected status is improper are ''encouraged and expected'' to challenge that status through prescribed arrangements. Mandatory declassification reviews are also authorized to determine if protected records merit continued classification at their present level, a lower level, or at all. Unsuccessful classification challenges

and mandatory declassification reviews are subject to review by the Interagency Security Classification Appeals Panel. General restrictions on access to classified information are prescribed, as are distribution controls for classified information. The Information Security Oversight Office (ISOO) within the National Archives and Records Administration (NARA) is mandated to provide central management and oversight of the security classification program. If the director of this entity finds that a violation of the order or its implementing directives has occurred, it must be reported to the head of the agency or to the appropriate senior agency official so that corrective steps, if appropriate, may be taken.

While Congress, thus far, has elected not to create statutorily mandated security classification policy and procedures, the option to do so has been explored in the past, and its legislative authority to do so 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 realized through security classification arrangements. It has acknowledged properly applied security classification as a basis for withholding records sought pursuant to the Freedom of Information Act. Also, with a view to efficiency and economy, as well as effective records management, committees of Congress, on various occasions, have conducted oversight of security classification policy and practice, and have been assisted by GAO and CRS in this regard.

SENSITIVE BUT UNCLASSIFIED INFORMATION

The widespread existence and use of information control markings other than those prescribed for the security classification of information came to congressional attention in March 1972 when a subcommittee of what is now the House Committee on Government Reform launched the first oversight hearings on the administration and operation of 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 policy and procedure, 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 August 1971, asking, among other questions, ''What legend is used by your agency to identify records which are not classifiable under Executive Order 10501 [the operative order at the time] but which are not to be made available outside the government?'' Of 58 information control markings identified in response to this question, the most common were For Official Use Only (11 agencies); Limited Official Use (nine agencies); Official Use Only (eight agencies); Restricted Data (five agencies); Administratively Restricted (four agencies); Formerly Restricted Data (four agencies); and Nodis, or no dissemination (four agencies). Seven other markings were used by two agencies in each case. A CRS review of the agency responses to the control markings question prompted the following observation.

Often no authority is cited for the establishment or origin of these labels; even when some reference is provided it is a handbook, manual, administrative order, or a circular but not statutory authority. Exceptions to this are the Atomic Energy Commission, the Defense Department and the Arms Control and Disarmament Agency. These agencies cite the Atomic Energy Act, N.A.T.O. related laws, and international agreements as a basis for certain additional labels. The Arms Control and Disarmament Agency acknowledged it honored and adopted State and Defense Department labels.

Over three decades later, it appears that approximately the same number of these information control markings are in use; that the majority of them are administratively, not statutorily, prescribed; and that many of them have an inadequate management regime, particularly when compared with the detailed arrangements which govern the management of classified information. A recent press account illustrates another problem. In late January 2005, GCN Update, the online, electronic news service of Government Computer News, reported that ''dozens of classified Homeland Security Department documents'' had been accidently 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 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 view of the fact that this misinterpretation 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 recent information security report by the JASON Program Office of the MITRE Corporation proffered 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. Lacking in definition, 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 disciplined and explicit. The same cannot be said for unclassified but security-related information for which there is no usable definition, no common understanding about how to control it, no agreement on what significance it has for U.S. national security, and no means 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 indicates that SBU has been utilized in different contexts with little precision as to its scope or meaning, and, to add a bit of chaos to an already confusing situation, is ''often referred to as Sensitive Homeland Security Information.

Assessments of the variety, management, and impact of information control markings, other than those prescribed for the classification of national security information, have been conducted by CRS, GAO, and the National Security Archive, a private sector research and resource center located at The George Washington University. In March 2006, GAO indicated that, in a recent survey, 26 federal agencies reported using 56 different information control markings to protect sensitive information other than classified national security material. That same month, the National Security Archive offered that, of 37 agencies surveyed, 24 used 28 control markings based on internal policies, procedures, or practices, and eight used 10 markings based on statutory authority. These numbers are important in terms of the variety of such markings. GAO explained this dimension of the management problem.

[T]here are at least 13 agencies that use the designation For Official Use Only [FOUO], but there are at least five different definitions of FOUO. At least seven agencies or agency components use the term Law Enforcement Sensitive (LES), including the U.S. Marshals Service, the Department of Homeland Security (DHS), the Department of Commerce, and the Office of Personnel Management (OPM). These agencies gave differing definitions for the term. While DHS does not formally define the designation, the Department of Commerce defines it to include information pertaining to the protection of senior government officials, and OPM defines it as unclassified information used by law enforcement personnel that requires protection against unauthorized disclosure to protect the sources and methods of investigative activity, evidence, and the integrity of pretrial investigative reports.

Apart from the numbers, however, is another aspect of the management problem, which GAO described in the following terms.

There are no governmentwide policies or procedures that describe the basis on which agencies should use most of these sensitive but unclassified designations, explain what the different designations mean across agencies, or ensure that they will be used consistently from one agency to another. In this absence, each agency determines what designations to apply to the sensitive but unclassified information it develops or shares.

These markings also have implications in another regard. The importance of information sharing for combating terrorism and realizing homeland security was emphasized by the National Commission on Terrorist Attacks Upon the United States. That the variously identified and marked forms of sensitive but unclassified (SBU) information could be problematic with regard to information sharing was recognized by Congress when fashioning the Homeland Security Act of 2002. Section 892 of that statute specifically directed the President to prescribe and implement procedures for the sharing of information by relevant federal agencies, including the accommodation of ''homeland security information that is sensitive but unclassified.'' On July 29, 2003, the President assigned this responsibility largely to the Secretary of Homeland Security. Nothing resulted. The importance of information sharing was reinforced two years later in the report of the Commission on the Intelligence 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 Prevention 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 assessment that, oftentimes, SBU information, designated as such with some marking, was not being shared due to concerns about the ability of recipients 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 use and management of information

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 overclassification. Relevant remedial legislation proposed during the 109th Congress includes two bills (H.R. 2331 and H.R. 5112) containing sections which would require the Archivist of the United States to prepare a detailed report regarding the number, use, and management of these information control markings and submit it to specified congressional committees, and to promulgate regulations banning the use of these markings and otherwise establish standards for information control designations established by statute or an executive order relating to the classification of national security information. A section in the Department of Homeland Security appropriations legislation (H.R. 5441), as approved by the House, would require the Secretary of Homeland Security to revise DHS MD (Management Directive) 11056 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 unless, for each specific document, 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 proceedings where the judge overseeing the proceedings has adjudicated that a party needs to have access to SSI, the party shall be deemed a covered 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 harm to the nation. 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 releaseable 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 designation of SSI materials in the 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 different statutory requirements 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, VETERANS AFFAIRS, AND INTERNATIONAL RELATIONS, COMMITTEE ON GOVERNMENTAL REFORM, HOUSE OF REPRESENTATIVES

United States General Accounting Office

CENTRAL INTELLIGENCE AGENCY

OBSERVATIONS ON GAO ACCESS TO INFORMATION ON CIA PROGRAMS AND ACTIVITIES

Statement of Henry L. Hinton, Jr., Managing Director Defense Capabilities and Management

Messrs. Chairmen and Members of the Subcommittees:

We are pleased to be here to discuss the subject of access by the General Accounting Office (GAO) to information from the Central Intelligence Agency (CIA). Specifically, our statement will provide some background on CIA and its oversight mechanisms, our authority to review CIA programs, and the history and status of GAO access to CIA information. As requested, our remarks will focus on our relationship with the CIA and not 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.

SUMMARY

Oversight of the CIA generally comes from two select committees of Congress and the CIA's Inspector General. We have broad authority to evaluate CIA programs. In reality, however, we face both legal and practical limitations on our ability to review these programs. For example, we have no access to certain CIA ''unvouchered'' accounts and cannot compel our access to foreign intelligence and counterintelligence information. In addition, as a practical matter, we are limited by the CIA's level of cooperation, which has varied through the years. We have not actively audited the CIA since the early 1960s, when we discontinued such work because the CIA was not providing us with sufficient access to information to perform our mission. The issue has arisen since then from time to time as our work has required some level of access to CIA programs and information. However, given a lack of requests from the Congress for us to do specific work at the CIA and our limited resources, we have made a conscious decision not to further pursue the issue.

Today, our dealings with the CIA are mostly limited to requesting information that relates either to governmentwide reviews or analyses of threats to U.S. national security on which the CIA might have some information. The CIA either provides us with the requested information, provides the information with some restrictions, or does not provide the information at all. In general, we are most successful at getting access to CIA information when we request threat assessments and the CIA does not perceive our audits as oversight of its activities.

BACKGROUND

As you know, the General Accounting Office is the investigative arm of the Congress and is headed by the Comptroller General of the United States—currently David M. Walker. We support the Congress in meeting its constitutional responsibilities and help improve the performance and accountability of the federal government for the American people. We examine the use of public funds, evaluate federal programs and activities, and provide analyses, options, recommendations, and other assistance to help the Congress make effective oversight, policy, and funding decisions. Almost 90 percent of our staff days are in direct support of Congressional requestors, generally on the behalf of committee chairmen or ranking members.

The U.S. Intelligence Community consists of those Executive Branch agencies and organizations that work in concert to carry out our nation's intelligence activities. The CIA is an Intelligence Community agency established under the National Security Act of 1947 to coordinate the intelligence activities of several U.S. departments and agencies in the interest of national security. Among other functions, the CIA collects, produces, and disseminates foreign intelligence and counterintelligence; conducts counterintelligence activities abroad; collects, produces, and disseminates intelligence on foreign aspects of narcotics production and trafficking; conducts special activities approved by the President; and conducts research, development, and procurement of technical systems and devices.

OVERSIGHT OF CIA ACTIVITIES

Currently, two congressional select committees and the CIA's Inspector General oversee the CIA's activities. The Senate Select Committee on Intelligence was established on May 19, 1976, to oversee the activities of the Intelligence Community. Its counterpart in the House of Representatives is the House 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 Office of the Inspector General was established by statute in 1989 and conducts inspections, investigations, and audits at headquarters and in the field. The Inspector General reports directly to the CIA Director. In addition, the President's Foreign Intelligence Advisory Board assesses the quality, quantity, and adequacy of intelligence activities. Within the Board, there is an intelligence oversight committee that prepares reports on intelligence activities that may be unlawful or otherwise inappropriate. Finally, the Congress can charter commissions to evaluate intelligence agencies such as CIA. One such commission was the Commission on the Roles and Capabilities of the United States Intelligence Community, which issued a report in 1996.

GAG'S AUTHORITY TO REVIEW CIA PROGRAMS

Generally, we have broad authority to evaluate agency programs and investigate matters related to the receipt, disbursement, and use of public money. To carry out our audit responsibilities, we have a statutory right of access to agency records. Federal agencies are required to provide us information about their duties, powers, activities, organization, and financial transactions. This requirement applies to all federal agencies, including the CIA. Our access rights include the authority to file a civil action to compel production of records, unless (a) the records relate to activities the President has designated as foreign intelligence or counterintelligence activities, (b) the records are specifically exempt from disclosure by statute, or (c) the records would be exempt from release under the Freedom of Information Act because they are predecisional memoranda or law enforcement records and the President or Director of the Office of Management and Budget certifies that disclosure of the record could be expected to impair substantially the operations of the government.

The National Security Act of 1947 charges the CIA Director with protecting intelligence sources and methods from unauthorized disclosure. In terms of our statutory access authority, however, the law creates only one specific exemption: the so-called ''unvouchered'' accounts. The exemption pertains to expenditures of a confidential, extraordinary, or emergency nature that are accounted for solely on the certification of the Director. These transactions are subject to review by the intelligence committees. Amendments to the law require the President to keep the intelligence committees fully and currently informed of the intelligence activities of the United States. The CIA has maintained that the Congress intended the intelligence committees to be the exclusive means of oversight of the CIA, effectively precluding oversight by us.

While we understand the role of the intelligence committees and the need to protect intelligence sources and methods, we also believe that our authorities are broad enough to cover the management and administrative functions that the CIA shares with all federal agencies.

We have summarized the statutes relevant to our relationship with the CIA in an appendix attached to this testimony.

GAO'S ACCESS TO THE CIA HAS BEEN LIMITED

We have not done audit work at the CIA for almost 40 years. Currently, our access to the CIA is limited to requests for information that relates either to governmentwide reviews or programs for which the CIA might have relevant information. In general, we have the most success obtaining access to CIA information when we request threat assessments, and the CIA does not perceive our audits as oversight of its activities.

GAO ACCESS TO 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 1960s. In the late 1950s, we proposed to broaden 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 review work continued until May 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 agreeing 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 CIA activities.

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 us with the requested information. In July 1987, Senator John Glenn introduced a bill (S. 1458) in the 100th Congress to clarify our audit authority to audit CIA programs and activities. In 1994, the CIA Director sought to further limit our audit work of intelligence programs, including those at the Department of Defense. We responded by writing to several key members of the Congress, citing our concerns and seeking assistance. As a result, we and the CIA began negotiations on a written agreement to clarify our access and 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 limited demand for this work from Congress, particularly from the intelligence committees. Given a lack of Congressional requests and our limited resources, 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 at all. 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 related 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 review of the State Department's Anthrax Vaccination Program for the Senate Foreign Relations and House International Relations Committees, we requested a meeting to discuss the CIA's perspective on a 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 justice system and national police on behalf of the Senate Foreign Relations and House International Relations Committees, we requested a meeting to discuss the Haitian justice system. The CIA agreed with our request and met with our audit team within 3 weeks of our request.

For our review of chemical and biological terrorist threats for the House Armed Services Committee, and subcommittees of the House Government Reform Committee and the House Veterans Affairs Committee, we requested meetings with CIA analysts on their threat assessments on chemical and biological weapons. The CIA cooperated and gave us access to documents and analysts.

On several of our reviews of counterdrug programs for the House Government Reform Committee and the Senate Foreign Relations Committee we requested CIA assessments on the drug threat and international activities. The CIA has provided us with detailed briefings on drug cultivation, production, and trafficking activities in advance of our field work overseas.

During our reviews of 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 equal employment opportunity and disciplinary actions for a subcommittee of the House Committee on the Post Office and Civil Service, the CIA provided us with limited access to information. CIA officials allowed us to review 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 U.S. electronic systems from high-powered radio frequency weapons for the Joint Economic Committee, the CIA limited our access to one meeting. Although the technology 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 of our audits related to national security issues, the CIA provides us with limited access to its written threat assessments and analyses, such as National Intelligence Estimates. However, 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 related to our 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 staff have the high-level security clearances and accesses needed to review intelligence information. But the CIA considers our requests as having some implication of oversight and denies us access.

For our evaluation of national intelligence estimates regarding missile threats for the House National Security 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, officials from the Departments of Defense, State, and Energy told us that CIA had asked them not to cooperate with us.

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 House Government Reform Committee, we requested basic information on the number and nature of such systems. The CIA did not provide us with the information, claiming that they would not be 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 to acquire and safeguard classified 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. Through the years our access has varied and we have not done detailed audit work at CIA since the early 1960s. Today, our access is generally limited to obtaining information on threat assessments when the CIA does not perceives our audits as oversight of its activities. We foresee no major change in our current access without substantial support from Congress—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 GAG reviews or evaluations of CIA activities. With such support, we could evaluate some of the basic management functions at CIA that we now 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. Hinton, 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 and reporting to either House of Congress or appropriate congressional committees.

1 U.S.C. 717: GAO is authorized to evaluate the results of programs 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.

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 unvouchered accounts (*i.e.*, those accounted for solely on the certificate of an executive branch official). The President may exempt sensitive foreign intelligence and counterintelligence transactions. CIA expenditures on objects of a confidential, extraordinary, or emergency nature under 50 U.S.C. 403j(b) are also exempt. Transactions in these categories may be reviewed by the intelligence committees.

GAO'S ACCESS-TO-RECORDS AUTHORITY

31 U.S.C. 716: GAO has a broad right of access to agency records. Subsection 716(a) requires agencies to give GAO information it requires about the ''duties, powers, activities, organization, and financial transactions of the agency.'' This provision gives GAO a generally unrestricted right of access to agency records. GAO in turn is required to maintain the same level of confidentiality for the information as is required of the head of the agency from which it is obtained.

Section 716 also gives GAO the authority to enforce its requests for records by filing a civil action in federal district court. Under the enforcement 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)(5) or (7) (relating to deliberative process and 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 ability to compel the production of particular records through a court action.

RELEVANT CIA LEGISLATION

The CIA has broad authority to protect intelligence-related information but must keep the intelligence committees fully and currently informed of the intelligence activities of the United States.

50 U.S.C. 403–3(c)(6) and 403g: Section 403–3 requires the Director of the CIA to protect ''intelligence sources and methods from unauthorized disclosure. . . .'' Section 403g exempts the CIA from laws ''which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency. With the exception of unvouchered expenditures, CIA's disclosure of information to GAO would be an authorized and proper disclosure under 31 U.S.C. 716(a).

50 U.S.C. 403j: The CIA has broad discretion to use appropriated funds for various purposes (e.g., personal services, transportation, printing and binding, and purchases of firearms) without regard to laws and regulations relating to the expenditure of government funds. The statute also authorizes the Director to establish an unvouchered account for objects of a confidential, extraordinary, or emergency nature. We recognize that the CIA's unvouchered account authority constitutes an exception to GAO's audit and access authority, but this account deals with only a portion of CIA's funding activities.

50 U.S.C. 413: This section provides a method for maintaining congressional oversight over intelligence activities within the executive branch. The statute requires the President to ensure that the intelligence committees (the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence are kept fully and currently informed of U.S. intelligence activities.

REPORT LANGUAGE

Section 1 of the Act provides that the Act may be cited as the ''Intelligence Community Audit Act of 2006''.

Section 2(a) of the Act adds a new Section (3523a) to title 31, United States Code, with respect to the Comptroller General's authority to audit or evaluate activities of the intelligence community. New Section 3523a(b)(1) reaffirms that the Comptroller General possesses, under his existing statutory authority, the authority to perform audits and evaluations of financial transactions, programs, and activities of elements of the intelligence community and to obtain access to records for the purposes of such audits and evaluations. Such work could be done at the request of the congressional intelligence committees or any committee of jurisdiction of the House of Representatives or Senate (including the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate), or at the Comptroller General's initiative, pursuant to the existing authorities referenced in new Section 3523a(b)(1). New Section 3523a(b)(2) further provides that these audits and evaluations under the Comptroller General's existing authority may include, but are not limited to, matters 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. These audits and evaluations would be accompanied by the safeguards that the Government Accountability Office (GAO) has in place to protect classified and other sensitive information, including physical security arrangements, classification and sensitivity reviews, and restricted distribution of certain products.

This reaffirmation is designed to respond to Executive Branch assertions that GAO does not have the authority to review activities of the intelligence community. To the contrary, GAO's current statutory audit and access authorities permit it to evaluate a wide range of activities in the intelligence community. To further ensure that GAO's authorities are appropriately construed in the future, the new Section 3523a(e), which is described below, 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 specific statutory language restricting or limiting such audits, evaluations, or access to records.

New Section 3523a(c)(1) provides that Comptroller General audits or evaluations of intelligence sources and methods, or covert actions may be undertaken only upon the request of the Select Committee on Intelligence of the Senate, or the Permanent Select Committee on Intelligence of the House of Representatives, or the majority or the minority leader of the Senate or the House of Representatives. This limitation is intended to recognize the heightened sensitivity of audits and evaluations relating to intelligence sources and methods, or covert actions.

The new Section 3523a(c)(2)(A) 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, and the head of the relevant element of the intelligence community. Since the methods GAO uses to communicate the results of its audits or evaluations vary, this provision restricts the dissemination of GAO's findings under Section 3523a(c), whether through testimony, oral briefings, or written reports, to only the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community. Similarly, under new Section 3523a(c)(2)(B), the Comptroller General may only provide information obtained in the course of such an audit or evaluation to the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community.

The new Section 3523a(c)(3)(A) provides that notwithstanding any other provision of law, the Comptroller General may inspect records of any element of the intelligence community relating to intelligence sources and methods, or covert actions in order to perform audits and evaluations pursuant to Section 3523a(c). The Comptroller General's access extends to any records which belong to, or are in the possession and control of, the element of the intelligence community regardless of who was the original owner of such information. Under new Section 3523a(c)(3)(B), the Comptroller General may enforce the access rights provided under this subsection pursuant to section 716 of title 31. However, before the Comptroller General files a report pursuant to 31 U.S.C. 716(b)(1), the Comptroller General must consult with the original requestor concerning the Comptroller General's intent to file a report.

The new Section 3523a(c)(4) reiterates the Comptroller General's obligations to protect the confidentiality of information and adds special safeguards to protect records and information obtained from elements of the intelligence community for audits and evaluations performed under Section 3523a(c). For example, pursuant to new Section 3523a(c)(4)(B), the Comptroller General is to maintain on site, in facilities furnished by the element of the intelligence community subject to audit or evaluation, all workpapers and records obtained for the audit or evaluation. Under new Section 3523a(c)(4)(C), the Comptroller General is directed, after consulting with the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, to establish procedures to protect from unauthorized disclosure all classified and other sensitive information furnished to the Comptroller General under Section 3523a(c). Under new Section 3523a(c)(4)(D), prior to initiating an audit or evaluation under Section 3523a(c), the Comptroller General shall provide the Director of National Intelligence and the head of the relevant element of the intelligence community with the name of each officer and employee of the Government Accountability Office who has obtained appropriate security clearances.

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 specific 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.

This 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) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

''(b) Congress finds that—

''(1) the authority of the Comptroller General to perform audits and evaluations of financial transactions, programs, and activities of elements of the intelligence community under sections 712, 717, 3523, and 3524, and to obtain access to records for purposes of such audits and evaluations under section 716, is reaffirmed; and

''(2) such audits and evaluations may be requested by any committee of jurisdiction (including the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate), and may include but are not limited to matters 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 (including information sharing by and with the Department of Homeland Security), and change management.

''(c)(1) The Comptroller General may conduct an audit or evaluation of intelligence sources and methods or covert actions only upon request of the Select Committee on Intelligence of the Senate or the Permanent Select Committee on Intelligence of the House of Representatives, or the majority or the minority leader of the Senate or the House of Representatives.

''(2)(A) Whenever the Comptroller General conducts an audit or evaluation under paragraph (1), the Comptroller General shall provide the results of such audit or evaluation only to the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community.

''(B) The Comptroller General may only provide information obtained in the course of an audit or evaluation under paragraph (1) to the original requestor, the Director of National Intelligence, and the head of the relevant element of the intelligence community.

''(3)(A) Notwithstanding any other provision of law, the Comptroller General may inspect records of any element of the intelligence community relating to intelligence sources and methods, or covert actions in order to conduct audits and evaluations under paragraph (1).

''(B) If in the conduct of an audit or evaluation under paragraph (1), an agency record is not made available to the Comptroller General in accordance with section 716, the Comptroller General shall consult with the original requestor before filing a report under subsection (b)(1) of that section.

''(4)(A) The Comptroller General shall maintain the same level of confidentiality for a record made available for conducting an audit under paragraph (1) as is required of the head of the element of the intelligence community from which it is obtained. Officers and employees of the Government Accountability Office are subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the intelligence community element that provided the Comptroller General or officers and employees of the Government Accountability Office with access to such records.

''(B) All workpapers of the Comptroller General and all records and property of any element of the intelligence community that the Comptroller General uses during an audit or evaluation under paragraph (1) shall remain in facilities provided by that element of the intelligence community. Elements of the intelligence community shall give the Comptroller General suitable and secure offices and furniture, telephones, and access to copying facilities, for purposes of audits and evaluations under paragraph (1).

''(C) After consultation with the Select Committee on Intelligence of the Senate and with the Permanent Select Committee on Intelligence of the House of Representatives, the Comptroller General shall establish procedures to protect from unauthorized disclosure all classified and other sensitive information furnished to the Comptroller General or any representative of the Comptroller General for conducting an audit or evaluation under paragraph (1).

''(D) Before initiating an audit or evaluation under paragraph (1), the Comptroller General shall provide the Director of National Intelligence and the head of the relevant element with the name of each officer and employee of the Government Accountability Office who has obtained appropriate security clearance and to whom, upon proper identification, records, and information of the element of the intelligence community shall be made available in conducting the audit or evaluation.

''(d) Elements of the intelligence community shall cooperate fully with the Comptroller General and provide timely responses to Comptroller General requests for documentation and information.

''(e) Nothing in this section or any other provision of law shall be construed as restricting or limiting the authority of the Comptroller General to audit and evaluate, or obtain access to the records of, elements of the intelligence community absent specific statutory language restricting or limiting such audits, evaluations, or access to records.''.

(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; audits and requesters.''.

By Mr. 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 leaded 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 these 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, $42.6 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 exposure 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, persistent, 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 where our 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 is a primary source of exposure, but significant lead exposure can also come from tap water. The Department of Housing and Urban Development estimates that about 14,200 childcare facilities have considerable lead-based hazards present. In addition, a recent report by the U.S. Government Accountability Office, GAO, identified significant, systemic problems with the way in which the Environmental Protection Agency, EPA, monitors and regulates the levels of lead in our Nation's drinking water, including a complete lack of reliable data on which to make assessments and decisions. The GAO study found that few schools and childcare facilities nationwide have tested their water for lead, and no focal point exists at either the national or State level to collect and analyze test results. Few States have comprehensive programs to detect and remediate lead in drinking water at schools and childcare facilities. Only five States have required general lead testing for schools, and of those, only four require childcare facilities to test for lead when obtaining or renewing their licenses. Almost half the States reported having no lead efforts of any kind. State and local officials need more information on the pervasiveness of lead contamination to know how best to address the issue.

Each year in New York State an additional 10,000 children under the age of 6 years are newly identified as having elevated blood lead levels, and over 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, as well as lost earnings, 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. BURR, and Ms. MURKOWSKI):

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 SAXBY CHAMBLESS, R–GA, SENATOR RICHARD BURR, R–NC and Senator LISA MURKOWSKI, 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. These shortfalls 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 reauthorize 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. Legislating on an issue as 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 am aware of legislation 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.

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

S. 3972

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 ''Fiscal Accountability, Integrity, and Responsibility in SCHIP Act of 2006''or the ''FAIR-SCHIP Act of 2006''.

SEC. 2. FUNDING OF THE SCHIP ALLOTMENT SHORTFALLS FOR FISCAL YEAR 2007.

(a) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following new subsection:

''(h) SPECIAL RULES TO ADDRESS FISCAL YEAR 2007 SHORTFALLS.—

''(1) INITIAL DOWN PAYMENT ON SHORTFALL FOR FISCAL YEAR 2007.—The provisions of subsection (d) shall apply with respect to fiscal year 2007 in the same manner as they apply to fiscal year 2006, except that, for purposes of this paragraph—

''(A) any reference to 'fiscal year 2006', 'December 16, 2005', '2005', '2004', 'September 30, 2006' and 'October 1, 2006' shall be deemed a reference to 'fiscal year 2007', 'December 16 2006', '2006', '2005', 'September 30, 2007' and 'October 1, 2007' respectively;

''(B) there shall be substituted for the dollar amount specified in subsection (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 not apply (and paragraph (4) of this subsection shall apply in lieu of paragraph (4) of such subsection);

''(D) if the dollar amount specified in subparagraph (B) is not at least equal to the total of the shortfalls described in subsection (d)(2) (as applied under this paragraph), the amounts under subsection (d)(3) (as applied under this paragraph) shall be ratably reduced.

''(2) FUNDING REMAINDER OF SHORTFALL FOR 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 subsection (f) from amounts made available for redistribution under paragraph (3), to each shortfall State described in subparagraph (B) that is one of the 50 States or District of Columbia, such amount as the Secretary determines will eliminate the estimated shortfall described in such subparagraph for the State.

''(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 estimates, 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 of fiscal years 2005 and 2006 that will not be expended by the end of fiscal year 2006;

''(ii) the amount, if any, that is to be redistributed to the State during fiscal year 2007 in accordance with subsection (f) (other than under this paragraph);

''(iii) the amount of the State's allotment for fiscal year 2007; and

''(iv) the amount of any additional allotment to the State under paragraph (1).

''(C) PRORATION RULE.—If the amounts available for redistribution under paragraph (3) are less than the total amounts computed under subparagraph (A), the amount computed under subparagraph (A) for each shortfall State shall be reduced proportionally.

''(3) TREATMENT OF CERTAIN STATES WITH FISCAL YEAR 2005 ALLOTMENTS UNEXPENDED AT THE END OF THE FIRST HALF OF FISCAL YEAR 2007.—

''(A) IDENTIFICATION OF STATES.—The Secretary—

''(i) 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

''(ii) for each such State shall determine—

''(I) the portion of such allotment that was not so expended by such date; and

''(II) whether the State is a described in subparagraph (B).

''(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 total projected expenditures under this title for the State for fiscal year 2007.

''(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 (A)(i) that is also described in subparagraph (B), notwithstanding subsection (e), the percentage specified by the Secretary in clause (ii) of the amount described in subparagraph (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).

''(4) 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 or other health benefits coverage for pregnant women.

''(5) RETROSPECTIVE ADJUSTMENT.—The Secretary may adjust the determinations made under paragraphs (2) and (3) as necessary on the basis of the amounts reported by States not later than November 30, 2007, on CMS Form 64 or CMS Form 21, as the case may be and as approved by the Secretary, but in no case may the percentage specified in paragraph (3)(C)(ii) exceed 75 percent.

''(6) 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 only remain 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 the preceding sentence 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) REVERSION UPON TERMINATION OF RETROSPECTIVE ADJUSTMENT PERIOD.—Any amounts of such allotments or redistributions that remain unexpended as of September 30, 2007, shall revert to the Treasury on December 31, 2007.''.

(b) EXTENDING AUTHORITY FOR QUALIFYING STATES TO USE CERTAIN FUNDS FOR MEDICAID EXPENDITURES.—Section 2105(g)(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 Pensions.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today, entitled the ''Community Health Workers Act of 2006,'' would improve access to health education and outreach services to women in medically underserved areas, including the U.S. border region along New Mexico.

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-financial barriers to access. These barriers 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 health outcomes and quality of care for groups 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. Their 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 demonstrate 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, a study by Dr. Glenn Flores, ''Community-Based Case Management in Insuring Uninsured Latino Children,'' published in the December

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 reducing 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 Healthcare,'' 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,

SECTION 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) Chronic diseases, 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 Hispanic, 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 over 30 percent are 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 racial and ethnic disparities in health factors, including premature death, life expectancy, risk factors associated with major diseases, and the extent and severity of illnesses.

(8) There is increasing evidence that early life experiences are associated with adult chronic disease and that prevention and intervention services provided 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 populations.

(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 with limited access or underutilization 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 officials determined appropriate by the Secretary, is authorized to award grants to States or local or tribal units, to promote positive health behaviors for women in target populations, especially racial and ethnic minority women in medically underserved communities.

''(b) USE OF FUNDS.—Grants 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 experiential 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;

''(3) to educate and guide regarding effective strategies to promote positive health behaviors within the family;

''(4) 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;

''(5) to promote community wellness and awareness; and

''(6) 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—

''(A) with 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 encompass 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; and

''(3) with documented community activity and experience with community health workers.

''(e) COLLABORATION WITH ACADEMIC INSTITUTIONS.—The Secretary shall encourage community health worker programs receiving funds under this section to collaborate with academic institutions. Nothing in this section shall be construed to require such collaboration.

''(f) QUALITY ASSURANCE AND COST-EFFECTIVENESS.—The Secretary shall establish guidelines for assuring the quality of the training and supervision of community health workers under the programs funded under this section and for assuring the cost-effectiveness of such programs.

''(g) MONITORING.—The Secretary shall monitor community health worker programs identified in approved applications and shall determine whether such programs are in compliance with the guidelines established under subsection (f).

''(h) TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to community health worker programs identified in approved applications with respect to planning, developing, and operating programs under the grant.

''(i) REPORT TO CONGRESS.—

''(1) 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 regarding the grant project.

''(2) CONTENTS.—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;

''(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 regarding training to enhance career opportunities for community health workers.

''(j) 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 or nutrition needs; 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) 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 training, supervision, and materials needed to effectively deliver the services described in subsection (b), reimbursement for services, and other benefits.

''(5) TARGET POPULATION.—The term 'target population' means women of reproductive age, regardless of their current childbearing status.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2007, 2008, and 2009.''.

A RANDOMIZED, CONTROLLED TRIAL OF THE EFFECTIVENESS OF COMMUNITY-BASED CASE MANAGEMENT IN INSURING UNINSURED LATINO CHILDREN

(By Flores, MD; Milagros Abreu, MD; Christine E. Chaisson, MPH; Alan Meyers, MD, MPH; Ramesh C. Sachdeva, MD, PhD, MBA; Harriet Fernandez, BA; 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 insuring uninsured children has never been conducted.

Objective. To evaluate whether case managers 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 that received traditional Medicaid and State Children's Health Insurance Program (SCHIP) outreach and enrollment. Case managers provided information on program eligibility, helped families complete insurance applications, acted as a family liaison with Medicaid/SCHIP, and assisted in maintaining coverage.

Main Outcome Measures. Obtaining health insurance, coverage continuity, the time to obtain coverage, and parental satisfaction with the process of obtaining insurance for children were assessed. Subjects were contacted monthly for 1 year to monitor outcomes by a researcher blinded with respect to group assignment.

Results. One hundred thirty-nine subjects were assigned randomly to the intervention group and 136 to the control group. Intervention group children were significantly more likely to obtain health insurance (96% vs 57%) and had less than 8 times the adjusted odds (odds ratio: 7.78; 95% confidence interval: 5.20–11.64) of obtaining insurance. Seventy-eight percent of intervention group children were insured continuously, compared with 30% of control group children. Intervention group children obtained insurance significantly faster (mean: 87.5 vs 134.8 days), and their parents were significantly more satisfied with the process of obtaining insurance.

Conclusions. Community-based case managers are more effective than traditional Medicaid/SCHIP outreach and enrollment in insuring uninsured Latino children. Case management may be a useful mechanism to reduce the number of uninsured children, especially among high-risk populations. Pediatrics 2005; 116:1433–11441; insurance, Latino, Medicaid, medically uninsured, child health services, community health services.

There were 8.4 million children without health insurance coverage in the United States in 2003, equivalent to 11.4% of children 0 to 17 years old. Latino children have the highest risk of being uninsured of any racial/ethnic group of U.S. children, with 21% of Latino children being uninsured, compared with 7% of non-Latino white children, 14% of African American children, and 12% of Asian/Pacific Islander children. Other documented risk factors among children for having no insurance include poverty and noncitizen status of the parent and child.

Compared with children who have health insurance, uninsured children have less access to health care, are less likely to have a regular source of primary care, and use medical and dental care less often. Uninsured children are significantly more likely than insured children to be in poor or fair health; to not have a regular physician or other medical provider, to have made no medical visit in the past year, to be immunized inadequately, to experience adverse hospital outcomes as newborns, and to have higher mortality rates associated with trauma and coarctation of the aorta.

To expand insurance coverage for uninsured children, Congress enacted the State Children's Health Insurance Program (SCHIP) in 1997. This program targets 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. SCHIP is a matched block grant 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 services after enrollment in SCHIP and Medicaid.

Since the inception of SCHIP enrollment in January 1998, SCHIP has provided coverage to 3.9 million children, and the proportion of uninsured US children has decreased from 15.4 percent to 11.4 percent. In the past 4 years, however, the numbers and proportions of uninsured children essentially have not changed, wavering between 8.4 and 8.6 million and 11.4 percent to 11.9 percent, respectively. It has been estimated that well over one 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 failing to reach the ''hardest-to-reach'' subpopulations of uninsured children, such as Latinos and those who have never been insured.

A randomized, controlled trial has never been performed comparing traditional SCHIP and Medicaid outreach and enrollment versus alternative strategies in terms of their effectiveness in insuring uninsured children. Recent research revealed that the parents of uninsured Latino children viewed community-based case managers as an acceptable and helpful intervention for families seeking to insure their uninsured children. The aim of this study, therefore, was to conduct a randomized, controlled trial comparing community-based case management

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 confirmed in prior research to have large proportions of both uninsured children and Latino children, ie, East Boston, where 37 percent of Latino children were found to be uninsured in prior studies and 39 percent of the population is Latino, and Jamaica Plain, where 27 percent of Latino children were found to be uninsured in prior studies and 24 percent of the population is Latino. Eligibility criteria included the following: (1) the child was 0 to 18 years old, (2) the child had no health insurance coverage and had been uninsured for ≥ 3 months (unless the child was an infant who had never been insured), (3) the parent identified her or his uninsured child's ethnicity as Latino, (4) the parent's primary language was English or Spanish, and (5) the parent was willing to be contacted monthly by telephone or through a home visit by research personnel (if no functioning 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 being uninsured. When > 1 child in a family was uninsured, 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 confirmed in 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. This sampling method was chosen because traditional census block methods have the potential to undercount undocumented children and their families, given their fear of deportation when 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 participation 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, verbally administered screening questionnaire (in English or Spanish, according to parental preference) to confirm eligibility, determine relevant baseline characteristics, and record 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 spouse (if currently living in the same household), the annual combined family income, and the citizenship status of the parent. Additional information collected included the names of the parent and child, whether there was a functioning telephone in the household, the telephone number, the preferred alternate telephone number of friends or family members (if there was no 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, version 8.2. Sequentially numbered, opaque, sealed envelopes were 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 children, 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 preparation of randomization schedules opened the envelopes in the presence of enrolled participants, to inform them of their group assignment. Parents of uninsured children allocated 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 Medicaid in Massachusetts) or the Department of Public Health (DPH) (the state agency responsible for the Children's Medical Security Plan [CMSP], which insures nonMedicaid-eligible children 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 used to enroll children in MassHealth [Medicaid in Massachusetts] and CMSP), 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 monitoring. These training sessions were held in collaboration with representatives from DMA and DPH. Case managers also received the following training: a 1-week session on MassHealth eligibility requirements conducted by DMA, a 4–hour session on insurance eligibility rules conducted by a DPH outreach coordinator, a 2–hour session on MassHealth managed care programs and rules, a 1-day session on CMSP conducted by a DPH representative, a 1-day seminar on insurance programs and general assistance for impoverished families conducted by Health Care for All (a nonprofit organization dedicated to improving access to health care for all people in the state of Massachusetts), monthly DMA technical forums on MassHealth, and 1 week of supervised case manager training in the community.

The case managers were bilingual Latina women (of Dominican, Puerto Rican, Mexican, or Colombian ethnicity) between 22 and 36 years old. All had graduated from high school, some had obtained college degrees, and 1 had postgraduate training. None had any prior experience working as case managers insuring uninsured children. They were recruited through job listings posted in the employment offices of local Boston colleges and universities.

Control Group

Control group subjects received no intervention other than the SCHlP standard-of-care outreach and enrollment efforts administered by the MassHealth and CMSP programs. In Massachusetts, DMA has stated that they ''have made every effort to implement broad-based outreach activities designed to draw attention of families, teachers, child care workers, health providers, youth and community organizations to enhanced opportunities in the Commonwealth for obtaining health insurance.'' 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 advertisements on 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 not respond to ≥10 attempted telephone contacts. To ensure ongoing rigorous blinding, we asked parents not to reveal their group assignment at any time to the outcomes research assistant (and the blinded research assistant reported that no parents revealed their child's group assignment during the study).

The primary outcome measure was the child obtaining health insurance coverage, as determined in an interview with the parent and confirmed, when possible, through inspection of the coverage notification letter received by the family. Three secondary outcomes also were assessed. The number of days from study enrollment to obtaining coverage was determined by using 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 for the child 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 5–point Likert scale (1 = very satisfied, 2 = satisfied, 3 = uncertain, 4 = dissatisfied, and 5 = very dissatisfied). Overall parental satisfaction (regardless of whether insurance coverage 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 monthly 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 x^2 test of equal proportions indicated that a sample size in each study arm of 90 participants provided 90 percent power to detect a 20 percent difference in the rates of insuring uninsured children (assuming that 10 percent of the control group and a minimum of 30 percent of the intervention group would be insured at the end of the study), allowing for 2-sided $\alpha = .05$ and assuming ≥1 contact during the 12–month follow-up period. The initial combined target recruitment sample of N = 300 assumed that up to 40 percent of participants might drop out or be lost to follow-up monitoring; subsequently, recruitment was terminated at a sample size of N = 275 when the attrition rate was observed to be ~17 percnt.

The baseline sociodemographic characteristics of the intervention and control groups were compared with x^2, Fisher's exact, and t tests. All reported P values are 2-tailed, with $P < .05$ considered statistically significant. Analyses of all outcomes, including obtaining insurance, time to insurance, and satisfaction with the process of obtaining insurance, were restricted to subjects who completed ≥1 follow-up visit.

Unadjusted analyses of intergroup differences in obtaining insurance coverage (any, continuous, and sporadic) were performed with the x^2 test. We then fitted longitudinal regression models adjusting for time and intrasubject correlations by using generalized estimating equations implemented in PROC GENMOD in the SAS software. An independent working correlation model and empirical variance estimator were used for the generalized estimating equation model.

Multivariate analyses were performed to adjust for policy changes in the MassHealth and CMSP programs that occurred during the study. In November 2002, an enrollment cap was imposed on CMSP, which resulted in a waiting list of thousands of uninsured children, and premiums were increased for both CMSP and MassHealth. On February 1, 2003, the CMSP enrollment freeze was lifted, children on the waiting list began to be enrolled in the programs, and the premium increases were reduced (but not to levels before the November 2002 policy change). Study outcomes therefore were adjusted according to when the study participant was recruited, ie, before, during, or after the restrictive policy change (with construction of a 3-level variable for which the reference group was recruitment before the policy change). Because some subjects were not affected by the policy change, a second variable also was constructed, consisting of a dummy indicator for participants affected by the policy change. Both policy change variables were included in the adjusted models. On the basis of significant intergroup differences noted in bivariate analyses (for parental employment status and state insurance policy changes) and factors previously reported to be associated with being uninsured, the final adjusted model included the following covariates: the child's age, the family's poverty status (dichotomized as an annual combined family income that was 0–100% of the federal poverty threshold for the family [individualized for each family according to the number of people in the family unit and the number of related children <18 years old in the household] at the time of the study versus an income that was above the federal poverty threshold), parental citizenship status, parental employment status, and participant recruitment in relation to policy changes in state insurance coverage options available for uninsured children.

Unadjusted analyses of the number of days from study enrollment to obtaining coverage were performed for the subset of subjects who obtained insurance with the *t* test and then for all subjects with the Kaplan-Meier method. An adjusted cumulative incidence curve for the time to obtaining insurance was then plotted. Parental satisfaction with the process of trying to obtain insurance was analyzed by coding the 5-point Likert scale results both as a categorical variable (using the x^2 test) and as a continuous variable (using the *t* test).

RESULTS

Participants

A total of 275 uninsured Latino children (and their families) who met all enrollment criteria were identified at the 2 study sites; 139 were assigned randomly to receive the community-based case management intervention and 136 were allocated to the control group. Figure 1 summarizes the enrollment, randomization, follow-up, and data analysis for all study participants. At least 1 monthly 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 study enrollment occurred successfully for 72% ($n = 97$) of the intervention group and 62% ($n = 76$) of the control group. The 18 subjects who were assigned randomly 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 among subjects with ≥1 follow-up contact; $P < .04$), but there were no significant differences between these 2 groups in any other characteristic, including the children's age, number of children in the family, annual combined family income, or parental age, citizenship, and employment 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, with a slightly greater proportion of intervention group subjects being recruited before the policy change and slightly greater proportions of control group 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 difference in the number of subjects lost to follow-up before any follow-up interviews (3% of the intervention group vs 9% of the control group; $P = .04$).

Insurance Coverage of Children

Children who received community-based case management were substantially more likely to obtain health insurance coverage compared with children in the control group (96% vs 57%; $P < .0001$) (Table 2). Intervention group children also were significantly more likely than control group children to be insured continuously throughout the 1-year follow-up period (78% vs 30%; $P < .0001$) 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 coverage (odds ratio: 7.78; 95% confidence interval: 5.20–11.64), after multivariate adjustment for potential confounders (the child's age, family income, parental citizenship, parental employment, 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 emerged at ~30 days and was sustained. Multivariate analyses also revealed that older children and adolescents and participants 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 child (80% vs 29%; $P < .0001$) (Table 2). Conversely, control group parents were considerably 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; $P < .0001$). These 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 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 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

Latino children than traditional Medicaid and SCHIP outreach and enrollment. In addition, compared with control group children, children in the case management group obtained insurance coverage sooner, were more likely to be insured continuously during 1 year of follow-up, and had parents who were much more satisfied with the process of obtaining coverage for their children.

Several characteristics of the case management intervention might account for its greater effectiveness in comparison with traditional Medicaid and SCHIP outreach and enrollment. First, case managers received training and focused their efforts on addressing barriers to insuring uninsured children that had been identified specifically by Latino families in prior research, including lack of knowledge about the application process and eligibility, language barriers, immigration issues, income cutoff values and verification, hassles, pending decisions, family mobility, misinformation from insurance representatives, and system problems. Second, case managers were active agents in the process of obtaining insurance coverage for children, assisting parents with application completion and acting as a family liaison and advocate whenever complications or setbacks occurred; traditional SCHIP and Medicaid outreach and enrollment tended to be much more passive, with outreach being heavily reliant on direct mailings, flyers, radio advertisements, and toll-free telephone numbers, but frequently with little or no assistance with the enrollment process. Third, the case managers were all bilingual, bicultural Latinas, which enhanced the cultural competency of the process and eliminated the often considerable language barriers faced by Latino parents seeking to insure their uninsured children. Therefore, the evidence-based, customized, active, culturally competent features in a community-based setting distinguish this intervention from traditional case management approaches and may account for its effectiveness.

The success of the community-based case management intervention is noteworthy, given a study population characterized by multiple factors known to place children at especially high risk for being uninsured. All intervention group children were Latino, 69 percent lived in poverty, 96 percent lived in families with incomes ≤200 percent of the federal poverty threshold, only 10 percent of parents were U.S. citizens, and one fifth of parents were unemployed. These findings suggest that community-based case management might prove especially useful in regions characterized by large proportions of uninsured children who are Latino, poor, immigrants, and have parents who are unemployed. Additional research is needed to determine whether community-based case managers would be equally effective in insuring uninsured children from other racial/ethnic groups and socioeconomic strata and those with parents who are primarily U.S. citizens and employed.

The effectiveness of community-based case management suggests that it could play an important role in states with large proportions of uninsured Latino children. In Texas, for example, where 21 percent of children (equivalent to 1.4 million children) are uninsured and an estimated 56 percent of uninsured children are Latino, community-based case management potentially could insure >750000 uninsured Latino children, assuming the 96 percent effectiveness of case management observed in this study. The study findings suggest that community-based case management has the potential to be highly effective in reducing the number of uninsured children even in states such as Texas where children from undocumented families are not eligible for insurance programs; community-based case management was found to be more effective than traditional Medicaid and SCHIP outreach and enrollment even after adjustment for parental citizenship, and more than one half of all uninsured U.S. children are eligible for Medicaid or SCHIP. As demonstrated in our study, however, in states with relatively small proportions of uninsured children, such as Massachusetts, case management might prove to be an important means of insuring the hardest-to-reach populations of uninsured children who have continued to be uninsured despite 7 years of SCHIP and Medicaid expansion, such as Latinos, poor children, and those with noncitizen parents. Our study findings may be of particular relevance for states such as Florida, which, like Massachusetts, has a SCHIP program (the Florida KidCare program) that covers both citizen and qualified noncitizen children.

Certain limitations of this study should be noted. The case management intervention was studied only among Latino children; therefore, the results may not pertain to other racial/ethnic groups. The Latino subgroups represented in the study sample were typical of an urban area in the Northeast, and the findings may not be generalizable to populations with greater proportions of Mexican Americans, in other regions of the country, or in rural or suburban areas. Because the study aim was to determine the effectiveness of the case management intervention, a cost analysis was not performed, and the cost-effectiveness of the intervention could not be determined. However, we did evaluate the feasibility of conducting a cost-effectiveness analysis by collecting pilot data on 10 consecutive families enrolled in the study. Pilot data collected included the number of missed school days, the number of missed work days, out-of-pocket expenses incurred during a child's illness, the number of emergency department and clinic visits, hospitalizations, and estimates of the costs of implementing the program, including personnel salaries and time spent implementing the intervention. These pilot data suggest that a formal cost-effectiveness analysis of the intervention is feasible for this population and could be performed in future studies. Future cost-effectiveness analyses of this intervention should consider comprehensive evaluation of direct, indirect, and opportunity costs associated with implementing the case management intervention in other communities and populations.

It can be speculated that insuring children through community-based case managers might have the potential to contribute to the revitalization of impoverished Latino communities. Case management not only could effectively reduce the number of uninsured children in a community but also might serve as a means of enhancing a community's employment opportunities. The case managers could be trained individuals from the community who serve their own community, drawn from welfare-to-work and other local and state employment programs. Part of each case manager's earnings, in turn, might be spent at local businesses, resulting in a ''triple effect'' of reducing the number of uninsured children, increasing parental employment, and stimulating the local economy. Under this scenario, SCHIP and Medicaid programs could partner with state employment agencies to train and to hire the community case managers. As an intervention that is comprehensive, community-based, and focused on the family, community-based case management shares key features with several established family support programs considered to be effective in improving child health outcomes, such as Head Start and early intervention programs for children with special health care needs.

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.

TABLE 1.—BASELINE CHARACTERISTICS OF STUDY PARTICIPANTS

Characteristic	Case management (n=139)	Control (n=136)	P
Child's age, y, mean ± SD	8.9 ± 5.0	8.9 ± 4.9	.96
Parent's age, y, mean ± SD	36.7 ± 9.1	36.7 ± 8.9	.98
Annual combined family income, median (range)	$13,200 ($0–72,000)	$12,945 ($0–48,000)	.41
Annual combined family income, no. (%)[1]:			.57
0–100% of federal poverty threshold	92 (69)	86 (73)	
101–200% of federal poverty threshold	36 (27	30 (25)	
>200% of federal poverty threshold	5 (4)	2 (2)	
Number of children in family, no. (%):			.64
1	49 (35)	42 (31)	
2	52 (37)	54 (40)	
3	25 (18)	21 (15)	
≥4	13 (9)	18 (13)	
Parent's ethnicity, no. (%):			.51
Colombian	58 (42)	47 (35)	
Dominican	27 (19)	24 (18)	
Salvadoran	29 (21)	32 (24)	
Guatemalan	7 (5)	13 (10)	
Mexican	3 (2)	6 (4)	
Other	15 (11)	14 (10)	
At least 1 parent employed full-time, no. (%)	119 (86)	99 (73)	.01
Parental citizenship, no. (%):			.96
US citizen	14 (10)	15 (11)	
Legal resident	69 (51)	67 (49)	
Undocumented	56 (40)	54 (40)	
Parent limited in English proficiency, no. (%)[2]	127 (91)	126 (93)	.96

TABLE 1.—BASELINE CHARACTERISTICS OF STUDY PARTICIPANTS—Continued

Characteristic	Case management (n=139)	Control (n=136)	P
Parental marital status, no. (%):			.82
Married	63 (45)	59 (43)	
Separated	19 (14)	15 (11)	
Divorced	9 (6)	9 (7)	
Single	29 (21)	39 (29)	
Common law	16 (12)	12 (9)	
Widowed/other	3 (2)	2 (1)	
Parental educational attainment, no. (%):			.75
None/grade school	43 (31)	38 (28)	
6th to 11th grade	24 (17)	20 (15)	
High school graduate	38 (28)	44 (32)	
Some college	11 (8)	15 (11)	
College degree [3]	22 (16)	19 (14)	
Lost/withdrew from study before any follow up contact, no. (%)	4 (3)	12 (9)	.04
Follow-up contacts, no., mean ±SD [4]	8.3 ±2.2	7.9 ±2.3	.14
Recruitment site, no. (%):			.91
East Boston	101 (73)	98 (72)	
Jamaica Plain	38 (27)	38 (28)	
Participant recruitment in relation to policy change in state coverage of uninsured children, no. (%):			.02
Before policy change	38 (27)	20 (15)	
Restrictive change in effect	14 (10)	22 (17)	
Reestablishment of most of prior policy	87 (63)	94 (70)	

[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-rated English-speaking ability of less than very well (ie, well, not very well, or not at all).
[3] Associate, bachelor's, or postgraduate degree.
[4] Among participants with any follow-up contacts.

TABLE 2.—STUDY OUTCOMES ACCORDING TO GROUP ASSIGNMENT

Outcome	Case management (n = 139)	Control (n = 136)	P
Child obtained health insurance coverage, %	96	57	<.0001
Continuously insured	78	30	<.0001
Sporadically insured [1]	18	27	<.0001
Child continuously uninsured, %	4	43	<.0001
Mean time to obtain insurance, d, mean ± SD	87.5 ± 68	134.8 ± 102.4	<.009
Parental satisfaction with process of obtaining child's insurance, % [2]:			
Very satisfied	80	29	[3] <.0001
Satisfied	12	41	
Uncertain	5	4	
Dissatisfied	2	13	
Very dissatisfied	1	14	
Mean parental satisfaction score for process of obtaining child's insurance (5-point Likert scale), mean ± SD [2 4]	1.33 ± 0.77	2.40 ± 1.40	<.0001

[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.

TABLE 3.—MULTIPLE LOGISTIC-REGRESSION ANALYSIS OF FACTORS ASSOCIATED WITH CHILDREN OBTAINING INSURANCE COVERAGE

Independence variable	Adjusted odds ratio (95% confidence interval) for obtaining insurance coverage
Group assignment:	
Control	Referent
Case management	7.78 (5.20–11.64)
Child's age:	
0–5 y	Referent
6–11 y	0.32 (0.19–0.56)
12–18 y	0.35 (0.019–0.63)
Annual combined family income:	
At or below federal poverty threshold	Referent
Above poverty threshold	1.19 (0.70–2.02)
Parental citizenship:	
Undocumented	Referent
Legal resident	1.42 (0.82–2.44)
U.S. citizen	2.40 (0.08–7.48)
Parental employment:	
Employed	Referent
Unemployed	0.78 (0.45–1.37)
Participant recruitment in relation to policy change in state coverage of uninsured children:	
Before policy change	Referent
Restrictive change in effect	0.46 (0.22–0.99)
Reestablishment of most of prior policy	0.74 (0.45–1.21)

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 avoidance, profiteering, 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 increase 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:

S. 3977

Be it enacted by the Senate and House of Representatives 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 certified by the Secretary as a Patriot employer, the Patriot employer credit determined under this section for purposes of section 38 shall be equal to 1 percent of the taxable income of the taxpayer which is properly allocable to all trades or businesses with respect to which the taxpayer is certified as a Patriot employer for the taxable year.

''(b) PATRIOT EMPLOYER.—For purposes of subsection (a), the term 'Patriot employer' means, with respect to any taxable year, any taxpayer which—

''(1) maintains its headquarters in the United States if the taxpayer has ever been headquartered in the United States,

''(2) pays at least 60 percent of each employee's health care premiums,

''(3) if such taxpayer employs at least 50 employees on average during the taxable year—

''(A) maintains or increases the number of full-time workers in the United States relative to the number of full-time workers outside of United States,

''(B) compensates each employee of the taxpayer at an hourly rate (or equivalent thereof) not less than an amount equal to the Federal poverty level for a family of three for the calendar year in which the taxable year begins divided by 2,080,

''(C) provides either—

''(i) a defined contribution plan which for any plan year—

''(I) requires the employer to make nonelective contributions of at least 5 percent of compensation for each employee who is not a highly compensated employee, or

''(II) requires the employer to make matching contributions of 100 percent of the elective contributions of each employee who is not a highly compensated employee to the extent such contributions do not exceed the percentage specified by the plan (not less than 5 percent) of the employee's compensation, or

''(ii) a defined benefit plan which for any plan year requires the employer to make contributions on behalf of each employee who is not a highly compensated employee in an amount which will provide an accrued benefit under the plan for the plan year which is not less than 5 percent of the employee's compensation, and

''(D) provides full differential salary and insurance benefits for all National Guard and Reserve employees who are called for active duty, and

''(4) if such taxpayer employs less than 50 employees on average during the taxable year, either—

''(A) compensates each employee of the taxpayer at an hourly rate (or equivalent thereof) not less than an amount equal to the Federal poverty level for a family of 3 for the calendar year in which the taxable year begins divided by 2,080, or

''(B) provides either—

''(i) a defined contribution plan which for any plan year—

''(I) requires the employer to make nonelective contributions of at least 5 percent of compensation for each employee who is not a highly compensated employee, or

''(II) requires the employer to make matching contributions of 100 percent of the elective contributions of each employee who is not a highly compensated employee to the extent such contributions do not exceed the percentage specified by the plan (not less than 5 percent) of the employee's compensation, or

''(ii) a defined benefit plan which for any plan year requires the employer to make contributions on behalf of each employee who is not a highly compensated employee in an amount which will provide an accrued benefit under the plan for the plan year which is not less than 5 percent of the employee's compensation.''.

(b) ALLOWANCE AS GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code or 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 following:

''(27) the Patriot employer credit determined under section 45N.''.

(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 American 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 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 connected to the markets in which they operate, and by dodging their financial responsibilities, 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: maintain headquarters in the U.S.; pay at least 60 percent of employees' 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 a defined benefit retirement plan or a defined contribution plan with an employer match; and provide full differential salary and benefits for National Guard employees called into active duty.

It is important that our American firms remain competitive and innovate, in part by investing in the long-term health of those workers and communities in which they operate and impact. Increasing corporate shareholder value and acting in the interests of the public good are not mutually exclusive goals, and this legislation recognizes that point. All of us have a stake in improving returns to all corporate stakeholders, including investors, managers, employees, consumers, and our communities.

To this end, I am proud to be an original cosponsor of this bill and I hope that it will renew attempts by lawmakers—both legislative and otherwise—to engage productively with the business community to address their long-term market concerns while promoting the well-being of American workers. Government does not create jobs; entrepreneurs and businesses do. The future of the American economy requires that American businesses continue to grow and improve their productivity and competitiveness. It requires that American companies have the very best workforce and infrastructure to compete and win in every market they enter.

Ensuring American competitiveness will demand new thinking from leaders in business, labor, education, and government: it will demand new responses and roles, new coalitions and collaborations, among these stakeholders. Long-term American competitiveness will demand bipartisan commitment to strengthening all parts of our economy and improving opportunities for all Americans.

The Patriot Employers Act is an important step in this process. Let's align business incentives with the investments we need in 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.

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, an important piece of legislation in the battle against consumer fraud. Despite consumers' best efforts, debit and check card fraud is a serious problem making consumer liability an important issue. Unfortunately, current consumer protection laws do not adequately protect debit and check card holders from fraud.

Over the last decade, debit and check card use has experienced double digit growth and now over 80 percent of American consumer households possess a debit or check card. This growth has outpaced that of credit cards and recent reports indicate that between 2001 and 2003 consumers made 42.5 billion

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 from debit 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 liable for 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 posses a debit or check card;

(2) between 2001 and 2003, consumers made 42,500,000,000 transactions with debit cards, eclipsing credit card transactions by 2,300,000,000;

(3) as of 2003, debit cards accounted for ⅓ 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 consumer 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—

(1) by striking ''Notwithstanding the foregoing'' and all that follows through ''whichever is less.''; and

(2) by striking ''meana'' and inserting ''means''.

SEC. 4. DEBIT CARD ERROR RESOLUTION.

Section 908(f) of the Electronic Funds Transfer Act (15 U.S.C. 1693f(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, in accordance with the agreement made at the time of a transaction;''.

SEC. 5. CONSUMER RIGHTS.

Section 908 of the Electronic Funds Transfer Act (15 U.S.C. 1693f) is amended by adding at the end the following:

''(g) RIGHTS OF CONSUMERS WITH RESPECT TO ACCEPTED CARDS.—

''(1) IN GENERAL.—Subject to the limitation contained in paragraph (2), the issuer of an accepted card to a consumer shall be subject to all claims (other than tort claims) and defenses arising out of any transaction in which the accepted card is used as a method of payment, if—

''(A) the consumer has made a good faith attempt to obtain satisfactory resolution of a disagreement or problem relative to the transaction from the person honoring the accepted card;

''(B) the amount of the initial transaction exceeds $50; and

''(C) the transaction was initiated by the consumer in the same State as the mailing address previously provided by the consumer, or within 100 miles from such address, except that the limitations set forth in subparagraphs (A) and (B) with respect to the right of a consumer to assert claims and defenses against the issuer of the card shall not be applicable to any transaction in which the person honoring the accepted card—

''(i) is the same person as the card issuer;

''(ii) is controlled by the card issuer;

''(iii) is under direct or indirect common control with the card issuer;

''(iv) is a franchised dealer in the products or services of the card issuer; or

''(v) has obtained the order for such transaction through a mail solicitation made by or participated in by the card issuer in which the cardholder is solicited to enter into such transaction by using the accepted card issued by the card issuer.

''(2) LIMITATION.—The amount of claims or defenses asserted by the cardholder under this subsection may not exceed the amount paid by the cardholder with respect to the subject transaction at the time at which the cardholder first notifies the card issuer or the person honoring the accepted card of such claim or defense.''.

SEC. 6. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall issue final regulations to carry out the amendments made by this Act, which regulations shall be consistent, to the extent practicable, with regulations issued to carry out similar provisions under the Truth in Lending Act.

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.

Mr. DODD. Mr. President, food allergies are an increasing food safety and public health concern in this country, especially among young children. I know first-hand just how frightening food allergies can be in a young person's life. My own family has been personally touched by this troubling condition and we continue to struggle with it each and every day. Sadly, there is no cure for food allergies.

In the past 5 years, the number of Americans with food allergies has nearly doubled from 6 million to almost 12 million. While food allergies were at one time considered relatively infrequent, today they rank 3rd among common chronic diseases in children under 18 years old. Peanuts are among several allergenic foods that can produce life-threatening allergic reactions in susceptible children. Peanut allergies have doubled among school-age children from 1997 to 2002.

Clearly, food allergies are of great concern for school-age children Nationwide, and yet, there are no Federal guidelines concerning the management of life-threatening food allergies in our Nation's schools.

I have heard from parents, teachers and school administrators that students with severe food allergies often face inconsistent food allergy management approaches when they change schools—whether they get promoted or move to a different city. Too often, families are not aware of the food allergy policy at their children's school, or the policy is vastly different from the one they knew at their previous school, and they are left wondering whether their child is safe.

Last year, Connecticut became the first State to enact school-based guidelines concerning food allergies and the

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 and McClain aren't alone in their struggles. Across the country, 3 million children suffer from food allergies.

Milk. Eggs. Fish. Shellfish. Tree nuts. Peanuts. Wheat. Soy.

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 developing their own training guidelines for responding to food allergies.

This means that when children change schools—they're promoted, they move, they're redistricted—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.

The guidelines would help prevent exposure to food allergens and help ensure a prompt response when a child suffers a potentially fatal anaphylactic reaction. Under the bill, these guidelines 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 ever rising—cost 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 $4 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 co-sponsored to combat other conduct which impedes the marketing of generic drugs. The legislation I introduce today targets yet another practice by brand name drug companies to impede or block the marketing of generic drugs—abuse of the FDA citizen petition process.

FDA rules permit any person 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 any new 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 delaying 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 concerns 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 approval of a competitor's 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 raised 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 citizen petitions simply to keep competition off the market. Our legislation will correct this obvious shortcoming and give the Department of Health and Human Services—the FDA's parent agency—the power to sanction those who abuse the process.

Our bill will, for the first time, require all those who file citizen petitions to affirm certain basic facts about the truthfulness and good faith of the petition, similar to what is required of every 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 of the Department of Health and Human Services is empowered to investigate a citizen petition to determine if it has violated any of these principles, was submitted for an improper purpose, or contained false or misleading statements. Further, the Secretary is authorized to penalize anyone found to have submitted an abusive citizen petition. Possible 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.

While 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:

S. 3981

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 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) is amended by adding at the end the following:

''(G)(i) 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 a materially false, misleading, or fraudulent statement.

''(ii) The Secretary shall investigate, on receipt of a complaint, a request under clause (vi), 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)(III); or

''(III) may contain a materially false, misleading, or fraudulent statement as described in clause (i)(IV).

''(iii) If the Secretary finds that the petitioner has knowingly and willingly submitted the petition for an improper purpose as described in clause (i)(III), or which contains a materially false, misleading, or fraudulent statement as described in clause (i)(IV), the Secretary may—

''(I) impose a civil penalty of not more than $1,000,000, plus attorneys fees and costs of reviewing the petition and any related proceedings;

''(II) suspend the authority of the petitioner to submit a petition under such section 10.30 or section 10.35 (or any successor regulation), for a period of not more than 10 years;

''(III) revoke permanently the authority of the petitioner to submit a petition under such section 10.30 or section 10.35 (or any successor regulation); or

''(IV) dismiss the petition at issue in its entirety.

''(iv) If the Secretary takes an enforcement action described in subclause (I), (II), (III), or (IV) of clause (iii) with respect to a petition, the Secretary shall refer that petition to the Federal Trade Commission for further action as the Federal Trade Commission finds appropriate.

''(v) In determining whether to take an enforcement action described in subclause (I), (II), (III), or (IV) of clause (iii) with respect to a petition, and in determining the amount of any civil penalty or the length of any suspension imposed under that clause, the Secretary shall consider the specific circumstances of the situation, such as the gravity and seriousness of the violation involved, the amount of resources expended in reviewing the petition at issue, the effect on marketing of competing drugs of the pendency of the improperly submitted petition, including whether the timing of the submission of the petition appears to have been calculated to cause delay in the marketing of any drug awaiting approval, and whether the petitioner has a history of submitting petitions in violation of this subparagraph.

''(vi)(I) Any person aggrieved by a petition filed under such section 10.30 or section 10.35 (or any successor regulation), including a person filing an application under subsection (b)(2) or (j) of this section to which such petition relates, may request that the Secretary initiate an investigation described under clause (ii) for an enforcement action described under clause (iii).

''(II) The aggrieved person shall specify the basis for its belief that the petition at issue is false, misleading, fraudulent, or submitted for an improper purpose. The aggrieved person shall certify that the request is submitted in good faith, is well grounded in fact, and not submitted for any improper purpose. Any aggrieved person who knowingly and intentionally violates the preceding sentence shall be subject to the civil penalty described under clause (iii)(I).

''(vii) The Secretary shall take final agency action with respect to a petition filed under such section 10.30 or section 10.35 (or any successor regulation) within 6 months of receipt of such petition. The Secretary shall not extend such 6-month review period, even with consent of the petitioner, for any reason, including based upon the submission of comments relating to a petition or supplemental information supplied by the petitioner. If the Secretary has not taken final agency action on a petition by the date that is 6 months after the date of receipt of the petition, such petition shall be deemed to have been denied on such date.

''(viii) The Secretary may promulgate regulations to carry out this subparagraph, including to determine whether petitions filed under such section 10.30 or section 10.35 (or any successor regulation) merit enforcement action by the Secretary under this subparagraph.''.

By Mr. HARKIN (for himself, Mr. LEAHY, Ms. MIKULSKI, and Mr. KERRY):

S. 3984. 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 or serious mental disorder each year. 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 war 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 protocols for training VA staff to better screen 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 scars of 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 critical to ensuring that an acute stress reaction does not become a chronic mental illness.

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. 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 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.

LANE EVANS has fought these battles for more than 20 years, and even in the face of his own debilitating disease, he kept fighting. Today, veterans across America have LANE EVANS to thank for reminding this country of its duty to take care of those who have risked their lives to defend ours.

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, and 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 underestimated 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 kind 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

been invaluable in budget planning as well as in monitoring emerging health trends and diseases linked to the gulf war. The Gulf War Veterans Information System also has been important to medical research and improved care for veterans. The sooner we begin keeping accurate track of our fighting men and women in Iraq, Afghanistan and beyond, the better and more efficiently we will be able to care for them.

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, it extends 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 30 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 veterans often have to wait years 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 receipt of vaccinations 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 receive when they return from deployment. A 2005 GAG report found that because demobilization for guardsmen and reservists is accelerated, reserve units get abbreviated and perfunctory transition assistance including limited employment training. 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 and refocus Federal 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 $53.3 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 and murders are on the rise for the first time in a decade. Given all of this, it is hard to argue that we are as safe as we should be.

To turn this around, we have to get serious about our security. If we establish the right priorities, we can do the job. We can fund local law enforcement, which the President has attempted to slash by over $2 billion for fiscal year 2007. We can give the FBI an additional 1,000 agents to allow them to implement reforms without abandoning local crime. We can secure the soft targets in our critical infrastructure, to ensure that our chemical plants and electricity grids are protected from attacks. We can immediately re-allocate spectrum from the television networks and give it to our first responders so they can talk during an emergency.

I know what many of my colleagues here will argue. They will argue that it is simply too expensive to do everything. This argument is complete malarkey. 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. In contrast, 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—less than 1 percent of the population—than we do for the Department intended to help secure the entire nation.

For a Nation that is repeatedly warned about the grave threats we face, how can this be the right priority? The Homeland Security Trust Fund Act of 2006 would change this by taking less than 1 year of the 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 crime fighting functions. We could also invest in security upgrades within our critical infrastructure and nearly double the funding for state homeland security grants. And, the list goes on.

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 Budget. In that legislation, the Senate 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 rail security legislation sponsored by myself, Senator MCCAIN and others. This legislation authorizes $1.2 billion to secure the soft targets in our rail system, such as the tunnels and stations. Notwithstanding, we have only allocated $150 million per year for rail and transit security with 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 industry to decide what is best and provide scant resources to harden soft targets.

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

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 to hire 1,000 FBI agents; $200 million to hire and equip 1,000 rail police. $900 million for the Justice Assistance Grants; $1 billion per year for interoperable communications; $1 billion for Fire Act and SAFER grants.

In addition, we could invest in new screening technologies to protect the American people by providing $100 million to improve airline screening checkpoints and $100 million for research and development on improving screening technologies. We also set aside funding to soften hard targets by setting aside $500 million per year for general infrastructure grants; $500 million per year for port security grants, and $200 million per year to harden our rail infrastructure. And the list goes on.

I will conclude where I started. This is all about setting the right priorities for America. Instead of giving a tax cut to the richest Americans who don't need it, we should take some of it and dedicate it towards the security of all Americans. Our Nation's most fortunate are just as patriotic as the middle class. They are just as willing to sacrifice for the good of our Nation. The problem is that no one has asked them to sacrifice.

The Homeland Security Trust Fund Act of 2006 will ask them to sacrifice for the good of the Nation, and I'm convinced that they will gladly help us out. And to those who say this won't work, I would remind them that the 1994 Crime Bill established the Violent Crime Reduction Trust Fund, specifically designated for public safety, that put more than 100,000 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 will introduce 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, with increased capital account openness, a sharp increase in the flow of funds internationally, and an ever growing number of emerging market economies becoming systemically important to the global flow of goods, services, and capital. In addition, practices such as the maintenance of multiple currency regimes have become rare.

(2) Exchange rates among 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 often reflect exchange rate policies that foster fundamental misalignment of currencies.

(5) Currencies in fundamental misalignment can seriously impair 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 regard to the purpose of any policy that contributed to the misalignment.

(7) In 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 or to gain an unfair competitive advantage over other members.

(8) The failure of a government to acknowledge a fundamental misalignment of its currency or to take steps to correct such a fundamental misalignment, either through inaction or mere token action, is a form of exchange rate manipulation and is inconsistent with that government's obligations under Article IV of the International Monetary Fund's Articles of Agreement.

TITLE I—INTERNATIONAL MONETARY AND FINANCIAL POLICY

SEC. 101. AMENDMENTS TO DEFINITIONS.

Section 3006 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5306) is 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 3004(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5304(b)) is amended to read as follows:

''(b) BILATERAL NEGOTIATIONS.—

''(1) IN GENERAL.—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

''(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) EXCEPTION.—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 chairman 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, a written 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 and 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;

''(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;

''(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 size 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;

''(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 that accounts for why each 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) a list of each occasion during the reporting period when the issue of exchange-rate misalignment was raised in a countervailing 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) a summary in each such instance of whether or not exchange-rate misalignment was found and the reasoning and data underlying that finding; and

''(C) a discussion regarding each affirmative finding of exchange-rate misalignment to consider the circumstances underlying that exchange-rate misalignment and what action appropriately has been or might be taken by the Secretary apart from and in addition to import relief to correct the exchange-rate misalignment.

''(c) DEVELOPMENT 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. 262r(c)(2)), the Secretary of the Treasury shall determine whether any member of the international financial institution that 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 or contributes to a material adverse impact on the economy of the United States. The determination shall be reported to Congress.

(b) SUBSEQUENT ACTION.—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).

(c) FURTHER ACTION.—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 ECONOMY STATUS.

(a) IN GENERAL.—Paragraph (18)(B)(vi) of section 771 of the Tariff Act of 1930 (19 U.S.C. 1677(18)(B)(vi)) is amended by inserting before the end period the following: '', including whether the currency of the foreign country has been identified pursuant to section 3005(b)(7) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305(b)(7)) in any written report required by such section 3005(b)(7) during the 24-month period immediately preceding the month during which the administering authority seeks to revoke a determination that such foreign country is a nonmarket economy country''.

(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, unfettered access to open markets abroad and fairly traded raw materials and products in accord with the international legal principles and agreements of the World Trade Organization and the International Monetary Fund.

(3) The International Monetary Fund, the G–8, and other international organizations 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 misalignments and imbalances.

(4) Since 1994, the People's Republic of China and other countries have aggressively intervened in currency markets and taken measures that have significantly misaligned 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 annual trade surpluses of the People's Republic of China; substantially expanding foreign direct investment in China; and the rapidly increasing aggregate amount of foreign currency 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 nontariff barrier against imports into their territories, to the serious detriment of United States manufacturing and agriculture.

(8)(A) As members of both the World Trade Organization and the International Monetary Fund, 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 not gain unfair competitive advantage.

(B) These obligations are most prominently set forth in Articles VI, XV, and XVI of the GATT 1994 (as defined in section 2(1)(B) of the Uruguay Round Agreements Act (19 U.S.C. 3501(1)(B)), in the Agreement on Subsidies and Countervailing Measures (as defined in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(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 similarly situated countries and with 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 countervailable export subsidy.

SEC. 202. CLARIFICATION TO INCLUDE EXCHANGE-RATE MISALIGNMENT AS A COUNTERVAILABLE SUBSIDY UNDER TITLE VII OF THE TARIFF ACT OF 1930.

(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 paragraph (5C)) constitutes a financial contribution within the meaning of subclauses I and III of clause (i).''.

(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) in the case of exchange-rate misalignment (as defined in paragraph (5C)), if the price of exported goods in United States dollars is less than what the price of such goods would be without the exchange-rate misalignment.''.

(3) SPECIFICITY.—Section 771(5A)(B) of the Tariff Act of 1930 (19 U.S.C. 1677(5A)(B)) is amended by adding at the end before the period the following: '', such as exchange-rate misalignment (as defined in paragraph (5C))''.

(b) DEFINITION OF EXCHANGE-RATE MISALIGNMENT.—Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by inserting after paragraph (5B) the following new paragraph:

''(5C) EXCHANGE-RATE MISALIGNMENT.—

''(A) IN GENERAL.—For purposes of paragraphs (5) and (5A), the term 'exchange-rate misalignment' means a significant undervaluation of a foreign currency 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 a foreign currency is significantly below the exchange rate that could reasonably be expected for that foreign currency absent the intervention.

''(B) FACTORS.—In determining whether exchange-rate misalignment is occurring and a benefit thereby is conferred, the administering authority in each case—

''(i) shall consider the exporting country's—

''(I) bilateral balance-of-trade surplus or deficit with the United States;

''(II) balance-of-trade surplus or deficit with its other trading partners individually and in the aggregate;

''(III) foreign direct investment in its territory;

''(IV) currency-specific and aggregate amounts of foreign currency reserves; and

''(V) mechanisms employed to maintain its currency at an undervalued exchange rate relative to another currency and, particularly, the nature, duration, and monetary expenditures of those mechanisms;

''(ii) may consider such other economic factors as are relevant; and

''(iii) shall measure the trade surpluses or deficits described in subclauses (I) and (II) of clause (i) with reference to the trade data reported by the United States and the other trading partners of the exporting country, unless such trade data are not available or are demonstrably inaccurate, in which case the exporting country's trade data may be relied upon if shown to be sufficiently accurate and trustworthy.

''(C) COMPUTATION.—In calculating the extent of exchange-rate misalignment, the administering authority shall, in consultation with the Treasury Department and the Federal Reserve, develop and apply an objective methodology that is consistent with widely recognized macroeconomic theory and shall rely upon governmentally published and other publicly available data.

''(D) TYPE OF ECONOMY.—An authority found to be engaged in exchange-rate misalignment may have either a market economy or a nonmarket economy or a combination thereof.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply with respect to a countervailing duty proceeding initiated under subtitle A of title VII of the Tariff Act of 1930 before, on, or after the date of enactment of this Act.

SEC. 203. CLARIFICATION TO INCLUDE EXCHANGE-RATE MISALIGNMENT BY THE PEOPLE'S REPUBLIC OF CHINA AS A CONDITION TO BE CONSIDERED WITH RESPECT TO MARKET DISRUPTION UNDER CHAPTER 2 OF TITLE IV OF THE TRADE ACT OF 1974.

(a) MARKET DISRUPTION.—

(1) IN GENERAL.—Section 421(c) of the Trade Act of 1974 (19 U.S.C. 2451(c)) is amended by adding at the end the following new paragraphs:

''(3) For purposes of this section, the term 'under such conditions' includes exchange-rate misalignment (as defined in paragraph (4)).''.

''(4)(A) For purposes of this section, the term 'exchange-rate misalignment' means a significant undervaluation of the renminbi as a result of protracted large-scale intervention by or at the direction of the Government of the People's Republic of China 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 the renminbi absent the intervention.

''(B) In determining whether exchange-rate misalignment is occurring, the Commission in each case—

''(i) shall consider the People's Republic of China's—

''(I) bilateral balance-of-trade surplus or deficit with the United States;

''(II) balance-of-trade surplus or deficit with its other trading partners individually and in the aggregate;

''(III) foreign-direct investment in its territory;

''(IV) currency-specific and aggregate amounts of foreign currency reserves; and

''(V) mechanisms employed to maintain its currency at an undervalued exchange rate relative to another currency and, particularly, the nature, duration, and monetary expenditures of those mechanisms;

''(ii) may consider such other economic factors as are relevant; and

''(iii) shall measure the trade surpluses or deficits described in subclauses (I) and (II) of clause (i) with reference to the trade data reported by the United States and the other trading partners of the People's Republic of China, unless such trade data are not available or are demonstrably inaccurate, in which case the trade data of the People's Republic of China may be relied upon if shown to be sufficiently accurate and trustworthy.

''(C) In calculating the extent of exchange-rate misalignment, the Commission shall, in consultation with the Treasury Department and the Federal Reserve, develop and apply an objective methodology that is consistent with widely recognized macroeconomic theory and shall rely upon governmentally published and other publicly available data.''.

(b) CRITICAL CIRCUMSTANCES.—Section 421(i)(1) of the Trade Act of 1974 (19 U.S.C. 2451(i)(1)) is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(3) by inserting after subparagraph (B) the following new subparagraph:

''(C) if the petition alleges and reasonably documents that exchange-rate misalignment is occurring, such exchange-rate misalignment shall be considered as a factor weighing in favor of affirmative findings in subparagraphs (A) and (B).''.

(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 Commission makes an affirmative determination 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 421(n)(2) of the Trade Act of 1974 (19 U.S.C. 2451(n)(2)) is amended by adding at the end the following new sentence: ''If the Commission affirmatively determines 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.''.

(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 shall consider such exchange-rate misalignment as a factor weighing in favor of finding that an extension of the period of relief is necessary to prevent or remedy the market disruption at issue.''; and

(2) in paragraph (4), by adding at the end the following new sentence: ''If the Commission makes an affirmative determination that exchange-rate misalignment is occurring, the President shall consider such exchange-rate misalignment as a factor weighing in favor of finding that an extension of the period of relief is necessary to prevent or remedy the market disruption at issue.''.

(f) EFFECTIVE DATE.—The amendments made by this section apply with respect to an investigation initiated under chapter 2 of title IV of the Trade Act of 1974 before, on, or after the date of the enactment of this Act.

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)), or a determination which the President or the United States Trade Representative may consider as affirmative under section 421(e) of such Act (19 U.S.C. 2451(e)), with respect to articles of the People's Republic of China that the Secretary of Defense has determined are like or directly competitive with articles produced by a domestic industry that are critical to the defense industrial base of the United States, the Secretary of Defense may not procure, directly or indirectly, such articles of the People's Republic of China.

(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.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 589—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

Mr. SCHUMER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 589

Whereas New York State Senator John J. Marchi has been recognized by the National Conference of State Legislatures as the longest serving state legislator in the United States;

Whereas State Senator Marchi was born on May 20, 1921, in Staten Island and attended local primary and secondary schools in New York, then Manhattan College, from which he graduated with first honors in 1942, St. John's University School of Law, from which he received a law degree, and Brooklyn Law School, from which he received an advanced degree in law;

Whereas, during World War II, State Senator Marchi served in the United States Coast Guard and saw combat in the Atlantic and Pacific theaters and in the China Sea, and subsequently served in the United States Naval Reserve until 1982;

Whereas, in 1956, State Senator Marchi was elected to the New York State Senate and has served the citizens of Senate District 24 for 50 years, making him the longest serving state legislator in the United States;

Whereas State Senator Marchi served as a delegate to the New York Constitutional Convention in 1967;

Whereas State Senator Marchi is a recognized leader of the New York State Senate and was named Assistant Majority Leader on Conference Operations in January 2005, Assistant Majority Whip in 2003, Chairman of the Senate Committee on Corporations, Authorities and Commissions in 1995, and Vice President Pro Tempore in 1989;

Whereas, prior to holding these offices, State Senator Marchi served as Chairman of the Finance Committee for 15 years;

Whereas State Senator Marchi is a tireless leader and advocate for New York City, has served on the City of New York Committee in the New York State Senate, and was named Chairman of the Temporary State Commission on New York City School Governance in 1989, a panel of civic, governmental, business, and educational leaders that conducted a 2-year examination of the control of the city schools and, in 1991, gave the State legislature a package of proposals intended to improve the administration of, and public participation in, the New York City school system;

Whereas State Senator Marchi is widely recognized as one of the city and State leaders who helped write the laws that saved New York City from financial collapse in the mid-1970s;

Whereas State Senator Marchi sponsored the bill, now law, that modernized New York State's financial reporting and bookkeeping practices so that the legislature and the public could see more clearly the State government's actual fiscal condition;

Whereas, in 1997, State Senator Marchi successfully advanced—and saw passed and signed into law—a bill to require the closing by January 1, 2002 of the Fresh Kills Landfill, Staten Island's worst environmental problem for more than half a century, which the legislature had not previously scheduled for closure;

Whereas State Senator Marchi has also been a leader in the development of legislation to strengthen public education from kindergarten through graduate school;

Whereas State Senator Marchi has been a member of the Executive Committee and Board of Governors of the Council of State Governments since 1965, is a former Chairman of the Committee, and was designated the first permanent member of the Committee in 1982;

Whereas, in 1969 and 1973, State Senator Marchi was the candidate of the Republican Party for the Office of Mayor of the City of New York;

Whereas, in October 1972, State Senator Marchi was appointed by President Nixon to serve as the only legislator on the National Advisory Committee on Drug Abuse Prevention;

Whereas, following the September 11, 2001 attacks, the New York Senate Majority Leader appointed State Senator Marchi to head the New York Senate Task Force on World Trade Center Recovery, which was to help oversee the reconstruction of Ground Zero;

Whereas, on June 2, 1968, State Senator Marchi received from the President and Prime Minister of Italy the highest award that country bestows on a nonresident, the award of Commander of the Order of Merit of the Republic of Italy, and in 1992, the Senator received another of Italy's most prestigious honors, the Filippo Mazzei Award, in recognition of his public service and for helping to strengthen relations between the United States and Italy;

Whereas State Senator Marchi is the recipient of the Mills G. Skinner Award of the National Urban League, an organization devoted to empowering African Americans to enter the economic and social mainstream;

Whereas, in 1976, the New York State Veterans of Foreign Wars conferred upon the Senator the Silver Commendation Medal for ''legislative service to veterans and all New Yorkers''; and

Whereas, in 1971, State Senator Marchi was awarded the degree of Doctor of Laws, honoris causa, from St. John's University and, in 1973, received the same degree from Manhattan College, and in 1974, was awarded the degree of Doctor of Laws from Wagner College: Now, therefore, be it

Resolved, That the Senate commends New York State Senator John J. Marchi for his 50-year tenure in the New York State Senate, on becoming the longest serving state legislator in the United States, and on his lifelong commitment to the citizens of Staten Island and New York.

SENATE RESOLUTION 590—DESIGNATING THE SECOND SUNDAY IN DECEMBER 2006, AS ''NATIONAL CHILDREN'S MEMORIAL DAY'' IN CONJUNCTION WITH THE COMPASSIONATE FRIENDS WORLDWIDE CANDLE LIGHTING

Mr. VITTER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 590

Whereas approximately 200,000 infants, children, teenagers, and young adults of families living throughout the United States die each year from a myriad of causes;

Whereas stillbirth, miscarriage, and the death of an infant, child, teenager, or young adult are considered some of the greatest tragedies that a parent or family could ever endure;

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 loved one;

Whereas the mission of The Compassionate Friends is to assist families working towards the positive resolution of grief following the death of a child of any age 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, teenagers, and young adults of families in the United States 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, 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 to the bill S. 403, supra; which was ordered to lie on the table.

SA 5094. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 5090 proposed by Mr. BENNETT (for Mr. FRIST) to the bill S. 403, supra; which was ordered to lie on the table.

SA 5095. 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 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. 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 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 bill S. 403, supra; which was ordered to lie on the table.

SA 5103. 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 5104. Mr. BYRD (for himself, Mr. OBAMA, Mrs. CLINTON, and Mr. LEVIN) 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 5105. Mr. BINGAMAN 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.

SA 5106. Mr. KENNEDY 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, 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 ''47 days''.

SA 5093. 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 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:

Strike ''47 days'' and insert ''46 days''.

SA 5094. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 5090 proposed by Mr. BENNETT (for Mr. FRIST) 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:

Strike ''46 days'' and insert ''43 days''.

SA 5095. 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; as follows:

At the end, add the following:

SEC. 11. OVERSIGHT OF CENTRAL INTELLIGENCE AGENCY PROGRAMS.

(a) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY REPORTS ON DETENTION AND INTERROGATION PROGRAM.—

(1) QUARTERLY REPORTS REQUIRED.—Not later than three months after the date of 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 during the preceding three months.

(2) ELEMENTS.—In addition to any other matter necessary to keep the congressional intelligence committees fully and currently informed about 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) A description of any detention facility operated or used by the Central Intelligence Agency.

(B) A description of the detainee population, including—

(i) the name of each detainee;

(ii) where each detainee was apprehended;

(iii) the suspected activities on the basis of which each detainee is being held; and

(iv) where each detainee is being held.

(C) A description of each interrogation technique authorized for use and guidelines on the use of each such technique.

(D) A description of each legal opinion of the Department of Justice and the General Counsel of the Central Intelligence Agency that is applicable to the detention and interrogation program.

(E) The actual use of interrogation techniques.

(F) A description of the intelligence obtained as a result of the interrogation techniques utilized.

(G) Any violation of law or abuse under the detention and interrogation program by Central Intelligence Agency personnel, other United States Government personnel or contractors, or anyone else associated with the program.

(H) An assessment of the effectiveness of the detention and interrogation program.

(I) An appendix containing all guidelines and legal opinions applicable to the detention and interrogation program, if not included in a previous report under this subsection.

(b) DIRECTOR OF CENTRAL INTELLIGENCE AGENCY REPORTS ON DISPOSITION OF DETAINEES.—

(1) QUARTERLY REPORTS REQUIRED.—Not later than three months after the date of 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 detainees who, during the preceding three months, were transferred out of the detention program of the Central Intelligence Agency.

(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:

(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.

(C) For each detainee who was transferred to the custody of the Attorney General for prosecution in a United States district court, the name of the detainee and a description of the activities that may be the subject of the prosecution.

(D) 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.

(E) For each detainee who was rendered or otherwise transferred to the custody of another nation during or before the preceding three months—

(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 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 17 of the Central Intelligence Agency 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 the enactment of this Act, and promptly upon any subsequent approval of interrogation techniques for use by the Central Intelligence Agency, the Attorney General shall submit to the congressional intelligence committees—

(1) 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

(2) an explanation of why each approved technique complies with the Constitution of the United States and all applicable treaties, statutes, Executive orders, and regulations.

(e) FORM OF REPORTS.—Except as provided in subsection (d)(1), each report under this section shall be submitted in classified form.

(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:

(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 7, line 22, strike '', and, before'' and all that follows through page 8, line 2, and insert a semicolon.

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 8, line 15, '', but an exception'' and all that follows through line 21 and insert the following ''; or''.

SA 5099. 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 6, strike line 11 and all that follows through page 11, line 15, and insert the following:

SEC. 3. CLERICAL AMENDMENT.

The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new item:

''117A. Transportation of minors in circumvention of certain laws relating to abortion ..... 2431''.

SEC. 4. SEVERABILITY AND EFFECTIVE DATE.

SA 5100. 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 11, strike line 15 and all that follows through page 12, line 3, and insert the following:

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 45 days after the date of enactment of this Act.

SA 5101. Mrs. BOXER 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:

Strike sections 3, 4, and 5 of the amendment.

SA 5102. Mrs. BOXER 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:

In the amendment, on page 8, line 3, strike beginning with ''of'' through line 21 and insert ''or health of the minor;''.

SA 5103. Mrs. BOXER 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:

In the amendment, on page 7, line 22, strike beginning with '', and,'' through page 8, line 2, and insert a semicolon.

SA 5104. Mr. BYRD (for himself, Mr. OBAMA, Mrs. CLINTON, and Mr. LEVIN) 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; as follows:

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 conduct to finality of any proceedings of a military commission established under this section before that date.''.

SA 5105. Mr. BINGAMAN 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 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 25, 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 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 on Oversight of Government Management, the Federal Workforce and the District of Columbia 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 next couple 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.

Just today, President Ahmadi-Nejad publicly declared that Iran will not suspend its nuclear enrichment program, despite being called to do so by the United Nations Security Council. The U.N. is now poised to impose multilateral sanctions on Iran if it continues to defy Security Council mandates. But if we allow ILSA to lapse, the Congress will be relaxing U.S. sanctions on Iran at the very same time the rest of the world is thinking about tightening sanctions.

This is not the kind of leadership I was elected to the Senate to provide, and I think every Senator will have to lower their head in shame if the Senate fails to act tomorrow to extend ILSA.

H.R. 6198 has been cleared on our side of the aisle. We are ready to pass it. We are ready to pass it tonight. I will not ask unanimous consent to pass it tonight, however, because I understand it has not been cleared on the Democratic side of the aisle. I hope that does change overnight, but whether it changes or not, I wish to serve notice to all Senators 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 commence cooperation 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 born on 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

bill tonight, we could send it to conference over the recess, where the differences between the House bill could be resolved, and we could be assured of sending this bill to the President before we adjourn.

I understand that the reason they are not prepared to pass the legislation is because they have a large number of amendments they wish to offer. Some of these Democrat amendments are so-called killer amendments which, if adopted, would simply make this legislation unacceptable to the Indian government. Others of the Democrat amendments are not necessarily designed to kill the legislation, but their sheer volume will slow down this whole process considerably and could, as a practical matter, make it impossible for the Senate to consider this legislation this year.

I have worked with my colleague, Senator REID, to come up with some sort of unanimous-consent agreement that would enable us to consider this legislation in a reasonable period of time. We have not yet succeeded, but I will keep trying. We need to bring this matter to a resolution before we recess.

MEASURE PLACED ON CALENDAR—H.R. 5132

Mr. FRIST. Mr. President, I understand there is a bill at the desk that is due for its second reading?

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5132) to direct the Secretary of Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Monroe County, Michigan, relating to the battles of the River Raisin during the War of 1812.

Mr. FRIST. Mr. President, in order to place the bill on the calendar under rule XIV, I object to further proceedings.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

MEASURES READ FIRST TIME—S. 3982, S. 3983, S. 3992, S. 3993

Mr. FRIST. Mr. President, I understand there are four bills at the desk, and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will report the bills by title.

The legislative clerk read as follows:

A bill (S. 3982) to amend the Public Health Service Act to provide assured compensation for first responders injured by experimental vaccines and drugs.

A bill (S. 3983) to amend the Public Health Service Act to provide assured compensation for first responders injured by experimental vaccines and drugs and to indemnify manufacturers and health care professionals for the administration of medical products needed for biodefense.

A bill (S. 3992) to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes.

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:

Mutual legal assistance agreement with the European Union, Treaty Document 109–13.

Extradition agreement with the European Union, Treaty Document 109–14.

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 the 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.

A parallel agreement with the European Union on extradition, 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 itself.

The U.S.-EU Mutual Legal Assistance Agreement contains several innovations that should prove of value to U.S. prosecutors and investigators, including in counterterrorism cases. The Agreement creates an improved mechanism for obtaining bank information from an EU Member State, elaborates legal frameworks for the use of new techniques such as joint investigative teams, and establishes a comprehensive and uniform framework for limitations on the use of personal and other data. The Agreement includes a non-derogation provision making clear that it is without prejudice to the ability of the United States or an EU Member State to refuse assistance where doing so would prejudice its sovereignty, security, public, or other essential interests.

I recommend that the Senate give early and favorable consideration to the Agreement and bilateral instruments.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 28, 2006*.

EXTRADITION AGREEMENT WITH THE EUROPEAN UNION (TREATY DOC. NO. 109–14)

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 Extradition between the United States of America and the European Union (EU), signed on June 25, 2003, at Washington, together with 22 bilateral instruments that subsequently were signed between the United States and European Union Member States 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 itself.

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'' approach, 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.

THE WHITE HOUSE, *September 28, 2006*.

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 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 our major 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. Conferees 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 order.

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

MICHELE 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

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, VICE MALCOLM B. BOWEKATY, TERM EXPIRING.

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 TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

WILLIAM R. BROWNFIELD, OF TEXAS
KATHERINE H. CANAVAN, OF CALIFORNIA
CHRISTOPHER ROBERT HILL, OF RHODE ISLAND
CAMERON R. HUME, OF CONNECTICUT
GEORGE MCDADE STAPLES, OF KENTUCKY

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

ELIZABETH JAMIESON AGNEW, OF VIRGINIA
EDWARD M. ALFORD, OF VIRGINIA
PETER K. AUGUSTINE, OF TEXAS
CLYDE BISHOP, OF PENNSYLVANIA
MICHELE THOREN BOND, OF NEW JERSEY
GAYLEATHA BEATRICE BROWN, OF THE DISTRICT OF COLUMBIA
DAVID M. BUSS, OF TEXAS
MARTHA LARZELERE CAMPBELL, OF NEW HAMPSHIRE
JUDITH ANN CHAMMAS, OF VIRGINIA
THOMAS MORE COUNTRYMAN, OF WASHINGTON
BARBARA CECELIA CUMMINGS, OF ILLINOIS
ELIZABETH LINK DIBBLE, OF VIRGINIA
ROSEMARY ANNE DICARLO, OF THE DISTRICT OF COLUMBIA
LARRY MILES DINGER, OF VIRGINIA
JANICE J. FEDAK, OF PENNSYLVANIA
GERALD MICHAEL FEIERSTEIN, OF VIRGINIA
JEFFREY DAVID FELTMAN, OF CALIFORNIA
ALBERTO M. FERNANDEZ, OF VIRGINIA
JUDITH G. GARBER, OF CALIFORNIA
ROBERT F. GODEC, JR., OF VIRGINIA
LLEWELLYN H. HEDGBETH, OF CALIFORNIA
JAMES THOMAS HEG, OF WASHINGTON
PAUL WAYNE JONES, OF NEW YORK
SANDRA LYNN KAISER, OF WASHINGTON
HANS GEORGE KLEMM, OF INDIANA
THOMAS CHARLES KRAJESKI, OF VIRGINIA
CHARLENE RAE LAMB, OF FLORIDA
AN THANH LE, OF THE DISTRICT OF COLUMBIA
JEFFREY DAVID LEVINE, OF CALIFORNIA
PATRICK JOSEPH LINEHAN, OF CONNECTICUT
MARY BLAND MARSHALL, OF VIRGINIA
TERENCE PATRICK MCCULLEY, OF OREGON
KEVIN CORT MILAS, OF CALIFORNIA
PATRICK S. MOON, OF MARYLAND
JAMES ROBERT MOORE, OF FLORIDA
DAN W. MOZENA, OF MARYLAND
ADRIENNE S. O'NEAL, OF MARYLAND
PHYLLIS MARIE POWERS, OF TEXAS
CHRISTOPHER R. RICHE, OF VIRGINIA
THOMAS BOLLING ROBERTSON, OF VIRGINIA
JOSIE SHUMAKE, OF MISSISSIPPI
MADELYN ELIZABETH SPIRNAK, OF THE DISTRICT OF COLUMBIA
STEVEN C. TAYLOR, OF ALASKA
LINDA THOMAS-GREENFIELD, OF LOUISIANA
THOMAS JOSEPH TIERNAN, OF ILLINOIS
MARK A. TOKOLA, OF WASHINGTON
PAUL A. TRIVELLI, OF CONNECTICUT

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND FOR APPOINTMENT AS CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE, AS INDICATED: CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

CYNTHIA HELEN AKUETTEH, OF MARYLAND
RAYMOND R. BACA, OF FLORIDA
CHRISTOPHER J. BEEDE, OF VIRGINIA
JENNIFER V. BONNER, OF VIRGINIA
MICHAEL J. BOYLE, OF WYOMING
ROBERTO GONZALES BRADY, OF CALIFORNIA
ANN KATHLEEN BREITER, OF CALIFORNIA
PETER MEIER BRENNAN, OF OREGON
FLETCHER MARTIN BURTON, OF TENNESSEE
DUANE CLEMENS BUTCHER, JR., OF CALIFORNIA
LAWRENCE N. CORWIN, OF TEXAS
CHRISTOPHER RICHARD DAVIS, OF VIRGINIA

KIMBERLY J. DEBLAUW, OF MISSOURI
D. PURNELL DELLY, OF VIRGINIA
MARC LANGLEY DESJARDINS, OF VIRGINIA
EVELYN ALEENE EARLY, OF TEXAS
JOSEPH ADAM ERELI, OF THE DISTRICT OF COLUMBIA
JOHN D. FEELEY, OF NEW YORK
ZANDRA I. FLEMISTER, OF MARYLAND
PAUL A. FOLMSBEE, OF TEXAS
ALFRED F. FONTENEAU, OF TEXAS
THOMAS R. GENTON, OF NEW JERSEY
TATIANA CATHERINE GFOELLER-VOLKOFF, OF THE DISTRICT OF COLUMBIA
DAVID R. GILMOUR, OF TEXAS
BRIAN L. GOLDBECK, OF NEVADA
DOUGLAS C. GREENE, OF VIRGINIA
DOUGLAS M. GRIFFITHS, OF TEXAS
KENNETH E. GROSS, JR., OF VIRGINIA
SHEILA S. GWALTNEY, OF CALIFORNIA
RICHARD DALE HAYNES, OF VIRGINIA
CHRISTOPHER J. HOH, OF PENNSYLVANIA
MARTIN P. HOHE, OF FLORIDA
MARY VIRGINIA JEFFERS, OF MARYLAND
SYLVIA DOLORES JOHNSON, OF SOUTH CAROLINA
MARK RAYMOND KENNON, OF VIRGINIA
JAMES ALCORN KNIGHT, OF NEW YORK
LEONARD JAMES KORYCKI, OF WASHINGTON
BARBARA ANNE LEAF, OF VIRGINIA
MICHELLE RABAYDA LOGSDON, OF FLORIDA
SHARON E. LUDAN, OF VIRGINIA
ROBERT SANFORD LUKE, OF FLORIDA
DEBORAH RUTH MALAC, OF VIRGINIA
THEODORE ALBERT MANN, OF NEW YORK
DUNDAS C. MCCULLOUGH, OF VIRGINIA
RAYMOND GERARD MCGRATH, OF VIRGINIA
KENNETH ALAN MESSNER, OF OREGON
ANTHONY C. NEWTON, OF VIRGINIA
HARRY JOHN O'HARA, OF TEXAS
JOHN OLSON, OF CALIFORNIA
ANDREW W. OLTYAN, OF TEXAS
ANDREW A. PASSEN, OF PENNSYLVANIA
MARK A. PEKALA, OF THE DISTRICT OF COLUMBIA
MICHAEL P. PELLETIER, OF MAINE
MARJORIE R. PHILLIPS, OF VIRGINIA
GEOFFREY R. PYATT, OF CALIFORNIA
PAMELA G. QUANRUD, OF VIRGINIA
ERIC SETH RUBIN, OF NEW YORK
DANIEL H. RUBINSTEIN, OF CALIFORNIA
ROBERT JOEL SILVERMAN, OF CALIFORNIA
ROBIN ANGELA SMITH, OF THE DISTRICT OF COLUMBIA
MICHAEL A. SPANGLER, OF MARYLAND
ANDREW WALTER STEINFELD, OF NEW JERSEY
KARL STOLTZ, OF VIRGINIA
MARK CHARLES STORELLA, OF NEW HAMPSHIRE
PAUL RANDALL SUTPHIN, OF VIRGINIA
MARY THOMPSON-JONES, OF VIRGINIA
MICHAEL EMBACH THURSTON, OF WASHINGTON
WILLIAM WEINSTEIN, OF CALIFORNIA
ROBERT EARL WHITEHEAD, OF CALIFORNIA
REBECCA RUTH WINCHESTER, OF VIRGINIA
DEAN B. WOODEN, OF THE DISTRICT OF COLUMBIA
STEVEN EDWARD ZATE, 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 B. ASHBERRY, OF VIRGINIA
CYNTHIA ANNE BORYS, OF MARYLAND
DAN BLANE CHRISTENSON, OF WASHINGTON
EDUARDO R. GAARDER, OF VIRGINIA
JERRY DUANE HELMICK, OF FLORIDA
KENNETH J. HOEFT, OF MICHIGAN
RAYMOND W. HORNING, OF MISSOURI
TODD M. KEIL, OF WISCONSIN
STEPHEN J. KLEIN, OF VIRGINIA
BRIAN R. MAJEWSKI, OF VIRGINIA
GEORGES F. MCCORMICK, OF CALIFORNIA
EARL R. MILLER, OF VIRGINIA
PETER J. MOLBERG, OF MISSOURI
EDGAR P. MORENO, OF FLORIDA
JAMES C. NORTON, OF MICHIGAN
THOMAS J. QUINZIO, OF VIRGINIA
DOUGLAS P. QUIRAM, OF CALIFORNIA
NANCY C. ROLPH-O'DONNELL, OF VIRGINIA
LARRY DEAN SALMON, OF MISSOURI
ANNE M. SALOOM, OF VIRGINIA
GENTRY O. SMITH, OF VIRGINIA
STEPHEN F. SMITH, OF VIRGINIA
WILLIAM J. SWIFT, OF WISCONSIN
JOHN L. WHITNEY, OF TENNESSEE
DAVID M. YEUTTER, OF CALIFORNIA

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 53 IN THE GRADE INDICATED:

To be rear admiral

REAR ADM. (SELECT) CYNTHIA A. COOGAN, 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. HANKINS, 0000

EXTENSIONS OF REMARKS

PAYING TRIBUTE TO INSURE ME

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. TANCREDO. Mr. Speaker, I would like to take this time to recognize the achievement of a financial and insurance company in my district. InsureMe of Englewood, Colorado was recognized as one of the ''Best Small & Medium Companies to Work for in America'' by the Society for Human Resource Management.

This award was given to InsureMe for their open communication between senior managers and company employees, generous salaries and benefits, and their dedication to high profits and low turnover. I would also like to add that the employees of InsureMe volunteer monthly to serve dinner to the homeless and some have even traveled to Ghana to build an orphanage. InsureMe's commitment to their community and successful business is clear.

Mr. Speaker, it is my distinct pleasure to honor InsureMe of Englewood and their achievements here today, and wish them the best in the future.

HONORING DOCTOR PATRICK MAXWELL

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mrs. BLACKBURN. Mr. Speaker, I ask my colleagues to join me today to honor Dr. Patrick Maxwell for his service to others.

In 2005, Dr. Maxwell received the American Society of Plastic Surgeons' Presidential Award for excellence in his field. While Dr. Maxwell is regarded as one of the premier surgeons in his field, he's also known for his charity.

Patrick is co-founder of the Tennessee-Kentucky chapter of Operation Smile, past president of the Nashville Chapter of the American Cancer Society, Founding Member of the Aspen Center for Integrative Medicine, and he actively supports his alma mater, Vanderbilt University School of Medicine.

We appreciate Dr. Maxwell's dedication to giving back to our community and I hope you'll join me in thanking him today.

TRIBUTE TO PROFESSOR MESFIN WOLDE MARIAM

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. PAYNE. Mr. Speaker, in August 2006, I visited Professor Mesfin Wolde Mariam in Kaliti prison in Ethiopia. Though it was saddening to see him in that kind of situation, I was nevertheless thrilled to have had the opportunity to pay my respect to a man I have known for over a decade. Professor Mesfin is one of the most dedicated and true champions of human rights. He chose to dedicate his life to studying famine and food security, writing about and promoting human rights and bringing to light issues often ignored and forgotten by many.

I first met Mesfin in the early 1990s, shortly after he founded the Ethiopian Human Rights Council, EHRCO, the most effective human rights organization in Ethiopia. I was with several Members of Congress on an official visit to Ethiopia. We decided to go to EHRCO's office and hold our meeting with Professor Mesfin in order to show our support for EHRCO and to underscore the significance of their valuable work. It was a memorable meeting and the opportunity to learn of their monumental undertaking was very valuable.

Unfortunately, this is not the first time Mesfin is in prison. He has paid dearly over the decades for standing up for what he believes 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 to live comfortably elsewhere.

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, Kristos, Kokeb, Tinsaè and Oscar has been incarcerated. We miss him terribly and would love to see him home. No less important is our utmost respect, concern and commitment for the principles he has so staunchly promoted for longer than anyone of us has been around.''

I was thrilled to learn that the New York Academy of Sciences decided to recognize Professor Mesfin for ''his leadership in advocating for the disadvantage and in promoting human rights, civil society, and a peaceful transition to democracy.'' Professor Mesfin deserves this recognition and I thank the New York Academy of Science for its leadership and efforts.

INTRODUCTION OF THE CITY YOUTH VIOLENCE RECOVERY ACT OF 2006

HON. JOHN B. LARSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. LARSON of Connecticut. Mr. Speaker, I rise today with the distinguished gentleman from Georgia, Mr. LEWIS, to introduce the City Youth Violence Recovery Act. I want to thank Congressman LEWIS for his work on this bill and for his lifelong work to unite every community into what he calls The Beloved Community.

As the media reports daily about the loss of life in the war in Iraq, we often ignore the war being fought at home in city streets across this country. After a decadelong decline of violent crime, it is again on the rise. In Hartford, for example, there have been 140 shooting victims since the beginning of 2006—this is an 18.6% increase over last year's city reports. And again, just over the weekend, gun violence claimed another young life. It was the city's 19th homicide this year. He was 19.

The challenges facing the city of Hartford are not unique. This violence, perpetrated both by and against young people, has devastated urban communities in cities both large and small. In a disturbing trend, our city children and teenagers are losing their lives, losing their friends, losing their family members, and losing their youth. They feel fear, helplessness, horror and the sense that life and safety are in danger. Tragically, many have grown numb to the violence around them.

Since community violence is caused by many things, there is no simple, single solution to eradicate it from our neighborhoods. We must address employment, housing, education, transportation, law enforcement, and other quality of life issues. Until we address these issues, we must do something to help the youth in our cities overcome the long-term emotional harm of witnessing this community violence.

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 divisional 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 my distinct 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 LCpl 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 us 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 friends and family 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 rise today to pay tribute to two such idealists who have been ignored in our hastiness to absolve all former communists if they would just declare themselves democrats, no questions asked. 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 unparallel 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 Govermnent 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 nationalistic 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 sought the help of the State Department and again was disappointed. Though he never gave up searching for his brother, he was stymied in every step of the way. The evidence is overwhelming yet the Albanian Government has been less than forthcoming in helping Professor Stavrou 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 they 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 playground 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 Rhineland, and in 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 XIII–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. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. TANCREDO. 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, Hinkle said, and told him to get in. The two 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:

Yes—H.R. 5059—New Hampshire Wilderness Act of 2006

Yes—H.R. 5062—New Hampshire Wilderness Act of 2006

No—H.R. 5092—Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE) Modernization and Reform Act of 2006

No—H.R. 4772—Private Property Rights Implementation Act of 2006

Yes—H. Res. 989—Commending 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 Tereshko 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.

First, 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 between the ages of 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 essential treatment and services to victims of HIV/AIDS—the legislation 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 when H.R. 6143 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") Ralph 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 18, 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 week, more than 75,000 American prisoners marched 160 kilometers in the searing April heat toward primitive prison camps. Along the way, 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 from amebic dysentery 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 crew. A month later, Williams was shipped via 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 Fukuoka, 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 steady career with Sears in Southern 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 of 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, job training, 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 of America. This native son of Southern 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 my 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 well-being 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 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, House Joint Resolution No. 316 was passed commending 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 her work 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 FOSSELLA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. FOSSELLA. 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 areas of study 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. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. MEEK of Florida. Mr. Speaker, it is with deep sorrow that I rise 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 IRMA 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 1995, 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 President's commitment 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 civilian law enforcement 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 Committees 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 Ten ants & Neighbors focused on the warranty of habitability law and the Senior Citizen 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 certify that sufficient horse sanctuaries exist to care for unwanted horses before the law will take effect.

I was hosting a crime forum (''Crime in the Cities: America's Mayors Fight Back'') as part of the 36th Annual Congressional Black Caucus Legislative Conference.

Had I been present, I would have voted against this amendment (''nay'').

CELEBRATING THE 50TH ANNIVERSARY OF CHILD GUIDANCE RESOURCE CENTERS (''CGRC'')

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. WELDON of Pennsylvania. Mr. Speaker, this fall 2006, Child Guidance Resource Centers will celebrate its 50th anniversary of service to the community. CGRC has been instrumental in providing community-based therapeutic, supportive, and preventive behavioral health-care services for children, adolescents and families with mental health, developmental disability, and residential needs.

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, Chester, 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 secure communities through an array of highly-qualified 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 Multisystemic 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 mental health 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 honor and sincere loyalty to those he cared for 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 flourished 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 & Pilegard. 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 longtime 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 distinctive 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 inspired 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 Trainee, Journeyman, Training 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 his 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 academic 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. Dr. George 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. 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 Communities Association. The Cleveland Cultural Gardens 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 sense 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 rollcall 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. It will require local governments 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 and 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 disaster 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 to bring their animals with them in 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, who 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, entrepreneurship, 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 Ananthanarayanan, Brittany Atwood, James Bailey, Andi Barber, Misha Barbour, Shara Barbour, Ben Berning, Karin Blythe, Tyler Bridge, Emily Brock, Kris Brown, Calee Bullard, Landon Burke, Ariana Bytyci, Curtis Calloway, Ashley Campbell, Sabina Curovac, Leatha Daily, Leonard Dalipi, Joe John De La Cerda, 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 Manuel, Jacqui Everett, Flora Ferati, Abe Forth, Lauren McClain, Michaela McCoy, Amanda McLead, Ethan Mechling, Barett Miller, Amy Morgan, Aaron Nugent, Toks Olushola, Terra Paialii, Maria Prieto, Ryan Richards, Charlie Rogers, Regan Russell, Guillermo Sanchez, Katherine Say, Michael Say, Reed Manuel, Sarah Marolf, Colin McClain, Jennifer Shumacher, Lauren Seaman, Jessica Serig, Andrea Stuck, Gelila Taddesse, Lora Toncheva, Lora Topourova, Eric Van Kuiken, Leah Webb, Cara Wildermuth, Briana Williams, Shelby Williams, Stuart Williams, Sarah Wouters, James Young, and Zana Zeqiri.

As a proud alumnus, I join Graceland University, and all of Iowa, in congratulating them and commend them for their great achievement.

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 distinguished 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 paralytic 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-author of over 860 articles in scientific publications and is co-editor of several journals. Currently, 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 degree in piano from the Warsaw Conservatory as well as the Santa Cecilia Academy of Music in Rome. In 1939, Dr. Koprowski obtained his M.D. and adopted scientific research as his life's work. Music remains a significant part of Dr. Koprowski's life. His compositions 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 composer feels after composing a sonata."

Mr. Speaker, Dr. Hilary Koprowski is a hero. He has been a world leader in scientific research for over 56 years. 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 Rapids, MI, Robert Potter won election nine times as President of UFCW 951. Since 1980, he grew the organization from 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 innovative 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 thousands of employee salaries and ensured the sustained prosperity of numerous businesses. In the early 1980s, he structured contracts with Kroger in West Michigan that allowed the grocer to remain profitable through today. The same contract model still guides other area employers. He also negotiated complex contracts covering all Michigan operations of Meijer, Inc. for 10 bargaining 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 leadership will not soon be forgotten, and his years of dedicated service and expertise will continue to shape the UFCW long after his retirement. As Chairman of the Committee for the Future of the UFCW, he helped to guide the group that will undoubtedly play a significant role in ensuring the UFCW's future success.

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 Potter.

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 Commander 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 soldiers, 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 chairman of the national board of trustees and is responsible for presiding over tri-annual commissioners' conferences, which bring together key executive leaders of the Salvation Army's four territories in the United States.

The General of the Salvation Army describes Commissioner Gaither as a "model of spiritual leadership . . . [whose] experience in South Africa and London give him a worldview of the challenges facing the Army today, while retaining the historical 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

territorial leaders to effectively impact those on the margins of American society. He loves the Salvation Army and is deeply committed to its mission.

Commissioner Gaither officially arrived at national headquarters in Alexandria, Virginia, on May 1, 2006. Prior to joining national headquarters, he worked for 4 years in London, England, where he was second-in-command of the worldwide organization and his wife Eva Gaither served as world secretary for women's ministries. The Gaithers have served individually and jointly in numerous leadership positions throughout the Army, including roles as pastors of Salvation Army corps, congregations, in Aliquippa, Erie, and Pittsburgh, Pennsylvania as well as in Brooklyn, New York's Bedford-Stuyvesant. In addition, they have held various regional, national, and international leadership positions in business administration. The Gaithers met at the Salvation Army's School for Officer Training in Suffern, NY, and were commissioned as officers in 1964. They married in 1967 and have two children and two grandchildren.

Mr. Speaker, Commissioner Israel L. Gaither is the highest ranking African-American in the Salvation Army. He is an inspiration for young men and women, and I stand here to honor him today for his years of service to this Nation's and the world's needy.

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 directing the National Park Service to assess the feasibility of designating coastal lands on the Ka'u Coast of the island of Hawai'i between Kapaoo Point and Kahuku 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 evaluation 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 Hawai'i Volcanoes National Park and contains a number of notable geological features, including a huge ancient lava tube known as the Great Crack, which the NPS expressed interest in acquiring in the past.

The study area includes both black and green (olivine) sand beaches as well as a number of endangered and threatened species, most notably the endangered hawksbill turtle (half of the Hawaiian population of this rare sea turtle nests within the study area), the threatened green sea turtle, the endangered Hawaiian monk seal, the endangered Hawaiian hawk, native bees, the endangered and very rare Hawaiian orange-black damselfly (the largest population in the state), and a number of native endemic birds. Humpback whales and spinner dolphins frequent the area. The area also boasts some of the best remaining examples of native coastal vegetation in Hawai'i. Although the NPS was unable to conduct a full survey of marine resources, it is expected that the varied and undeveloped habitats in the study area support high levels of biodiversity.

Archeological resources reflecting ancient Hawaiian settlement in the study area includes the Puhi'ula cave, dwelling complexes, heiau (religious shrines), walls, fishing and canoe houses or sheds, burial sites, petroglyphs water and salt collection sites, caves, and trails. The Ala Kahakai National Historic Trail runs through this area. The area is also remarkable for its magnificent viewsheds.

Ka'u is one the last unspoiled areas left in Hawai'i. It is, however, under tremendous development pressure, despite the fact that these coastal lands are 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 along the coast poses risks to these resources and potentially to human life.

I urge my colleagues to join me in supporting this bill, and invite you to come to the island of Hawai'i to visit this special area. I know that if you do so, you will be convinced as I am of the vital importance of protecting these lands.

SUPPORT FOR THE NATIONAL LEAGUE OF DEMOCRACY

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. SOUDER. Mr. Speaker, I rise today in support of the National League of Democracy (NLD) and all of those who languish in crushing servitude. On 27 September 1988, the NLD was founded by the forces of Democracy in Burma. The NLD was founded at what seemed like a turning point in Burmese history. After decades of military rule and dictatorship, the leaders of Burma announced that free elections would be held in 1990.

Led by Aung San Suu Kyi, the NLD won those elections with 60 percent of the vote and 83 percent of the parliamentary seats. Alas, the military never allowed a new government to form. Sadly, Liberty was crushed and the promise of that time has never been realized.

Today, Aung San Suu Kyi is under house arrest. Many other NLD members and other defenders of democracy are in prison, in exile, or in hiding. The brutal military dictatorship that very nearly did the right thing so many years ago is still in power. They continue to brutalize the people of Burma in savage ways that we can hardly imagine.

International pressure is mounting, however. After turning a blind eye to Burma's actions Burma's ASEAN neighbors are distancing themselves from Burma. Last week at the United Nations, the First Lady of the United States Laura Bush held a forum on Burma. She urged the military leadership of Burma to release Aung San Suu Kyi and the adoption of a U.N. resolution condemning Burma's dictatorship.

And for the first time, Burma has been placed on the agenda of the United Nations Security Council. For those of us who have been active on Burmese issues for some time, this is truly a victory. On Friday, Ibrahim Gambari, U.N. Undersecretary General for Political Affairs, will report on the latest situation in Myanmar at the 15-member council. Getting a resolution through the Security Council will be no small task. Burma's stalwart ally China is ever ready to block any criticism of its neighbor.

The United Nations is not known for its tough stances on any issue. Time after time we have seen the U.N. shy away from condemnation of even the most egregious evil. I urge the U.N. to be firm. The United Nations Security Council must use this unmatched opportunity to defend the least among us.

In closing, 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.

INTRODUCTION OF THE LEAD POISONING REDUCTION ACT

HON. LOUISE McINTOSH 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 when 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.

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 Commonwealth of 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 a eucharistic minister 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 Massachusetts Trial Court. 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 ENVOY 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 and Accountability 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 (gold and silver). 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 an investment, including 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 demonstrated 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 the Rape of Nanking, 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 Americans 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 unsung heroine. To the thousands of innocent men, women and children whose lives 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, I along with 45 of my colleagues am 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 MCGOVERN, 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 SCHULZ 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 "lips . . . 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 others and the courage that 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 documentary evidence that Larry Benequist and Bill Sullivan, the makers of the film, have gathered from attics, from dusty store rooms in Czechoslovakia and France, from carefully preserved Gestapo archives in Berlin, and from collections of personal letters. And it is fitting that the museum has acquired the hours of interviews with Martha and Waitstill which Ghanda Difiglia taped for UUSC while they were still alive. The museum will no doubt also want to preserve the hours of recollections of 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 fragments of the story will be preserved here so that scholars, historians, and authors can study them and make more accessible the obligation to remember.

Today's dedication means that future visitors to this museum will be continually reminded of two of who were truly great—Martha 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 match wits with the Gestapo and lead journeys across the Pyrenees?

And yet the fact that they did that means that any one else could have done it if they had decided to, that it was not beyond the bounds of the human imagination. If even one person in a generation makes a moral choice, it leaves the rest of us with less excuse for our ethical torpidity. William Lloyd Garrison founded the New England Anti-Slavery Society in 1831 when the slaveholder Andrew Jackson was President. That removes any hope Jackson or his fellow slaveholders might have had to claim ignorance as a defense for holding other human beings in chains. And Elizabeth Cady Stanton began the fight for women's equality in 1840 when women were excluded from the world antislavery convention, so after 1840 what was Garrison's excuse for remaining a misogynist?

But of course not every one of us accurately reads the tides of history. I often ask myself what moral myopia I am subject to at this very moment, something that twenty or forty years from now will seem like unimaginable shortsightedness. And that is what strikes me as most remarkable about the Sharps. They went to Europe in February, 1939. February, 1939 was less than three months after the Kristallnacht. It was before the Nazis required Jews in Germany to relinquish their silver and gold. It was before the occupation of Czechoslovakia. It was before the German "Pact of Steel" with Italy. It was before the SS St. Louis set out on its fateful voyage to Cuba and before its 900 Jewish refugee passengers were returned to Europe. It was before Germany 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 one million Jews for 10,000 trucks and the British High Commissioner in Egypt, Lord Moyne, 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 astonishing perspicuity. 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 lives. But I am willing to bet that 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 congregation in Wellesley Hills who maintained their church while they were gone, the supporters of the Unitarian denomination that financed their cause. And, yes, the tailors who darned their clothes, the shoemakers who soled their shoes, the pilot who steered their ship and the housekeeper who kept their rooms.

That, you see, is why we have institutions. Because not every one of us can set out for war-torn Europe. Not every one of us can visit the refugee camps of Darfur or the US detention camps in Iraq or Afghanistan or God knows where else. But every one of us can be a part of the lives of those who do. Every one of us can be a part of institutions that make such heroism possible and in that measure can claim a degree of kinship with the righteous among the nations. That Waitstill and Martha's work resulted not just in the immediate rescue of hundreds of lives, but in the creation of an institution that came to be known as the Unitarian Universalist Service Committee, an institution that multiplied those rescues a thousand fold in the years that followed, is testimony that, acute as their reading of history surely was, they knew that they were but a part of a much larger circle of heroes and heroines who made their enterprise possible and without whom their legacy and the values it embodied could never be sustained across the decades.

Spender's poem ends:

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
And 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.

Thank you for helping us honor two people who wore at their hearts the fire's center and left the vivid air signed with their own 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 hometown of Union City, Tennessee. The tournament will raise money for a scholarship program in northwest Tennessee.

Abe was as avid and skilled a golfer as anyone 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 second 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 grandfather. 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 member 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 extraordinary 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 Unites States Army, Bob Lann moved to Stamps, Arkansas, where he lived for twenty-two years. Bob served as captain 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 Columbia 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, Bobbie 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 Dickinson. Bob Lann will be greatly missed in Columbia County and throughout the state of Arkansas.

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, religious-based and non-tax-supported hospital system. St. Rose's is a major healthcare employer in Southern Nevada, 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 WomensCare 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 DEANNA ABLESER

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Ms. HARMAN. Mr. Speaker, very few people in our society possess the power to change a child's life the way a teacher can. The values, ethics, work habits and ambition they instill in our youth serve as life lessons that translate into action for the rest of their lives.

That is why I rise today to honor one of my constituents, Deanna Ableser of Torrance, California, who has been awarded the VSA Arts Playwright Discovery Teacher Award. This award is presented annually to educators who creatively bring disability awareness to the classroom through the art of playwriting.

Deanna Ableser teaches six drama courses at Dana Middle School in Hawthorne, California. A significant portion of her curriculum is dedicated to playwriting. She encourages her students to write about characters with physical or mental disabilities in hopes of expanding empathy, understanding, compassion and tolerance. Her intermediate playwriting course is dedicated exclusively to the VSA Arts Project.

It is testament to Ms. Ableser's effectiveness as a teacher that her students have won numerous awards for their accomplishments in acting, playwriting and technical theatre.

On behalf of my constituents and the students and families at Dana Middle School, I extend our congratulations to a wonderful educator and role model, Deanna Ableser, and best wishes for this school year.

Break a leg!

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 early—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 craniometaphyseal dysplasia, CMD. CMD is a rare disorder that affects only 200 people worldwide. Specifically, CMD involves an overgrowth of bone which never deteriorates. In Wendelyn's case, this caused an abnormal appearance, bilateral facial paralysis and deafness. Other cases can include those characteristics as well as blindness and joint pain. Wendelyn has had to go through 17 reconstructive surgeries to counteract the medical difficulties that comprise her disorder.

Unfortunately, the majority of reconstructive surgeries, such as these 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 Reconstructive Surgery Act, would ensure nationwide insurance coverage for medically necessary reconstructive surgeries.

It is my hope that further education and understanding of craniofacial disorders will allow our nation to move forward and update existing laws to better meet the medical needs of those needing reconstructive, not cosmetic, surgery. I urge my colleagues to join in this effort 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 Resources, the parent company to both Nevada Power Company and Sierra Pacific Power Company.

Walter's first career was as a U.S. naval officer. After obtaining a nuclear science degree from the U.S. Academy, he served as a nuclear submarine officer. After ending his active military service, Walter remained a naval reservist, ultimately retiring as a captain after a total of 29 years of service.

The transition from military service to a civilian career was relatively easy for Walter, who obtained a position with Bechtel Corp., which was designing and constructing nuclear power plants, From there, he worked at the U.S. Atomic Energy Commission, Portland General Electric and Louisville Gas & Electric. He expected to remain in Louisville as the CEO for Louisville Gas & Electric throughout the remainder of his career, but was surprised when utility companies began recruiting him. He subsequently accepted a job with Sierra Pacific Power Co. in 1993. He then moved to Atlanta to head a natural gas company, only to return to Reno in 2000 as CEO of Sierra Pacific Resources.

Mr. Speaker, I am proud to honor my good friend Walter M. Higgins III. I applaud his professional 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. DELEON

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

known since he was a wet-behind-the-ears staff assistant on Capitol Hill. I have enjoyed watching Rudy serve our country in jobs ranging from staff assistant, senior staff, Undersecretary of Defense, Deputy Secretary of Defense, and senior corporate officer for one of America's most important corporations.

Rudy's service to the United States Government has spanned over a quarter century. At 54 years, I would submit that we have not seen the last of him. Allow me to just cover some of what he has done for his country.

After graduating in 1974 from Loyola University—now Loyola Marymount—in Los Angeles, Rudy came to Capitol Hill. I can still remember the day when that young, red-headed, fresh-faced, full-of-enthusiasm staffer started as a staff assistant on the Senate side, working for a California Senator, John Tunney, whom I also served. Who would have guessed that he would go on to the lofty positions he attained?

Rudy has accomplished a great deal, whether it was working on the Goldwater-Nichols legislation or legislation for the authorization for the use of force during the Persian Gulf war in 1991, or strategies for saving the C–17 Globemaster, or ways to help the families of POWs and MIAs.

Rudy approached his position at Boeing with the same enthusiasm I saw when he showed up on the Capitol grounds. On one cold winter night while holding a meeting with his department heads, Rudy summoned them to come outside in front of Boeing's building. After a short while, and once everyone was sufficiently cold—they didn't take coats because they did not think they would be there long—he told them the Space Station was about to pass overhead. Sure enough, the Space Station did pass overhead, just as he promised it would. That bonding experience made the team grow tighter.

Boeing, the Department of Defense, and Capitol Hill all had an opportunity to size up Rudy. All respect him and feel affection for him. I do not know what his next move will be, but hopefully his wife Anne, his daughters Elizabeth and Kerry, his father, Big Rudy, and brother and family in my congressional district will see more of him. Rudy and his family always have a home back in Torrance, CA, and on Capitol Hill, where it all started.

IN HONOR AND APPRECIATION OF HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. ROSS. Mr. Speaker, I rise today to honor America's Historically Black Colleges and Universities. Historically Black Colleges and Universities were not officially recognized by the government until 1964, but these valuable institutions have had a lasting impact on our nation for more than a century.

As the United States Representative for Arkansas's Fourth Congressional District, I have the distinct honor to represent my state's largest and only four-year public Historically Black University, the University of Arkansas at Pine Bluff. UAPB was founded in 1890 and now provides more than 3,600 students with a quality, affordable education.

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 placed on different cultures was stretched 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 BERNICE JOHNSON in passing legislation honoring our nation's Historically Black Colleges and Universities and I will fight to ensure their continued excellence in education will live on.

I am so pleased to have the opportunity to properly recognize 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, she is also physically handicapped. 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 has served the state of Nevada in a number of different capacities as a social worker; having served as a foster care case manager for the state and a supervisor for child protective services in Clark County. Most recently, Judy was promoted to assistant manager of the Clark County Department of Family Services, where she supervises the investigations of child abuse and neglect of 130 case workers.

Because of her personal hardships, Judy holds a genuine belief that the best measure to take is the one that is best for the child. She also believes that the system can always improve in order to put those in need first. Judy feels empathetic to the children in her cases, with each case helping her to feel as if she has achieved her ultimate goal of giving back to her community.

Mr. Speaker, I am proud to honor Ms. Judy Tudor. I commend her for her exceptional service to Clark County and the entire state of Nevada. Her dedication has enriched countless lives of children across the state. I applaud her efforts and wish her the best in her future endeavors.

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. 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.

La Clinica offers low cost quality health care services for multilingual and multicultural populations at 22 locations in three counties in Northern California. The majority of La

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 68 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 Caucus 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 remained a close ally to the United States and is even now providing personnel to the present war in Iraq.

The tragedies of 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, over 1 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 anyone, 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 opportunities for students to learn and prepare them for a competitive workforce.

HBCUs not only educate students, but they also conduct ground-breaking 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 associates, store managers 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 independent 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 directors.

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 deserve. 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 to cost 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 we will see a new commitment to the 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 modem 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.

Their new 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.

This legislation is sound, and I hope to work with my colleagues to implement it. And with the Bay Area Regional Water Recycling Program Projects Authorization 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 regional approach ensures that potential projects with the greatest regional and statewide 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 who 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 Diablo Sanitation 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 Pittsburg, 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 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 towards 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 programs are a fiscal 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. Colonel 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

Subject: Announcement of Award of the Defense Superior Service Medal.

Under the provisions of DOD Manual 1348.33–M, September 1996, the Commander, U.S. Joint Forces Command has awarded the Defense Superior Service Medal (First Oak Leaf Cluster) for exceptionally meritorious achievement to: Colonel Stanley T. Hoskin, USAR, U.S. Joint Forces Command (J02), 1 June 2004 to 31 August 2006.

E.L. SATTERWHITE,
Awards Administrator.

CITATION TO ACCOMPANY THE AWARD OF THE DEFENSE SUPERIOR SERVICE MEDAL, FIRST OAK LEAF CLUSTER, TO STANLEY T. HOSKIN

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 Chief of Staff, Headquarters, U.S. Joint Forces Command from June 2004 to August 2006. During this period, COL Hoskin was responsible for many ''firsts'' in the Command 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 Combatant Command Chiefs of Staff video teleconferences. He was also responsible for the conceptualization and development of numerous process improvements including a Tasker System 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 about Command Level Objectives to support Combatant 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 and mentoring for 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. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. FRELINGHUYSEN. 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 Parks and Conservation Foundation 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 Farny Highlands Watershed 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 parks throughout the region.

Mr. Speaker, I urge you and my colleagues to join me in congratulating Morris Land Conservancy on its twenty-fifth Anniversary.

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 bioscience company that received the 2006 Tibbetts Award for innovative work to identify and 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 for HPV 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 Midllife 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 projects. 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 view of older adults 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 the 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.

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 strength, and dramatically increase investment 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. Investment north of Patterson Park has allowed neighborhoods to the south to gather momentum and become an engine for revitalization in all of Southeast Baltimore.

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 an 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 smart, bipartisan anti-terrorist 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 to build bridges 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 resurgence of the Taliban we have seen over the last several months, 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, including policies that cultivated a culture within 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 Schanzer, 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 the right to circumvent checks by the judiciary to wiretap the phones of American citizens, and a bill to establish an extrajudiciary 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 criminals and terrorists in jail; 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 would establish 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 do it.

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 fact, under 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 coverage 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 particular policies 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 short-term, 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 persuade to renounce violence and cast his or her lot with the forces of moderation is one fewer threat to our Nation, one fewer potential airplane hijacker or train bomber.

Winning hearts and minds is no exercise in sentimentality; it is perhaps the key strategy in protecting our Nation from another 9–11. The Administration's approach negates such efforts, as it essentially endorses indefinite imprisonment, arbitrary detention, and treatment of detainees in violation of the Geneva Conventions.

The Administration's approach further harms our progress in the war on terrorism by placing our own troops at risk. It sends a dangerous signal to other nations that the United States has endorsed these practices for foreign detainees, inviting these nations to visit the same practices upon our own troops. It is that risk that has led several top-ranking former military leaders to object to the Administration's proposal.

There is no question that a system is needed for bringing terrorists to justice. But doing it the wrong way will impede our 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

Wednesday, September 27, 2006

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 NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. NUSSLE. 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 adults 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.

RECOGNIZING THE FORTIETH ANNIVERSARY OF TRINITY BAPTIST CHURCH

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise today to recognize Trinity Baptist Church of Asheville, North Carolina. On October 1, 2006 Trinity Baptist will celebrate 40 years of service to the people of Western North Carolina, and I commend them for the leadership and tireless work they have contributed to the Asheville community.

With 60 members under the direction of Rev. Ralph Sexton, Sr. as the Pastor and Dr. James A. Stewart as the Honorary Pastor, a building for Trinity Baptist Church founded upon the scripture from Psalm 127:1, ''Except the Lord build the house, they labor in vain that build it.''

For 13 years, Dr. Ralph Sexton, Jr. served as staff evangelist and youth pastor under his father. On the first Sunday of April 1988, upon his father's resignation as senior pastor, Dr. Ralph Sexton, Jr. became the senior pastor of Trinity Baptist Church. As the church continued to grow, mission outreach was increased both at home and abroad.

To meet the needs of the growing congregation, several buildings have been erected. The Family Life Center was built in 1984 housing office space, a kitchen, fellowship room and gymnasium, to provide a space for fun, food and fellowship for the whole family. In 1992 a Baby Palace was added to meet the need of the growing families of the church.

A Bible Institute program was started in 1989 for those who wish to devote their lives to the ministry of learning to serve; this became a 4-year Bible College in 1993. Most recently the church built a 1,500-seat sanctuary which has been named the ''Tabernacle of the Mountains'' in honor of the life and ministry of Dr. Ralph Sexton, Sr., who served the congregation for 22 years.

In 1991, Trinity Baptist Church opened their doors to Russian immigrants many of whom came to this country because of religious persecution. Trinity Baptist Church accommodated the immigrants by providing services in their native languages, in addition to sponsoring many of the immigrants.

In 1994, the EEOC threatened religious freedom by prohibiting any expression of religious faith in the workplace. Trinity Baptist Church worked with me and other area churches to preclude these improper regulations. Pastor Sexton and members of Trinity

Baptist Church met with me in acknowledgement of our success in fighting for first amendment rights.

One of the many outreach programs of Trinity Baptist Church is Hearts with Hands. Hearts with Hands is a disaster relief organization that provides humanitarian aide to worldwide victims of hurricanes, tornadoes, and tsunamis. To this day, this organization is still working with many of the victims of Hurricane Katrina.

Again, it is my privilege to recognize the great accomplishments and leadership of Trinity Baptist Church over the past 40 years, and I, along with the rest of the United States Congress, wish for their good work to continue.

TRIBUTE TO BEVERLY WILSON

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. DOOLITTLE. Mr. Speaker, whether she was called Beverly, Bev, Mom, Grandma, Dear Friend or the Mail Lady, Beverly Wilson was known by all for her compassion and generous spirit. Bev was a fifty-year resident of Lincoln, California, and served as a postal carrier for 26 years. Tragically, Bev was killed in the line of duty a mere four weeks short of retirement.

Beverly dedicated her life to bringing joy to those around her. She was an ideal co-worker. She gently guided her younger colleagues through thoughtful gestures and kind words. For no occasion at all, she would surprise her fellow workers with homemade baked goods, fresh vegetables from her garden, or jarred pomegranate jellies. The people who worked alongside Bev knew that, in her, they had a true friend.

Her customers thought the world of Bev. She took the time to know each of them, and her association with the people she serviced grew into friendships that lasted decades. While seeing them six days a week for twenty-six years, Bev shared the lives of her patrons, delighting alongside them during their joyous moments and providing warm comfort in times of sorrow. One of Bev's sons once asked, "How can one little old woman touch the lives of so many people?"

Beverly Wilson was the proud mother of five children and fifteen grandchildren. While she spent so much of her time doing good deeds for her customers, co-workers and other friends, she always had time for her family. Beverly's fifteen grandchildren could always expect a card from "Grandma Bev" on their birthdays, as she never missed even one.

Beverly Wilson remains an example of dedication and kindheartedness today. When the residents of Lincoln, CA visit the new postal facility named after her, they will be inspired by the memories of such an outstanding and considerate individual.

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 systemic human rights violations in Turkmenistan. Freedom House recently ranked Turkmenistan as one of the most repressive countries in the world. Along with cosponsors 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 "Turkmenbashi"—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 Turkmen gas 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.

CELEBRATING THE IMPROVEMENTS OF CAPUCHINO HIGH SCHOOL

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. LANTOS. Mr. Speaker, I ask my colleagues to join me in celebrating Capuchino High School's successes since the passage of the November 2000 bond issue, Measure D, in San Mateo County. I am so proud of the foresight my neighbors and friends had when they approved the bond that has created the extraordinary facilities, so it can match its high caliber students. It will be my privilege and honor to join the Capuchino High School community to commemorate the modernization and new construction provided by the bond issue, as well as the opening of the new Electronic Arts Technology Arts Center built with the support of a $200,000 grant from Electronic Arts.

Like other high schools within my district, Capuchino has leveraged the $137.5 million bond measure into a $234.5 million capital improvement dedicated for an innovative academic and extra-curricular program designed to enhance the teaching-learning environment for students today and tomorrow.

Mr. Speaker, Capuchino is a California Distinguished School and is recognized for its extraordinary didactic methods. Academically strong, Capuchino offers the highly prestigious International Baccalaureate Program and is one of only 60 schools in the state and 400 across the country qualified to offer such a rigorous college-preparatory curriculum.

I am very proud that Electronic Arts, one of my district's largest employers, was able to contribute in building this state of the art technology arts center. Because of Capuchino High School's excellence, it was selected as one of 250 schools nationwide to receive a Carnegie Grant and was selected to share in

a $450,000 grant collaborating in Entertainment and Media with five community colleges and their associated high schools.

The school's dedication to the arts includes its Honor Band's selection to participate at the inauguration of President Kennedy, the only marching band from North America to perform at the Expo '88 ceremonies in Australia, and has performed at various west coast events including the Tournament of Roses.

Mr. Speaker, Capuchino High School has had a long history of achievements and I am absolutely delighted that our community is dedicated to the success of our children. Capuchino High School is one of the real gems in my district and with the help of Measure D and Electronic Arts, Capuchino will be able to keep up with the constantly changing environment that faces our children when they leave school. I would like to thank all those who are responsible for these much needed improvements and am looking forward to seeing them for myself firsthand.

TRIBUTE TO STEPHEN ADAMINI

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. STUPAK. Mr. Speaker, 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 common 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 of 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, 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 to G. Luz A. James, Esquire, 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 conferring of 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 the school associated with 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 childhood. His family has been 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 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, ''Crucian Confusion'', a program he originally aired during his first days on the air.

One of his greatest attributes was his 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

made significant contributions to the Virgin Islands and to the Nation. He was the last surviving of the brothers and his death on September 17, 2006, ended an illustrious chapter in Virgin Islands history of outstanding community involvement and achievement by one particular generation of a family.

On behalf of the 109th Congress of the United States of America, I salute G. Luz A. James, Esquire, for his dedicated service to his home and community of the Virgin Islands and to his country. I thank his wife Asta and children Barbara, Gerard Luz II, Emmeth and Kelsey, their children and grandchildren, for being the supporting base that permitted him to be shared with a community that is beginning to comprehend his many contributions and the extent of the community's loss.

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 logistically, 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 the 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 consent or notice laws knew of their daughter's pregnancy.

In a perfect world, all children 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. Whatever 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 wide 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 Goldenaires 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 Goldenaires 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, hitching rides 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 armies 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 while at work 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 remained with the Unified Government after the city and county consolidated governments in 1997. As former Kansan publisher William Epperheimer noted: "Of all his attributes, loyalty and hard work stood out. Don was a Kansas City Kansan advocate to the end and 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 dedication in his 'second career'."

Don Denney was also well known locally as the athletics announcer for Bishop Ward High School and Kansas City Kansas Community College athletic events, and was planning on announcing the Bishop Ward football game on the evening of the day of his death.

Mr. Speaker, I join with the Unified Government and the citizens of Kansas City, KS, in mourning the untimely death of a dedicated, honest public servant and I include with these remarks a moving tribute to Don Denney that was published in the Kansas City Star.

[From the Kansas City Star, Sept. 16, 2006]

KCK LOSES A FRIEND, SPOKESMAN DENNEY

(By Mark Wiebe)

Don Denney, the face and voice of Wyandotte County and Kansas City, Kan., died Friday morning after collapsing at City Hall.

Denney, 54, began working for the city in 1994 after leaving his job as a reporter for The Kansas City Kansan. He was named spokesman for the Unified Government when the city and county merged in 1997.

But as many at a grief-stricken City Hall said, Denney was much more than the Unified Government's "media specialist," the man who answered reporters' inquiries or showed up at early morning fires. He was a well-connected public figure, a person who effortlessly made friends, who loved his community and worked hard on its behalf. He considered the employees at City Hall his family.

"It's a great loss for the city," said Hal Walker, the Unified Government's chief counsel and a good friend. "He was nearly as visible as any of the mayors he served."

Mayor Joe Reardon called Denney a "wonderful and talented" man: "His love and enthusiasm for our community was infectious."

A Kansas City, Kan., native and graduate of Bishop Ward High School, Denney also was a longtime public address system announcer at the school's athletic games. Known to many as "the voice of the Cyclones," he devoted much of his free time to the school.

Unified 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, 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 gynecologic cancers are 90 percent when diagnosed early. Survival rates drop 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 gynecologic 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 health care 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 merge in beautiful sentiment. I did not know Barbara McEnroe, but I know many families who empathize with her son's article, "Banana Chair Sunset." I sometimes believe that creative and vivid writing is genetic with the Irish, but McEnroe's love of his mother and father unfolds in this article in a way that shares with the reader the unique perspective of a family gathered at the bedside of a loved one soon to be gone. I'm honored to submit this for the RECORD. Our hearts go out to him, his son Joseph, and his family.

[From NE Magazine, Sept. 17, 2006]

BANANA CHAIR SUNSET

(By Colin McEnroe)

She was a tiny person born into a big world.

She was the fourth daughter of the sonless 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 for the baby. 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 sort of game where you found out who 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 right answer.

She was not the right answer, but she decided to know the right answers. She was a whiz in school. She was high school valedictorian. She was never quite at home.

She wasn't as tough or as solid as the rest of her family. She was pretty, chatty, restless, troublemaking. Now and then, a teacher would notice her and realize she was a little bit lost. One woman made a point of taking her places, letting her catch glimpses of the world outside rural Massachusetts.

One such place, of course, was Boston, which was a very thirsty town. Years before my mother was born, the city began to outgrow its supply of water. Bostonians cast their eyes around and noticed the Swift River Valley. It might be possible to dam the whole thing up and make a reservoir. Yes, that could be done.

And what about the people who were living right where the enormous body of water would be?

They would have to leave.

Four little towns were dis-incorporated and depopulated. The Lost Towns of the Quabbin. Dana was one of them. The Cottons left a few years early, because Howard had four daughters, and he believed that rough men would be arriving in great numbers for the huge construction projects. He didn't want that kind of trouble.

Gone, gone, gone, the four towns. And gone, gone, gone the five Cottons. Ruth, Gladys, Arlene, Gaylord. And Monday night, the last of them, Barbara.

Nothing was ever exactly home. Nowhere completely right.

''What's the best place you ever lived?'' she asked me again and again from hospital beds and wheelchairs, really asking herself.

She graduated from North Brookfield High School—did she mention she was valedictorian?—and eked out a couple of years at Boston University. She came to Hartford. She was a bobby-soxer, overheated and frivolous. She and her friends followed Sinatra around after his show in the city and had a snowball fight with him.

The years went by, full of dates and parties and boyfriends and jobs. Hartford was fun. She met a man, a very peculiar man. He lived in a boarding house on Asylum Hill and worked at United Aircraft. He was handsome and brooding and mercurial. Nobody had ever heard of him. And then, on a single day, this obscure man in the boarding house sold two different plays he had written to Broadway producers.

She couldn't stay away from this man.

They married and lived for a while on Fifth Avenue next to a huge park that scared her a little. They lived for a while in Beverly Hills. Their agent was Swifty Lazar and he took them to all the swank spots; and she didn't have to throw snowballs at the big stars. They chatted away from adjoining tables at Chasen's.

But that didn't last. Nothing ever seemed to last. Nowhere was exactly home. Things were never quite right. It was hard, really, to settle down.

She had a son, and she loved him. It was hard to tell him that in the traditional ways. She wasn't at home in the world. She pushed him hard to work and achieve so that he would feel safer than she did.

She had a grandson, and she loved him. She took him to the park and showered him with presents. On New Year's Eves, she would decorate her apartment and buy hats and noisemakers for her husband and the little boy, and they'd eat shrimp and drink sparkling cider.

Her husband died, and she was alone.

And then she began to forget things. Her son took her to a neurologist, and the doctor said, ''I'm going to say three words to you, and I want you to remember them because I'll ask you about them in a little while. Banana chair sunset.''

He asked her quite a few other things, and, in the most charming manner possible, she revealed how little she could remember. Laid out there in the doctor's office, it was breath-taking, like the water pooling up and overspreading four whole towns.

''Now,'' said the doctor, ''Do you remember any of those three words?''

''What three words?'' she asked.

And that was the beginning of the end. Banana 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, comforting, 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 wants the light turned off.

Has this ever come up before? Don't people always like the light?

A few of us sat 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.

Banana chair sunset.

Maybe there's a place you go where finally, finally, everything is just right.

VETERANS' MEMORIALS, BOY SCOUTS, PUBLIC SEALS, AND OTHER PUBLIC EXPRESSIONS OF RELIGION PROTECTION ACT OF 2006

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mr. UDALL of Colorado. Mr. Speaker, I think this bill is unnecessary and unwise, and I cannot vote for it.

Current law says that federal judges have discretion to require a state or local government to pay the attorneys' fees of individual citizens who win lawsuits challenging government actions that violate the Constitution.

This bill would take away part of that discretion, by barring judges from making such awards in cases involving the Constitution's prohibition of the establishment of religion.

Nothing in today's debate on the bill has convinced me that that so many judges have abused their discretion that Congress should limit it, or that the current law is broken and requires repair.

And I am very concerned that the effect of this bill would be to weaken Americans' constitutional rights, as the Baptist Joint Committee for Religious Liberty has warned in a recent letter that says ''passage of H.R. 2679 would encourage elected officials to violate the Establishment Clause whenever they find it politically advantageous to do so. By limiting the remedies for a successful plaintiff, this measure would remove the threat that exists to ensure compliance with the Establishment Clause.''

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 abuse. 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 he has in trying and convicting 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 irreparably 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 WARNER, Chairman of the Senate Armed Services Committee, and other members of that committee, including Senators MCCAIN and GRAHAM, also had serious objections to that legislation and, joined by Senator LEVIN, the ranking Democrat on the Committee, developed legislation that 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 colleague, 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 detentions.

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 perhaps doing 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.

Daily Digest

HIGHLIGHTS

Senate passed S. 3930, Military Commissions Act.

The House passed H.R. 5825, Electronic Surveillance Modernization 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: **Pages S10354–S10431**

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.

Department of Defense Appropriations—Conference Report: Senate began consideration of the conference report to accompany H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007. **Pages S10433–42**

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. **Page S10389**

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

Extradition Agreement with the European Union (Treaty Doc. No. 109–14).

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. **Page S10493**

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. **Pages S10494–95**

Messages From the House: **Pages S10454–56**

Measures Placed on Calendar: **Page S10456**

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

Public Bills and Resolutions Introduced: 28 public bills, H.R. 6225–6252; and 8 resolutions, H.J. Res. 98; H. Con. Res. 487–488; and H. Res. 1055–1059 were introduced. **(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 yea-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**

Secure Border Initiative Financial Accountability Act of 2006: 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; **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 concur 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 ⅔ yea-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

Settlement Act of 1990—clearing the measure for the President; **Pages H7735–36**

Amending 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: H.R. 4545, amended, 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; **Pages H7736–37**

Authorizing a grant for contributions toward the establishment of the Woodrow Wilson Presidential Library: H.R. 4846, amended, to authorize a grant for contributions toward the establishment of the Woodrow Wilson Presidential Library; **Pages H7737–38**

Agreed to amend the title so as to read: ''To authorize grants for contributions toward the establishment of the Woodrow Wilson Presidential Library.''. **Page H7738**

Extending relocation expenses test programs for Federal employees: S. 2146, to extend relocation expenses test programs for Federal employees—clearing the measure for the President; **Pages H7738–39**

Supporting the goals and ideals of Gynecologic Cancer Awareness Month: H. Con. Res. 473, to support the goals and ideals of Gynecologic Cancer Awareness Month; **Pages H7739–40**

Supporting the goals and ideals of Infant Mortality Awareness Month: H. Res. 402, amended, to support the goals and ideals of Infant Mortality Awareness Month; **Pages H7740–41**

Recognizing the 225th anniversary of the American and French victory at Yorktown, Virginia, during the Revolutionary War: H. Res. 748, to recognize the 225th anniversary of the American and French victory at Yorktown, Virginia, during the Revolutionary War; **Pages H7741–42**

Supporting the goals and ideals of National Pregnancy and Infant Loss Remembrance Day: H. Con. Res. 222, amended, to support the goals and ideals of National Pregnancy and Infant Loss Remembrance Day; **Pages H7742–43**

Congratulating the Columbus Northern Little League Baseball Team from Columbus, Georgia, on its victory in the 2006 Little League World Series Championship games: H. Res. 991, to congratulate the Columbus Northern Little League Baseball Team from Columbus, Georgia, on its victory in the 2006 Little League World Series Championship games; **Pages H7744–45**

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''; **(See next issue.)**

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 achieving 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,

and modifications committed to conference: Messrs. Thomas, Shaw, and Rangel. **(See next issue.)**

Electronic Surveillance Modernization Act: The House passed H.R. 5825, to update the Foreign Intelligence Surveillance Act of 1978, by a yea-and-nay vote of 232 yeas to 191 nays, Roll No. 502.

(See next issue.)

Rejected the Schiff motion to recommit the bill to the Committee on the Judiciary with instructions to report the same back to the House forthwith with an amendment, by a yea-and-nay vote of 202 yeas to 221 nays, Roll No. 501. **(See next issue.)**

Pursuant to the rule, 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 this report shall be considered as adopted. **(See next issue.)**

Agreed to H. Res. 1046, 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, by a recorded vote of 227 ayes to 191 noes, Roll No. 497, after agreeing to order the previous question by a yea-and-nay vote of 223 yeas to 197 nays, Roll No. 496.

Pages H7685–93, H7694–95

Agreed that the Clerk be authorized to make technical and conforming changes in the engrossment of the bill to reflect the actions of the House.

(See next issue.)

H. Res. 1052, the rule providing for consideration of the bill was agreed to by a recorded vote of 220 ayes to 199 noes, Roll No. 499, after agreeing to order the previous question by a yea-and-nay vote of 225 yeas to 197 nays, Roll No. 498.

Pages H7775–84, (continued next issue)

Advisory Committee on Student Financial Assistance—Reappointment: The Chair announced the Speaker's reappointment of Mr. Robert Shireman of Oakland, California, to the Advisory Committee on Student Financial Assistance for a three-year term effective October 1, 2006. **(See next issue.)**

Senate Messages: Messages received from the Senate today appear on pages H7677.

Senate Referrals: S. 2250 was referred to the Committee on Financial Services; and S. 2491 and S. 3930 were held at the desk. **(See next issue.)**

Quorum Calls—Votes: Seven yea-and-nay votes and two recorded votes developed during the proceedings today and appear on pages H7693, H7694, H7694–95, H7784, (continued next issue).

Adjournment: The House met at 10 a.m. and adjourned at 11:59 p.m.

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 the Judiciary. The rule waives all points of order against consideration of the bill. The rule provides that the amendment in the nature of a substitute as reported by the Committee on the Judiciary shall be considered as adopted. Finally, 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

Commission on Security and Cooperation in Europe (Helsinki Commission): On Wednesday, September 27, 2006, Commission concluded a hearing to examine Federal efforts to protect children from commercial sexual exploitation, focusing on international initiatives to combat child pornography and trafficking, and related provisions of Public Law 106–386, entitled ''The Trafficking Victims Protection Act'', after receiving testimony from James Plitt, Unit Chief, Cyber Crimes Center, U.S. Immigration and Customs Enforcement, Department of Homeland Security; James E. Finch, Assistant Director, Cyber Division, Federal Bureau of Investigation, Department of Justice; Linda Smith, Shared Hope International, Vancouver, Washington; Carol Smolenski, ECPAT–USA, Brooklyn, New York; Mohamed Mattar, Johns Hopkins University Paul H. Nitze School of Advanced International Studies, Washington, D.C.; and Ernie Allen, International Centre for Missing and Exploited Children, Alexandria, Virginia.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D1052)*

H.R. 866, to make technical corrections to the United States Code. Signed on September 27, 2006. (Public Law 109–284).

H.R. 2808, to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln. Signed on September 27, 2006. (Public Law 109–285).

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 Gerry 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 Energy and Commerce, Subcommittee on Oversight and Investigations, hearing entitled ''Internet Data Brokers and Pretexting: Who Has Access to Your Private Records?'' 10 a.m., 2123 Rayburn.

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.

Next Meeting of the SENATE

9:30 a.m., Friday, September 29

Senate Chamber

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.

Next Meeting of the HOUSE OF REPRESENTATIVES

9 a.m., Friday, September 29

House Chamber

Program for Friday: Consideration of H.R. 4772—Private Property Rights Implementation Act of 2006 (Subject to a Rule).

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