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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable ROBERT P. CASEY, Jr., a Senator from the State of Pennsylvania.

PRAYER

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

Let us pray.

Lord God, You alone are the creator and sustainer of the universe, so we pause to thank You for the gift of this day. May we show our gratitude by wisely using the gift of time in doing our best to serve You and to help one another.

Empower our Senators in their labors. Let the light of Your countenance calm every troubled thought and guide their feet in the way of peace. Grant them the ability to grow in wisdom and understanding so that they may know the best road to take in solving the problems of our world. Assure them of Your continued concern and love as You create tunnels of hope through mountains of despair. Be their helper and defender. Use them, Lord, for Your glory. Bring them safely through life's complexities into the refuge of Your amazing grace.

We pray in Your gracious Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROBERT P. CASEY, Jr., 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. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 26, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT P. CASEY, Jr., a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, this morning the Senate will be in a period of morning business for an hour. Once that is closed, we will go back to the Homeland Security appropriations bill. There are no votes scheduled, although there are seven amendments pending. Perhaps we can dispose of some of those before lunch. We will certainly have some votes during the day.

Another issue which I have mentioned on many occasions is the 9/11 Commission recommendations conference report. That report was to be filed late last night. It is not available. It should be momentarily. We will make sure Senators have the opportunity to look at that. It is a large document.

Let's talk about this week. I know there is a trip scheduled this weekend. I contacted Senator BOXER last night and indicated to her I wasn't quite certain it would be able to take place. She was understanding and said I would have to do what I have to do, although she was disappointed. Maybe the trip can still go. It is a bipartisan trip to Greenland, led by Senators BOXER and ISAKSON.

We don't have a lot to do this week, but it could take a lot of time. We have 2 days. It is Thursday. We need to finish Homeland Security appropriations. I had a conversation last night with Senator CORNYN. We were waiting to get his language yesterday when we were trying to work something out for funding for the border. He had it written out in longhand. Anyway, we don't have it yet, but I am sure we will get that soon. Maybe we can complete that with a unanimous consent. Senator VOINOVICH indicated he wished to speak on it for a while but not long. So we want to accommodate him.

So we want to finish the bill we are on, either today or tomorrow. The other thing we need to do is complete the conference report. I hope we don't have to file cloture on the Homeland Security appropriations bill, which I have said many times I don't want to do. It is an open process, where people can file amendments, and they have done that. We hope we don't have to file cloture also on the conference report. What I wish to do—and I indicated this on a number of occasions—is to be able to start SCHIP on Monday. It appears that is pretty well set, what would happen when we get to that bill. It is a bipartisan bill that would be brought to the floor. There are a number of Senators who have worked on a substitute—Senator KYL, among others. That substitute would certainly be the main topic of the debate. I am confident there will be some other amendments offered, but that is the main issue as to whether the substitute would pass.

So children's health, we need to do that next week. I hope we can start it on Monday. Then the only other thing we need to do is to complete ethics and lobbying reform. As I have indicated, I wish to start another appropriations bill, but that would not take a vote during this session, though we would move to it before we leave. We would only do WRDA, the conference report

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

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on WRDA. It is my understanding the conference is basically completed, but we would only move to that if Senators BOXER and INHOFE indicated they wanted us to do that. I understand they do. It has wide-ranging bipartisan support. But that wasn't in my original package and that will not hold us up. The only thing that will hold us up is the bill we are on now, SCHIP, 9/11 Commission recommendations and the ethics and lobbying reform. So I hope we can complete those things in a timely fashion, and I hope we don't have to work this weekend. If we do because of cloture votes, then we will schedule those according to whatever the standard procedure is.

RECOGNITION OF THE MINORITY LEADER

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

COMPLETING PENDING ITEMS

Mr. MCCONNELL. Mr. President, I would say to my friend the majority leader, I think there is a good chance of completing the work he outlined before the August recess. We will be working with him to try to move those items along.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the 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 60 minutes, equally divided, with Senators permitted to speak therein for up to 10 minutes each, with the first half of the time under the control of the majority and the second half of the time under the control of the Republicans.

The Senator from Maryland is recognized.

CAL RIPKEN, JR., HALL OF FAME INDUCTION

Ms. MIKULSKI. Mr. President, I rise with a great deal of joy and enthusiasm this morning, as the senior Senator from Maryland, to be a part of what all of Maryland is doing today. We are on the road to Cooperstown. We are literally in our cars or renting transportation to be heading to Cooperstown, and we are going to Cooperstown in our hearts, because on Sunday, our beloved all-around Marylander, all-around American hero, Cal Ripken, Jr. will be inducted into the Hall of Fame.

We are so excited about this because we want the world to know Cal Ripken as we know Cal Ripken. What a great guy. The world knows him as a fantastic baseball player, and he certainly is. I will go into his record in a minute. But he is also a fantastic human being, a devoted father, a faithful husband, a man of the community, giving his time and energy to philanthropic work. When we call him the ''Iron Man,'' he absolutely is.

Throughout his 21-year career, he has been the epitome of ''Iron Man,'' both on and off the field. I watched Cal going from being unknown to being the best known baseball player from Baltimore since Babe Ruth. I was there that last day at Memorial Stadium, when we closed the stadium down, and I was there on opening day at Camden Yards, and Cal was there, and I will watch him as he is inducted into the Hall of Fame. For we Oriole fans, it was never ''if'' Cal would go into the Hall of Fame, it was simply when.

Now, all baseball fans know about something called ''the streak.'' We remember the victory lap he took around Camden Yards on that very special night. As we were heading into that record-breaking, show-up-at-every-game Cal Ripken event, there was a countdown that was going on all over. At Camden Yards every day, they had the number when Cal would come out on the field. In my own office in the Hart Building, I had a great big banner for our own countdown.

There he was: 2,632 consecutive games. During that time, he hit 431 homeruns. He also started in 19 All-Star games. He won two American League Golden Glove awards, eight Silver Slugger awards, two American League Most Valuable Players, and the statistics go on.

But statistics don't tell the real Ripken story. We remember not the numbers, but we remember the man—the strong, dependable presence of Cal Ripken, Jr. Night after night, day after day, sometimes through injuries, through the wide range of emotions and pressures experienced as a major leaguer, at every game there he was: at third base, at shortstop, smiling at doing his job and doing it well.

I remember that fateful night when Cal broke the Lou Gehrig standing record. To see that banner drop from 2,130 to 2,131 and hear the admiration and the jubilation of the crowd in Baltimore is something I will always remember. The sustained cheers were never ending as Cal, urged by Rafael Palmeiro, took a lap around the field. It was a proud night for the Ripken family, for the Orioles, and for Maryland.

Mr. President, I wish you had been there that night. It was a magical night. Families came from all over to that game. Now, when I walked into Camden Yards, I thought maybe it would be a raucous night. Maybe it would be a spirit of New Year's Eve that we have in the Inner Harbor. But when you walked into Camden Yards, it was a quiet night. It was a respectful night. It had an air of great dignity. People were bringing their children. They had come from all over. They knew that something very special was going to happen because of a very special man. That evening had as much dignity as the player himself.

Cal's accomplishments transcend well beyond the baseball field. His character and demeanor are reflected in the successes he experiences every day on the field and off the field. He shows up and gives his maximum effort in every aspect. He puts his family above all. He is a community philanthropist and is committed to living something called the ''Ripken way.'' The Ripken way was something taught to him by his father, that very well-known baseball manager, Cal Ripken, Sr. Now, this Ripken way is something special. It isn't complex. Did the Ripkens hire a consultant or handlers to tell them about it? How did they do it? It came from their hearts, their experience, and their commitment to values.

The Ripken way is a value-driven leadership way. Its wisdom is to build great players and bind generations together. Here is what it is: No. 1, keep it simple. No. 2, explain the why of what you are doing to the people who are affected. Celebrate the individual. Make it fun and sweat those details and learn the little things so the big things can be done the right way. It emphasizes clarity, simplicity and, most of all, personal integrity.

I think the Ripken way is being used all over Maryland. It is used in our businesses and in our homes. It is in our hospitals, where Cal and his wife Kelly have contributed so much to children, and it is in our hearts today as we salute Cal Ripken and the wonderful honor he is receiving.

He applies the Ripken way on the ballfield and off the ballfield. He has established a foundation in his father's name: The Cal Ripken, Sr. Foundation, which helps young people learn not only baseball but the values of sportsmanship and the values of integrity, honor, and fidelity, the things that do build iron in your character. This is the legacy which shapes Cal's life, and so he wants to pass it on. Cal may be the local boy, but he is now an international hero.

There is no question that Cal has earned his way into the Hall of Fame. We congratulate him on his very stellar career. We so admire his work ethic and his commitment to community, to country, and for the well-deserved honor of being inducted into the Hall of Fame. While Cal has already achieved so much, I cannot help thinking about him that the best is yet to come.

On behalf of Senator CARDIN and myself, I will introduce to have referred to the appropriate committee a resolution commemorating Cal on his outstanding career in baseball and for his induction into the Hall of Fame.

Mr. President, these are tough times in the Senate. So when we can talk about something that really does deal with honor, fidelity, a commitment to

community, a commitment to country, and showing up every day and getting the job done, I think the way Cal would want us to tip our hats to him would be to step up to the plate and do our jobs and to do it the Ripken way. That is what I would like to do.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NELSON of Nebraska). Without objection, it is so ordered.

SENATE AGENDA

Mr. DURBIN. Mr. President, I understand there are only a few minutes remaining in morning business, which is our opportunity to talk about a wide range of topics. We have a lot of important business going on in the Senate. We have the Homeland Security appropriations bill, which we want to pass quickly to keep our Nation safe. Then we are going to turn to the 9/11 Commission recommendations. Most Americans recall after 9/11, we appointed a very good bipartisan group to come up with suggestions to make America safer. Unfortunately, those suggestions have not been acted on, and each year the commission gives the Government a failing grade when it comes to their compliance, so we want to change that situation. This year, with the new Congress, we passed the implementation of these recommendations and hope to bring those to the floor this week and have them enacted.

We also have pending major ethics reform. Most people are, unfortunately, inured to the prospect of stories of corruption in Washington. Some of the events that have happened over the last several years have been horrendous, leading to the prosecution of Members of Congress and many lobbyists in town. It is time to change that situation. We have a bill that will move us dramatically in the right direction, the most significant ethics reform in the history of Congress. It has been caught up in a lot of political debate and wrangling. Now is the time to move it forward, enact it into the rules, the law of the land, and apply it to the Senate and the House of Representatives.

Then next week comes a critically important bill. There are 47 million uninsured Americans, many of them children. Right now we have a program where we provide Federal funds to States so they can help us in insuring those children. We have about 6 million children who are now covered by this plan, kids who otherwise would not have health insurance.

Incidentally, most of them are children of parents who are working, who go to work every day. They are not poor enough to have the Government insure them, and they are not wealthy enough to insure themselves. They get caught in the middle. Six million children have protection today.

The program expires September 30. We want to make sure those kids are not left without coverage, and we have another 9 million children who are eligible who have not been brought in. The Senate Finance Committee is going to expand the number covered from 6 million to 9 million nationwide.

I wish we could do more. We should cover them all. Why wouldn't we as Americans want our kids to have basic health insurance protection? Unfortunately, even though our bill is bipartisan, it is reasonable, it is within our budget, the White House said the President will veto it. The President's reason for vetoing the children's health insurance bill? It is hard to believe, but he says it is unfair to private health insurance companies. Unfair to private health insurance companies? Most Americans understand that for most of those companies, each year means higher premiums and lower coverage, and many of those companies have failed to come forward to find ways to bring Americans into health insurance coverage. There are not going to be many tears shed for that industry. We should have our concern and focus on the children who are going to be left behind when it comes to health insurance if the President vetoes this bill.

Next week we will focus on that legislation. We will try to get down and pass this, get together with the House of Representatives, and send it to the President as quickly as possible.

In August, we have a 3- or 4-week recess, which I assume we will be taking most of, and then come back in September in the first week. There are a lot of appropriations bills to consider at that time. We will go back to the Defense authorization bill and a very important national debate on the war in Iraq. The administration promises us September 15 to give us a status report, as required by law.

Most of the indicators are that the violence continues in Iraq. The Government continues to disappoint us and, unfortunately, American deaths continue to mount. That debate in September is going to be a critical watershed debate. We need to have more Republican Senators cross the aisle and join us to call for a new policy in Iraq. So far 4 of the 49 Republicans have come to our side. We need 11. I urge my colleagues on both sides of the aisle to work for a cooperative bipartisan approach to a new direction in Iraq.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Texas.

IMMIGRATION

Mr. CORNYN. Mr. President, last evening the majority leader and I had an exchange on the Senate floor with regard to a proposed amendment by our side that would enhance Federal spending on border security measures and interior enforcement by $3 billion. While it is fair to say there was virtually universal support on this side of the aisle, there was some objection on the other side of the aisle, so that amendment was defeated.

Then the majority leader came back with a proposal that would strip some of the language from that amendment, but nevertheless would commit $3 billion to border security. I told the majority leader that I believed it should also include a way to spend that money not just on the border but also for interior enforcement of our immigration laws. In particular, I mentioned the sad phenomenon of roughly 600,000 absconders, people who have been ordered deported and who have simply gone underground rather than obey that lawful order from a court, or people who have actually been deported and then reentered the country after they have been deported. Both of those categories of individuals are known as absconders. They are, under the Immigration and Naturalization Act, felons.

I thought it was important that if we were going to be serious about enforcing our immigration laws we not just deal with the border, as important as that is, but we also deal with interior enforcement.

We were unable to reach an agreement last night, but I am pleased to say the majority leader was generous enough to call me last night and to tell me he wanted to look more closely at the language we had proposed. I take it from some of his remarks this morning on the floor that it is likely we will be able to reach some sort of agreement that will see those funds in this bill, $3 billion, where the Federal Government will finally do what it has advertised and promised to do for a long time, and that is to actually put the resources behind border security and enforcement of our immigration laws, rather than promise a lot and deliver very little.

I am grateful to the majority leader for working with me on that issue. I am hopeful Senator GRAHAM, who was the principal proponent of the border security amendment yesterday that I was proud to cosponsor, will be back here at 10:30 a.m. when we get back on the bill to talk about that amendment. I hope we can reach an agreement. It will go a long way toward beginning to regain the lost confidence and trust of the American people when it comes to our broken immigration system.

If there is one diagnosis I would make from our immigration debate over the last few weeks, it has been that people do not trust the Federal Government to actually do what it promises to do in this area. Where we have to start is on a firm foundation of border security and interior enforcement and from that build to a more comprehensive approach that deals with all aspects of the problem.

ACCESS TO QUALITY HEALTH CARE

Mr. CORNYN. Mr. President, I wish to talk about health care because we are going to be on this issue next week. It seems to me there are three things we all care deeply about in this country, no matter who we are or from where we come, and that is access to good quality education for all of our children, a job for people who want to work, and access to quality health care.

The fact is, in my State, unfortunately, we have a health care crisis because about 25 percent of the population in my State does not have health insurance. So where they go for their health care is to the emergency rooms of the local hospitals, and that creates a lot of problems because that is the most expensive health care, the emergency room. People who go to the emergency room for their primary health care, if it is not truly an emergency but they have nowhere else to go—and you can hardly blame them—what it does is causes a lot of emergency rooms to go on divert status, and so true emergencies have to go to a farther off location to get care, thus entailing some risk and potentially even loss of life as a result of the delays.

We have to tackle this problem. I know there are a lot of good ideas out there. We will be talking about some of those ideas next week when we talk about the reauthorization of the SCHIP program, the State Children's Health Insurance Program, that is important to my State and important to insuring children around the country.

The problem that has grown up in SCHIP is that, unfortunately, Congress's original intent to provide health insurance to low-income children, up to 200 percent of the poverty level, has simply been overtaken by some States. I believe it is a total of 14 States now that use that money, those Federal funds, Federal taxpayer funds, to actually insure adults, obviously not part of Congress's intent, which was to focus on low-income children.

Additionally, the original concept of SCHIP was dedicated to low-income children up to 200 percent of poverty level. We have seen proposals where some have said it ought to go up to as much as 400 percent of the poverty level, which, for a family of four, can mean an income over $80,000 a year and a mandate that SCHIP be used to provide health insurance for people with incomes in excess of $80,000 a year for a family of four.

The challenge I think we have is to make a decision between whether we are going to continue to encourage access to private health insurance, a market-driven response, or whether we are going to simply say the Federal Government is going to take this whole matter over and we are going to have a single-payer system, a national system for providing health care. That, to me, is a very important debate.

Frankly, from my standpoint, I believe every American needs the resources and the ability to purchase health insurance. I think going to a single-payer, Washington-controlled health care system is simply not the way to go. There are a number of ways we can approach this, and I hope this important debate we will have next week will address these issues.

I think we have to end Tax Code discrimination against those who cannot get health insurance through their employer by giving a tax break to every American so they can purchase their own health insurance. Part of the problem is, people are frequently bound to an employer. They are afraid to leave that employer lest they be precluded from getting another health insurance policy because of previous existing conditions. So many people simply lack the portability of their health insurance, the ability to take it from job to job. In effect, they are bound almost to the extent of involuntary servitude with their current employer. We have to change that by creating portability.

I think we need to give individuals the ability to take control of their health care needs and to continue to preserve something they think is very important, and that is the relationship between the patient and their health care provider, along with the freedom to choose what is in the best interest of that individual patient, rather than to have the Government determine for them what kind of health care they are going to get and perhaps ration it and create a huge, expensive bureaucracy to do so.

I also hope part of this debate on reauthorization of the State Children's Health Insurance Program will allow us to look at what the ultimate goals are of some of the proponents. One concern I have is that the dramatic expansion of funding proposed by the Finance Committee—in language we haven't yet seen—will be a precursor to one more incremental step to a Government-controlled, Washington-centered health care bureaucracy, and that will make it harder and harder for us to provide the opportunity for individuals to purchase their own health insurance, along with the right to choose.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CORNYN. Mr. President, parliamentary inquiry: My understanding was that you cited 30 minutes of morning business.

The PRESIDING OFFICER. There is a 10-minute time limit per Senator.

UNANIMOUS-CONSENT AGREEMENT—H.R. 2638

Mr. REID. Mr. President, I will just take a minute and then the Senator from Texas can speak. I told the Senator from South Carolina that I was going to make a unanimous-consent request.

I say to my friend from Texas, what a difference a night makes. As you know—as some know, not very many—Senator CORNYN and I, Senator GRAHAM, and a few others were trying to work something out on border security, and Senator CORNYN and I were the last two to speak on this issue. Like a lot of things around here, if you don't get your way, you kind of throw a tantrum a lot of times. I didn't get my way, so I thought I would throw just a little tantrum.

The evening has brought to my attention that I was wrong. Senator CORNYN was right. I hate to acknowledge that, but that is basically valid. Having said that, Mr. President, and swallowing a little bit of pride, which I shouldn't have had, I now ask unanimous consent that when the Senate resumes consideration of H.R. 2638 today—which will be in just a few minutes—the time until 11:35 a.m. be for debate with respect to the Graham-Pryor border security amendment—and that has the language of the Senator from Texas in it—I would interrupt and say that I have spoken to the distinguished Republican manager and told him I was going to offer this consent agreement—with the time divided as follows: 30 minutes under the control of Senator VOINOVICH and the remaining time equally divided and controlled between Senators GRAHAM and PRYOR or their designees; that no amendments be in order to the amendment prior to the vote; that upon yielding back of time, the Senate proceed to vote on the amendment, with no further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. COCHRAN. Reserving the right to object, and I do not intend to object, I want to be sure that there is consent on this side among those who are engaged in the debate, specifically the Senator from Texas and the Senator from South Carolina, so that they understand the proposed order and have no objections to it.

Mr. REID. Is our consent granted, Mr. President?

Mr. COCHRAN. We are getting his reaction to it.

Mr. CORNYN. Mr. President, I have no objection, and I appreciate the generous remarks of the majority leader and his willingness to work with Senator GRAHAM and me on this important issue.

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

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I ask unanimous consent that out of our allotted morning business time I be granted 5 more minutes, and then I will turn the floor over to my other colleagues who wish to speak.

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

Mr. CORNYN. I appreciate that, Mr. President.

Mr. President, one of the concerns I think many people have about the dramatic expansion proposed by the Senate Finance Committee's adding an additional $35 billion on top of the existing $25 billion commitment for State

health insurance plans in the SCHIP program is that it bears remarkable resemblance to a plan originally proposed by the health care task force of President Clinton, and particularly the one that has come to be known—and I don't know whether she takes pride in this title or is offended by it, and I certainly don't mean any offense, but sometimes known as Hillary Care.

This was a plan, as we will all recall, that grew out of a task force chaired by the then-First Lady which I think states very clearly its goal to start the role of Federal control of health coverage with kids first, or children, and then to add employer groups, individuals, and then Medicaid recipients. So that instead of the current 50 percent of health care in America today paid for by the Federal taxpayer and the Federal Government, it would grow to 100 percent, which would simply preclude any private marketplace and the individual choice that goes along with it for individuals.

Mr. President, just so you don't take my word for it and that it is made clear, I will offer from that task force report page 22, and I ask unanimous consent that it be printed in the record following my remarks.

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

(See exhibit 1.)

Mr. CORNYN. Clearly, in this document, you will see that it does say that this proposal phases in universal coverage starting with Kids First. It says Kids First is really a precursor to the new system, and then other populations it proposes to phase in are employer groups, individuals, Medicaid recipients, and the like.

So I think that is what a lot of us are concerned about. And perhaps Senator CLINTON, now that she is a Member of this body, will talk to us a little bit about it and what her intentions are, what the intentions of the proponents are of the Finance Committee bill because there are some very serious concerns.

I will yield in a moment to the Senator from South Carolina, who has been so active in this area, but I think, as he will explain, there are a lot of us who would like to see not just additional money being provided for children's health insurance but that literally we make as our goal to provide each and every American access to their own health insurance, along with the individual choice and the freedom and the portability that will provide.

I know the Senator from South Carolina has done an awful lot of work on it—I have learned a lot from him in this area—and I think it is an important time to start this critical debate, and not just stop with the expansion of the SCHIP program, but to seek as our goal to provide each and every individual access to health care coverage of their own choosing.

Mr. President, I thank the Chair, and I yield the floor.

EXHIBIT 1

OPTION 3: KIDS FIRST COVERAGE

Implementation Start: January 1, 1995.

Phase-in: By Population, Beginning with Children.

Universal Coverage Achieved by: January 1, 2000.

SUMMARY

This proposal phases in universal coverage, minimizes the financial burden of the program at the outset, and covers the most vulnerable of our citizens—children—as quickly as possible. Under this approach, health care reform is phased in by population, beginning with children. Other populations are phased in as follows: Employer Groups: July, 1997; Individuals: January, 1998; Medicaid: January, 2000.

States may be granted a grace period under certain circumstances.

This proposal is designed in two parts which will be implemented simultaneously:

I. The quick coverage of children—''Kids First''; and,

II. the development of structures for transitioning to the new system and the phasing in of certain population groups.

Part I, Kids First is really a precursor to the new system. It is intended to be free-standing and administratively simple, with States given broad flexibility in its design so that it can be easily folded into existing/future program structures. The Federal government, States, and the private sector will play a role in its implementation and financing.

Part II of this proposal involves the development of purchasing cooperative (PC) structures and the actual phase-in of all other population groups within the PC system.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, I thank the Senator from Texas for helping to start a very important national discussion about how we get every American insured. We can see in Washington, as we expand government health care, as we continue to expand unfunded liabilities into the future, and we add administrative costs, we are not covering people who need to be covered still.

When we look at our Tax Code and realize that there has been a lot of inequity there, that we are helping some buy health insurance but only if they work for the right employer, we need to look at being fair with our Tax Code and developing a policy that will help every American have a health policy they can own and afford and keep. We will be talking a lot more about health care later.

HOMELAND SECURITY APPROPRIATIONS

Mr. DEMINT. Mr. President, I wanted to talk about a couple of amendments that I have to the Homeland Security appropriations bill today. First, I would like to bring up the matter of security itself and how it affects our ports. Certainly, it is unfortunate that we have to be here once again to talk about threats to our homeland, but that is the reality we face today.

The amendment I am talking about now has been filed. It is amendment No. 2481. It will help us address some of the vulnerabilities and help secure the American people. This amendment, No. 2481, which I will bring up later today, prohibits the Department of Homeland Security from using any funds to remove items from the list of offenses that disqualifies individuals from receiving a transportation worker identification credential—what we call the TWIC card.

Mr. President, we can spend all the money in the world screening cargo and hiring security personnel, but if someone working in our seaports looks the other way when something dangerous enters our country, all of our spending and all of our work is for nothing. Serious felons are prime targets for those trying to smuggle a nuclear device or a chemical weapon into our country, and we must close that security gap.

My colleagues will no doubt recall that I have tried to address this issue two times in the past year, and both times my amendments received overwhelming support. Yet we have not yet seen a sufficient result from the effort to secure the American people's safety.

Last fall, the Senate accepted an amendment I offered to the SAFE Port Act to close this dangerous loophole by codifying the Department of Homeland Security's rules banning serious felons from gaining access to the secure areas of our Nation's ports. In effect, it would have prevented these felons from obtaining this TWIC card. It was a commonsense amendment, and I suspect that is why it was included in the Senate's bill, without any objection from any Senator here. Let me repeat. It was included in the SAFE Port Act without objection.

I also suspect that is why no Senator has come forward to this day to take credit for gutting the amendment when they went behind closed doors in a conference with the House. The amendment that left this body was a codification of disqualifying felonies, developed after an exhaustive process by the Department of Homeland Security, in consultation with the Departments of Justice and Transportation.

The offenses listed are very similar to those that have worked well to protect our airports and hazardous materials shipments for years.

Unfortunately, the provision that came back to this body after the conference committee was a list of offenses so short and rare that the TWIC restrictions offered by the so-called SAFE Port bill are essentially meaningless. The conference committee chose not to ban murderers, rapists, arsonists, smugglers, kidnappers, and hostage-takers from accessing the most secure areas of our Nation's ports. In short, they chose to override the expressed will of the Senate and make America less secure.

I trusted that Senators chosen to sit in conference with the House would act to protect items included by the Senate; especially those items with unanimous or near-unanimous consent in

this body that are critical to our homeland security.

But that trust was betrayed last fall, anonymously, behind closed doors.

It is not only those backroom deals that bring me here to offer this amendment today, but also the episode witnessed out in the open, on the Senate floor, during consideration of the 9/11 Commission bill in February of this year.

At that time, I again offered an amendment to codify the Department of Homeland Security's final rule on TWIC disqualifying offenses. But this time, I requested a rollcall vote, since the conferees clearly gave no regard to the unanimous voice of the Senate last fall.

This should have been another noncontroversial passage. However, knowing they would be forced to actually go on record this time around, a separate side-by-side amendment preferred by Democrats and, no doubt, their allies in the labor unions, was introduced. Its language was less restrictive, allowing the current or future DHS Secretary to modify—in other words, remove—disqualifying offenses on the list. It passed 58–37.

My amendment was voted on immediately after, and passed 94–2. An article in the Roll Call newspaper from July 9 recounted the episode:

> In February, 13 Democrats and Senator Bernie Sanders (I–Vt.) voted against an amendment offered by Senator Jim DeMint (R–S.C.) to prevent people convicted of terrorism or other felonies from getting access to secure areas of American seaports. But before the vote was over, they all switched to ''yea.''

What happened was Democrat leadership made it clear to their caucus that their version, allowing removal of felonies from the list, would replace my language in conference. My Democrat colleagues switched to supporting my version because they knew it was irrelevant; that it would be ''taken care of'' behind closed doors, just like last time. Again, the final vote in favor of my amendment was 94–2.

And it is not just the Senate that overwhelmingly supports my language. The House of Representatives, just last week, voted 354–66 to instruct conferees to include my language in the conference report.

The conference report for the 9/11 Commission bill is beginning to circulate, and I understand that the conference committee has now denied the will of the Senate and the House, by including language allowing the removal of serious felonies from the list of TWIC interim disqualifying offenses.

The language has been watered down to reopen loopholes allowing smugglers, arsonists, kidnappers, rapists, extortionists, and people convicted of bribery, money laundering, and hostage taking to obtain access to secure areas in our ports.

We have a chance now on this appropriations bill to ensure that whatever is done to weaken these provisions on the 9/11 Commission bill, that it will not have the effect of weakening our port security this year. We must not allow our constituents to be betrayed again by deals made in secret.

That is why I am offering this amendment. Again, it prohibits the Department of Homeland Security from using any funds we are appropriating in this Act to remove items from the list of offenses disqualifying individuals from receiving transportation worker identification credentials, also known as TWIC cards. I will ask my colleagues later in the day to support this amendment, and hopefully we will have a vote on it.

Mr. President, how much time is remaining on the minority side?

The PRESIDING OFFICER (Mr. TESTER). Eight minutes.

Mr. DEMINT. I would also like to address my amendment No. 2482.

This amendment would prevent the Government from shutting down when regular appropriations bills are not enacted. It would do so by automatically triggering a continuing resolution that funds agencies at current levels for up to 1 year. The amendment would begin automatic funding on the first day of a lapse in appropriations and it would end on the day the regular appropriations bill becomes law or the last day of the fiscal year, whichever comes first.

This would eliminate the must-pass nature associated with regular appropriations bills which often pressures lawmakers into accepting spending bills with objectionable spending.

The Democratic leader said at the beginning of the year that he would get all of the appropriations bills done before the end of the fiscal year, but there are only 2 months left and we have not completed a single bill. This means we are going to eventually be faced with having to pass a bad bill or alowing parts of the Government to shut down. I certainly don't support that and I know my colleagues do not either. This amendment will prevent that kind of train wreck from ever happening.

The President supports this amendment as I believe any President would because it prevents their administration from being shut down. His fiscal year 2008 budget says:

> In the 22 out of the past 25 years in which Congress has not finished appropriation bills by the October 1st deadline, it has funded the Government through ''continuing resolutions'' (CRs), which provide temporary funding authority for Government activities, usually at current levels, until the final appropriations bills are signed into law.
>
> If Congress does not pass a CR or the President does not sign it, the Federal Government must shut down. Important Government functions should not be held hostage simply because of an impasse over temporary funding bills. There should be a back-up plan to avoid the threat of a Government shutdown, although the expectation is that appropriations bills still would pass on time as the law requires. Under the Administration's proposal, if an appropriations bill is not signed by October 1 of the new fiscal year, funding would be automatically provided at the lower of the President's Budget or the prior year's level.

My amendment would create a safety net that would avoid crisis situations that often pressure lawmakers into supporting spending bills they would not otherwise support. This is a commonsense proposal and I encourage my colleagues to support it.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I notice the presence on the floor of the distinguished Senator from Ohio, who is under the order to have a specific amount of time for debate.

Mr. VOINOVICH. Mr. President, I thank the ranking member of the Homeland Security Appropriations Subcommittee for giving me this opportunity.

Yesterday, when I heard the Senate was considering passing an additional $3 billion in emergency spending to secure the border, I looked into the situation very carefully and calculated that, with the funding level the Homeland Security Appropriations Subcommittee recommended, we are already going to be increasing budget authority for border protection and enforcement by roughly 23 percent over fiscal year 2007. The President's budget had recommended $13.5 billion, an 11 percent increase in border protection budget authority over fiscal year 2007. The Appropriations Homeland Security Subcommittee, in their wisdom, decided to increase it by another $1.4 billion, which takes it to a 23 percent increase over fiscal year 2007. If the Graham amendment passes, we will have increased budget authority for this priority by almost 47 percent over what we appropriated last year.

I let the majority leader know that I objected to having this amendment for $3 billion in emergency spending considered by unanimous consent. I thank him for the opportunity to object to it on the basis of a unanimous consent, and I am pleased this will be scheduled for a rollcall vote, I believe at 11:30.

Mr. President, as a senior member of the Homeland Security and Governmental Affairs Committee, and former chairman and now ranking member of its Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia for the last 8 years, I rise today to speak against the proposal to allocate an additional $3 billion in emergency spending for the Department of Homeland Security.

First, I want to make clear that I agree with my colleagues that we must secure our border and provide the resources to do it. Had it not been for the fact that the previous administration and former Congresses failed to provide the money needed for border security, we would not have the illegal immigration problem now facing our country.

That being said, this administration has religion and in the past several years has taken seriously the need to

secure our borders. The President has recommended the funding necessary to get the job done.

Let me remind my colleagues that the Department's overall budget has grown more than 150 percent since the Department's creation merging 22 disparate agencies; while total homeland security spending has more than tripled since 2001. Of that total, border security and immigration enforcement represents approximately one-third of the Department's annual spending.

Since 2001, Congress has more than doubled funding for border security, from $4.6 billion in fiscal year 2001 to $10.4 billion in fiscal year 2007. Including the $14.9 billion recommended by the Appropriations Committee, this figure would jump to a more than 220-percent increase in border security spending since 2001.

Through the Secure Border Initiative, a comprehensive and multi-year strategic plan funded by Congress, the Department of Homeland Security is making substantial progress. I would like to take a moment to share with you the achievements to date.

The number of border patrol agents has already been increased by nearly 40 percent, from about 9,700 in 2001 to 13,360 today. Congress has appropriated funds to hire a total of 2,500 new agents this year, bringing the anticipated fiscal year 2007 year-end total to 14,819 agents. The fiscal year 2008 budget we are considering would provide funds for an additional 3,000 border patrol agents, bringing the fiscal year 2008 year-end total to nearly 18,000 border patrol agents. By the end of fiscal year 2008, we will have doubled the size of the border patrol since 2001.

As we continue to ramp up the number of border patrol agents, 6,000 National Guard personnel have been deployed to the Southwest border as part of Operation Jumpstart. These personnel continue to assist Customs and Border Protection's efforts to secure the border.

The Department of Homeland Security has already gained effective control of 380 miles on the southwest border, plans to achieve effective control of 642 miles by the end of calendar year 2008; and has a strategic plan in place to gain control over the entire southwest border by 2013.

The Federal Government has effectively ended the practice of ''catch and release'' through a combination of tough enforcement and increased detention capacity.

We have more than doubled the number of immigration investigators.

The Federal Government has increased detention bed space by 46 percent.

We would all like to see these efforts move more quickly, but the reality is that it takes time to build fences, it takes time to build radar towers, and it takes time to hire and train quality border patrol agents. The executive branch has made clear that border security is a high priority and has developed a strategic plan to accomplish these goals as quickly as realistically possible.

Today, while the Senate engages in debate, Customs and Border protectorate agents will apprehend roughly 2,617 people crossing illegally into the United States. Immigration and Customs enforcement personnel will house approximately 19,729 aliens in ICE detention facilities. The Federal Law Enforcement Training Center will train more than 3,500 Federal officers and agents. These daily statistics are further evidence that progress is being made.

I recall the February 2007 hearing before the Homeland Security and Governmental Affairs Committee when Secretary Chertoff presented his budget request for fiscal year 2008. The Secretary asked for $13 billion to strengthen border security and immigration enforcement.

In justifying the administration's request, I can assure you that Secretary Chertoff was quite clear that he took very seriously his responsibility to secure the border. His testimony detailed the progress he had made, while outlining the Department's multiyear strategic plan for continued improvements. In recognition of the challenge, the Secretary acknowledged that we still had a long way to go to objectively say to the American people that the border is secure. The amount recommended by the Senate Appropriations Committee in the base bill ensures these goals will be met.

The Appropriations Committee reviewed the Department's budget request and in its wisdom decided that the President may not have provided ample resources to the Department of Homeland Security. As a result, the Appropriations Committee recommended $1.4 billion above the President's request for border security and enforcement, at a total of $14.9 billion, which is a 23 percent increase over fiscal year 2007. If you include 3 billion more it will amount to a 47 percent increase.

I am confident that in addition to believing more money was needed for the Department, the Appropriations Committee wanted to send a signal to the American people that we have heard their cry to secure the border.

The Department of Homeland Security requested $35.5 billion for fiscal year 2008, but this bill provides $37.6 billion, more than $2.2 billion above what the Department says it needs. But now, the Senate is proposing to increase that amount by yet another $3 billion, so that the total budget authority would surpass $40 billion. Some Senators claim that this is OK because that $3 billion has been designated ''emergency spending,'' as if using the emergency label is like waving a magic wand so that it doesn't actually cost us anything. That is not true. At the end of the day, this amendment will increase the national debt by $3 billion, regardless of what label you put on it.

I might add that the President said he would veto this bill because it includes an ''irresponsible and excessive level of spending.'' Irresponsible and excessive—words we in Congress disregard too often. Obviously from his perspective, the $35.5 billion in net budget authority for fiscal year 2008 that Secretary Chertoff requested from Congress was what he felt was needed to fund the Department of Homeland Security and continue the efforts to secure the border. I know the President wants to assure the American people that he has moved with urgency to secure the border before he leaves office. Border security will indeed be part of this President's legacy.

In the simplest of terms, the Federal Government continues to spend more than it brings in, and both the amendment and the underlying bill continue that practice. Over my 8 years in the U.S. Senate, I have watched the national debt skyrocket 60 percent—from $5.6 trillion in 1999 to $9 trillion today.

No one talks about the national debt anymore. But running the credit card for today's needs and leaving the bill for future generations should not be the policy of the U.S. Congress. It represents a recklessness that threatens our economic security, our competitiveness in the global marketplace, and our future quality of life. If we decide we absolutely need to spend $3 billion on something—and I support adequately funding border security—then we need to either raise more revenue or cut other spending to pay for it. Simply adding it to the national debt makes our country less secure in the long run.

How does continuing to borrow and spend make us less secure? Today, 55 percent of the privately owned national debt is held by foreign creditors—mostly foreign central banks. That is up from 35 percent just 5 years ago. Foreign creditors provided more than 80 percent of the funds the United States has borrowed since 2001, according to the Wall Street Journal. And who are these foreign creditors?

According to the Treasury Department, the largest foreign holders of U.S. debt are Japan, China, and the oil-exporting countries known as OPEC. Borrowing hundreds of billions of dollars from China and OPEC puts not only our future economy, but also our national security, at risk. It is critical that we ensure that countries that hold our debt do not control our future.

Why are we taking the fiscally irresponsible act that will add to our unbalanced budget and national debt? I am glad that the administration and Congress have placed the needed focus on this important priority, but I want to ensure that we do not go too far in simply throwing money at this problem; money that cannot be effectively spent in fiscal year 2008—which begins in October.

This money is not needed in light of the money the Appropriations Committee has recommended, including the

$2.2 billion in additional spending over which the President has threatened a veto. The Department is already spending one-third of its budget on border security and immigration enforcement—a clear reflection of its priorities.

Next year, the Senate will review the President's budget request and the Appropriations Committee will recommend funding levels. If next year, we determine that more needs to be spent to continue to improve border security and enforcement, fine. But let's not simply toss an additional $3 billion out the window for fiscal year 2008.

I have the deepest respect for my colleagues, but I respectfully disagree on appropriating an additional $3 billion in emergency spending. They know and I know that the sole reason for appropriating these funds would be to convince the American people that Congress cares about securing the border—even though we know this additional spending exceeds what can possibly be spent in the 2008 fiscal year.

The question I ask is: How dumb do they think the American people are? Don't they realize that the American people will see through this charade and realize we are pulling a fast one on them?

How cynical can we be? The American people want us to work harder and smarter and do more with less and will be very angry that we are simply throwing money at a problem in a manner designed to make them feel good in the short term. This is the type of game playing that has caused our approval ratings to slump to all-time lows.

When something comes along that we decide we must spend more money on—and border security could very well be one of those things—then we need to be prepared to pay for that additional spending by either bringing in more revenues or cutting other spending. I ask my colleagues not to support this fiscally irresponsible act that will surely diminish our credibility with the American people.

I thank the ranking member of the Appropriations Subcommittee on Homeland Security for this opportunity. I hope some of my colleagues have an opportunity to understand why I think what we are doing here today is absolutely fiscally irresponsible. I am extremely pleased that this administration and this Congress is taking border security seriously. This attention is long overdue. I know all of us are trying to convey to the public that we are finally acting to secure the border. There is no one more ardent about that than I am. But let me remind my colleagues that the Department of Homeland Security has presented this Congress with a multiyear strategic plan for improving border security and enforcement, called the Secure Border Initiative. The Appropriations Subcommittee recommendations have fully funded the Department's request for what they believe they can accomplish in fiscal year 2008.

I have been on the Homeland Security and Governmental Affairs Committee since I came to the Senate. I was part of creating the Department of Homeland Security. I have spent many hours with Secretary Chertoff and other Department officials. I really believe the money that has been recommended by the Homeland Security Appropriations Subcommittee is adequate to get the job done during fiscal year 2008, in line with the Department's multiyear strategic plan. And we will reevaluate this situation for fiscal year 2009, and fiscal year 2010, and so on. But I do not think we should go through the charade of making the American people believe we are really sincere about securing the border by spending another $3 billion of emergency spending when the substantial funding that has already been recommended for fiscal year 2008 will get the job done.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I believe under the agreement the remaining time will be controlled by myself and the Senator from Arkansas; is that correct?

The PRESIDING OFFICER. The minority has 40 seconds remaining in morning business.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2008

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2638, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2638) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.

Pending:

Byrd/Cochran amendment No. 2383, in the nature of a substitute.

Landrieu amendment No. 2468 (to amendment No. 2383), to state the policy of the U.S. Government on the foremost objective of the United States in the global war on terror and in protecting the U.S. homeland and to appropriate additional sums for that purpose.

Grassley/Inhofe amendment No. 2444 (to amendment No. 2383), to provide that none of the funds made available under this act may be expended until the Secretary of Homeland Security certifies to Congress that all new hires by the Department of Homeland Security are verified through the basic pilot program authorized under section 401 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 or may be available to enter into a contract with a person, employer, or other entity that does not participate in such basic pilot program.

Cochran (for Alexander/Collins) amendment No. 2405 (to amendment No. 2383), to make $300 million available for grants to States to carry out the REAL ID Act of 2005.

Schumer amendment No. 2416 (to amendment No. 2383), to evaluate identification card technologies to determine the most appropriate technology for ensuring the optimal security, efficiency, privacy, and cost of passport cards.

Schumer amendment No. 2461 (to amendment No. 2383), to increase the amount provided for aviation security direction and enforcement.

Schumer amendment No. 2447 (to amendment No. 2383), to reserve $40 million of the amounts appropriated for the Domestic Nuclear Detection Office to support the implementation of the Securing the Cities Initiative at the level requested in the President's budget.

Schumer/Hutchison amendment No. 2448 (to amendment No. 2383), to increase the domestic supply of nurses and physical therapists.

Dole amendment No. 2462 (to amendment No. 2383), to require that not less than $5,400,000 of the amount appropriated to U.S. Immigration and Customs Enforcement be used to facilitate agreements described in section 287(g) of the Immigration and Nationality Act.

Dole amendment No. 2449 (to amendment No. 2383), to set aside $75 million of the funds appropriated for training, exercise, technical assistance, and other programs under the heading State and local programs for training consistent with section 287(g) of the Immigration and Nationality Act.

Cochran (for Grassley) amendment No. 2476 (to amendment No. 2383), to require the Secretary of Homeland Security to establish reasonable regulations relating to stored quantities of propane.

The PRESIDING OFFICER. Under the previous order, the time until 11:35 a.m. shall be for debate on the Graham-Pryor amendment, with 30 minutes under the control of the Senator from Ohio, Mr. VOINOVICH, and the remainder of the time equally divided and controlled by the Senator from South Carolina, Mr. GRAHAM, and the Senator from Arkansas, Mr. PRYOR.

The Senator from South Carolina is recognized.

AMENDMENT NO. 2480 TO AMENDMENT NO. 2483

Mr. GRAHAM. Mr. President, consistent with the unanimous consent agreement, we will be talking about an amendment that was discussed last night. Senator CORNYN had some language changes to the amendment that have now been adopted. I believe it makes it a much stronger, better amendment.

What we are trying to do here is add $3 billion to go toward securing the border, and I believe that is a homeland security event. So it is certainly an amount of money that is large in nature but goes to something that is large in nature in terms of our national security needs.

In terms of Senator VOINOVICH and his concerns about spending—I admire him greatly. He has been a constant, serious, thoughtful voice about controlling spending. This is an emergency designation, which means it is an off-budget item. I think Senator VOINOVICH has every right in the world to be concerned about how the Congress is spending money in a way for the next

generation to pick up the bill, but I would argue there is a time for emergencies in business life and personal life and legislative life, and this is one of those times.

This is an emergency kind of manufactured by Washington. It is something that should have been done 20 years ago. Now we have taken up immigration in a serious way. We had an extensive debate not long ago, and we were not able to get comprehensive immigration reform, but I think most Americans believe losing operational control of the U.S.-Mexican border is a national security issue of a serious nature, and they applaud our efforts to put money into securing the border between the United States and Mexico. That is exactly what this amendment does.

If there were ever a legitimate emergency in this country, I think this would be one of those times because we have lost control of our border. In the age of terrorism, what does it mean for a nation like the United States, which is being pursued by a vicious enemy that knows no boundaries, to lose control of its border?

It means that you are opening yourself up to attack. Now, most of the people who come across the border come here to work. This amendment does not deal with that. Hopefully, it will slow down how you get into the country. Hopefully, it will control who comes into the country—people coming to work illegally or people coming across the border to do us harm, it would make it more difficult.

But the idea of employment and the magnet of employment is not addressed by this amendment. We need a temporary worker program. We need employer verification systems so people cannot come here and fraudulently get jobs. That is not dealt with in this amendment. But this amendment is a great first step to controlling people coming across our border and overstaying their visas. I think it is a step that will get a large bipartisan vote.

What does it do? The $3 billion in emergency spending will allow us to hire 23,000 Border Patrol agents to go report for duty; more boots on the ground, more people patrolling our border making it harder for somebody to come across illegally. We should have done this a long time ago.

This amendment allows the hiring of a substantially larger number of Border Patrol agents, four unmanned aerial vehicles that will allow us to patrol isolated areas of the border by having new technology in place—the unmanned aerial vehicle has been a very effective tool in controlling illegal border crossings—one hundred and five ground-based radar and camera towers. We need walls along the border in urban areas where you can walk across the street, but technology in the desert and other areas of the border has proven to be a good investment. This amendment seriously increases the amount of technology to detect illegal border crossings; 300 miles of vehicle barriers, where people can drive up and down the border with vehicle lanes, where the Border Patrol can patrol that area in question and make it a more effective policing regime; 700 miles of border fence. We have approved the fencing. This would actually completely fund 700 miles of fencing. The border is, I believe, over 2,000 miles. Why 700 miles? Seven hundred miles would allow us to control crossings where you can literally walk across the street. The technology we are putting into place through this amendment will control other areas. The additional boots on the ground will help in all phases.

On the catch-and-release program, where you catch someone, turn them loose, and they come right back, well, we are trying to deal with that problem by increasing detention beds to 45,000, so when we catch someone, we can detain them and deport them—without them never showing up to their hearing.

The Cornyn addition will allow this $3 billion to be used in interior enforcement in a way to go after people who have absconded, who have been deported, who have been issued orders but have left and they are on the run. We can track them down and bring them to justice.

Overall, this amendment is money well spent. I am sorry it has to be spent in an emergency fashion, but it is an emergency. The reason this is an emergency, we have let it get out of hand. The goal of this amendment is operational control of the U.S.-Mexican border.

Mr. President, I call up amendment No. 2480 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself, Mr. ENZI, Mr. GREGG, Mr. MCCAIN, Mr. MARTINEZ, Mr. KYL, Mr. SUNUNU, and Mr. CORNYN, proposes an amendment numbered 2480 to amendment No. 2383.

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

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

The amendment is as follows:

At the end, add the following:

DIVISION B—BORDER SECURITY

TITLE X—BORDER SECURITY REQUIREMENTS

SEC. 1001. SHORT TITLE.

This division may be cited as the ''Border Security First Act of 2007''.

SEC. 1002. BORDER SECURITY REQUIREMENTS.

(a) REQUIREMENTS.—Not later than 2 years after the date of the enactment of this Act, the President shall ensure that the following are carried out:

(1) OPERATIONAL CONTROL OF THE INTERNATIONAL BORDER WITH MEXICO.—The Secretary of Homeland Security shall establish and demonstrate operational control of 100 percent of the international land border between the United States and Mexico, including the ability to monitor such border through available methods and technology.

(2) STAFF ENHANCEMENTS FOR BORDER PATROL.—The United States Customs and Border Protection Border Patrol shall hire, train, and report for duty 23,000 full-time agents.

(3) STRONG BORDER BARRIERS.—The United States Customs and Border Protection Border Patrol shall—

(A) install along the international land border between the United States and Mexico at least—

(i) 300 miles of vehicle barriers;

(ii) 700 linear miles of fencing as required by the Secure Fence Act of 2006 (Public Law 109–367), as amended by this Act; and

(iii) 105 ground-based radar and camera towers; and

(B) deploy for use along the international land border between the United States and Mexico 4 unmanned aerial vehicles, and the supporting systems for such vehicles.

(4) CATCH AND RETURN.—The Secretary of Homeland Security shall detain all removable aliens apprehended crossing the international land border between the United States and Mexico in violation of Federal or State law, except as specifically mandated by Federal or State law or humanitarian circumstances, and United States Immigration and Customs Enforcement shall have the resources to maintain this practice, including the resources necessary to detain up to 45,000 aliens per day on an annual basis.

(b) PRESIDENTIAL PROGRESS REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until the requirements under subsection (a) are met, the President shall submit a report to Congress detailing the progress made in funding, meeting, or otherwise satisfying each of the requirements described under paragraphs (1) through (4) of subsection (a), including detailing any contractual agreements reached to carry out such measures.

(2) PROGRESS NOT SUFFICIENT.—If the President determines that sufficient progress is not being made, the President shall include in the report required under paragraph (1) specific funding recommendations, authorization needed, or other actions that are or should be undertaken by the Secretary of Homeland Security.

SEC. 1003. APPROPRIATIONS FOR BORDER SECURITY.

There is hereby appropriated $3,000,000,000 to satisfy the requirements set out in section 1002(a) and, if any amount remains after satisfying such requirements, to achieve and maintain operational control over the international land and maritime borders of the United States, for employment eligibility verification improvements for increased removal and detention of visa overstays, criminal aliens, aliens who have illegally reentered the United States and for reimbursment of State and local section 287(g) expenses. These amounts are designated as an emergency requirement pursuant to section 204 of S. Con. Res. 21 (110th Congress).

Mr. GRAHAM. Mr. President, I ask unanimous consent to add Senator HUTCHISON as a cosponsor.

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

Mr. GRAHAM. I yield to Senator CORNYN to speak on this topic for 5 minutes.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I wish to express my gratitude to Senator

GRAHAM for his strong leadership on this issue. I know Senator PRYOR, on the other side of the aisle, is the principal Democratic cosponsor.

I concur with what Senator GRAHAM said. The necessity for this particular amendment is occasioned by the neglect of the Federal Government over the last 20 years at meeting its commitment to do whatever is necessary to keep the American people safe.

This has become, of course, a national focus in a post-9/11 world, when we have to know who is coming across our borders and what their intentions are. We cannot any longer assume people are coming across for benign reasons or are simply economic migrants because we know the same broken borders that allow a person to come across who wants to work in the United States can be exploited by human smugglers or drug traffickers and potentially even those who want to come here and commit acts of terrorism in the United States.

Yesterday, I made a part of the CONGRESSIONAL RECORD, by unanimous consent, the first of a four-part article written in the San Antonio Express News, documenting the movement of what are called special interest aliens; that is, individuals who are coming to America, from countries where terrorism is flourishing, through our broken southern border.

The particular story that is documented talks about a young Iraqi who traveled from Damascus, Syria, to Moscow, to Havana and then to Guatemala and then up through the southern border, our southern border with Mexico, into the United States. Thank goodness this individual did not appear to be committed to a life of terrorism, but it demonstrates the kind of vulnerability we have in this country, and it is important we do everything possible to protect it.

I am pleased with the majority leader's agreement to now allow us to include the use of these funds for interior enforcement because we know 45 percent of the illegal immigration in this country occurs not from people who violate the border but people who enter legally, then overstay and then go underground. So I am grateful to the majority leader and am pleased to support this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I come to the floor this morning to speak about amendment No. 2480, the Graham-Pryor amendment. Let me first say the legislation Senator GRAHAM and Senator PRYOR have brought to the floor this morning, in terms of an amendment, is essentially the same language and has the same legislative provisions we had in the comprehensive immigration reform package. They are good aspects of that legislation that allow us to move forward with securing and fixing our borders.

As we went through the immigration reform debate, we said we had to do three things: First, we needed to enforce and fix our borders; secondly, we needed to enforce our laws within our country; and, thirdly, we needed to figure out a realistic solution to the reality that we have 12 million undocumented workers who are here in this country today.

This amendment takes a part of those principal components and addresses it in a very effective way. Indeed, when you look through the language, what it does is it says we will hire 23,000 additional Border Patrol agents; we will have 4 unmanned aerial vehicles and 105 ground-based radar and camera towers; we will have 300 miles of vehicle barriers and 700 miles of fence; we will have a permanent end to the catch-and-release policy and additional funding to enhance employment verification; we will have increased removal and detention of visa overstays and reimbursement to State and local governments for immigration expenses.

So that all is good. It addresses one of the fundamental components of immigration reform. So I am supportive of what we are trying to do here. I do wish to let my good friend and colleague, Senator GRAHAM, and my good friend, Senator PRYOR, know that the concern I have with the amendment, notwithstanding the fact that I will support it, is that it is all focused on the southern border.

While it may be, and it is true our borders are broken, it is not just the border between Mexico and the United States that is broken. We have the same kinds of problems in our ports, we have the same kinds of problems along our northern border. This is, frankly, unfair in terms of focusing only on the Mexican border. We have to fix all our borders, not just the Mexican border.

So while I will be supporting this amendment, I also intend to offer another amendment that will address the other broken borders we have in our country because I think that is a way to be fair about it. It is the only way in which we will ultimately achieve the objective we have, which is dealing with the national security of the United States of America. You cannot have national security when you have broken borders.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I am very pleased that Senator GRAHAM and others have come together to increase and enhance our border security in this country. We all know in this Chamber we have tried very hard to reform our immigration system that we have on the books.

In fact, I have been very vocal saying I am for immigration reform. I think we need to do that. But so far we have not been able to get that done in the Senate. I believe, honestly, we need more involvement with the White House in trying to get that done.

But regardless of that, today one of the things that came through to me loudly and clearly from the people in Arkansas is we need to secure our border. People do not want to wait 2 years, 3 years, 5 years, whatever it may be, to have border security; they want us to start working on that now.

That is what we are trying to accomplish with this amendment today. Again, I am very pleased that Senator GRAHAM, a true South Carolina conservative Member of this body, someone whom we all respect, someone who, even though he has impeccable conservative and Republican credentials, is willing to reach across the aisle to work with others to try to get good things done for his State and for our country. He and Senator CORNYN of Texas and many others have worked on this issue. I am very pleased to be part of a bipartisan solution on border security.

One of the things I like about this legislation is it adds $3 billion for border security. That means we will get 23,000 additional full-time border agents, we will get new border-monitoring technology, we will get 300 miles of vehicle barriers, we will get 700 miles of fence. That is funded by this amendment. We will get 105 radar and camera towers, and we will get resources to detain an additional 45,000 illegal immigrations who are in this country right now.

It also includes money to help with some internal matters in this country, to help do some processing and look at employee issues and employer issues, et cetera.

This is a good amendment. I think one of the things I heard loudly and clearly from the immigration debates we had on the Senate floor was people in Arkansas want us to secure the border first, let's enforce the laws we have on the books. They have been on the books for a long time, and we have not done a very good job of enforcing those laws.

When I say ''we,'' I mean the administration. The will to try to enforce the laws we have on the books has not been there. I am not trying to point fingers. It is not only this administration; we can go back for a couple of decades.

Regardless of that, I am not trying to point fingers. Right now I want to look forward. I want to add to this amendment an additional $3 billion for border enforcement to enhance this Nation's security.

I encourage my colleagues to look at this, give it very strong consideration, and support this amendment. It is bipartisan. We have a number of Senators who were on it originally, a number more have been added as we go today. So I would, in closing, recommend to my colleagues that they give this very strong consideration. It will allow us to enforce the laws we have on the books, it allows us to enhance our border security in very real and very meaningful ways. I think it is what the American public wants.

I yield the floor and suggest the absence of a quorum and ask that the time be equally divided.

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

The bill clerk proceeded to call the roll.

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

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

Mr. MARTINEZ. Mr. President, I rise to speak on the border security amendment No. 2480. As the immigration bill came to a close, there was one thing that was very clear—there was unanimity and support for the issue of border security. The issue of protecting our border is one we all understand. The American people understand. It needs to be done. That was one of the many things that was in that bill that was undone that needed doing.

I believe today we do a great thing by moving this issue forward. We have a great threat of terrorism, the continued flow of illegal immigrants. We need to do all we can to secure our border.

This amendment will provide an increase in resources to improve our security by building our physical presence and surveillance on the border itself. It requires within 2 years of enactment that we secure operational control over the southern border between the United States and Mexico, and it allows the Border Patrol and U.S. Customs to hire and train and report for duty 23,000 full-time agents. I believe this is a step in the right direction. The United States, in addition to that, will deploy four unmanned aerial vehicles. These are essential for electronic surveillance in order to fully protect our southern border. In addition, the U.S. shall engage in the catch and return of illegal aliens. We know that a great many of those who are here illegally have simply overstayed their visas. This also permits interior enforcement in order to be able to be successful in implementing strong border and interior enforcement. Ninety days from enactment of this bill and every 90 days thereafter, the administration shall report to Congress on the progress. If the progress isn't on track, the report will include specific recommendations for fixing the problem. That is essential because for too long we have known we had a problem. We have thrown money at the problem, and the solutions have not always been what we wanted. Regardless of our position on the issue of immigration, all of us can coalesce around the idea that border security is essential to the rights of a sovereign nation. The deployment of additional border agents, the end of catch and release, the provision of additional space in beds, interior enforcement to ensure we can begin to move forward to ensure those who have overstayed their visas, we understand how that happens and we keep track of that, and not allow them to occur. It is all part of what we need to do in order to ensure we have a safe and secure country.

Giving the American people the security and understanding that the Government is serious about border enforcement and about interior security, we then will be able to move forward with phases of the immigration reform act that did not come to pass. There was a lack of credibility that our Government has with the people with respect to our seriousness of purpose in border enforcement. This amendment is a step forward. We are putting the dollars that it needs, in addition to the specific direction it ought to have, as well to ensure that we will have the kind of border security all Americans expect and want so that we can then move forward with the other phases of immigration reform that are so desperately needed.

I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The President pro tempore is recognized.

Mr. BYRD. I thank the Chair.

Mr. President, the Senate yesterday attempted to add $3 billion in emergency spending to secure our borders. I supported that effort. Unfortunately, rather than voting on the substance of the amendment, it was necessary for the Senate to vote on a procedural matter. In order to provide for the orderly processing of appropriations bills in the Senate, it was essential to vote to sustain the ruling of the Chair under rule XVI. However, I still believe it is important that we not miss this opportunity to provide robust funding to secure our borders and to enforce our immigration law. Therefore, I support the amendment providing $3 billion—that is $3 for every minute since Jesus Christ was born—get that, hear me, $3 for every minute since Jesus Christ was born—in emergency spending to hire, train, and equip Border Patrol agents and immigration enforcement officials, procure additional detention beds, expand our immigration enforcement efforts on the interior, construct border fencing infrastructure, and technology, and other steps to secure our borders.

This $3 billion will not be encumbered by controversial legislative and policy issues. Instead, it will be used in support of already authorized activities such as hiring Border Patrol agents, building fencing and other border technology, and enforcing the immigration laws already on the books.

Specifically, this amendment will hire, train, and equip at least 5,000 new Border Patrol agents, in addition to the 3,000 new agents funded in the underlying bill. It will procure more than 4,000 additional detention beds, in addition to the 4,000 new beds funded in the underlying bill. It will hire more than 1,000 new immigration investigators and detention and removal personnel to perform interior enforcement activities such as expanding the work site enforcement investigation. It will increase the number of Criminal Alien Program and Fugitive Operations teams to locate and remove the over 630,000 fugitive alien absconders whom a judge has already ordered to be removed. It provides an additional $1 billion for border fencing, infrastructure, and technology.

Finally, it provides funds to procure additional helicopters, fixed-wing aircraft, marine vessels, and other border surveillance equipment, as well as funds to construct additional border stations in which our Border Patrol agents work. This amendment is balanced, and it is focused on meeting the immediate border security needs while enforcing our current immigration law.

I urge my colleagues on my left and my colleagues on my right to support the amendment.

I thank all Senators, and I yield the floor.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GRAHAM. Mr. President, I understand Senator SESSIONS wishes to speak. He is on the way. As soon as he gets here, we will gladly yield back any time that is remaining. I wish to make a couple comments about the amendment.

No. 1, in terms of spending, it is one of those situations where the country finds itself in an emergency that maybe shouldn't have been an emergency to begin with because we have neglected our border security obligations.

I ask unanimous consent to add Senators SPECTER, COLEMAN, and LINCOLN as cosponsors of the amendment.

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

Mr. GRAHAM. We are where we are as a nation. We have a porous border. Every time a supplemental bill comes through on Iraq, it gets the votes from this body that it needs to become law, because all of us understand, whether we disagree with the policies in Iraq, that once the soldiers and warfighters are there, our troops are there, there are certain things that have to flow from their presence, and we designate a lot of money for the Iraqi operation as emergency spending; I believe rightfully so.

Well, I would argue to anybody, Republican or Democrat, that one of the big chinks in our national security armor is a porous border between the United States and Mexico, and this $3 billion will really help in a serious way. It is serious money to deal with a serious problem that is truly an emergency. It will add more boots on the

ground. It will add agents for there to be a total of 23,000 border security agents on the border, which is a tremendous increase over what we have now. I think it is like 13,000 or 14,000.

But the technology in this bill will be a force multiplier. The technology we spend money to secure will allow the force in place to be multiplied by a factor of many because the technology literally leverages the boots on the ground in a tremendous way.

The 45,000 additional bedspaces will stop a program that is really the wrong message to send—catch and release: We catch you. We release you back. You come again. Now we have bedspace to detain people to make sure they do not flee, and they are deported for coming across the borders illegally.

It is an effort to basically deal with a problem that has been a long time in the making. There is money that will have a beneficial consequence to securing our borders. The term ''operational control'' is a military term. I look at this effort to secure our borders in many ways as a military operation.

I hope this amendment gets a strong bipartisan vote. I understand Senator VOINOVICH's concern about the emergency designation in spending money offline, but this is one of those times I think it is justified.

To the administration, I understand your concerns about spending, but you have sent hundreds of millions of dollars in requests over—billions of dollars—to the Congress to make sure we have the money necessary to secure Iraq for our troops' point of view. Now it is time to spend $3 billion to secure our borders here at home.

I hope the body will understand this is a step forward. It does not solve the problem. We still have a magnet of employment that has to be dealt with. We need a temporary worker program. We need a lot of things this amendment does not cover. But this is a great start in providing operational security to a porous border that in the age of terrorism is really not only an emergency but a national disgrace.

I hope the taxpayers at large will see this as a serious effort to do something about a problem which has huge consequences over time if left unaddressed. So I appreciate Senator REID working with us and Senator CORNYN making it better and my good friend from Arkansas, Senator PRYOR, for helping us move the ball down the road.

If this bill ever gets to conference, which I hope it will, I hope this provision is left standing as is because if there is a retreat from this, from the money, and from the designations in this amendment, I think it would be considered a retreat in terms of regaining operational control of our borders.

So with that, I believe Senator PRYOR wishes to be recognized.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I ask unanimous consent to add Senator BYRD as a cosponsor to this amendment.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SALAZAR. 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. SALAZAR. Mr. President, I ask unanimous consent that I be added as a cosponsor to the Graham-Pryor amendment, which is currently the pending amendment.

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

The senior Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time in the quorum call be evenly divided.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. 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. CHAMBLISS. Mr. President, I rise in support of the Graham amendment to the Homeland Security appropriations bill. This is an issue which has been with us for years now, an issue of border security which we simply, as a group of policymakers, have not addressed in the right way. That became pretty obvious during our debate on the immigration bill several weeks ago. All of us heard from our constituents back home that while overall immigration reform may be needed in due course, what we need to do immediately is to take action to make sure our borders are, in fact, actually secure. That is the first step in real immigration reform.

Senator ISAKSON and I sent a letter to the administration imploring them to take action on this issue. We have asked the administration to send an emergency supplemental to the Senate and the House requesting that certain measures to secure our borders be enacted and adequately funded.

What Senator GRAHAM has done with this amendment is a step in the right direction toward ensuring that our borders—particularly our border to the south—are made secure.

I am a little bit disappointed we cannot go any further because what Senator ISAKSON and I have asked the administration to do in its supplemental request to this body would be to include the creation of a biometric identification card so all of those folks who cross the border in a legal way would have that identification card and any employer who sought to hire any of those individuals would know that they are here legally. If you hired them otherwise, it would be at your own peril.

There are some technical reasons why Senator GRAHAM could not add that provision in here. It is going to require more money, No. 1, plus some other issues regarding the rules of this body. So I am hopeful that there are some additional measures we will take up after we, hopefully, adopt this amendment overwhelmingly, get this bill into conference, out of conference, and on the desk of the President.

So I applaud my colleague from South Carolina, as well as Senator PRYOR, who I know has worked very hard on this particular measure. This amendment does many of the things Senator ISAKSON and I have asked for, and we are very hopeful this will get to the desk of the President immediately. This will answer one of those questions a lot of us heard during the immigration debate from our constituents; that is, why don't you enforce the laws that are on the books today? Well, here is the answer: We do not have the money to do it. This will give us the money to do some of those things.

So I urge all of my colleagues to look very favorably on this amendment. Let's take the first right step to secure the borders. Then we can come back and deal with the overall remaining immigration issues that are outstanding.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I ask unanimous consent that Senators LINCOLN, BAUCUS, and WEBB be added as cosponsors to this amendment.

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

The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I think the Senator from New Hampshire and the Senator from Alabama would like to speak. We have until 11:35.

I ask the Senator from New Hampshire, would you like 5 minutes?

Mr. GREGG. Thank you.

Mr. GRAHAM. To be followed by the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama and the Senator from New Hampshire have a total of 7 minutes 40 seconds.

Mr. GRAHAM. Mr. President, I ask unanimous consent that it be evenly divided.

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

The Senator from New Hampshire.

Mr. GREGG. Mr. President, I congratulate the Senator from South Carolina for reaching this understanding on how to proceed relative to making sure our borders are secure.

The language in this amendment, which adds a significant amount of money to support the expansion of the boots on the ground and the technology on the border, is critical to the

first step—which has been related here by a number of individuals—of securing the border as part of our effort to get comprehensive immigration reform.

I think we all understand the American people are asking the question, Why isn't the border secure? This has been an effort that has been ongoing for a number of years now, to make the border secure. But this amendment we are taking up now would be the final downpayment on what is necessary to accomplish that goal.

We know what we need in order to secure the border. It is more border agents, it is more physical fencing but a lot more virtual fencing, it is more detention beds, and it is more ICE agents. It is also necessary to have in place the law these individuals need in order to enforce the border and pursue people who come into this country illegally and who may be inappropriately here and who are committing crimes here. Unfortunately, that language was not included in this amendment. That language was stripped out yesterday. But still, getting the resources in place in order to support the border is the first critical step, and this bill does that.

I have been working on this issue for a long time, both as past chairman of the Homeland Security Appropriations Subcommittee and as past chairman of the Commerce, State, Justice Appropriations Subcommittee in the Appropriations Committee, as have Senator COCHRAN and Senator BYRD. There has been a strong commitment on the part of the Appropriations Committee to accomplish these goals. But there has always been additional resources needed in order to fully fund border security. Now, with this amendment, we will actually put in place those additional resources.

I congratulate the Senator from South Carolina for bringing this process to closure. I congratulate the majority leader for reaching a consensus here that could be bipartisan. As Senator MCCONNELL said last night, this is a positive, bipartisan effort to try to step forward on one of the most critical issues we have as a nation, which is making sure the people who come into this country come into the country legally.

So it is the end of a long road, quite honestly, relative to the responsibility of Congress. We will now have put in place the necessary resources to secure the border. The question now becomes whether those resources will be effectively used. Certainly, we will have to use all our oversight capability to ensure that occurs, but at least we have addressed our responsibility of making sure the funds are there to support the necessary additional boots on the ground, the additional expansion of security along the border in the form of virtual fencing and in the form of physical fencing, and the additional detention beds necessary to make sure that when someone is apprehended for coming into the country illegally, they are not simply set off on their own recognizance to appear in court someday but are actually restrained in a place so they can be returned back to the nation they came from in an orderly manner, which is critical.

So this is a good bill and good language. I am glad we are making this progress on it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, the requirements of fencing, additional Border Patrol agents, bedspaces for those who have been detained who come here illegally are not there as an end in themselves. Our goal—our real goal—must be to create a change in the mindset of what is happening at the border, to reach that tipping point in which the world knows our borders are not wide open, that it is exceedingly difficult to penetrate them illegally and they are unlikely to be successful. As a result, we can move from the current situation—in which over a million people last year were arrested coming into our country illegally—and see those numbers drop off, to reach that tipping point, where the world knows that border is not open.

We have talked about it for all the 10 years since I have been in the Senate. Presidents have talked about it. They have campaigned on it. Members have talked about it. But we have not done anything about it. That is why the American people are not happy with us.

So I think this legislation will do some things of significance. It will fund 700 miles at the border and complete that process. Why it has taken as long as it has I am not sure, but work is being done right now, although not a lot has been accomplished so far. I am told that pretty soon we will see the fencing come up that we have authorized and that the work is continuing on. So it will be 700 miles. That is really progress, I have to say, but it is not the final installment. We are going to have to do more in the years to come. It is actual fencing, plus virtual fencing also.

So I am pleased we have made a concrete step forward with this funding. It will allow us, if the executive branch uses it wisely, to transform in a significant way the open border system we now have to a lawful system. That would be good for America in terms of creating a lawful system of immigration, and it will be good for the people who send us their money and expect us to do what we promise to do and that we actually get serious about it and start taking steps in that direction.

With regard to fencing, other countries use fencing significantly. Spain is constructing quite a lot of fencing on their African border. Other countries are doing so in the EU. Hong Kong has a border situation that they have dealt with through fencing. It is not anything unusual. It is the normal course when you have a wide open border because what happens is, a fence will multiply many times the effectiveness of a Border Patrol officer.

I ask my colleagues how you would be able to control hundreds of miles of border if you are just standing out there by yourself. If the person trying to come in knows they have to cross a fence, they will have a much harder time and be much easier to apprehend.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I would like to pick up on some of the comments my colleagues on the Republican side have made on this amendment. One of the things Senator SESSIONS just mentioned is that this is a concrete proposal. I know he didn't intend the play on words, but this is concrete. We are talking about adding real border enforcement. It is real. It is bricks and mortar. It is physical barriers. It will definitely slow the influx of people coming into this country who are not playing by the rules.

Again, I want to thank my colleagues, both Democrats and Republicans. We have been adding cosponsors this morning to this legislation. I want to thank all of my colleagues who participated. I need to give a special thanks to Senator HARRY REID who helped pull this amendment together. To put $3 billion on border enforcement on the Homeland Security appropriations makes perfect sense. It makes perfect sense in terms of good government, and it makes perfect sense to the people all across this Nation.

One of the messages I heard loudly and clearly during the immigration debate which we finished a few weeks ago is, people want more border enforcement. They want the U.S. Government to secure our border. There is no doubt about that; this is something the Federal Government has failed to do or has been pretty lax in trying to do over the last several years. Again, this didn't start with the Bush administration. I think it has probably gotten worse during this time, but it goes back several administrations. I am not here to point fingers today.

By voting for this amendment today, Senators would add 23,000 additional full-time border agents. We would add new border monitoring technology. We would add 300 miles of vehicle barriers, 700 miles of fence, 105 radar and camera towers. We would add resources to detain 45,000 illegal immigrants.

So this is, as Senator SESSIONS said, a concrete step in the right direction. This is good public policy. I know we have broad bipartisan support for this legislation. I want to thank my colleagues for giving this strong consideration, and I ask that they look at this legislation before we vote in just a few minutes.

Before I sit down, I ask unanimous consent that Senator LANDRIEU and

Senator MCCASKILL be added as cosponsors to this amendment.

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

The Senator from South Carolina is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to add as cosponsors Senators ALEXANDER, DOLE, DOMENICI, and VITTER.

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

The Senator from Alabama is recognized.

Mr. SESSIONS. Would the Senator add me as a cosponsor?

Mr. GRAHAM. Absolutely. The Senator from Alabama, Mr. SESSIONS, and Senator COBURN from Oklahoma also.

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

Mr. GRAHAM. Mr. President, I would like to thank my good friend from Arkansas. It has been a pleasure working with him and all of my colleagues. Senator GREGG has been working on this issue for many years. Senator CORNYN's addition to the amendment last night has made it far better. If no one else would like to speak——

Mr. PRYOR. Mr. President, I ask unanimous consent to add Senator FEINSTEIN as a cosponsor of this amendment.

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

All time has expired.

The question is on agreeing to the Graham amendment No. 2480.

Mrs. MURRAY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from North Dakota (Mr. CONRAD), the Senator from Connecticut (Mr. DODD), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. JOHNSON), the Senator from Illinois (Mr. OBAMA), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. CONRAD), and the Senator from Oregon (Mr. WYDEN) would each vote ''yea.''

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Minnesota (Mr. COLEMAN), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted ''yea.''

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

The result was announced—yeas 89, nays 1, as follows:

[Rollcall Vote No. 278 Leg.]

YEAS—89

Akaka	Domenici	McCaskill
Alexander	Dorgan	McConnell
Allard	Durbin	Menendez
Barrasso	Ensign	Mikulski
Baucus	Enzi	Murkowski
Bayh	Feingold	Murray
Bennett	Feinstein	Nelson (FL)
Biden	Graham	Nelson (NE)
Bingaman	Grassley	Pryor
Bond	Gregg	Reed
Boxer	Hagel	Reid
Brown	Harkin	Roberts
Bunning	Hatch	Rockefeller
Burr	Hutchison	Salazar
Byrd	Inhofe	Sanders
Cantwell	Isakson	Schumer
Cardin	Kennedy	Sessions
Carper	Kerry	Shelby
Casey	Klobuchar	Smith
Chambliss	Kohl	Snowe
Clinton	Kyl	Specter
Coburn	Landrieu	Stabenow
Cochran	Lautenberg	Sununu
Collins	Leahy	Tester
Corker	Levin	Thune
Cornyn	Lieberman	Vitter
Craig	Lincoln	Warner
Crapo	Lott	Webb
DeMint	Lugar	Whitehouse
Dole	Martinez	

NAYS—1

Voinovich

NOT VOTING—10

Brownback	Inouye	Stevens
Coleman	Johnson	Wyden
Conrad	McCain	
Dodd	Obama	

The amendment (No. 2480) was agreed to.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. TESTER). The Senator from Vermont is recognized.

SUBPOENAS ISSUED

Mr. LEAHY. Mr. President, today the Senate Judiciary Committee is issuing subpoenas to political operatives at the White House for documents and testimony related to the committee's ongoing investigation into the mass firings of U.S. attorneys and the politicization of hiring and firing within the Department of Justice. This is not a step I take lightly. For over 4 months I have exhausted every avenue seeking the voluntary cooperation of Karl Rove and J. Scott Jennings but to no avail. They and the White House have stonewalled every request. Indeed, the White House is choosing to withhold documents and is instructing witnesses who are former officials—not current officials but former officials—to refuse to answer questions and provide relevant information and documents.

We have now reached a point where accumulated evidence shows that political considerations factored into the unprecedented firing of at least nine U.S. attorneys last year. Testimony and documents show that the list was compiled based on input from the highest political ranks in the White House, including Mr. Rove and Mr. Jennings. And today I will subpoena Mr. Rove and Mr. Jennings. The evidence shows that senior officials were apparently focused on the political impact of Federal prosecutions and whether Federal prosecutors were doing enough to bring partisan voter fraud and corruption cases. It is obvious that the reasons given for these firings were contrived as part of a coverup and that the stonewalling by the White House is part and parcel of that same effort. Just this week, during his sworn testimony, Mr. Gonzales contrasted these firings with the replacement of other U.S. attorneys for ''legitimate cause.''

The White House has asserted blanket claims of executive privilege, despite testimony under oath and on the record that the President was not involved. The White House refuses to provide a factual basis for its blanket claims. The White House has instructed former White House officials not to testify about what they know and instructed Harriet Miers to refuse even to appear as required by a House Judiciary Committee subpoena. The White House has withheld relevant documents and instructed other witnesses not to produce relevant documents to the Congress but only to the White House.

Last week, the White House did much to substantiate the evidence that it is intent on reducing U.S. attorneys and Federal law enforcement to merely another partisan political aspect of its efforts when it dispatched an anonymous senior official to take the position that the U.S. attorney for the District of Columbia would not be permitted to follow the statutory mechanism to test White House assertions of executive privilege by prosecuting contempt of Congress. In essence, this White House asserts its claim of privilege is the final word, that Congress may not review it, that no court can review it and that this White House, unlike any White House in history, is above the law.

Two days ago, during an oversight hearing with Mr. Gonzales, the senior Senator from Pennsylvania, the ranking Republican on the Senate Judiciary Committee, rightly asked:

> Mr. Attorney General, do you think constitutional government in the United States can survive if the President has unilateral authority to reject congressional inquiries on grounds of executive privilege and the President then acts to bar the Congress from getting a judicial determination as to whether that executive privilege is properly invoked?

There can be no more conclusive demonstration of this administration's partisan intervention in Federal law enforcement than if this administration were to instruct the Justice Department not to pursue congressional contempt citations and intervene to prevent a U.S. attorney from fulfilling his sworn constitutional duty. In other words, telling the U.S. attorney: Violate your oath of office; don't carry out your sworn constitutional duty to faithfully execute the laws and proceed pursuant to section 194 of title 2 of the United States Code. The President recently abused the pardon power to forestall Scooter Libby from ever serving a

single day of his 30-month sentence for conviction before a jury on multiple counts of perjury, lying to a grand jury, and obstruction of justice. Stonewalling this congressional investigation is further demonstration that this administration refuses to abide by the rule of law.

This stonewalling is a dramatic break from the practices of every administration since World War II in responding to congressional oversight. In that time, Presidential advisers have testified before congressional committees 74 times voluntarily or compelled by subpoenas. During the Clinton administration, White House and administration advisers were routinely subpoenaed for documents or to appear before Congress. For example, in 1996 alone, the House Government Reform Committee issued at least 27 subpoenas to White House advisers. The veil of secrecy this administration has pulled over the White House is unprecedented and damaging to the tradition of open government by and for the people that has been a hallmark of the Republic.

The investigation into the firing for partisan purposes of U.S. attorneys, who had been appointed by this President, along with an ever-growing series of controversies and scandals have revealed an administration driven by a vision of an all-powerful Executive over our constitutional system of checks and balances, one that values loyalty over judgment, secrecy over openness, and ideology over competence.

What the White House stonewalling is preventing is conclusive evidence of who made the decisions to fire these Federal prosecutors. We know from the testimony that it was not the President. Everyone who has testified has said that he was not involved. None of the senior officials at the Department of Justice could testify how people were added to the list or the real reasons that people were included among the Federal prosecutors to be replaced. Indeed, the evidence we have been able to collect points to Karl Rove and the political operatives at the White House.

A former political director at the White House made a revealing admission in her recent testimony before the Senate Judiciary Committee when she refused to answer questions citing the oath she took to the President. In this constitutional democracy, the oath taken by public officials is to the Constitution, not any particular President of any particular party. The Constitution itself provides the oath of office of the President. Every President since George Washington has shown to ''preserve, protect and defend the Constitution of the United States.'' The oath for other Federal official is prescribed by Congress through statute and provides that every Federal officer's duty is not to support and defend any particular President or administration but ''to support and defend the Constitution of the United States'' and ''to bear true faith and allegiance'' to our founding principles and law.

Mr. BYRD. Mr. President, may we have order so that the Senator can be heard?

The PRESIDING OFFICER. May we have order? Take conversations outside the Chamber, please.

Mr. BYRD. I hope the Senator will say that again.

Mr. LEAHY. I will. The witness testified that she had taken an oath to the President. I reminded her the oath is to the Constitution, not to any particular President.

Mr. BYRD. Yes.

Mr. LEAHY. The distinguished Senator from West Virginia, the constitutional authority in this body, knows that every President since George Washington has sworn to preserve, protect, and defend the Constitution of the United States.

Mr. BYRD. Yes.

Mr. LEAHY. '' . . . to support and defend the Constitution of the United States'' and ''to bear truth fair and allegiance'' to our founding principles and law, not to a particular political party or to a President.

I pointed out to Ms. Taylor that the oath I have been privileged to take as a U.S. Senator is likewise to the Constitution. I proudly represent the people of Vermont. I know it is a privilege to serve as a temporary steward of the Constitution and the values and protections for the rights and liberties of the American people that it embodies. My oath is not to a political party and not even to the great institution of the U.S. Senate but to the Constitution and the rule of law. As a former prosecutor, I feel strongly that independent law enforcement is an essential component of our democratic government, and that no one is above the law.

Despite the constitutional duty of all members of the executive branch to ''take Care that the Laws be faithfully executed,'' the message from this White House is that the President, Vice President, and their loyal aides are above the law. No check. No balance. No accountability.

The law says otherwise. The criminal contempt statute, 2 U.S.C. § 194, provides that if a House of Congress certifies a contempt citation, the U.S. attorney to whom it is sent has a ''duty'' and ''shall'' ''bring it before the grand jury for its action.'' For this White House to threaten to intervene in an effort to preempt further investigation, cover up the truth and avoid accountability is an insult to the rule of law. This law was duly passed by both Houses of Congress and signed by a duly elected President of the United States. It is derived from law that has been on the books since 1857, for 150 years.

The Bush-Cheney White House continues to place great strains on our constitutional system of checks and balances. Not since the darkest days of the Nixon administration have we seen efforts to corrupt federal law enforcement for partisan political gain and such efforts to avoid accountability.

Given the stonewalling by this White House, the American people are left to wonder: What is it that the White House is so desperate to hide? As more and more stories leak out about the involvement of Karl Rove and his political team in political briefings of what should be nonpartisan government offices, I think we have a better sense of what they are trying to hide. We have learned of political briefings at over 20 government agencies, including briefings attended by Justice Department officials. This week, the news was that Mr. Rove briefed diplomats on vulnerable Democratic districts before midterm elections. Why, Senator WHITEHOUSE properly asked at our hearing yesterday, were members of our foreign service being briefed on domestic political contests? Mr. Gonzales had no answer. Similarly, why were political operatives giving such briefings to the Government Services Administration, which rents government property and buys supplies? In her testimony before the Senate Judiciary Committee, the former political director at the White House ultimately had to concede that her briefings included specific political races and particular candidates being targeted.

In this context, is anyone surprised that the evidence in our investigation of the firings of U.S. attorneys for political purposes points to Mr. Rove and his political operations in the White House? Despite the initial White House denials, Mr. Rove's involvement in these firings is indicated by the Department of Justice documents we have obtained and from the testimony of high-ranking Department officials. This evidence shows that he was involved from the beginning in plans to remove U.S. attorneys. E-mails show that Mr. Rove initiated inquiries at least by the beginning of 2005 as to how to proceed regarding the dismissal and replacement of U.S. attorneys. The evidence also shows that he raised political concerns, including those of New Mexico Republican leaders, about New Mexico U.S. Attorney David Iglesias that may have led to his dismissal. He was fired a few weeks after Mr. Rove complained to the Attorney General about the lack of purported ''voter fraud'' enforcement cases in his jurisdiction.

We have learned that Mr. Rove raised similar concerns with the Attorney General about prosecutors not aggressively pursuing voter fraud cases in several districts and that prior to the 2006 mid-term election he sent the Attorney General's chief of staff a packet of information containing a 30-page report concerning voting in Wisconsin in 2004. This evidence points to his role and the role of those in his office in removing or trying to remove prosecutors not considered sufficiently loyal to Republican electoral prospects. Such manipulation shows corruption of Federal law enforcement for partisan political purposes.

Documents and testimony also show that Mr. Rove had a role in the shaping the administration's response to congressional inquiries into these dismissals, which led to inaccurate and misleading testimony to Congress and statements to the public. This response included an attempt to cover up the role that he and other White House officials played in the firings.

Despite the stonewalling and obstruction, we have learned that Todd Graves, U.S. attorney in the Western District of Missouri, was fired after he expressed reservations about a lawsuit that would have stripped many African-American voters from the rolls in Missouri. When the Attorney General replaced Mr. Graves with Bradley Schlozman, the person pushing the lawsuit, that case was filed and ultimately thrown out of court. Once in place in Missouri though, Mr. Schlozman also brought indictments on the eve of a closely contested election, despite the Justice Department policy not to do so. This is what happens when a responsible prosecutor is replaced by a ''loyal Bushie'' for partisan, political purposes.

Mr. Schlozman also bragged about hiring ideological soulmates. Monica Goodling likewise admitted ''crossing the line'' when she used a political litmus test for career prosecutors and immigration judges. Rather than keep Federal law enforcement above politics, this administration is more intent on placing its actions above the law.

The Senator from Washington has been very good to let me have this time. With our service of these subpoenas, I hope that the White House takes this opportunity to reconsider its blanket claim of executive privilege, especially in light of the testimony that President was not involved in the dismissals of these U.S. attorneys. I hope that the White House steps back from this constitutional crisis of its own making so that we can begin to repair the damage done by its untoward interference with federal law enforcement. That interference has threatened our elections and seriously undercut the American people's confidence in the independence and evenhandedness of law enforcement. Mr. Rove and the White House must not be allowed to continue manipulating our justice system to pursue a partisan political agenda. Apparently, this White House would rather precipitate an unnecessary constitutional confrontation than do what every other administration has done and find an accommodation with the Congress. If there are any cooler or wiser heads at the White House, I urge them to reconsider the course they have chosen.

There is a cloud over this White House and a gathering storm. I hope they will reconsider their course and end their cover up so that we can move forward together to repair the damage done to the Department of Justice and the American people's trust and confidence in Federal law enforcement.

Mr. MCCONNELL addressed the Chair.

Mr. CONRAD. Mr. President, on a matter of personal privilege.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I ask for one moment, I say to the leader.

EXPLANATION FOR NOT VOTING

Mr. CONRAD. Mr. President, I want to indicate that on the last vote, Senator WYDEN and I were in the Budget Committee on the confirmation hearing of Mr. Nussle. We called over to ask that the vote be held so that we could come to the floor and cast our votes. If I had been here, my vote would have been ''yea'' on the Graham amendment. I want the RECORD to reflect that fact. Senator WYDEN should also be recognized for a similar purpose.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, on a matter of personal privilege, I associate myself with the remarks of Senator CONRAD. I will be very brief.

We were in the middle of critical issues. I was asking about a program that is a lifeline to the rural West, the county payments program where the administration is trying to change 100 years of history, and on a bipartisan basis the Senate indicated it wants to oppose that program.

Had I been here, I would have, as Senator CONRAD, voted for that measure, strongly supporting efforts to strengthen border security.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that I be able to proceed for a few moments as in morning business.

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

The Senator from West Virginia objects?

Mr. BYRD. Mr. President, will the distinguished Senator yield just for a second? The Senator said ''for a few moments.'' How long is that?

Mr. MCCONNELL. Probably about 5 minutes.

Mr. BYRD. That is fine. I have no objection.

The PRESIDING OFFICER. The Republican leader.

CONDOLENCES TO SENATOR NORM COLEMAN AND FAMILY

Mr. MCCONNELL. Mr. President, let me notify all Members of the Senate that Senator NORM COLEMAN's father passed away this morning. Therefore, he missed the vote that we just had and will be missing votes for the remainder of this week. I know I speak for all Members of the Senate in sending our condolences to Senator COLEMAN and his family at this very sad time. We look forward to having him back in the Senate in due time.

NOMINATION OF JUDGE LESLIE SOUTHWICK

Mr. MCCONNELL. Mr. President, I wish to make a few observations about the nomination of Judge Leslie Southwick to the Fifth Circuit Court of Appeals. Over the past few days, members of the Democratic leadership have commented about Judge Southwick's nomination. These comments have, in my view, mischaracterized his record and his service to the people of his State. Worse still, some of our Democratic colleagues have made insinuations about the commitment of this fine man to the principle of equal justice for all. These gross insinuations are, of course, at odds with the views of his peers and his home State Senators, both of whom actually know him.

So over the next several days, we will continue to set the record straight, as the ranking member did so ably yesterday, to ensure that the Senate does not treat dishonorably an honorable man, a fine judge, and a courageous war veteran. Judge Southwick deserves more from this country than insinuation and innuendo. This leads me to a much broader point.

My friend, the majority leader, and I have an understanding—at least I believe we had an understanding—as to how this Senate would treat judicial nominees in general. A fundamental component of that understanding is that individual nominees will be treated fairly. That commitment to fair treatment may be in serious jeopardy with the Southwick nomination.

I remind my colleagues that the Judiciary Committee unanimously approved Judge Southwick for a lifetime appointment to the district court just last fall, but it is now threatening to kill his nomination on a party-line vote in committee. The only material change in Judge Southwick's qualifications between last fall and now is the rating of the American Bar Association, the Democrats' gold standard for judicial nominees. The ABA has actually increased its rating of Judge Southwick. In other words, they have given him a higher rating for the circuit court than for the district court. Judge Southwick was rated ''well qualified'' for the district court. He is now rated ''unanimously well qualified,'' which means every single member of the committee who took a look at his credentials for the circuit court found Judge Southwick well qualified. That is the highest possible rating one can achieve for a judicial nomination from the American Bar Association.

It goes without saying that for committee Democrats to oppose Judge Southwick for the circuit court after having supported him for the district without any change in the man's record would certainly fall far short of treating the man fairly.

I encourage my Democratic colleagues to think hard about the implications of unfair treatment for Judge Southwick for this Congress and, for that matter, for future Congresses.

I thank the Chair, and I yield the floor.

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

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

AMENDMENT NO. 2488 TO AMENDMENT NO. 2383

Mr. VITTER. Mr. President, I ask unanimous consent to set aside the pending amendment so that my amendment at the desk may be called up, amendment No. 2488.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. VITTER], for himself, Mr. NELSON of Florida, and Ms. STABENOW, proposes an amendment numbered 2488 to amendment No. 2383.

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

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

The amendment is as follows:

(Purpose: To prohibit U.S. Customs and Border Protection or any agency or office within the Department of Homeland Security from preventing an individual not in the business of importing a prescription drug from importing an FDA-approved prescription drug from Canada)

On page 69, after line 24, add the following:

SEC. 536. None of the funds made available in this Act for U.S. Customs and Border Protection or any agency or office within the Department of Homeland Security may be used to prevent an individual from importing a prescription drug from Canada if—

(1) such individual—

(A) is not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(g))); and

(B) only imports a personal-use quantity of such drug that does not exceed a 90-day supply; and

(2) such drug—

(A) complies with sections 501, 502, and 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, and 355); and

(B) is not—

(i) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(ii) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

AMENDMENT NO. 2496 TO AMENDMENT NO. 2488

Mr. COCHRAN. Mr. President, I send an amendment to the desk and ask it be reported on behalf of myself and Mr. BYRD.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself and Mr. BYRD, proposes an amendment numbered 2496 to amendment No. 2488.

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

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

The amendment is as follows:

In lieu of the matter propoed to be inserted, insert the following:

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).

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, simply so I can understand the posture we are in and the nature of this amendment, 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. 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, Senator LANDRIEU joined me in including important language in the Senate report that accompanies the Homeland Security Appropriations Act for Fiscal Year 2008. This language addresses a serious trade problem that is affecting the United States and many of its most critical industries. Our report language directs U.S. Customs and Border Protection to undertake a more vigorous approach to collecting unpaid antidumping and countervailing duties which are owed the United States under the U.S. trade laws.

In our report language, the Appropriations Committee directs CBP to work with the Departments of Commerce and Treasury and the Office of the U.S. Trade Representative to increase the collection of duties owed on unfairly traded U.S. imports. CBP—Customs and Border Protection—is directed to provide an annual report to the committee within 30 days of each year's distributions under the Continued Dumping and Subsidies Offset Act. The CBP report must summarize the Agency's efforts to collect past-due amounts and to increase current collections, particularly with respect to cases involving unfairly traded U.S. imports from China.

The Continued Dumping and Subsidy Act—also known as the Byrd amendment—was enacted on October 28 in the year of our Lord 2000. It provides that assessed duties received pursuant to either an antidumping or a countervailing duty order must be distributed by Customs to affected domestic producers for certain expenditures that the producers incurred after the order was put in place.

On June 4, 2007, CBP transmitted to Congress a fiscal year 2006 report on annual antidumping and countervailing duties collected on a case-by-case basis. The report stated that while CBP distributed nearly $400 million to more than 1,700 affected domestic producers in fiscal year 2006, a whopping—hear me—a whopping $146,391,239.89 was due but never—never—collected. Astoundingly, the amount of uncollected antidumping and countervailing duties not collected since 2000 is approaching $700 million.

Let me read that again. Hear me now. Astoundingly, the amount of uncollected antidumping and countervailing duties not collected since the year 2000 is approaching $700 million, with the largest uncollected amount, over $400 million, owed in a single case: dumped crawfish tail meat from China.

On June 20, 2007, CBP advised that, since October 1, 2001, CBP has simply ''written off'' $30.3 million in uncollected antidumping and countervailing duties. The greatest amount written off, again, was in the case of crawfish meat from China, where CBP wrote off nearly $7.5 million. That is a lot of money. This is money that otherwise would have been distributed directly to eligible U.S. crawfish producers. This means these funds will never be distributed to the hundreds of deserving American families to whom they are owed. What a shame.

Have Senators heard of Moon Landrieu? That was this Senator's father, Senator LANDRIEU. I would like to ask my esteemed colleague from Louisiana, Senator LANDRIEU, if she is similarly concerned about our Government's failure to collect these funds, recompense which is now lost—to whom? To Louisiana's honest and hardworking crawfish farmers and processors.

Ms. LANDRIEU. I thank Senator BYRD, because I am extremely concerned about this situation and hope we could find a remedy. I commend the Senator for his work over many years, to try to make sure our trade laws are fairly enforced and that agreements we have entered into, with countries such as China and others, are followed. But in this instance, as the Senator has so eloquently stated in this discussion this morning on the floor, this situation is not being handled correctly. Our industries, particularly in Louisiana, that he has mentioned, our crawfish producers have lost more money from the failure of U.S. importers to pay duties owed by China than any industry in our Nation. In Louisiana alone—I know it might be hard for people to believe this, but as spring rolls around, it will become quite evident—we have 3,300 crawfish farmers in our State and over 40 processors who employ a tremendous number of people and contribute hundreds of millions of dollars to our economy. The Senator from West Virginia understands our Government has failed to collect almost $70 million for this industry alone. This is antidumping duties on crawfish tail meat from China owed to the processors in my State and to our crawfish

farmers. There are additional funds that are owed.

It is my understanding—and the Senator from West Virginia is very aware—that our Customs officials are required to collect these duties, but they are not being collected. Many of these importers simply close up shop, they change their names, they move offshore, they reorganize, and evidently we are not able to collect the money that is owed to us. It is a great detriment to this particular industry and to others.

I have expressed concern over the years. We are going to continue to press this issue. We will continue in Congress to work to solve this problem. I feel very strongly that our U.S. Secretary of Commerce, Secretary Gutierrez, and the U.S. Trade Ambassador, Susan Schwab, should take this up directly with the China Ministry of Foreign Trade and Economic Cooperation. China sought to become a WTO member. It is my firm belief, if China wants to receive the benefits that accrue to them through WTO, they should enforce them and help us, and we should do a better job of making sure the importers abide by the rules we have agreed to.

I was very pleased to see in response to concerns raised by the Senate, GAO recently announced it has begun an in-depth investigation as to why our Government cannot seem to collect duties owed to U.S. industries on goods imported from China.

Since 2003, the total amount of uncollected duties on all antidumping countervailing duty orders for all countries totaled $630 million. Of this amount, $485 million, or 77 percent of the total, relates to 34 specific antidumping and countervailing duty orders that have been imposed by the United States on agriculture and aquacultural imports from all countries. Of that $485 million, 73 percent relate to six antidumping orders that have been imposed on U.S. agricultural and aquacultural imports from China alone.

While the biggest duty noncollection problem in my State relates to the crawfish industry, as the Senator from West Virginia most certainly knows, Louisiana also is experiencing a problem with our catfish farmers. I see the senior Senator from Mississippi. This affects Mississippi, it affects Arkansas, it affects Alabama. We were unable to collect almost one-third of the fees that are owed to our catfish farmers.

These are hard-working businesspeople who work long hours, who are trying to run these industries and abide by all environmental regulations, pay their taxes, abide by all the wage and hour laws in this country. When we enter into trade agreements, the least our Government can do is enforce them. That is what I come to the floor to express my concern about, through this colloquy with the distinguished Senator from West Virginia.

I commend the Senator for his tireless work. We are going to press on this issue of noncollection. I hope, even if this Subsidy Offset Act expires, our Government will continue to collect the money that is owed to us during the time this act was in effect. It means a great deal to the small businesses in my State, to crawfishers and catfish producers equally. I am hoping we can make some progress and do not continue to have our trade laws undermined in this way.

I thank the Senator for this time on the floor and I thank him for his continued work on this issue.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 2505 TO AMENDMENT NO. 2468

Mr. DORGAN. Mr. President, I ask for the regular order. I send an amendment to the desk.

Mr. VITTER. I object.

The PRESIDING OFFICER. Amendment No. 2468 is pending. The clerk will report.

Mr. COCHRAN. I make a point of order.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Mr. CONRAD, proposes an amendment numbered 2505 to amendment No. 2468.

Mr. DORGAN. 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: Relating to bringing Osama bin Laden and other leaders of al Qaeda to justice)

At the end of the amendment, add the following:

SEC. 536. (a) ENHANCED REWARD FOR CAPTURE OF OSAMA BIN LADEN.—Section 36(e)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(e)(1)) is amended by adding at the end the following new sentence: ''The Secretary shall authorize a reward of $50,000,000 for the capture or killing, or information leading to the capture or death, of Osama bin Laden.''.

(b) STATUS OF EFFORTS TO BRING OSAMA BIN LADEN AND OTHER LEADERS OF AL QAEDA TO JUSTICE.—

(1) REPORTS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of State and the Secretary of Defense shall, in coordination with the Director of National Intelligence, jointly submit to Congress a report on the progress made in bringing Osama bin Laden and other leaders of al Qaeda to justice.

(2) ELEMENTS.—Each report under paragraph (1) shall include, current as of the date of such report, the following:

(A) An assessment of the likely current location of terrorist leaders, including Osama bin Laden, Ayman al-Zawahiri, and other key leaders of al Qaeda.

(B) A description of ongoing efforts to bring to justice such terrorist leaders, particularly those who have been directly implicated in attacks in the United States and its embassies.

(C) An assessment of whether the government of each country assessed as a likely location of top leaders of al Qaeda has fully cooperated in efforts to bring those leaders to justice.

(D) A description of diplomatic efforts currently being made to improve the cooperation of the governments described in subparagraph (C).

(E) A description of the current status of the top leadership of al Qaeda and the strategy for locating them and bringing them to justice.

(F) An assessment of whether al Qaeda remains the terrorist organization that poses the greatest threat to United States interests, including the greatest threat to the territorial United States.

(3) FORM OF REPORT.—Each report submitted to Congress under paragraph (1) shall be submitted in a classified form, and shall be accompanied by a report in unclassified form that redacts the classified information in the report.

Mr. COCHRAN. Mr. President, point of order. What is the pending business before the Senate?

The PRESIDING OFFICER. The Landrieu amendment, No. 2468, with the Dorgan second degree.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have sent a second-degree amendment to the desk to the Landrieu amendment. My second degree will not strike her amendment. As a matter of fact, it will add at the end of her amendment the provisions of an amendment I had offered on Defense authorization. I am to chair the Democratic Policy Committee luncheon in a few minutes so I am not able to speak at length about this amendment. I intend to do that at some later point.

I wish to mention what Senator LANDRIEU has described in her first-degree amendment, the interest in having as our major policy goal here with respect to the fight against terrorism, the destruction of and elimination of the leadership of al-Qaida, Osama bin Laden. My amendment is one I had offered, as I said, to the Defense authorization bill, previously. It is an amendment that requires a quarterly classified report to be offered to the Congress that would tell us what is being done to bring to justice the leadership of al-Qaida.

The reason for offering that is quite simple. A week ago, we had a new National Intelligence Estimate, an NIE, given to the Congress in classified and unclassified form; an NIE that was reported to the American people. The reports were not particularly surprising but in some ways stunning. The report says the greatest terrorist threat to our homeland, in this country—the greatest terrorist threat to our homeland is al-Qaida and its leadership. It also says al-Qaida and its leadership is in a secure hideaway or safe harbor.

I ask the question for which there is no answer: Why, nearly 6 years after 9/11/2001, in which Osama bin Laden boasted about engineering the murder of thousands of innocent Americans—why, after 6 years, is there a safe harbor or secure hideaway anywhere on this planet for the leadership of al-Qaida and for Osama bin Laden? That, in my judgment, is a failure.

We have a lot of briefings in this Congress; some of them classified, top secret briefings. There are no briefings

that I am aware of on what is being done or what has not been done to bring to justice, to apprehend, and eliminate the leadership of al-Qaida. Those briefings do not exist. One of the reasons that perhaps we have not seen progress in bringing to justice and eliminating the leadership of al-Qaida is the President himself said: I don't think much about that. I don't think much, don't care much about Osama bin Laden.

If you believe the intelligence estimates, they are today planning additional attacks against this country. Yesterday, we woke up to the news that there are apparently dry runs, they think—our intelligence people think there are dry runs being made in our airports with various things packed in luggage by terrorists who want to do potential attacks later. We hear all these reports and the question remains: Why is it the leadership of the organization that poses the greatest terrorist threat to this country has a secure hideaway somewhere or a safe haven somewhere? There ought not be a square inch of ground on this planet that is safe for those who murdered Americans on 9/11, for those who pose the greatest threat to this country. That is intolerable.

The Defense authorization bill will come back to the floor of the Senate, I guess. This amendment I have offered is in that piece of legislation. But to make certain this amendment becomes law and gets to the desk of the President for signature, I have offered it to this appropriations bill. I understand it fits better on Defense authorization. My hope is that is where it will wind up on the President's desk.

It seems to me we went through agonizing debates and passionate debates on the floor of the Senate about the war in Iraq. I respect everybody's opinion on those issues. But while we have soldiers who got up this morning and strapped on body armor and got in humvees and then went and knocked door to door in Baghdad in the middle of a civil war, where Shias are killing Sunnis and Sunnis are killing Shias and Shias and Sunnis are both killing Americans—while that happened this morning in the middle of a civil war, we have the greatest terrorist threat to this country apparently in a safe harbor or secure hideaway. That ought not exist. First things first. Let's fight the terrorists first and defeat the terrorists first. That ought to be the first and most important priority and responsibility. If they are the greatest threat to this country, let's eliminate that threat. That ought to be the goal of this country. That is why I offer this amendment.

Mr. BYRD. Senator, tell the Senate about his amendment again. Let me hear about the amendment again.

Mr. DORGAN. Mr. President, this amendment has two parts to it. No. 1, it increases the reward for the elimination of the al-Qaida leadership and Osama bin Laden, and, No. 2, it required a quarterly classified report to be made to the Congress, every quarter, from this administration and from any administration, to say what they are doing, to tell us what they have been doing to try to apprehend and bring to justice and eliminate the leadership of the greatest terrorist threat to this country.

Is it too much to ask that we ought to be informed?

Mr. BYRD. No.

Mr. DORGAN. We ought to understand what is being done or what is not being done. I think the American people have a reason to ask the question: Why, nearly 6 years later, do we now read—and I have read it on a number of occasions in unclassified versions of classified reports that say—there is a secure hideaway for Osama bin Laden and the leadership of al-Qaida?

There is a secure hideaway. There is safe haven. Now, why should any place on this Earth be secure or safe for those who would attack this country?

Mr. BYRD. Where? Where? Where is that, Senator?

Mr. DORGAN. Well, the intelligence reports indicate that somewhere between Pakistan and Afghanistan, in the tribal-controlled mountainous regions, there is some sort of safe hideaway or secure hideaway or safe haven, as they call it. I have flown over this region. I have looked down, and I know there is no border. You cannot tell what country you are in. I have flown over the region that they call tribal-controlled between Afghanistan and Pakistan. There is no evidence of a country boundary. It is a tough country, tough region, I understand that.

But if we now have al-Qaida reconstituting and rebuilding training camps, which they are doing—they are recruiting new recruits, they are building training camps, they are planning attacks against the West, planning attacks against the United States of America, and doing so in a secure hideaway or safe haven—then I say that is wrong. It ought to be job No. 1 for this country to eliminate the leadership of al-Qaida that represents the greatest threat to our country.

That is the purpose of this amendment, to say we want that to be the overriding and overarching goal, and we want reports, classified reports every single quarter of what has been done or what has not been done because I do not believe, frankly, this has been a significant priority.

It certainly should have been. If it has not been in the past, at least let's make it so in the future.

Mr. BYRD. I compliment the Senator on his statement. Am I a cosponsor of this amendment?

Mr. DORGAN. I want to say that Senator CONRAD joins me in this amendment. I ask unanimous consent that Senator BYRD be added as a cosponsor as well.

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

Mr. DORGAN. As I said, I have to chair the Democratic policy committee luncheon in just a moment. I wanted to make a comment on the amendments that have been offered, and perhaps after the policy committee luncheon, if these issues are still pending, I will be able to comment.

Senator VITTER has offered an amendment dealing with prescription drugs. Senator COCHRAN has second-degreed that amendment, as I understand it. I believe we ought to have access to lower priced prescription drugs, FDA-approved prescription drugs.

Lower priced prescription drugs exist in virtually every other country of the world. Why should the American consumer not have the capability to acquire them under our current rules? I would say that we already have a circumstance where we are allowed about a 90-day supply of drugs, if someone walks across the border or drives across and comes back with a personal use, 90-day supply. Very few Americans live close enough to the border to be able to do that. But we have an amendment that is a broad bipartisan amendment; 30-some Members of the Senate have worked on it, cosponsored it. This will not be the legislation in which we consider that amendment, I do not expect.

The amendment that Senator VITTER has offered, as second-degreed by Senator COCHRAN, would simply restate current rules; that is, currently what is allowed. It would simply restate current rules, which I assume offends no one but accomplishes nothing as well.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, it is my understanding there are 11 amendments pending on this bill. There are points of order that lie against several of them. And the managers will make those whenever they see fit. I hope that those people who have other amendments pending would agree to short time agreements on them and accept a time for voting. Maybe the managers can even accept some of them.

This is a bill we want to finish today. It is an important piece of legislation. It has been improved in many different ways, not the least of which is this border security legislation that was passed earlier today. So I hope that Democrats and Republicans who offered these amendments will contact the managers and agree on a reasonable period of time so we can vote. It is 1 o'clock in the afternoon. It is important we do this.

I do not want to sound like a stuck record, but we have to finish this legislation before we go home in August. We have to finish the SCHIP bill before we go home in August. We have a 9/11 conference report we have to finish before we go home in August. We have the ethics and lobbying reform we have to finish before we go home in August. We are going to do that.

Everybody should understand—and, of course, I mentioned on the floor about the bill that Senators Boxer and

Inhofe have worked on dealing with WRDA, which is so important to the whole country, but certainly important to the western part of the United States.

Mr. DORGAN. Would the Senator yield for a question?

Mr. REID. I would be happy to yield.

Mr. DORGAN. Let me say that on the amendment I just offered, I would be glad to a 10-minute time agreement when we get ready. I expect we will not need a recorded vote on that. But I know, as the Senator from Nevada is pointing out, we had an objection to even the motion to proceed on this bill, which was strange to me. Why would anybody have objected to proceeding?

Now we get a bill on the floor, and Senator BYRD, Senator COCHRAN, the chairman and ranking member, I know they want to get this done. I believe we ought to get these appropriations bills through and out of here. This is a good bill.

I hope this afternoon Senators can come and offer the amendments. I hope we can get this bill done today. It is not just this bill, we have got a lot of appropriations bills we have to do. So the Senator from Nevada, the majority leader, has an important message: We need to get this appropriations bill done. It deals with homeland security after all.

Mr. REID. That is a really good example to set for the other people offering amendments. I would also say, as I said on the Senate floor this morning, there is an extremely important congressional delegation that is scheduled to be in Greenland this weekend. I would really like—first of all, I would like to have gone on the trip. But there are 10 or 11 Senators scheduled to go on that trip. I hope that trip can take place. But we are going to have to get this legislation done.

If we get some idea that there is a real stall going on here, we will have to file cloture on the conference report dealing with homeland security, the 9/11 Commission recommendations, and that vote would not take place until Saturday. So we are doing our best to work through all of this. But I want everyone to know, as I have said here so many times, we have a very few things to do, but we are going to do them. And it is no bluff. We have a whole month to complete everything in August. I hope people will help us work through that so that is not necessary.

Mr. BYRD. Mr. President, I would like for our majority leader to say that again.

Mr. REID. I would be happy to do that for my distinguished friend, the senior Senator from the State of West Virginia, of the West Virginia hills.

We have four things to do for sure: the bill we are on now, this appropriations bill, children's health, the conference report on the 9/11 Commission recommendations, and the message that we are going to get from the House on ethics and lobbying reform. Those four things are essential.

The luxury we would have is also to complete WRDA. The conference report is important. We should be able to do that quickly. We got a huge vote when it came out of here.

These are the things that we must do before we leave. This is not anything new that I just sprung on anybody. That is something that I have been saying for a long time. We have made great progress. I am very happy with it. We were able to get Wounded Warriors done. We were able to get the pay raise for the soldiers, sailors, airmen, and marines. We were also able to pass for the first time in 3 years the higher education bill—that is important—reconciliation, getting the biggest change in how students are able to go to our schools in our country since the GI bill. We have a few things we need to do, and we really need to do it.

I repeat, it is almost 1 o'clock on Thursday. I will be happy to work into the night to complete this bill. I say that the managers of the bill says it all, Senator BYRD and Senator COCHRAN. They are the best we have.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, taking the distinguished majority leader's words to heart, I would like to ask the Senate to return to the Vitter amendment to try to dispose of that.

The PRESIDING OFFICER. Is there objection?

Mrs. MURRAY. Would the Senator repeat his request?

Mr. VITTER. The request is to return to the Vitter amendment to dispose of that and proceed with the business of the majority leader.

The PRESIDING OFFICER. Is there objection?

Mrs. MURRAY. What is the number of the amendment?

Mr. VITTER. Amendment No. 2488, which is pending.

Mrs. MURRAY. Mr. President, I would object at this time and suggest the absence of a quorum.

The PRESIDING OFFICER. Objection is heard. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. 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. VITTER. I renew my unanimous consent request to go back to amendment No. 2488.

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

Mr. VITTER. Mr. President, at this point I send a modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

Mr. VITTER. Mr. President, just to be transparent and clear to everyone, this modification of my amendment takes out a specific provision limiting the amendment to a 90-day supply.

The PRESIDING OFFICER. The clerk will report the modification.

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

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

The amendment, as modified, is as follows:

On page 69, after line 24, add the following:

SEC. 536. None of the funds made available in this Act for U.S. Customs and Border Protection or any agency or office within the Department of Homeland Security may be used to prevent an individual from importing a prescription drug from Canada if—

(1) such individual—

(A) is not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(g))); and

(2) such drug—

(A) complies with sections 501, 502, and 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, and 355); and

(B) is not—

(i) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(ii) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

Mr. VITTER. Mr. President, I will be happy to explain exactly what the modification is. The modification simply takes one phrase out of the previous version of my amendment. And that single phrase in the old version of my amendment limited the amendment to a 90-day supply of prescription drugs.

That limitation is now taken out of my amendment. That is the only thing the modification does. Now, the purpose of the modification is to now make it a pure funding limitation amendment so that it is not subject to the point of order of authorizing on an appropriations bill.

That is the full explanation of the modification.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I call for the regular order with respect to the Landrieu amendment.

The PRESIDING OFFICER. The Landrieu amendment is pending.

Mr. MURRAY. 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.

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

The PRESIDING OFFICER (Mrs. McCASKILL). Without objection, it is so ordered.

Mrs. MURRAY. Madam President, I wish to take a few minutes to walk everyone through where we are right now.

About 15 or 20 minutes ago, the majority leader came over to the Senate to talk to us about moving quickly through the Homeland Security appropriations bill that is now on the floor because, as he described, we have many

items of business that need to be accomplished before the Senate goes into recess for the August break. He asked the managers of this legislation, Senators BYRD and COCHRAN, to work with Senators who have pending amendments to move them through in an orderly fashion so we could possibly finish this bill by tonight and go on to the rest of the business that needs to be completed.

In complying with that, Senator BYRD and Senator COCHRAN and myself worked out an agreement to begin to deal with some of those amendments. That is how we work in the Senate. We would never finish everything if we didn't take some time to have conversations to figure out how we can work through amendments in an orderly fashion.

There are 11 amendments currently pending that we are trying to work our way through. One of those amendments is an amendment offered by the Senator from Louisiana, Mr. VITTER, which he had a right to come and offer. It was not the pending matter. The pending matter was the Landrieu amendment, second degreed by the Dorgan amendment.

In order to get to the amendment offered by Senator VITTER, we had to agree by unanimous consent to set that aside. We talked to the Senator and agreed on a process to dispose of his amendment. Senator BYRD, Senator COCHRAN, Senator VITTER, and I were here to come to an agreement that Senator VITTER would offer his amendment. He understood that a point of order lay against that regarding whether it was a rule XVI. He understood that Senator COCHRAN's second-degree amendment also was in the same procedural difficulty.

The agreement was that we would agree to lay the amendment aside, Senator VITTER would set aside the amendment, go to his amendment, and a point of order would lie against it, as well as a point of order against the second degree offered by Senator COCHRAN. It sounds complex, but the upshot was, it would dispose of the amendment, a point of order would lie against it, and we would move on to the other numerous amendments that now lay before the Senate.

In this body, it is extremely important that we all have the opportunity to work out these agreements so we can work through bills in an orderly fashion. I assumed that would be the case, that we had all agreed upon that and that would be the order this would go to.

Unfortunately, when the Senator rose to ask to set aside the amendment, according to the agreement we agreed to, I did not object. The Senator went to his amendment, and instead of going through the process we had all agreed upon, he sent a modification to the desk that changed his underlying amendment and meant that it no longer had a point of order lying against it.

That is a difficult position it puts us all in because we have 11 amendments, possibly more, to get through. If we can't come to an agreement and trust each other on how the process is going to move forward and go outside that, we are not going to be able to get through these amendments, because this Senate really is based on trust.

So, Madam President, we are now in the parliamentary position where we have gone back to the regular order. Another amendment is pending. If we move through these in proper fashion, the amendment offered by Senator VITTER will now be at the end of 12 amendments that are now in order. At some point we will get to it, but we now are in a difficult position of: How do we move through all these other amendments that are being offered? How do we deal with all the other Senators who are going to come to the floor and ask us to work through these amendments, if we cannot have an agreement that this Senate—when Senators stand on the floor and agree to it—knows that is what will occur? So we find ourselves in a very difficult position.

I see the majority leader is on the Senate floor and will yield to him if he would like to make a statement.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Madam President, I gave a talk a week ago tomorrow to a group of people. It was a church meeting. There were adults and young adults there. I told them about my experience serving in the Congress. I have served in the House, and I have served in the Senate. It is not like when I practiced law.

When I practiced law, you put everything in writing. We do not do that in the Congress. We do not do that in the Senate. Your word is your bond. If a Republican Senator or a Democratic Senator—it does not matter—if you tell them you are going to do something, that is the way it is.

To show how powerful and important that is, Alan Bible was a Senator from Nevada who served 20 years and became ill. He retired. When he passed away—there was a plane that was always available to take Senators to funerals. The plane was scheduled to go to Nevada so Senators could attend Alan Bible's funeral.

There was a Republican on that airplane, TED STEVENS. The reason he was on that airplane was there was a vote very important to TED STEVENS dealing with Alaskan oil. Alan Bible had given his word he was going to vote with TED STEVENS. There was tremendous pressure on Alan Bible. Alan Bible's vote was the essential vote, and he withstood all the pressure and voted with TED STEVENS. That is the reason TED STEVENS went to Reno, NV: to honor the life of Alan Bible because he kept his word.

That is what we do in this Senate. We keep our word. It does not matter with whom you make an arrangement; if you tell him you are going to do something, if you tell her you are going to do something, that is the way it is.

So my disappointment in what has happened in the last few minutes is—it appears Senator MURRAY said it in a more discreet fashion than I am going to say it. Somebody did not keep their word. And that, I suggest, should be worked out. I think if someone in this body is known to have broken their word—and I was part of the little conversation right here—you do not take advantage of people. There are a lot of rules that allow you to take advantage of people, but you cannot do that.

So this is not appropriate. This is wrong. And I would hope that the Senator from Louisiana would kind of retrace his steps and back off and put us back where we should be. If that is not the case, and he chooses not to do that, I think it is going to be a difficult time, I would suggest, for him making other arrangements with Senators in the future because that is how we do business here.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President—while the majority leader is here, and the managers of the bill—the parliamentary position in which we now find ourselves is that the amendment that is now before the Senate under the regular order is the Dorgan amendment to the Landrieu amendment.

Senator DORGAN was on the floor a few minutes ago and said he would be willing to agree to a 10-minute debate time and a vote. I know the majority leader has several issues that are going on. I would like to ask the managers of the amendment how they would like to proceed at this point.

Mr. COCHRAN. Madam President, if the Senator will yield, I have no objection to proceeding to a vote at whatever time the majority leader suggests.

Mr. REID. Madam President, if the Republican floor staff would check to find out if we could do the vote at 1:50, 2 o'clock. Two o'clock is fine? Two o'clock.

Mrs. MURRAY. Madam President, I ask unanimous consent that the Senate vote at 2 o'clock on or in relationship to the Dorgan amendment to the Landrieu amendment that is currently pending, with the time equally divided between now and 2 o'clock.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

Mr. REID. Madam President, are we in a quorum call?

The PRESIDING OFFICER. No, we are not in a quorum call.

Mr. REID. Madam President, I ask unanimous consent that the 15 minutes prior to the vote be equally divided between those in favor of the amendment and those opposed to it. Senator DORGAN is in favor of it, so he would get 7½ minutes. Is that appropriate?

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

Mrs. MURRAY. Madam President, I suggest the absence of a quorum and

ask unanimous consent that the time be equally divided.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2448 WITHDRAWN

Mrs. MURRAY. Madam President, on behalf of the Senator from New York, Mr. SCHUMER, I ask unanimous consent to withdraw amendment No. 2448.

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

Mrs. MURRAY. Madam President, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Madam 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. Madam President, I rise to express my disappointment with where we find ourselves on the pending bill. We are debating the Homeland Security appropriations bill. The bill includes over $14 billion—spelled with a ''b''—for border security. By a vote of 89 to 1, we just approved $3 billion in emergency funding for border security. I note that the bill also includes $1.7 billion for FEMA disaster relief to help fund the response to Hurricane Katrina.

The Senator from Louisiana—where is he? Do you want to hear me? Come on out. I want to say it in front of you.

The Senator from Louisiana is now holding up this bill over a legislative matter that is not germane to the measure. As the manager of the bill, I thought we had reached an accommodation on how to dispose of the matter.

Instead, the Senator from Louisiana—where is he? He was here a moment ago.

I thought we reached an accommodation on how to dispose of the matter. Instead, the Senator from Louisiana offered a new amendment—a new amendment.

Is he here? All right. I want to say it in his presence.

Instead, the Senator from Louisiana offered a new amendment. I am disappointed that the Senator from Louisiana has decided to delay consideration of a bill that includes critical funds for aiding the victims of Hurricane Katrina.

Did you hear me? Where is that Senator?

I am disappointed——

Mr. VITTER. Madam President, will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. VITTER. Thank you for the courtesy.

First of all, let me say to the distinguished Senator from West Virginia, I have the utmost respect for him. I just want to clarify that it certainly is not my intent to delay anything. I am happy to proceed with votes on this bill—all votes that are lined up, and other votes.

I would also like to make this offer, if it would clarify or help heal the past situation. I apologize if anything was miscommunicated regarding the last hour or so. But if it would help heal that, I would be happy to withdraw my pending amendment as long as I was given the opportunity and assured of an opportunity to file a new amendment, which is germane, and that could be made pending. And, of course, in that context, I would have no objection to anyone, including Senator COCHRAN, being able to offer a second-degree amendment on that amendment.

So I would be happy to withdraw my pending amendment as long as I could be given the opportunity to submit an amendment that could be made pending rather than have the clock run out or have proceedings and votes on the bill happen before that amendment would be made pending.

But, again, my main point is, it is certainly not my intent to delay this bill, or any votes on amendments or the bill, and I am eager to proceed with all of those.

I thank the Senator for the courtesy of yielding.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. Madam President, we have not seen any amendment.

Mr. VITTER. I will be happy to provide a copy of what that new amendment would be. I would be happy to do that right now.

Mr. BYRD. Spell it out on the floor in front of everybody. What is the amendment?

Madam President, I suggest the absence of a quorum so that we may be able to see the amendment.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Again, I would remind my colleagues that we are currently debating the Dorgan amendment to the Landrieu amendment. Senator KERRY is on the floor and wishes to speak. I yield him the time until 1:45 when it will be equally divided at that time. So the Senator has 10 minutes.

Mr. KERRY. Madam President, last November was one of those truly rare moments in the short history of our country and our democracy. Any political science student taking a freshman lecture, of course, will hear how incredibly hard it is to remove entrenched congressional majorities. They know the statistics about how hard it is to defeat incumbents around here. It doesn't happen that often. But sometimes, the American people rise up in one moment, as they did last November, and they make history. Just six times in our 230-year history has one party lost both Houses of Congress, and 2006 was the first time the Republican Party failed to win a single House, Senate, or gubernatorial office previously held by the Democrats.

We Democrats have been in that predicament. In 1994, Democrats woke up to a landslide defeat some people thought would never come. It wasn't always easy, it wasn't always collegial, but we listened and we learned. Together, we reached across the aisle to balance the budget and reform welfare. We wrestled with why we had lost, and we wrestled with what we had to do in order to come together—not just as a party but as a country.

Evidently, some people still haven't wrestled with what happened last November 7.

Last November, Americans were appropriately angry. They saw our young men and women in uniform paying the ultimate sacrifice in Iraq for a failed policy that was stuck on autopilot. They saw the number of Americans without health insurance skyrocket to 45 million, with more hard-working Americans joining them every day. They saw record-high oil prices and global climate change—a reality denied and deferred and no serious national effort to address these issues. They saw staggering corruption and no accountability for the way the people's House had been turned into a refuge for the special interests. Americans saw a politics and a party that was broken, and they rejected the stubbornness, cynicism, corruption, and failed policies that made ''Washington'' a dirty word. They voted for a change.

President Bush seemed to get the message the day after the 2006 election when he said to America:

> The message yesterday was clear. The American people want their leaders in Washington to set aside partisan differences, conduct ourselves in an ethical manner, and work together to address the challenges facing our Nation.

The President said he got the message, but the question has to be asked: What have Republicans done since then? Where are they 6 months after their worst electoral defeat in 50 years? What happened to the President's post-election statements when measured against the President's actions and those of the Republican minority in the Senate? Those actions tell a very different story. Before the dust had settled, before defeated Republicans had even cleaned out their offices, this President and his remaining allies in Congress have made a calculation, on issue after issue, that they would just set out to stop everything from happening and then they would turn

around and they would ask: Why is nothing happening under the Democrats? This is a pure political calculation. It is wrong for the country, and I respectfully would suggest, ultimately, it will be wrong for the party. They would rather spend their time attacking HARRY REID than attacking the Nation's problems. Delay is no longer just a former Republican leader; it has become a Republican way of life.

We have been busy debating progress in Iraq around here and measuring benchmarks. I can't help but think as we talk about measuring benchmarks that pretty soon the Iraqi Government is going to wonder whether the Republican caucus is going to meet any of its benchmarks or any of the country's benchmarks.

For 6 months now, the Democratic majority has worked in good faith to deliver on our promises to the American people. Because of the Democratic majority, the minimum wage earner in America now makes 70 cents an hour more than they did under a Republican Congress—and soon they will be making $2 more. The longest streak without a raise in the minimum wage in the history of the minimum wage has ended but not before 4 months of Republican obstruction cost each minimum wage earner in America around $500 in earnings.

We passed legislation to make college more affordable and cut interest rates in half for millions of Americans with student loans. We stood up to powerful special interests and raised the fuel efficiency of our automobiles by 10 miles per gallon. Twenty years had passed since Washington raised the fuel standards, but Democrats took on the special interests and got it passed. We passed funding for stem cell research. We passed the 9/11 Commission recommendations. We passed ethics and lobbying reforms.

Just yesterday, we passed legislation that will fix many of the shortfalls in our care for injured troops and veterans, and, over yet another White House veto threat, we also passed a 3.5-percent raise for members of the military. Most importantly, we passed legislation demanding that the President face reality and begin redeploying troops from Iraq.

Regrettably, there is, on almost every one of these issues, today as I stand here a gap between how many of those policies that are aimed to help everyday Americans, which enjoy the majority support of the Senate, and how many have actually been signed into law. Why? One simple reason: The President and his allies in Congress have decided to use every means at their disposal just to slow it down and block it, to stand for a policy of obstruction and obstruction and obstruction, not accomplishment for the American people. They have vetoed and filibustered and killed bills in conference. They have wasted days and days with procedural motions and delays that have nothing more to do in their purpose than to waste time and squander the trust and patience of the American people and, ultimately, to hope to be able to blame it on the Democrats.

Just look at what they have blocked. They vetoed a Senate bill demanding a new strategy in Iraq. They vetoed a stem cell research bill, science that could prove crucial to cures for 100 million Americans with Alzheimer's or Parkinson's or diabetes or other diseases. Now, another veto is threatened on children's health care—of all things, children's health care—a veto threat on a bill the President hasn't even read, because he was worried about the price tag. Well, we are talking about our children's health, and the bill offered just $7 billion each year for uninsured children, while we spend 1½ times that amount every month in Iraq. Those are just the bills which made it to the President's desk.

Senate Republicans blocked a vote on a bill to allow the Federal Government to negotiate lower prescription drug prices for 43 million Americans on Medicare. Republicans are blocking the passage of a bill that would provide crucial funding for the intelligence community. They are blocking ethics bills that would mark the most sweeping ethics reform since Watergate. They don't have the votes to stop it, so they are pulling a procedural maneuver and refusing to appoint conferees in order to hammer out the final details of the bill.

The Republicans are now setting records for filibusters and obstruction. The Senate record for filibusters is being set already, and it is only halfway through this term. To paraphrase Winston Churchill: Never, in the field of Senate legislation, was so much progress blocked for so many by so few.

Actually, they have made history, I suppose, because thanks to the Senate Republicans, L.A. is no longer the center of gridlock in America—it is right here. On issue after issue, the Republicans have chosen to filibuster—and to do so just 2 short years after they declared the filibuster, as their then-leader, Bill Frist, said in late 2004, "nothing less than the tyranny of the minority." After expressing outrage at the mere hint of a Democratic filibuster last session, the Republicans have suddenly become the principled champions of so-called minority rights in the Senate, but minority rights apply to legitimate filibusters for legitimate issues, not a policy of obstruction to stop everything that comes along.

After threatening the so-called "nuclear option" when Democrats stood up to defend the Arctic National Wildlife Refuge, they have introduced a filibuster to stop everyday business in the Senate. Almost everything the majority leader tries to do here now requires us having a cloture vote in order to prevent a filibuster. In fact, the rubberstamp Republicans of the previous 7 years have now become the roadblock Republicans. The party of Abraham Lincoln has become the party of redtape—vetoes, filibusters—any means necessary to deny the will of the majority of the Senate and the vast majority of the American people.

If you don't believe me, listen to what the minority whip, Senator TRENT LOTT, told a reporter just this April. He said:

> The strategy of being obstructionists can work or fail, and so far, it is working for us—

The "us" being the Republican Party and the minority in the Senate.

Well, I think the Senator is looking at it the wrong way. The question isn't, Is it working for Republicans, is it working for Democrats? The question is, Is it working for the American people? Is it working for the millions of low-income children whose health care funding the President has threatened to veto? Is it making us safer when you block the funding for the intelligence agencies? Is this obstructionist strategy working for the 12 million Americans forced to live in the shadows of American life while our borders stay broken? Is it working for the 554 soldiers who have died in Iraq since Republicans first blocked a measure to redeploy troops last February?

Instead of the Senate's highest shared principles of consensus and bipartisan accomplishment, the Republicans have chosen the lowest common denominator—a zero sum game in which they are willing to gamble the American people's loss for Republican gain. The Republican strategy seems to be to slash the tires of the Senate and then wonder why we are still stuck on the side of the road and blame somebody else for that problem.

Let me be clear what I am criticizing here. I support the right of the minority to filibuster. In fact, I have done so myself. Every Senator in this body has that right. I support that right. But when filibustering not for the principle of the issue at hand but for the generic, broad strategy of stopping what happens here so you can blame the party in charge for not being able to finish the work, that is unacceptable.

The rights of the minority in the Senate ought to be protected, but they also ought to be used responsibly too. Do I have a problem with time?

The PRESIDING OFFICER (Mr. SALAZAR). Yes.

Mr. KERRY. I ask unanimous consent for a few more minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERRY. Mr. President, obstruction for obstruction's sake is not in the best traditions of this great institution. It is the worst kind of cynical political calculation. I think all of us on our side would join in voting to protect the right of the minority to be able to filibuster. We all understand that what goes around comes around, and the time may come when we again may be in the minority. We Democrats don't want to use the nuclear option. We are

not even talking about it. We want to pass bills. We want to pass bills that are supported by a majority of people in the Senate, including Republicans, and certainly supported by the majority of Americans.

I say to my Republican colleagues that there is a better way to do business. We can work together and actually do something positive for the American people. All of us know this is a uniquely challenging moment for this country. We face new threats and hurdles no generation has faced before. We ought to be working together to solve those problems. The only chance this Senate has to make a real contribution to history is to make a bipartisan contribution. That is the only way the Senate meets its own expectations.

Some of the great legislative accomplishments in recent memory came under mixed Government, when both sides of the aisle came together.

In 1981, Ronald Reagan saw that Social Security was in danger of going bankrupt and placed a call to the Democratic speaker of the House, Tip O'Neill. They realized that at the end of the day, nobody would solve it if they didn't. So they got together and took the politics out of a tough and unpopular vote. The deal they struck kept Social Security afloat. Neither man could have done it without the other. Neither party could have done it without the other.

We all know the limits of a politics of division, of partisan sectarianism. A politics of division can rush our country into war, but it cannot sustain our trust or the war itself. A politics of division has no answer for 12 million undocumented workers in our houses, fields, and factories. It has no answer for 45 million Americans with no health insurance, no answer for icecaps that are melting or a failed policy in Iraq. The politics of division is bad for America—from the Parkinson's patient to the undocumented immigrant to the soldier in Iraq. Nobody is benefiting from Republican obstructionism.

It is also bad for the Senate. This Senate has been known as the greatest deliberative body in the world. But there is nothing deliberative about partisan sabotage. There is nothing deliberative about blind obstructionism.

The ongoing debate we have here is about much more than Senate procedure. At its core is a debate, really, about where we are headed in our relationship with each other, Republicans and Democrats. All of us go home and hear from our constituents about how they have lost faith in Washington. All of us want to do right by the people who elected us and try to make life better for the American people.

Any Senator who has been here for a period of time has watched the decline of the quality of the exchange on both sides of the aisle in this institution. I have seen colleagues stand up against it. I remember when Senator GORDON SMITH, in the middle a painful debate on Iraq, said:

> My soul cries out for something more dignified.

I think a lot of Senators on both sides of the aisle are concerned for the Senate. Voters want a debate over ideas, not a war of words; a choice of direction, not a clash of cloture votes. The stalemate we have now is not what the Senate is renowned for. This is called, as I said, the greatest deliberative body in the world, a place where people on both sides can find common ground and get good things done for other people.

Ultimately, we are accountable to the American people—accountable for false promises, accountable for failure to address issues we promised to address, whether it is energy independence or military families who lose their benefits. We are accountable.

Mr. President, a filibuster to stop all progress, then claim Democrats aren't doing anything, is a failed strategy. It is a failure because it doesn't put the American people first. I believe the American people will hold a party of obstruction accountable. I hope that will change.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

AMENDMENT NO. 2505

Mr. DORGAN. Mr. President, my understanding is that by unanimous consent, we have a vote scheduled at 2 o'clock.

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. I know of no opposition to the amendment I have offered. Are there those on the minority side seeking to use time against the amendment?

The PRESIDING OFFICER. The Senator has 7 minutes under the unanimous consent order.

Mr. DORGAN. Mr. President, I ask unanimous consent that Senator CONRAD be recognized for 4 minutes.

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

The Senator from North Dakota, Mr. CONRAD, is recognized.

Mr. CONRAD. Mr. President, it has been 2,144 days since 9/11. We all remember the day our Nation was attacked. That attack was led by Osama bin Laden, the leader of al-Qaida. At the time, the President said:

> This act will not stand. We will find those who did it. We will smoke them out of their holes. We will bring them to justice.

Mr. President, 2,144 days have passed, and still we have not brought Osama bin Laden or al-Zawahiri or the rest of the top leadership of al-Qaida to justice. These are the people who led the attack on our country. It wasn't Saddam Hussein and Iraq; it was Osama bin Laden and al-Qaida. Yet this Nation lost focus under the leadership of this administration.

I think the most striking story of all is this from the USA Today in late March 2004:

> In 2002, troops from the 5th Special Forces Group who specialize in the Middle East were pulled out of the hunt for Osama bin Laden in Afghanistan to prepare for their next assignment: Iraq. Their replacements were troops with expertise in Spanish cultures.

Mr. President, there are not a lot of Spanish speakers in Afghanistan or in Pakistan. That is where Osama bin Laden is still lurking, still hiding, still waiting to strike our country.

This amendment says: Let's remember who attacked America, and let's finish business with him and his al-Qaida network.

Mr. President, we have now learned this week, according to the New York Times, that a 2005 raid on al-Qaida chiefs was called off at the last minute by Secretary Donald Rumsfeld:

> The mission was called off after Rumsfeld rejected an 11th hour appeal from Porter Goss, Director of the CIA. Members of the Navy Seals unit in parachute gear had already boarded C–130 cargo planes in Afghanistan when the mission was canceled.

This amendment says: Let's put the focus back on Osama bin Laden and al-Qaida. Let's finish business with the people who attacked America.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota, Mr. DORGAN, is recognized.

Mr. DORGAN. I ask unanimous consent to use the remaining time.

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

Mr. DORGAN. Mr. President, my understanding is that we have a 2 o'clock vote on this amendment. This amendment is one Senator CONRAD and I had offered on the Defense authorization bill. That bill, as you know, is no longer on the floor of the Senate. So we offer it now to this legislation. Just as my colleague from Louisiana has previously offered an amendment with respect to the objective and the priority of eliminating the leadership of al-Qaida, this amendment we offered about 2 weeks ago would do two things: increase the reward for Osama bin Laden and the leaders of al-Qaida; No. 2, and most important, it would require quarterly top-secret classified briefings to this Congress every quarter about what is or is not being done to bring to justice, to capture, or kill the leadership of al-Qaida.

Why do we want to do this? It has been nearly 6 years since thousands of Americans were murdered—innocent Americans murdered by Osama bin Laden and al-Qaida. They boasted about engineering the murder of innocent Americans.

Here is what last week's National Intelligence Estimate says:

> Al-Qaida is and will remain the most serious terrorist threat to the homeland.

That doesn't need much interpretation. The most serious threat to our homeland is al-Qaida.

> We assess the group has protected or regenerated key elements of its homeland attack capability, including a safe haven in the Pakistan federally administered tribal areas, operational lieutenants, and its top leadership.

Does anybody in this country believe there ought to be a safe haven on this

planet for those who boasted about murdering thousands of innocent Americans? Does anybody believe there ought to be secure hideaways or a safe haven for the leadership of al-Qaida that, today, in the mountains somewhere, are planning attacks against this country?

Why, after 6 years, are we not successful in bringing to justice and limiting the leadership of al-Qaida? It is not as if we don't know all of this.

This is in June:

Al-Qaida regroups in new sanctuary on the Pakistan border.

While the U.S. presses on in its war against insurgents linked to al-Qaida in Iraq, bin Laden's group is recruiting, regrouping, and rebuilding in a new sanctuary. . . .

This is from the New York Times in February:

Terror officials see al-Qaida chiefs regaining power.

Senior leaders from al-Qaida are operating from Pakistan near the Afghan border, according to American intelligence and counterterrorism officials.

How much more do we need to understand? We have soldiers in Iraq going door to door in Baghdad in the middle of a civil war, where Sunni and Shia are killing each other and Sunni and Shia are both killing American soldiers. In the middle of a civil war, we have soldiers going door to door in Baghdad and, in the meantime, we have al-Qaida building training camps in a secure hideaway between Pakistan and Afghanistan. And today, this afternoon, they are planning additional attacks against our country. That is unbelievable to me.

Mr. President, in August 2001, the Presidential daily briefing given to this President said the following:

Bin Laden Determined to Strike in the U.S.

That was the title. Nearly 6 years later, we now have intelligence assessments with this title:

Al-Qaida better positioned to strike the West.

That is what I call failure.

We must succeed. That is why we ask with this amendment for quarterly classified top-secret briefings to this Congress to tell us what they are doing or what they are not doing to bring to justice and to eliminate the leadership of al-Qaida. It is unbelievable to me that Osama bin Laden, who boasted of attacking this country, now apparently is in a secure hideaway or a safe haven. Nowhere on this small planet should there be somewhere safe for the leader of the organization or the leadership of the organization that launched the attack on this country in 2001. It is unbelievable to me that we are in this situation.

Now, the President said this when asked about it:

I don't know where bin Laden is. I have no idea and really don't care. It is not that important and it is not our priority.

Those are the words of President Bush.

Let me read the words of the National Intelligence Estimate of last week that came out from this administration:

Al-Qaida is and will remain the most serious terrorist threat to the homeland.

Maybe we ought to modify that statement of the President because it ought to be our priority. That is what this amendment is about. It should have been our priority 4 years ago, 5 years ago. It ought to be our priority today. I know of no more important priority for this country than dealing with the leadership of al-Qaida and eliminating the greatest political threat and the most serious terrorist threat to our homeland. That is what our amendment does.

I hope the Senate will once again agree to this amendment and establish this as a preeminent priority for this country.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DORGAN. Mr. President, it is my understanding no time remains and we will go to a vote immediately; is that correct?

The PRESIDING OFFICER. The question is on agreeing to the amendment as under the previous order.

Several Senators addressed the Chair.

Ms. LANDRIEU. Mr. President, I ask unanimous consent for 2 more minutes on this subject, and then we can go to the vote.

The PRESIDING OFFICER. Is there objection?

Mr. DEMINT. Reserving the right to object, will the Senator modify her request to allow me 2 minutes before we go to the vote?

Mr. DURBIN. Objection.

The PRESIDING OFFICER. Does the Senator so modify her request?

Mr. DORGAN. What is the Senator's request?

The PRESIDING OFFICER. The Senator from Louisiana has asked for 2 minutes. The Senator from South Carolina has asked to modify that request for 2 minutes.

Does the Senator from Louisiana so modify her request?

Ms. LANDRIEU. I withdraw my request.

The PRESIDING OFFICER. The request is withdrawn.

The Senator from South Carolina.

Mr. DEMINT. Mr. President, in fairness, as I have seen Republican amendments taken down with rule XVI, I raise a point of order that the pending amendment constitutes legislation on an appropriations bill and violates rule XVI.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent that we consider the amendment I have offered, notwithstanding rule XVI.

The PRESIDING OFFICER. Is there objection?

Mr. DEMINT. I object.

The PRESIDING OFFICER. Objection is heard. The point of order is well taken and the amendment falls.

The Senator from Washington.

Mr. DEMINT. I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I believe I have the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. 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. REID. Mr. President, we are in the twilight zone. We are on an appropriations bill. An amendment was offered subject to a point of order. The point of order was raised and sustained by the Chair. And now the person who won wants to appeal the ruling of the Chair.

Mr. DEMINT. Will the Senator yield?

Mr. REID. I will be happy to yield for a question.

Mr. DEMINT. I thank the leader. We were rushed, and I didn't have a chance to explain what I was trying to do. As I was listening to the debate of the last couple of days, I have seen rule XVI used against LINDSEY GRAHAM's bill. I have seen other Republican bills, such as DAVID VITTER's, taken down because it violated rule XVI, legislating on an appropriations bill. Yet when I heard Senator DORGAN's amendment, I realized there was a double standard. We were being inconsistent. It was OK to legislate on a Democratic bill but not a Republican bill. My intent was to make a point, to raise a point of order that Senator DORGAN's amendment does violate rule XVI. But when the Chair ruled, I appealed the ruling of the Chair, which the Parliamentarian said she did not hear. But what I wanted to vote on was the ruling of the Chair to establish are we going to use rule XVI against Republicans but not Democrats; are we going or are we not going to have a fair debate?

Obviously, our preference would be not to be legislating on appropriations bills, but if we are going to do it for some, we should do it for all.

In this case, I say to the leader, my hope had been to vote on an appeal of the ruling of the Chair, which I had asked for, but was not recognized apparently, before we went into a quorum call.

Mr. REID. I say to my friend, you won. The rule XVI you raised and you won. The amendment falls. And it is a Democratic amendment.

Mr. DEMINT. I had asked for the yeas and nays on appealing the ruling of the Chair because that was my intent, to question whether we should be legislating on appropriations bills. That was more of a vote on rule XVI than it was the Dorgan amendment. That is what I was here for, to ask for a vote on appealing the ruling of the Chair,

which was my language: ''I appeal the ruling of the Chair and ask for the yeas and nays.''

Mr. REID. Just a second; I have the floor.

Mr. DORGAN. Will the Senator yield for a question?

Mr. REID. I will be happy to yield for a question.

Mr. DORGAN. Mr. President, the Senator from Nevada and others were in the well a moment ago when Senator DEMINT indicated what he wanted was a vote on my amendment. I said that is fine, withdraw your objection and we will have a vote on my amendment. Apparently, that is not what he wanted because the Senator offered an objection relative to rule XVI. The Chair sustained the Senator's objection, and because the Senator won, he was not satisfied and wanted to do something further.

I don't have the foggiest idea what might be the motivations here. If the Senator from South Carolina wants a vote on my amendment, all he has to do is withdraw his objection, and we can have a vote in 30 seconds. If there is some other nefarious purpose here, then maybe the Senator might explain it to us.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, that is why I said I think we are kind of in a twilight zone here. The Chair is not partisan. The Parliamentarians who serve at our pleasure, Democrats and Republicans, are not partisan. They go by the rules and the precedents set in this body.

Mr. LOTT. Mr. President, will the distinguished majority leader yield for a question?

Mr. REID. I will be happy to yield to my friend. I will say to my friend, he and I were on this floor and we danced this tune once before. It took us 4 years to unwind from it. That is why the vote yesterday was so important.

Mr. LOTT. That is what I wish to comment on, Mr. President, if the distinguished Senator will yield briefly. Without getting into the substance or without questioning anybody's motives, it is important that we understand—and I can put this in the form of a question to the majority leader—if, in fact, this appeal of the ruling of the Chair should succeed, that would do away with rule XVI, as I understand it, and then we would all have a grand old time legislating on appropriations bills.

Before the leader responds, let me say there are pent-up feelings on this side, probably on your side: Well, we can't get the authorizations and some of the language we want and the appropriations bills may be about the only thing moving through here, in some respects, and we want to have an opportunity to legislate on appropriations bills. But here is part of my concern, honestly. I don't think we can win that battle against the other side. I suspect you all would wind up legislating more than we would on appropriations bills.

Mr. President, I think we need to calm down around here. There is a rule on the books for a reason. For good reason we took an action that knocked it out a few years ago. I learned painfully what a mistake that was. We should not be legislating on appropriations bills. You can make a good-faith effort around here if you want to do that. I think this action would cause some consequences we would not want, if we look at it in the future.

Am I stating this correctly, I ask the majority leader?

Mr. REID. Mr. President, our roles were reversed too many years ago when I had his job and he had my job, and it was a very difficult time. Even everything being in order, to move these appropriations bills is hard, and then anybody can offer anything on them. The key to these appropriations bills is you deal with matters of appropriation, not some of the subjects people have thrown into them all the time.

As my friend said, there is a lot of frustration. The House can move a lot of authorizing legislation. We cannot over here. So there is a tremendous temptation to stick in these appropriations bills all kinds of authorizing legislation that shouldn't be on appropriations bills.

I plead to my friend from South Carolina: It doesn't prove anything to have us vote on something—you have already won. I will also say this. The only partisan nature of raising points of order is we try—it usually works out that way—if there is a Republican who violates a point of order, a Democrat who is the manager of the bill will raise a point of order; if it is a Democrat, then a Republican will raise a point of order. That is the only partisan nature of raising points of order.

Mr. LOTT. Mr. President, will the distinguished majority leader yield briefly?

Mr. REID. I will be happy to yield.

Mr. LOTT. Mr. President, I feel a necessity at this point—and I will follow it with a question—to also say that I understand the right of the Senator from South Carolina to do this procedure. I am not questioning that at all. I think the result would be one that would not be good for the institution, and I think we would be abusing it on both sides.

But also I want to emphasize the right of a Senator to modify his own amendment. I wasn't here when the discussions took place with regard to Senator VITTER's modifying of his own amendment, and I know that has caused some consternation.

Mr. President, if I could say to the majority leader, wouldn't it be better for this institution if we would not get in the position of questioning each other's motives? I realize we have to be honest with each other, and I understand what everybody is doing. I understand the amendment on Osama bin Laden. Yes, we want to catch him, and I know there is a lot being done—and I won't get into the intelligence—and I understand what Senator DEMINT is doing, but I would hope this would give us an opportunity, in a bipartisan way, for the sake of this institution, to step back, to calm down, and to stop trying to do these things to each other on both sides of the aisle.

I am grandstanding, and I apologize, but my purpose is to try to say to the institution, to our people, I hope we will find a way to avoid this. I think it would be a mistake, and I assume the majority leader agrees with that.

Mr. REID. Mr. President, I appreciate my colleague, calling on his years of experience, to try to settle things down.

I would say that, perhaps with Senator VITTER, giving him the benefit of the doubt, maybe there was a misunderstanding in the conversation. That is totally possible. Maybe he didn't understand the rules. Maybe he didn't do one thing and say something else, and I accept that, if in fact that is the case.

So I think what we should do is, I am going to ask a quorum call be started, and then we will huddle over here and see if we can work all this out.

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. REID. 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. REID. Mr. President, due to the good work of my friend from Mississippi and others, on both sides, here is what we are going to do. There has been a point of order raised against the Dorgan amendment, and that has been sustained. So that amendment will fall. And in the order of amendments filed, Senator VITTER's is at No. 11 or 12; OK?

Senator VITTER, when he had his conversation with Senator COCHRAN, Senator MURRAY, and me, was under the impression he could still modify his amendment. We thought differently. It was just a misunderstanding. Maybe we have been around here too long—I shouldn't say ''we.'' Maybe I have been around here a long time and just accept things for the way they appear to be and not sometimes the way they are. Senator VITTER has said there was nothing nefarious in what he did. He just assumed he could automatically modify that. And under the rules, he could.

So we will go back right where we were. No one is accusing Senator VITTER of anything that is illegal or unethical. It was simply a misunderstanding among the four of us. So anything I have said earlier today, based on my misunderstanding of him and what his thoughts were, just forget about them because based on the conversation I have had with him in the last few minutes, that wasn't the case. So I shouldn't have been as upset, and

Senator MURRAY shouldn't have been as upset as she was. Senator COCHRAN was his usual stoic self trying to lead us in the right direction, which we didn't go.

Mr. VITTER. Mr. President, will the majority leader yield?

Mr. REID. I will be happy to yield.

Mr. VITTER. I thank the majority leader.

First of all, I appreciate those words very much, and I certainly want to reiterate that I never thought I was waiving what I considered my ability as a Senator to modify my own amendment and try to get a vote on my own amendment in the form I would like. So I appreciate the comments of the leader in that regard.

I also want to point out that I was actually modifying the amendment in order to get rid of this point of order and the fact that it, in a previous form, would have legislated on an appropriations bill, which we are trying to avoid. So I was trying to avoid that with regard to my amendment.

But I appreciate the comments, and I look forward to moving forward.

Mr. REID. Finally, Mr. President, let me say, I haven't mentioned his name but, of course, the distinguished Republican leader, being involved in this little huddle that took place, had a tremendous influence on our ability to work this out. I would say—and I hope I don't jinx anything we are working on now—what I would really like us to do is to see if in the foreseeable future we can work out a time on this bill for final passage. No one has had any amendments being prohibited. If people don't want to have final passage in the next 24 hours or so, that's fine.

As I have said before, I don't want to file cloture. We can just keep grinding through the weekend, but I would rather not do that.

Sometime today we are going to see if we can move to the conference report that Senator LIEBERMAN has so masterfully brought back to us dealing with the 9/11 Commission recommendations. He, of course, worked with Senator INOUYE and others to get this done, and so we will do that at a later time. But I wish everyone would work—certainly the two managers of the bill—to see when would be an appropriate time to see about a time for final passage.

Remember, we have this bill to complete. We have to work on children's health. We have two conference reports—there may be three conference reports—and that is all we have to do. But we have to go through all the procedural hurdles, and that may take longer than any of us wants to get through in the next few days.

The PRESIDING OFFICER. The minority leader.

Mr. MCCONNELL. Mr. President, I thank the distinguished minority whip, Mr. LOTT, for pointing out for the Senate a few moments ago the importance of rule XVI. I also want to thank the junior Senator from South Carolina for understanding, as well, that is a rule that has occasionally been reversed and restored in the Senate, and I think it is important to most of us that it continue to be in effect.

I also thank the majority leader and Senator VITTER for the colloquy we just heard. I think it is entirely possible for us to conduct our business in a civil fashion. I think we have just experienced a good example of the Senate working together on a bipartisan basis to get back together and to begin to move forward and finish this bill as soon as possible. Certainly, I share the views of the majority leader that we need to wrap up this bill in the very near future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank all our colleagues for working with us to a point where I hope now we can start working through the amendments.

I call for regular order at this point, and I would remind all of us that I have about 12 or 13 amendments that have been offered. I know several other Senators have asked to be recognized to offer amendments. We want to work our way through all of these in a timely manner in regular order. We will be doing that this afternoon. So I ask Senators to stay close by the floor so we can move them through as quickly as possible. Hopefully, we can get time agreements on them in short order and dispose of them in whatever way is appropriate.

At this time, I call for regular order.

AMENDMENT NO. 2468

The PRESIDING OFFICER. The Landrieu amendment is the pending amendment.

Mr. COCHRAN. Mr. President, I make a point of order against the Landrieu amendment, that it is legislation on an appropriations bill, in violation of rule XVI.

Ms. LANDRIEU. Mr. President, how much time do I have to speak on the amendment? Is there any time allocated on the amendment?

The PRESIDING OFFICER. The point of order is not debatable.

The Senator from Washington.

Mrs. MURRAY. Mr. President, at this point we would like to move to regular order. The next amendment pending is the Grassley-Inhofe amendment.

I understand the Senator from Louisiana would like 2 minutes just to discuss the amendment that just fell, so I ask unanimous consent that she have 2 minutes.

Ms. LANDRIEU. Mr. President, reserving the right to object, let me ask the distinguished minority manager of the bill for just 10 minutes to speak on my amendment, and then he can speak on the point of order?

The PRESIDING OFFICER. The point of order has been raised.

Ms. LANDRIEU. I ask unanimous consent to speak for 5 minutes on my amendment.

The PRESIDING OFFICER. Is there objection?

Ms. LANDRIEU. I thank the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, in the interest of comity, I will agree, but may I bring up two amendments that have already been filed while I am here?

Mrs. MURRAY. I object at this time. I have a number of Senators who are asking us to call up amendments. We would like to work with all of you to do that in a regular fashion. Maybe we can do that after the Senator from Louisiana is speaking, but at this point we are going to allow the Senator from Louisiana to speak and then move back to regular order, which will then be the Grassley-Inhofe amendment, No. 2444.

The PRESIDING OFFICER. Is there objection to the unanimous consent request propounded by the Senator from Louisiana?

Without objection, it is so ordered.

Ms. LANDRIEU. I thank the Chair, and I can appreciate the situation we are in with the point of order being raised against the amendment, but as you know, Mr. President, I offered this amendment in good faith last night and spoke at some length on the amendment. I was under the impression that before we voted I would have the opportunity to speak on the amendment. Since that didn't happen, I appreciate the goodwill of my colleagues to at least allow me 5 minutes to speak, although the amendment has a point of order called against it.

My amendment actually proposes $25 million on this appropriations bill. I don't know where else to appropriate money except on an appropriations bill, and that is basically what my amendment does. It is a two-page bill, and it appropriates $25 million to the CIA to give them some extra resources to try to track down the No. 1 terrorist and his network that is threatening our country.

This amendment was prompted not out of politics or spite, it was prompted out of last week's National Intelligence Estimate that has been referred to now several times on both sides of the aisle. This did not come from a Democratic think tank or a Republican think tank, it came from the National Intelligence Estimate that says the al-Qaida network is as strong as it was before 9/11 and that Osama bin Laden is still the No. 1 target.

I offered an amendment in good faith and reached out to my colleagues to say we are on homeland security, could we find $25 million to appropriate some additional funding to the CIA? I know there are other resources, some of them are classified and some of them are not—and to clearly restate the policy that Osama bin Laden remains the foremost objective of the United States in the global war on terror and protecting the U.S. homeland, the foremost is to capture and kill Osama bin Laden.

I understand the point of order. I understand technically the Parliamentarian would probably rule against me.

But for the purposes of the constituents I am representing I wish to say I am trying but am blocked to appropriate $25 million more on a Homeland Security bill to give it to the CIA to help protect us from the No. 1 terrorist, according to our intelligence reports. That is all I wished to say.

I thank my colleagues for allowing me that moment of the record. I know the Senator wants to go back to regular order.

The PRESIDING OFFICER. The point of order is well taken and the amendment falls.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. I ask unanimous consent that the Grassley amendment No. 2444 be temporarily set aside; that we proceed to the Alexander-Collins amendment No. 2405.

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

The Senator from Tennessee.

AMENDMENT NO. 2405, AS MODIFIED

Mr. ALEXANDER. Mr. President, I ask unanimous consent that my amendment described by Senator MURRAY be modified. The modification is at the desk.

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

The amendment, as modified, is as follows:

On page 40, after line 24, insert the following:

REAL ID GRANTS TO STATES

SEC. ____. (a) For grants to States pursuant to section 204(a) of the REAL ID Act of 2005 (division B of Public Law 109–13; 119 Stat. 302), $300,000,000.

(b) All discretionary amounts made available under this Act, other than the amount appropriated under subsection (a), shall be reduced a total of $300,000,000, on a pro rata basis.

Mrs. MURRAY. Mr. President, I ask unanimous consent for 1 hour of debate, equally controlled in the usual form, with no second-degree amendments in order prior to the vote, and upon use or yielding back of the time, the Senate proceed to vote in relation to the amendment, as modified.

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

Who yields time? The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I thank the Senator from Washington for her courtesy. I thank the Senator from Mississippi for his help with this amendment, facilitating its coming to the floor last night at a late hour. I am grateful to him for that.

This is an amendment which I described on the Senate floor yesterday. It is an amendment involving REAL ID. I am offering the amendment with several cosponsors, including Senator COLLINS of Maine, Senator WARNER, and Senator VOINOVICH. It is my intention to use about 10 minutes of our 30 minutes on this side and to reserve the rest of that time for Senators COLLINS, WARNER, and VOINOVICH, if they choose to come to the floor in support of this.

Mr. President, I ask unanimous consent that Senator KYL of Arizona be added as a cosponsor to the amendment.

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

Mr. ALEXANDER. Mr. President, this amendment would provide $300 million in funding to the States to implement the program known as REAL ID. It is offset with a .8-percent across-the-board cut in the rest of the bill. The total pricetag of the rest of the bill, the Homeland Security appropriations bill, is about $37.6 billion.

I will have a word to say about the offset in a moment. I know the Senator from Washington will have a few more words to say about the offsets when her time comes. I would prefer another offset, but I will talk about that a little later.

First, let me describe again what the amendment does. I would ask the Chair if I can be informed when 10 minutes has expired.

The PRESIDING OFFICER. The Senator will be so notified.

Mr. ALEXANDER. Mr. President, after 9/11, the 9/11 Commission recommended that in light of the terrorism our country faces, we begin to study how we can have more secure identification cards. A number of the terrorists had stolen cards or had fraudulent cards or had ID cards that were not real.

As a result of that, the Congress passed the Intelligence Reform and Terrorism Prevention Act at the end of 2004 which established a process by which we could look at the recommendation of the 9/11 Commission. It established a negotiated rule-making process.

Because most of the ideas about ID cards involved State and local governments, all of them involved issues of privacy, all of them involved the possibility of great inconvenience to most Americans, this negotiated rule-making process would basically create a seat at the table for representatives of all the affected groups and try to work out the most sensible thing to do.

I have historically been opposed to the idea of an ID card. When I was Governor of Tennessee, I twice vetoed the photo driver's license bill because I thought it was an infringement on liberty. But the legislature overrode me, I accepted it, and today, after 9/11, I agree it would be wise for our country, with a combination of terrorism and the difficulties within immigration, to have more secure identification cards.

The question is, which one? Then suddenly, in 2005, along came an appropriations bill for our troops, and in the middle of it, the House of Representatives stuck something called the REAL ID Act, which set minimum standards for State driver's licenses as an effort to deter terrorists from easily obtaining that form of identification.

Well, that could be a good idea. But there are 245 million Americans with driver's licenses or ID cards. Many of us send those in by mail or online to renew them. Last year in the State of Tennessee, for example, there were 1.7 million driver's licenses issued. There are 53 driver's license identification stations. I believe the only group of people who could have passed REAL ID in the dead of the night, without any hearings, were Congressmen who had never been to a driver's license examining station in Tennessee or maybe in their own State, because these are not State employees who are trained in catching terrorists. They are not equipped to deal with the large number of new responsibilities, in a State which is going to have REAL ID, that include having to come in person to that driver's license office and show a number of documents, including the Social Security card and a valid U.S. passport.

We would have to prove, I would have to prove, that I am lawfully a citizen of the United States. Our family has been here for 12 generations. Senator SALAZAR has been here for 13 generations. The Presiding Officer has written a book about the number of generations his family has been here. We would have to go down to one of these driver's license stations and prove we belonged here. Nobody else ever had to do that before in my family that I know about. But in an age of terrorism, we might have to do that.

At the very least, I would think we would want to do one of two things: One would be that in the Senate, in the Homeland Security Committee or other appropriate committees, we might want to think about whether there might be other ways to come up with a better secure identification card, rather than add that to the burden of the driver's license.

For example, most of the problems that surround the immigration bill have to do with work, people coming into this country illegally to get a job. That is what most of it is about. Senator SCHUMER and Senator GRAHAM have a piece of legislation that would create a secure Social Security card.

Now, I wonder if, over a period of years, having workers with a Social Security card that is secure, includes biometrics, and a good employer verification system, might not be a more sensible way for us to improve the question of whether we have secure identification cards.

There is the idea of more passports. Already we have a backlog because of the number of American who are getting a passport. But passports are a more secure identification. Maybe there should be a secure travel card we could use when we travel on airplanes. For example, there are a couple million

of us at a time who are up in the air. If we all had one of those cards, you begin to add all those up—you may have some driver's licenses that are more secure, a secure work card, a passport and a travel card, a variety of secure cards would begin to avoid the terrors we imagine from a ''Big Brother'' national ID card.

We remember what happened with that sort of thing in Nazi Germany and in South Africa, where you had to carry around a wallet and a portfolio describing how mixed your blood might be so they can determine your race. We do not want that in the United States.

So that would be the kind of discussion we should have had in hearings before any of this was adopted. We were going to have that with the negotiated rule-making process, before suddenly this so-called REAL ID card comes through here at night and we have to vote for it, up or down, or not send any money to support the troops fighting in Iraq and Afghanistan.

We can get an idea of what the REAL ID surge might cost by looking at what is happening right now with the passport backlog in the United States. There were 12 million passports issued in 2006. This year there are going to be 17 million because of new travel requirements. The Passport Office employees are working hard, but they grossly underestimated, or we did, what the new demand would be.

As a result, there was a backlog of 3 million passports in March. Today it is 2.3 million. The turnaround time used to be 6 weeks, now it is 12 to 14 weeks on regular service and 4 to 6 on expedited service. We have destroyed summer vacations, we have ruined weddings and honeymoon plans, we have disrupted business meetings and educational trips. People lost days of work waiting in line. If we think the passport backlog has created consternation, imagine what it is going to be like when 245 million Americans, many who have been used to renewing their driver's licenses by mail, many who have thought of themselves and their parents and grandparents as good, legal Americans, have to go to their driver's license station with a pack of documents and prove they are legally here.

Then they might get right up to the door and somebody says: You forgot one thing, and they have to go all the way back home, get it, and stand back in line again. I bet we get more calls on that than we did on immigration.

There is another problem I would like to describe. It is one I am trying to address with this amendment. I am trying to provide three hundred million dollars next year to help States who wish to comply with REAL ID pay for it. Now, not all States will take advantage of this because 17 States have already

The PRESIDING OFFICER (Mr. NELSON of Nebraska.) The Senator has used 10 minutes.

Mr. ALEXANDER. I will continue with my time because I do not see Senator COLLINS or Senator WARNER or Senator VOINOVICH. I will take another 4 or 5 minutes. If they don't come, then I will give back my time, except a minute or two to the Senator from Washington and let the Senator from Washington be recognized.

But let me talk about the money a minute. Seventeen State legislatures, including Tennessee, have passed legislation against REAL ID. We do not want it. We want something else. But for those who do have it, they have to get cracking because it says here: States have to be ready to comply with these new measures by May of next year.

The Department of Homeland Security has not even issued final regulations about what the compliance must be. But the Department, thanks to the good work of Senator COLLINS and others with an amendment we had earlier this year, has agreed to grant waivers to States for delayed implementation. So States have a little bit of time to work on this, if they choose to.

But 17 States do not want to. However, we have a principle here called federalism. Much of it is incorporated in the 10th amendment to the Constitution. I see our constitutional expert, the Senator from West Virginia, on the floor. When I was Governor, I said on the floor many times, nothing made me madder than when some Congressman or Senator would stand up with a big idea, pass it, hold a press conference taking credit for it, and send the bill to me. I would have to either raise tuition or cut this or change that, and then that same Congressman would be home making a big speech about local control the next weekend.

I did not like that. It was called unfunded Federal mandates. I have also stated many times on this floor that the Republican Congress got elected in 1994 running against these mandates. They stood on the steps of the Capitol in 1994 with Newt Gingrich. They said: No more unfunded mandates. If we break our promise, throw us out. Maybe that is one of the reasons they did throw us out, because we forgot that promise.

We forget it with REAL ID because, according to the National Governors Association, implementing it would cost $11 billion over 5 years. The Department of Homeland Security itself expects the cost to reach $20 billion over 10 years.

Today, the Federal Government has appropriated only $40 million for the States to comply with those mandates, even though it could cost $20 billion over 10 years.

We are not supposed to be doing that. If we want to require it, we should pay for it. My view of unfunded mandates is we ought to either fund REAL ID or we ought to repeal it. We should not require it unless we are going to pay for it. I see the Chair, the distinguished former Governor himself, the Senator from Nebraska. When I described how I felt about unfunded mandates as Governor of Tennessee, I imagine he felt exactly the same way. I have sought, working with Senators COLLINS, WARNER, VOINOVICH, and KYL, to identify a way to begin to deal with this issue of the unfunded Federal mandate. That is where this $300 million amendment comes from.

The National Governors Association met last weekend. They issued the following statement regarding REAL ID:

> If Congress is truly committed to transforming REAL ID into a reasonable and workable law that actually increases the security of our citizens, it must commit the Federal funds necessary to implement this Federal mandate. As the Senate considers the Homeland Security appropriations bill for fiscal year 2008, the Nation's Governors urge Senators to support Senator ALEXANDER's efforts to begin funding the mandates imposed by REAL ID. States estimate the cost of REAL ID will exceed $11 billion over 5 years, including $1 billion in up-front costs merely to create systems and processes necessary to implement the law and prepare to re-enroll all 245 million driver's license and identification cardholders. To date Congress has appropriated only $40 million to assist States.

I only have one more point to make. Then I will yield the floor and reserve the remainder of the time.

The chairman of the Appropriations Committee and the ranking member allowed me to discuss this and bring up this amendment during committee deliberations. I thank them for that. I offered offsets from other funds that States were receiving. A majority of the members of the committee didn't like the offsets. That is not so unusual in the world in which we live. My amendment was defeated in the Appropriations Committee. I am coming to the floor with a different offset. It is 0.8 percent across the board cut in the rest of the bill. I know very well that the chairman of the committee and the chairman of the subcommittee and other Senators don't like that offset, but I suggest to my colleagues that there are others of us who don't like underfunded Federal mandates. If the Congress is going to impose on the States a $20 billion cost over 10 years, then we should pay for it. We have only appropriated $40 million.

As the Governors said, it is time for us to move ahead and appropriate $300 million this year, only a downpayment on what we should pay, and if the offset we adopt today is not the one the chairman and others would prefer, then perhaps there is an opportunity during conference on an this appropriations bill of $37.6 billion to make that adjustment.

I thank the managers of the bill for giving me a chance to bring the amendment to the floor. I will yield the floor and wait to see if Senator COLLINS or others decide to come. If they do not come, I will yield back the rest of my time except for 2 minutes.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the very able Senator from Tennessee

for his amendment. It highlights another shortcoming in the President's budget. When it comes to homeland security, the President—and I speak most respectfully of the President; I always do—likes to rob Peter to pay Paul. Regrettably, in an effort to help States deal with the cost of REAL ID, the able Senator proposes to do the same thing. The able Senator proposes to do the same thing by using an across-the-board cut. I don't like across-the-board cuts. That cuts into programs that hit a lot of people, all good people.

I rise to oppose the amendment. The President's budget fails to address the mandate imposed on States by the REAL ID Act. According to the National Governors Association, it will cost States $11 billion to implement the REAL ID Act.

Yet the budget did not include one thin dime to help the States with this Federal mandate. Meanwhile, the Department has let $35 million which Congress appropriated in 2006 for REAL ID implementation sit in the Federal Treasury unspent for almost 2 years.

Let me say that again: The Department has let $35 million—that isn't just chickenfeed—which Congress appropriated in 2006 for REAL ID implementation to sit in the Federal Treasury unspent for almost 2 years. I share the concern of the Senator that this law, which was jammed down Congress's throat in an unamendable war supplemental, will impose serious costs on our States. However, given that there is $35 million still sitting at the Department and that we have no request from the White House, this bill is not the place to fix this problem.

This amendment would hamper the Department's ability to secure the Nation. For example, this cut would result in the reduction of 416 transportation security officers at the same time air travel has been increasing approximately 3 percent each year and the TSO workforce has decreased or stayed flat each year. It would also occur at a time when the aviation sector is at a heightened alert status. Let me say that again: It would also occur at a time when the aviation sector is at a heightened alert status. The Federal air marshals would reduce coverage of critical flights. The Coast Guard would be unable to respond to projected search-and-rescue cases, thus endangering the lives of citizens and property, interdict a projected increase in migrants, marijuana, and cocaine, and remediate anticipated oil and chemical spills, further degrading our natural resources. This cut would delay the recapitalization of the Coast Guard's fleet, further exacerbating maritime and aviation operational gaps.

The President's budget requested—and the committee supports—funding for 3,000 new Border Patrol agents. Furthermore, this reduction would cut that increase in agents to 24. Additionally, the National Guard forces currently supporting Operation Jump Start on the southwest border assisting the Border Patrol will begin leaving the border this summer. Once again, the Border Patrol will be forced to move agents back from the border to perform administrative duties.

Additionally, the committee's bill includes funding to support a total of 4,000 new detention beds, bringing total detention beds to 31,500. Moreover, this reduction would cut that increase by 32 beds. Are you listening? Given that the average length of stay in a given detention bed is approximately 40 days, losing 32 beds means we have lost the space to detain approximately 300 illegal aliens annually. Are you still listening? We have spent the past 2 months debating immigration reform and the need for detention beds. A cut like this turns that debate on its head.

The President's budget requested and the committee bill supports funding of $1 billion—that is $1 for every minute since Jesus Christ was born—for fencing infrastructure and technology along our still porous border.

If we have learned nothing during the debate on the immigration bill, it is that the American people and a majority of the Senate want to secure our borders. Let me say that again: If we have learned nothing during the debate on the immigration bill, it is that the American people and a majority of the Senate want to secure our borders. A cut like this moves us in the exact opposite direction. First responders' State formula grants would be cut below the fiscal year 2007 enacted level; ironically, the level approved under a Republican-controlled Congress.

The practical implication of this will be: First responders will go without up-to-date personal protective equipment; fewer critical infrastructure facilities, including chemical and nuclear, will have a security buffer zone; public transportation, a known target by terrorists overseas, will be less secure.

I urge my colleagues to oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I thought the distinguished Senator from Tennessee made a very compelling argument about this amendment, which he has offered. We have heard him discuss his ideas on federalism, and there is no better proponent of clear thinking on that issue than the Senator from Tennessee.

But what occurred to me when I was sitting here is that I have heard some of these arguments before. I started thinking back to the hearings that were held and the markup sessions that were held in the Governmental Affairs Committee, the committee of legislative jurisdiction, when the Department of Homeland Security was being created by Congress to more effectively—with a better Federal organization of talent and wherewithal—cope with the challenges from threats to the security of our homeland. Many of these issues were discussed in great detail.

I remember the Senator from Connecticut, in particular, Mr. LIEBERMAN, being in a position of leadership on the committee at that time. We had other talented Senators working on that authorizing legislation.

What is happening to us, I am afraid, is as we get about the business of implementing the changes in our laws that were made by the creation of this new Department, and the creation of new agencies to implement and carry out these responsibilities in a coherent way—the policymakers have their guidance from that legislation, but we now here are considering an appropriations bill. We are not at a point where we are going back and reviewing in an oversight hearing or in a consideration of changes that ought to be made in the law. We are appropriating the funds to give to the Department and the agencies that were created and given these responsibilities.

So to come in now with an amendment—and I hate to argue against this amendment because the eloquent argument on its behalf was very impressive, but this is the wrong vehicle and this is not the right way to deal with the problem. If we have made an error in requiring too expensive, too stringent, too illogical, unworkable requirements or laws, let's change them. Let's change them. But let's not try in an Appropriations Committee to halfway fund our needs. We do not have the money to pay for this program. That was pointed out very clearly.

The REAL ID program is hugely expensive, and at some time there will be a day of reckoning. Maybe we are fast getting there. We have heard the warnings. I think we should heed the warnings and urge the legislative committee to think about modifying the authorities and the directives that are contained in the law—make it affordable, for one thing; decide, are State and local governments going to share the responsibility for these costs or is the Federal Government going to build up a huge Federal deficit trying to pay for the costs on an annual basis through the annual appropriations bills.

Well, anyway, as my law school dean used to say, it is not a horse that is soon curried. This is something that is going to take some time and effort, and we need to rise to the challenge the Senator from Tennessee presents to us and come up with a more thoughtful and workable and affordable way to deal with this issue.

So I am going to oppose the amendment because I think it should be done legislatively, and the problem cannot be solved with adding money and adding new language which is legislative in nature. I hope the Senate will carefully review the options we have and try to do the responsible thing.

Mr. LEAHY. Mr. President, the REAL ID Act was legislation forced through Congress as an add-on to the emergency supplemental bill passed in May 2005, without any Senate hearings

or debate, but the implications of the Act are enormous. In addition to numerous privacy and civil liberties concerns, REAL ID is an unfunded mandate that could cost the States in excess of $23 billion.

As hearings in the Judiciary Committee and Homeland Security and Government Affairs Committee have shown, REAL ID is far from being ready for primetime. In fact, the Department of Homeland Security has not even released final regulations directing the States on REAL ID implementation. With 260 million drivers in this country, I do not see how we could have the massive national databases required by REAL ID up and running in the next 5 years—much less in fiscal year 2008.

On top of that, even though they are not even in production yet, REAL ID cards are rapidly becoming a de facto national ID card since they will be needed to enter courthouses, airports, Federal buildings, and now workplaces all across the country. In my opinion, REAL ID raises multiple constitutional issues whose legal challenges could delay final implementation for years, and we should not support the Alexander-Collins amendment.

In May, the Department of Homeland Security Data Privacy and Integrity Advisory Committee expressed concern over several items in the REAL ID proposed regulations and said that they pose serious risks to individual privacy by: failing to establish a standard for protecting the storage of personally identifiable information; failing to provide methods for Americans to inquire or complain about the collection, storage, and use of personal information and remedy errors; failing to require notifying consumers of information collection and use by the State; failing to require that individuals have a choice over secondary use of that information; and failing to assure that the information collected for a specific purpose is used only for that purpose.

Congress should not fund the REAL ID program until the Department of Homeland Security makes fundamental reforms to the program and stops forcing such onerous provisions on the States. In addition, with this amendment offset by an across-the-board cut from all DHS programs, I don't think we should be robbing from other critical Homeland Security accounts—where we have seen real gains in securing our country—to pay for just 1 percent of the floundering REAL ID program.

REAL ID is not popular in our States, and opposition spans the political spectrum, from the right to the left. A large number of States have expressed concerns with the mandates of the REAL ID Act by enacting bills and resolutions in opposition.

Seventeen States have enacted statutes or resolutions against REAL ID, including Hawaii, Washington, Idaho, Nevada, Montana, North Dakota, Colorado, Nebraska, Oklahoma, Missouri, Illinois, New Hampshire, Maine, Arkansas, Tennessee, Georgia, and South Carolina.

Washington, Georgia, Oklahoma, Montana, South Carolina, New Hampshire, and Maine have gone so far as to indicate that they intend to refuse to comply with REAL ID.

Ten States have had statutes or resolutions pass one chamber of their legislature, including Oregon, Utah, Arizona, New Mexico, Wyoming, Minnesota, Louisiana, West Virginia, Pennsylvania, and Vermont.

Another 10 States have had statutes or resolutions introduced in their legislatures, including Alaska, Texas, Wisconsin, Michigan, Kentucky, Ohio, New York, Massachusetts, Rhode Island, and Maryland.

The reaction to the numerous privacy concerns and unfunded mandates of the REAL ID Act is a good example of what happens when the Federal Government imposes itself rather than working with the States to build cooperation and partnership. Since so many States have risen up in opposition to REAL ID, we should not fund this failed program, and I urge a ''no'' vote on this amendment.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I know Senator COLLINS, Senator VOINOVICH, Senator WARNER, and Senator KYL—all cosponsors of the bill—had hoped to speak, but I am not sure any of them are able to come now, so I wish to reserve 2 minutes prior to the vote, but other than that, I say to the managers and to the distinguished chairman of the committee that on this side we are ready to go forward.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, we do have one other Senator who wants to come and speak on this amendment. I think he will be here shortly.

If there are no other Senators who want to speak at the moment, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, so everyone knows what is happening, Senator TESTER is going to be here in a minute to speak for several minutes. Senator ALEXANDER has a few minutes remaining. At the end of that time, we will be moving to a vote on the underlying amendment, so I hope all Senators are close by the floor.

Mr. President, I see the Senator from Montana is in the Chamber and I ask him how much time he is going to use.

I believe the Senator from Montana will be using 5 minutes. Senator ALEXANDER will be using a few. So a vote will be imminent.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Mr. President, I rise in strong opposition to the Alexander amendment. It is a bad idea. The amendment would take away $300 million from port security, rail security, and all the grant programs that fund the first responders in each of our home States. It would rob the Border Patrol, Customs Enforcement, and the Coast Guard of the resources they need to keep our Nation safe. It would be robbing Peter to pay Paul.

The amendment would take $300 million and give it to departments of motor vehicles. Let me say that again. This amendment takes funds off the border, and gives funds to departments of motor vehicles. That is because the REAL ID Act will require every citizen to obtain a new driver's license from your State. To do that, you will need a birth certificate, your Social Security card, and some way of verifying your current address. It applies to everyone.

It will require States to reissue more than 245 million driver's licenses—let me say that again. It will require States to reissue more than 245 million driver's licenses—only after certifying that the person requesting the document is an American citizen or in the country legally. States are also being asked to build a whole new set of databases and other information technology to link up with the Federal database and with other States.

All in all, the national ID system will cost $23 billion—with a ''B''—$23 billion for the States to implement, and we are going to take away $300 million from port security and rail security and first responders in our home States and think that is going to make a difference.

This amendment would only provide 1.3 percent of that $23 billion cost. That does nothing to help the States. In fact, it is an afront to them to say ''we hear your complaints,'' and then provide them with a 1-percent solution.

Beyond the funding issues this amendment creates, endorsing REAL ID would be a real mistake. The REAL ID Act puts massive new Federal regulations on the States. From new databases and fraud monitoring, to new network and data storage capacity, the States will be tasked with an enormous range of new regulations and new requirements.

Once REAL ID becomes effective, every State's department of motor vehicles will have to play immigration official. DMV workers will be tasked with reconciling discrepancies in Social Security numbers with the Social Security Administration. Departments of motor vehicles will have to require proof of ''legal presence'' in the United States from immigrants.

REAL ID also creates enormous privacy concerns. REAL ID is a national

ID card. Make no mistake about that. Every citizen who wants to get on a plane, who wants to enter a Federal building, and, possibly, who even wants to get a job will have to be a part of it. We should not be funding something such as that without a real debate in Congress about the wisdom of such a program.

One month ago, 52 Senators voted to prohibit the expansion of REAL ID in the immigration bill. I hope we do not retreat from that progress by suddenly agreeing to this amendment to fund—at a 1-percent level—REAL ID. The way to improve our country's homeland security is not by outsourcing it to the States' Department of Motor Vehicles. Our security is improved by hiring more border agents, strengthening Customs and the Coast Guard, and ensuring local law enforcement has the tools they need to prepare for and respond to terrorist threats.

This amendment sets the wrong priorities for homeland security, and I urge its defeat.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, if I might ask the managers of the bill, if I am not mistaken, after my 2 minutes, we can proceed to a vote?

Mrs. MURRAY. Will the Senator repeat his request?

Mr. ALEXANDER. If I am not mistaken, after the 2 minutes I have, we may proceed to a vote?

Mrs. MURRAY. That is correct. He can speak for 2 minutes, and I will then make a motion at the end of that time.

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

Mr. ALEXANDER. Mr. President, I agreed with the last half of the Senator from Montana's statement, but the first half was an eloquent argument for a $20 billion unfunded mandate for the States of Montana and Nebraska and Tennessee and everybody else. If we are going pass it, we ought to fund it. And if we are not going to fund it, we ought to repeal it. That is my position.

We passed the law in 1995, the Federal Unfunded Mandate Act, but the REAL ID program imposes on the States, according to the Department of Homeland Security, an up to $20 billion unfunded mandate. It will require up to 245 million of us to go in and prove we are lawfully here and stand in line at our driver's license offices. Seventeen States have said they don't like it, including mine.

The National Governors Association meeting in Traverse City, MI, last week generated a letter to all of us saying: If you are going to require it, fund it. That is what we are beginning to do.

If you think the passport backlog is a big problem, wait until the driver's license backlog comes if we don't properly fund REAL ID or repeal it. There will be weddings. There will be vacations. There will be honeymoons. There will be trips. But there will be work days messed up. There will be a lot of mad Americans, and rightly so.

So this amendment would make a small installment payment of $300 million for the REAL ID program we imposed on the States. Surely the conference can find, in a $37.6 billion bill, $300 million to do what we are supposed to do. If we require it, we should fund it. The Republican Congressmen were right in 1994 when they said it, and if we can't remember that, they should throw us out.

I urge a ''yes'' vote on behalf of myself, Senator COLLINS, Senator WARNER, Senator KYL, and Senator VOINOVICH, the cosponsors of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I move to table the amendment.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Minnesota (Mr. COLEMAN), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted ''nay.''

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

The result was announced—yeas 50, nays 44, as follows:

[Rollcall Vote No. 279 Leg.]

YEAS—50

Akaka	Feingold	Murray
Allard	Gregg	Nelson (FL)
Baucus	Harkin	Pryor
Bayh	Inouye	Reed
Biden	Kennedy	Reid
Bingaman	Kerry	Rockefeller
Brown	Kohl	Salazar
Byrd	Landrieu	Sanders
Cantwell	Lautenberg	Schumer
Cardin	Leahy	Shelby
Clinton	Levin	Snowe
Cochran	Lieberman	Stabenow
Conrad	Lincoln	Sununu
Craig	Lott	Tester
Crapo	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Mikulski	

NAYS—44

Alexander	Chambliss	Enzi
Barrasso	Coburn	Feinstein
Bennett	Collins	Graham
Bond	Corker	Grassley
Boxer	Cornyn	Hagel
Bunning	DeMint	Hatch
Burr	Dole	Hutchison
Carper	Domenici	Inhofe
Casey	Ensign	Isakson
Klobuchar	Nelson (NE)	Thune
Kyl	Roberts	Vitter
Lugar	Sessions	Voinovich
Martinez	Smith	Warner
McConnell	Specter	Wyden
Murkowski	Stevens	

NOT VOTING—6

Brownback	Dodd	McCain
Coleman	Johnson	Obama

The motion was agreed to.

Mr. DURBIN. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

CHANGE OF VOTES

Mr. DORGAN. Madam President, on rollcall 279, I voted ''nay.'' It was my intention to vote ''yea.'' I ask unanimous consent that I be permitted to change my vote. It will not affect the outcome of the vote.

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

Mr. DORGAN. Madam President, I came in at the end of the vote intending to vote against Senator ALEXANDER's amendment and did not look close enough. It was actually a tabling motion. So I would not want to vote to table Senator ALEXANDER's amendment.

I thank the Presiding Officer.

Mr. BAYH. Mr. President, on rollcall vote No. 279, I voted ''nay.'' It was my intention to vote ''yea.'' Therefore, I ask unanimous consent that I be allowed to change my vote since it will not affect the outcome.

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

(The foregoing tally has been changed to reflect the above orders.)

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RULE XVI

Mr. DORGAN. Madam President, let me make one additional point I did not make earlier in the discussion in the Senate, and I think it is an important point to make.

There was a suggestion on the floor of the Senate by a Senator earlier that rule XVI has been applied in this Senate in a manner that was unfair. That is simply not the case. Every Senator has the right to raise the issue of rule XVI if someone is trying to legislate on an appropriations bill. It was done, as another Senator suggested, with respect to Senator GRAHAM; it was done with respect to something they offered on the floor. Everyone has that right.

But let me make this point: It is not unusual to legislate on an appropriations bill in circumstances where what is being done is something that is done almost by unanimous consent, a provision that everyone agrees with, a provision that is noncontroversial. That is

not unusual at all. That happens all the time.

Now, I am frankly surprised there is anyone in this Chamber who would disagree with the proposition that we ought to get quarterly classified, top-secret reports on what is happening to try to eliminate the al-Qaida leadership that apparently is now in a safe haven in the tribal area of Pakistan. I didn't expect that to be controversial. I didn't expect there would be one person in this Senate who would disagree with that. But, apparently, there is. He has that right. But it is an unfortunate circumstance that we had a situation that allows, or a situation that persuades someone to stand up on the floor and say there is a double standard on rule XVI. There is no double standard. There is not one person in the Senate who believes that, outside of the person who said that. There is no double standard. The standard is applied in exactly the same way to every Senator.

What is unusual to me is objecting to the standard of allowing what normally would be uncontroversial, or noncontroversial provisions—including this one, saying it ought to be our top priority to eliminate the leaders of al-Qaida, and that the Administration should give Congress quarterly reports on what is being done to address the greatest terrorist threat to our country. I am flabbergasted. I am enormously surprised that would be controversial with anyone in the Senate. I would expect 100 Senators would agree with that proposition, but one, apparently, does not.

So we will have that debate again. We will have the debate at another time. As I said earlier, we have already added the same amendment to the Defense authorization bill. That was an amendable bill. That bill has been taken from the floor at this point, but I assume it will come back.

I did wish to make the point on behalf of every Senator, except the person who said this, that there is no double standard on rule XVI. Those who suggest that, profoundly misunderstand, apparently, the rules of the Senate. But there should not be a misunderstanding in this Senate about the urgency of at least 99 Members of the Senate wanting to go after and eliminate the leadership of al-Qaida. I would hope that would represent everyone's determination.

Al-Qaida is the terrorist organization that represents the greatest terrorist threat to this country, right now, according to the National Intelligence Estimate; and al-Qaida and its leaders are the ones who boasted about murdering 3,000 or more innocent Americans on 9/11/2001.

Madam President, I yield the floor, and 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.

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

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

Mrs. MURRAY. Madam President, what is the pending business? Madam President, regular order.

The PRESIDING OFFICER. The regular order is the Grassley amendment.

AMENDMENT NO. 2444, AS MODIFIED

Mrs. MURRAY. The Grassley amendment, No. 2444, is the pending amendment. I understand that there is a modification at the desk. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The amendment (No. 2444), as modified, is as follows:

On page 69, after line 24, insert the following:

SEC. 536. None of the funds made available to the Office of the Secretary and Executive Management under this Act may be expended for any new hires by the Department of Homeland Security that are not verified through the basic pilot program required under section 401 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

Mrs. MURRAY. Madam President, I believe that amendment is agreed to at this time, as modified.

Mr. COCHRAN. Madam President, this amendment has been reviewed. We have no objection to proceeding to consider the amendment.

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

The amendment (No. 2444), as modified, was agreed to.

Mrs. MURRAY. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2416 WITHDRAWN

Mrs. MURRAY. Madam President, am I correct under regular order the pending amendment is now Schumer amendment No. 2416?

The PRESIDING OFFICER. The Senator is correct.

Mrs. MURRAY. Madam President, I ask unanimous consent to withdraw Schumer amendment No. 2416 that is pending.

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

AMENDMENT NO. 2461, AS MODIFIED

Mrs. MURRAY. Madam President, I understand now under regular order the next pending amendment is Schumer amendment No. 2461, and there is a modification at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mrs. MURRAY. Madam President, we have talked with the minority. I do believe this amendment, as well, is agreed to.

Mr. COCHRAN. Madam President, there is no objection to proceeding to consider that amendment.

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

The amendment (No. 2461), as modified, is as follows:

On page 19, line 26, strike ''$524,515,000'' and insert ''$521,515,000''.

On page 18, line 2, strike ''$5,039,559,000'' and insert ''$5,042,559,000''.

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

The amendment (No. 2461), as modified, was agreed to.

Mrs. MURRAY. Madam President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2447

Mrs. MURRAY. Madam President, under regular order the next amendment is Schumer amendment No. 2447. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mrs. MURRAY. I believe that amendment also has been agreed to on both sides.

Mr. COCHRAN. Madam President, we have no objection to proceeding to consider the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2447) was agreed to.

AMENDMENT NO. 2462

Mrs. MURRAY. Madam President, under regular order is the next item of business the Dole amendment, No. 2462?

The PRESIDING OFFICER. The Senator is correct.

Mrs. MURRAY. Madam President, at this time we are hoping Senator DOLE can be on the Senate floor. We are working our way through these amendments really well at this point. We do have a number of Senators who have their amendments in order. I advise all of them to stay close by the floor. We are trying to work our way through them. As soon as Senator DOLE arrives on the floor, we will try to work out an agreement with her and hopefully move forward.

AMENDMENT NO. 2476 WITHDRAWN

Madam President, I ask unanimous consent to withdraw amendment No. 2476.

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

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

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

The Senator from West Virginia is recognized.

AMENDMENT NO. 2497

Mr. BYRD. Madam President. I have an amendment that I will offer at the appropriate time.

Madam President, in this technological age of vehicle barriers, ground-

based radar, camera towers, and unmanned aerial vehicles, I am pleased to note that the U.S. Border Patrol still guards America's southwest border in a timeless and very American manner, on horseback.

Unfortunately, sometimes these horses are injured or simply are no longer fit for such rigorous service. When that happens, the Border Patrol must make the decision to either put the horse out to pasture, or, in some cases, as the only humane option, to relieve the poor animal's suffering and put it to sleep. Before that happens, my amendment would ensure that the Border Patrol provides the trainer or handler of the horse with an opportunity to adopt it.

This is a very simple amendment. The Bureau of Land Management within the Department of the Interior already has a horse adoption program, which I encourage the Border Patrol to use as a model for creating its own program. My amendment would also ensure that such an adoption program includes appropriate safeguards to ensure that a horse, once adopted, is not sold for slaughter or treated inhumanely. This amendment would make 20 horses available for adoption per year within the Homeland Security Department. It is the humane and decent thing to do for these noble animals which help to secure our borders and keep our citizens safe.

I urge the adoption of my amendment when it is offered later today.

Mrs. MURRAY. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Colorado.

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

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

Mr. SALAZAR. Madam President, I rise today to praise the work of Senator BYRD, Senator INOUYE, Senator COCHRAN, Senator STEVENS, Senator MURRAY, and the entire Appropriations Committee for the work they have done on the Homeland Security Appropriations Act for fiscal year 2008. This is a strong bill. It is an essential bill to protect our homeland.

Our foremost duty here in the Congress is to make sure we are protecting America, and this bill is a significant step in the right direction. I agree with Senator BYRD and the majority leader that this must be the first appropriations bill for this fiscal year and that we must pass it this year. I hope we will pass it later today.

A government's primary responsibility is in the protection of the homeland and keeping its citizens safe from attack. This bill will help us secure our borders, train and support our first responders, prevent the transport of nuclear materials, and strengthen our defenses against terrorists.

We need not look far to understand the threats that face this country. September 11 brought the specter of terrorism to the front door of America. September 11 illustrated tragically and horribly the great threat extremist groups can pose to the United States. But September 11 is not the only terrorist attack we or our allies have endured in recent times. In 2002, a bomb in Bali killed 202 people and wounded 209. In 2004, bombs on trains in Madrid killed 191 people and wounded over 2,000. In 2005, attacks on London's Underground killed 52 commuters and injured 700. The list goes on and on.

The State Department reports that the number of incidents of terrorism worldwide has grown dramatically in recent years. Between 2005 and 2006, the number of incidents rose from 11,000 to over 14,000. Three-fourths of these incidents resulted in death, injury, or kidnapping. All told, terrorism claimed the lives of more than 74,000 people around the world last year.

Americans today know that they are not immune from attack. We know America is not immune from attack. We also know violent extremism is posing a growing threat to our society and to that of our allies. Americans expect their Government to respond to these threats with adequate resources, sound policies, and strong leadership.

Unfortunately, our homeland is not as secure as it should be. A recent survey revealed that national security experts on both sides of the aisle agree that we have not come as far as we should have over the last 6 years. They agree that the Department of Homeland Security is underperforming. They agree that intelligence reform has not been effective. And they agree that too few resources are being allocated to the defense of our homeland and our Nation.

The reports of holes in America's armor, from inadequate rail security to insufficient funding for screening at ports, along with the Government's recent record of failed responses to national disasters, such as the bungled leadership of Hurricane Katrina to a lack of National Guard equipment when a tornado tore through the State of Kansas—those incidents underline the urgency of passing a strong and smart bill that funds our homeland security.

I wish to briefly describe three ways in which the additional funding in this bill is vital for our security.

First, the funding levels allow us to improve security at the border and to enforce our immigration laws. Just a few weeks ago, during our immigration debate on this floor, we all agreed that we must get control of our border and know who is coming into this country. Now it is time for us to walk the walk. The bill before us would allow us to hire additional Border Patrol agents to protect our borders. It also includes funds for additional border fencing, infrastructure, and technology to monitor the vast open spaces we need to monitor and control. It also provides an additional $475 million for enforcement of customs and immigration laws within the United States. Our Nation is and must be a nation of laws.

Second, I am proud that this bill supports our first responders—the firefighters, peace officers, nurses, and volunteers who rush in when others rush out. They serve us by devoting their time, their skills, their courage, and oftentimes their lives. We owe them the tools and resources they need to do their jobs. The bill before us provides money for State and local emergency preparedness programs, money for firefighter assistance grants in this program and funds for emergency performance grants.

I am particularly pleased that this bill restores funds to our first responder and State training programs for law enforcement and firefighter operations that the President had proposed to cut. This bill, however, funds these provisions, and that includes $525 million for the State Homeland Security Grant Program, $375 million for law enforcement and terrorism prevention grants, $560 million for firefighter equipment grants, and $140 million to hire firefighters.

I wish also to note that the bill makes a serious investment in the Federal Law Enforcement Training Center, the crown jewel of training centers for the law enforcement community. A bipartisan group of us added a provision to the 9/11 Commission bill to create the Rural Policing Institute at FLETC to address the particular law enforcement needs of rural America. This was a need that I saw. It was very clear to me as attorney general for Colorado. The rural sheriffs and peace officers whom I spoke with during all of the time that I was attorney general and in crafting the Rural Policing Institute legislation agreed that the Rural Police Institute would be a valuable addition to FLETC.

The $220 million in this bill for FLETC will help ensure that our peace officers continue to get the highest level of training they need as we deal with the reality we find in the post-9/11 world. It is going to be the eyes and ears and skills of the nearly 800,000 peace officers of America who will protect our homeland from the vicious kinds of attacks we saw in New York on 9/11, the vicious kinds of attacks that took 150-plus lives in Oklahoma City some years ago. So we must do everything we can to support our men and women who are in law enforcement at both the local and State level. This legislation does that.

Finally, in addition to providing better protection along our borders and ports and more tools for law enforcement and first responders, this bill helps us to prepare to recover from an attack or a disaster.

FEMA's response to Hurricane Katrina sounded the alarm bells for all of us. Unfortunately, not everyone seems to have heard them. Not only

does FEMA need better leadership and serious Congressional oversight, but it now needs the resources to do this job. The bill before us would provide $6.9 billion for emergency preparedness and response activity. That is a significant amount of additional money beyond what the President requested. Almost half of those dollars would go out to States and local preparedness programs.

Once again, I wish to reiterate my appreciation for the bipartisan leadership which Senator BYRD and Senator COCHRAN, Senator MURRAY, Senator INOUYE, Senator STEVENS, and the other members of the Appropriations Committee have shown on this bill.

It is right that this is the first appropriations bill that we consider because our homeland security must come first before everything else. The threat of attack on our soil is as great as it ever has been, and this bill is an important step toward ensuring America's first responders have the tools and the equipment and training they need to keep America safe.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Madam President, I rise to compliment the distinguished Senator from Colorado. In his statement, he is right on when he is talking about the fact that there is no other bill we have pending in the Senate that is more important than the bill we are considering here today, the funding of the Department of Homeland Security and the agencies which are charged with the responsibility of carrying out the authorizations that have been passed earlier creating the Department following the 9/11 attacks on our country.

This is serious business. I compliment the Senator on the manner in which he is carrying out his duties as a new member of this body—relatively new member. He has important committee assignments, and we appreciate the commitment he has shown during consideration of this bill and the discussion of amendments and the offering of amendments to try to help make sure that the work product we produce is the best we can produce for our great country and our homeland.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. MARTINEZ. Mr. President, I ask unanimous consent that the current amendment be set aside and I be permitted to speak on two amendments that I will call up, intend to speak on, and then ask that they be withdrawn.

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

AMENDMENT NO. 2503 TO AMENDMENT NO. 2383

Mr. MARTINEZ. I call up amendment 2503 and ask that Senators KYL and GRAHAM be added as cosponsors.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. MARTINEZ], for himself, Mr. KYL, and Mr. GRAHAM, proposes an amendment numbered 2503 to amendment No. 2383.

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

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

The amendment is as follows:

(Purpose: To require the issuance and use of social security cards with biometric identifiers for the establishment of employment authorization and identity)

On page 69, after line 24, add the following:

SEC. 536. (a) USE OF BIOMETRIC SOCIAL SECURITY CARDS TO ESTABLISH EMPLOYMENT AUTHORIZATION AND IDENTITY.—Section 274A(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)(B)) is amended—

(1) in clause (ii)(III), by striking ''use.'' and inserting ''use; or''; and

(2) by adding at the end the following:

''(iii) social security card (other than a card that specifies on its face that the card is not valid for establishing employment authorization in the United States) that bears a photograph and meets the standards established under section 536(c) of the Department of Homeland Security Appropriations Act, 2008, upon the recommendation of the Secretary of Homeland Security, in consultation with the Commissioner of Social Security, pursuant to section 536(e)(1) of such Act.''.

(b) ACCESS TO SOCIAL SECURITY CARD INFORMATION.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended by adding at the end the following:

''(I) As part of the employment eligibility verification system established under section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), the Commissioner of Social Security shall provide to the Secretary of Homeland Security access to any photograph, other feature, or information included in the social security card.''.

(c) FRAUD-RESISTANT, TAMPER-RESISTANT, AND WEAR-RESISTANT SOCIAL SECURITY CARDS.—

(1) ISSUANCE.—Not later than first day of the second fiscal year in which amounts are appropriated pursuant to the authorization of appropriations in subsection (f), the Commissioner of Social Security shall begin to administer and issue fraud-resistant, tamper-resistant, and wear-resistant social security cards displaying a photograph.

(2) INTERIM.—Not later than the first day of the seventh fiscal year in which amounts are appropriated pursuant to the authorization of appropriations in subsection (f), the Commissioner of Social Security shall issue only fraud-resistant, tamper-resistant, and wear-resistant social security cards displaying a photograph.

(3) COMPLETION.—Not later than the first day of the tenth fiscal year in which amounts are appropriated pursuant to the authorization of appropriations in subsection (f), all social security cards that are not fraud-resistant, tamper-resistant, and wear-resistant shall be invalid for establishing employment authorization for any individual 16 years of age or older.

(4) EXEMPTION.—Nothing in this section shall require an individual under the age of 16 years to be issued or to present for any purpose a social security card described in this subsection. Nothing in this section shall prohibit the Commissioner of Social Security from issuing a social security card not meeting the requirements of this subsection to an individual under the age of 16 years who otherwise meets the eligibility requirements for a social security card.

(d) DUTIES OF THE SOCIAL SECURITY ADMINISTRATION.—The Commissioner of Social Security—

(1) shall issue a social security card to an individual at the time of the issuance of a social security account number to such individual, which card shall—

(A) contain such security and identification features as determined by the Secretary of Homeland Security, in consultation with the Commissioner; and

(B) be fraud-resistant, tamper-resistant, and wear-resistant;

(2) shall, in consultation with the Secretary of Homeland Security, issue regulations specifying such particular security and identification features, renewal requirements (including updated photographs), and standards for the social security card as necessary to be acceptable for purposes of establishing identity and employment authorization under the immigration laws of the United States; and

(3) may not issue a replacement social security card to any individual unless the Commissioner determines that the purpose for requiring the issuance of the replacement document is legitimate.

(e) REPORTING REQUIREMENTS.—

(1) REPORT ON THE USE OF IDENTIFICATION DOCUMENTS.—Not later than the first day of the tenth fiscal year in which amounts are appropriated pursuant to the authorization of appropriations in subsection (f), the Secretary of Homeland Security shall submit to Congress a report recommending which documents, if any, among those described in section 274A(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)(B)), should continue to be used to establish identity and employment authorization in the United States.

(2) REPORT ON IMPLEMENTATION.—Not later than 12 months after the date on which the Commissioner begins to administer and issue fraud-resistant, tamper-resistant, and wear-resistant cards under subsection (c)(1) of this section, and annually thereafter, the Commissioner shall submit to Congress a report on the implementation of this section. The report shall include analyses of the amounts needed to be appropriated to implement this section, and of any measures taken to protect the privacy of individuals who hold social security cards described in this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section and the amendments made by this section.

Mr. MARTINEZ. I ask unanimous consent that Senators KYL and GRAHAM be added as cosponsors.

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

Mr. MARTINEZ. In the course of the immigration debate, it became clear that one of the issues about interior enforcement that was so difficult for us to get our arms around was the issue of identifying who was here. It was the issue of duplicative Social Security numbers and cards and the ease with which those intent upon breaking the law could fraudulently create a Social Security card. It seems to me the time

has come for us to consider a biometric Social Security card. It would be a Social Security card that would fix this problem for interior enforcement and one that would be a foundational step toward having the kind of serious interior enforcement the American people want.

One of the things we heard over and over is, why don't we enforce the current law. The reason we cannot enforce current law is because there isn't a national way in which we can identify who is here legally and who is not when they apply for a job. It isn't fair to put employers in a position of employing someone about whom they may wonder whether they are here legally but that they wouldn't know because there is no verifiable way of finding out. They also would have no way of knowing whether in fact the card they were being presented was a real one or a fraud.

It would make substantial steps in securing and improving the employee verification system. This amendment would allow employers and employees alike to be sure their employment was lawful. It would provide a card with a photograph of every lawful guest worker, permanent resident or citizen that matches up with a photograph on file with the Social Security Administration or the Department of Homeland Security. It would also allow for phasing in this new card over a period of 10 years, upon which only biometric Social Security cards or a U.S. passport or green card would be valid for employment authorization purposes. It does not affect the use of driver's licenses for establishing identity. It does not become a national ID card. Rather, this amendment only addresses the use of the Social Security card which we already use and sets standards to protect against the use of fake Social Security cards. No lawful American or foreign visitor should have any legitimate concern. A new biometric card will go a long way toward ensuring that documents used for employment authorization are secure and fraud resistant. This card would help weed out fraudulent documents currently in circulation supporting illegal employment in our country.

AMENDMENT NO. 2503 WITHDRAWN

My understanding is this amendment, if offered today, would be subject to a rule XVI. It does in fact attempt to legislate and attempts to correct a serious problem we face in the country today.

At this time I ask that the amendment be withdrawn.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 2413 TO AMENDMENT NO. 2383

Mr. MARTINEZ. I call up amendment No. 2413.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Florida [Mr. MARTINEZ] proposes an amendment numbered 2413 to amendment No. 2383.

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

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

The amendment is as follows:

(Purpose: To require that all funds for State and local programs be allocated based on risk)

On page 35, line 20, strike ''which shall'' and all that follows through ''3714):'' on line 26 and insert the following: ''which shall be allocated based solely on an assessment of risk (as determined by the Secretary of Homeland Security) as follows:

''(1) $900,000,000 for grants to States, of which $375,000,000 shall be for law enforcement terrorism prevention grants:''.

Mr. MARTINEZ. This is an amendment in which the senior Senator from Florida, Mr. NELSON, joins as a cosponsor. It is one that is tremendously important to make sure we have the best security for our Nation we can possibly have. The concept of this amendment is straightforward. It directs Homeland Security dollars to areas where the threat of attack by terrorists is the greatest.

It was no accident that when the terrorists attacked our Nation on September 11, they picked powerful, high-profile and heavily trafficked targets. Terrorists target areas where they can inflict the most damage and get the most attention. For those reasons, they focus on urban areas and areas of national importance or those that are, naturally, highly populated. One of the things that often gets overlooked is when you look at only the population in a certain place, oftentimes we overlook places such as Florida. In Florida, we have 70 million people from all over the world and certainly from all over the United States who visit as tourists. During any given day there are hundreds of thousands of tourists all over the State of Florida. This only adds to the population of our State at any given point in time.

On March 18, 2003, the Federal Aviation Administration proposed a no-fly zone over the Walt Disney world resort area because, according to the FAA, the Disney parks are a potential target of symbolic value. In a similar instance, Port Everglades in Broward County actually has more passengers, freight, and people moving through it than even the port of Miami. All of the cruise ships, tankers, and shipping traffic out of the Miami area actually sail from Broward County. These examples highlight the issues associated with regional influx. They underscore the need for additional security resources.

The whole State of Florida, in fact, now plays host to 77 million tourists a year. That is on top of the 17 million persons who call Florida home. We cannot overstate the importance of regional concepts and that models created by this amendment will encourage funding to be spent not only on our major cities but also on those regional centers that require by their nature special protections. On this issue, the Secretary of Homeland Security Michael Chertoff has weighed in with a consistent message.

In a letter the Secretary says:

Funding our first responders based on risk and need gives us the flexibility to ensure our finite resources are allocated in a prioritized and objective manner. The Department of Homeland Security strongly supports authorization language that would distribute Federal homeland security grant funds based on risk and need, rather than on static and arbitrary minimums.

At this time I do not intend to pursue this amendment and would in a moment ask that it be withdrawn. My understanding is that the 9/11 bill, the bill that gives life to many of the recommendations of the 9/11 Commission, is going to be accepted or is going to be voted on and accepted by the Senate. In that bill there will be a much better distribution of dollars in a way that is more in keeping with the risks our Nation faces.

AMENDMENT NO. 2413 WITHDRAWN

With that in mind, I will at this time ask that the amendment be withdrawn.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 2404

Mr. MARTINEZ. I wish to take an additional moment to speak about amendment 2404 which will be considered later today.

Many other countries, including Israel, Canada, Japan, the United Kingdom, and the Netherlands, have successfully demonstrated how an international registered traveler program can work to ensure security, focus attention on lesser known travelers, and provide a smoother and more predictable travel schedule for repeat travelers. Amendment No 2404 attempts to create an international registered travelers program.

This amendment would authorize the Department of Homeland Security to establish an international registered traveler program to expedite the inspection of frequent U.S. and international travelers arriving by air into the United States.

The Secretary of Homeland Security is accordingly authorized to impose a reasonable fee to cover the costs associated with establishing and maintaining such an expedited inspection process and is tasked to coordinate such a program with the Department of State.

The Transportation Security Administration and private industry developed the Registered Traveler program here in the U.S. to provide expedited security screening for passengers who volunteer to undergo a TSA-conducted security threat assessment in order to confirm that they do not pose or are not suspected of posing a threat to transportation or national security. It has been quite successful. I believe this is something that can work.

If we can create an international version, it will go a long way in helping to develop more strategic ties with our allies abroad and show openness to investment and travel in America.

We fight all the time for travelers who have options to travel anywhere in the world to come to our country to be tourists. Certainly tourism areas in our country such as Florida, but like many others, Washington, DC, New York City, many national parks out West, many of the beautiful areas of our States are natural attractions for foreign travelers. But the foreign traveling public has options of where to go. Part of the decisionmaking process is cost and ease of traveling. I believe this is a well-thought-out amendment which will enhance our national security while at the same time allowing travelers to more easily find their way to our country in order to enhance the travel and tourism industry, which is of great importance in terms of our own tourism dollars, which keep many Americans employed.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CRAIG. 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. CRAIG. Mr. President, I ask unanimous consent to speak as in morning business for no longer than 10 minutes.

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

(The remarks of Mr. CRAIG are printed in today's RECORD under ''Morning Business.'')

Mr. CRAIG. I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I believe the pending amendment is the Dole amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. SESSIONS. Mr. President, I send to the desk a second-degree amendment to the Dole amendment, No. 2442.

The PRESIDING OFFICER. The clerk will report.

Mr. SESSIONS. Mr. President, this second-degree amendment is a modest but important amendment. It would ensure that $2.5 million of the $51 million in this bill that is set aside for 287(g) training—and I will explain 287(g) training, but it is basically training of State and local law enforcement officers by Federal officials so that they can be of assistance to Federal officials——

The PRESIDING OFFICER. Would the Senator suspend a moment. The Parliamentarians are having a discussion about this amendment, which may be helpful.

Mr. SESSIONS. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. 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. SESSIONS. Mr. President, I withdraw the second-degree amendment that I offered earlier, recognizing that there is some parliamentary question about it.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. SESSIONS. Mr. President, what I believe we should do, and the purpose of the amendment that I offered and am hoping we will be able to get accepted in some fashion, is modest, but it is an important step. It will require that $51 million be set aside in the underlying bill that is before us today for section 287(g) training; that is, training State and local law enforcement officers to be of assistance to Federal immigration officers, and that $2.5 million of the $51 million could be used to reimburse State and local training expenses.

Now, there are 65 pending training agreements out there right now, some of which are being executed and some of which are waiting to be executed. I would like to explain why I think this is important, fair, and commonsensical. It is something we should do.

Section 133 of the Immigration Reform and Immigration Responsibility Act of 1996 is codified as section 287(g), the Immigration and Nationality Act, the INA, and it has commonly been known as the 287(g) program. Under this program, States and localities can ask the Department of Homeland Security to enter into a memorandum of understanding. That is like a treaty between the State and the Department of Homeland Security. They enter into these agreements.

The Presiding Officer, as a former U.S. attorney, knows how these MOUs are. They enter into these agreements, and the agreements essentially provide that their local law enforcement officers be cross-trained to work with Customs enforcement.

The program clearly has not expanded at the pace we originally envisioned, but the tide is beginning to turn as to these issues and how we deal with the problem of illegal aliens. So today the number of illegal aliens in the United States is a staggering number. It is estimated at between 10 million to 12 million, with another estimated 800,000 arriving in our country each year. Last year, we arrested over 1 million.

One solution to address the problem is to increase partnerships between Federal immigration authorities and State and local authorities through such programs as the 287(g) program. It is something I know a little bit about. I was a U.S. attorney in Alabama for 12 years. I was attorney general for 2 years, and I traveled around the State and met with local law enforcement officers as attorney general and as U.S. attorney. Since I have become a Senator, I have asked them about how things work if they apprehend somebody they believe to be illegally in our country.

Let me tell my colleagues what they tell me without virtually any exception, except as we are seeing through this 287(g) program. But, fundamentally, what they have been telling me is they let them go. That is not just true in Alabama; it is true all over America. Local law enforcement officials who apprehend people they have every reason to believe—maybe absolute proof—that they are here illegally routinely are allowing the people they apprehend—maybe it is DUI, maybe it is for an accident or whatever, a domestic dispute—whatever it is, they are letting them go because somehow they have gotten the message that nobody will come and pick them up, and they don't know how to do it or who to call and what the processes are. That is what the 287(g) program is designed to deal with.

Now, it has been odd to me since I have sought to do something about this for quite some time, well before the comprehensive immigration reform bill was introduced in this Senate over a number of years ago to deal with it, there is always an objection. It was out of that objection that I made the comment one time that people will vote for any kind of immigration reform, as long as it is a reform that would not work. If you produce something that will actually work and actually help the system get better and more lawful, somebody objects. It becomes a big deal. So I think this is a commonsensical thing.

Our State and local officers are in the best position on a daily basis to come in contact with those unlawfully present here. We don't have Federal ICE agents, immigration agents throughout the country. Border Patrol people are just on the border. If you can get past the border—and that is one of the attractions of trying to get past the border—if you can get past it, you have a pretty good chance of being home free for some time.

I think we have about 5,000 Federal ICE immigration agents inside our country, but only about 2,000 of those are actively involved in enforcement operations. We have 600,000 to 800,000 State and local law enforcement officers, sheriffs, police officers, State troopers. They are out there on the roads every day.

Now, this bill and the training it provides on a 287(g) does not train and does not ask that the State and local officers do anything they don't want to do. They will not be compelled to participate in anything they choose not to participate in. It is a voluntary participation agreement. They are not called upon to participate in conducting raids to try to identify and find people who might be here illegally. Our goal would be to provide a situation in which they could assist the ICE officers during the course of their ordinary duties. If they come upon someone likely to be an illegal alien, they would take the proper steps, after they have been trained, to identify whether they are, in fact, illegal and take the appropriate steps in

conjunction with ICE to handle it in the proper manner.

Because of an interest I had in it for some time, the State of Alabama, I am proud to say, became the second State in the Nation to enter into one of these agreements. Our Governor, Bob Riley, thought it was the right thing to do. He is an excellent Governor. He took steps to do it some years ago.

To date, we have trained 60 State troopers in 3 classes of 20 each, and the Federal Government trained these troopers at the Center for Domestic Preparedness in Anniston, AL. But let me tell my colleagues what happened to the State as a result of their partnership and willingness to assist the Federal Government. They have to pick up the costs of this training. Each class costs Alabama an average of $40,000, for a total of $120,000 in State money, all designed to help ensure that our State troopers are knowledgeable on all of the correct, fair, just, and legal ways to deal with illegal entrants into our country, and to be able to assist the Federal agents in doing their duties.

I think one reason we have seen a fairly slow expansion of the 287(g) program is the fact that it costs the States a bunch of money. Now we have $51 million set aside here in this program for training. But they are not paying any of it, apparently, as of this date to refund the States for their costs of training. It takes some number of weeks in this training—more than I think is justified. It is 6 weeks, my counsel tells me. It is 6 weeks that they have to go through a training program.

I have to tell my colleagues, if you go through any town in the country, whether it is Alabama or anywhere else, and you are a Senator, and you are speeding through that town and you are drunk, some 19-year-old, 20-year-old police officer can put you in jail, put your rear end in the Bastille. He doesn't have to have special training on how to arrest a Senator. But we are going to give special training to our local police officers on how to arrest somebody who is not even a citizen of the United States of America. That is what Homeland Security wants and that is what they believe. Six weeks, in my view, is too much, for heaven's sake. But they want 6 weeks of training and they make them cross designated and very intense partners in this program. But if you take a police officer off the streets for 6 weeks, that is a drain on the State and local police departments, and we ought to be able to compensate them some for it, in my view.

Let me tell you what happened in my State. It has been rather remarkable. In the first 18 months of operation, the Alabama MOU has resulted in the seizure of over $689,000 in cash in connection with criminal immigration offenses. Pretty good action there. As of last year, the training of those troopers had already resulted in 54 indictments, including those for illegal entry, false claims to citizenship, fraudulent documents, and visa fraud. It resulted in 33 convictions, including Social Security fraud, prior deported aggravated felons, and visa fraud. These are in Federal Court, not State court. You cannot try people in State court for immigration offenses. They are picked up by the Federal prosecutors and they have to meet some seriousness standard before they would actually be prosecuted in Federal Court.

In addition to those I mentioned, there are six Federal charges pending disposition, including aliens with firearms. There are 13 Federal charges pending indictment. So this is a matter that has the potential to help us identify those who are here illegally and those who may pose a threat to our country. It could well be that the next person planning an attack somewhere in the United States may be one of those picked up because, as we know, of the 18 hijackers, several of them were picked up—some more than once—by State and local officers. But they had no way to access or did not access the actual history of these individuals to find out whether they were here legally and might otherwise be subject to arrest. If that had occurred and our system had worked effectively, it is conceivable that the case could have been broken before 9/11 occurred.

The 9/11 Commission did point out that we need to do a far better job in this area. The 9/11 Commission recommended we implement State and Federal training and law enforcement cooperation and enhance that ability. That was one of their firm recommendations. We have not done that to any significant degree at this point.

The first State to be accepted with an MOU was Florida. They also have a history of an effective program under 287(g). The ICE program provides local law enforcement with comprehensive training and, once certified, the officers remain basically under ICE's supervision under all matters relating to immigration. To address concerns voiced by immigrant interest groups, Federal, State, and local enforcement have engaged in significant outreach efforts with local immigrant communities and have not engaged in sweeps for undocumented aliens.

One of the greatest testaments to the success of a program is that in no instance has a complaint been filed against law enforcement officers as a result of the actions under this memorandum of understanding. It has gone extremely well without the kind of complaints that people have suggested might happen, and it has been an asset to the Federal Government and should be continued. It is already part of our law. We have provisions that allow for it. We have money set aside—$51 million in one area and $5 million in another area—but we don't have provisions to help the States defray the cost of their training.

Now, I will remind my colleagues of some of the objective reports since 9/11 that are important to us. One is the Hart-Rudman report. The report is entitled ''America Still Unprepared—America Still in Danger.'' They found that one problem America still confronts is that ''700,000 local and State police officers continue to operate in a virtual intelligence vacuum, without access to terrorist watchlists.'' The first recommendation of the report was to ''tap the eyes and ears of local and State law enforcement officers in preventing attacks.''

On page 19, the report specifically cited the burden of finding hundreds of thousands of fugitive aliens living among the population of more than 8.5 million illegal aliens living in the United States. They suggested that the burden could and should be shared with the 700,000 local, county, and State law enforcement officers if they can be brought out of the information void.

The final report of the National Commission on Terrorist Attacks upon the United States, the 9/11 Commission, released in the summer of 2004, also recognized the important role of State and local law enforcement officers in immigration law enforcement. Again, let me remind you, we have only a couple of thousand actively engaged Federal investigators inside our country to actually enforce immigration law. So how do we expect to intercept some of the individuals who may be plotting this very moment to attack? They may be here with false documents, or they may have gotten into the country legally and overstayed. How are we going to find them if we don't welcome the participation of State and local law enforcement officers? In the 9/11 Commission report, the section titled ''Immigration Law and Enforcement,'' the Commission found this:

> [T]oday, more than 9 million people are in the United States outside the legal immigration system.

Some say it is 12 million, but they say more than 9. Nobody can dispute that. They continue:

> There is a growing role for State and local law enforcement agencies. They need more training and work with Federal agencies so they can cooperate more effectively with those Federal authorities. . . .

To achieve that necessary collaboration, we must first clarify the authority delegated to each level of law enforcement and make it clear that State and local officers have authority to and are welcome to participate actively in the enforcement of immigration law.

My amendment will do that. It is something that is overdue, and we should do it. I remain a bit baffled by the objections that continue to be raised on this. I had occasion last year to participate with my chief counsel, who is here with me—Cindy Hayden—to prepare a law review article for the Stanford Law Review on the question of the authority of State and local law enforcement officers. It is somewhat complex, but it is not disputed that State and local law enforcement have the authority to detain people who

have come into our country illegally across our borders. They cannot prosecute them. They can detain them only for a reasonable period of time. They have to turn them over to Federal agencies. But they are able, with regard to criminal immigration offenses, to conduct such detentions as a complement to and as a part of their historic ability to assist in the enforcement of existing Federal law—and, indeed, citizens can make citizen arrests for violations in some instances. This has been a part of the law.

What is somewhat confused is that we have perhaps 40 percent of the people enter into our country legally, but overstay. Maybe that large a percentage of our illegal population are visa overstays. The Court of Appeals in California—our Nation's clearly most liberal, the Ninth Circuit—concluded that local officers do not have the authority to detain those visa overstayers. If you break across the border, that is clearly a criminal offense and detention can be had for that, they say, but not for the others. Two other circuits—the Tenth and Fifth—seem to indicate otherwise.

The Department of Justice did a memorandum at one point that said there was not authority for the detention of people in our country who have not committed criminal violations of immigration law. Then that opinion was withdrawn. So the matter is confusing. There was an article in the Washington Times newspaper about it yesterday. The article quoted one of the people as saying there are gray areas here. There was an article in the Huntsville, AL, newspaper about a meeting with the police and the lawyers and the city council about what they could do to participate in the enforcement of laws with regard to those in our country illegally. The lawyers told them there is some confusion there.

Well, it is not hard for us to clear up that confusion. The House of Representatives tried to do it in their first bill last year, so they made it a felony to overstay and enter the country illegally. That resulted in an uproar and people saying we are going to make felons of them and that was awful, so there was a big retreat from that. We have to figure out the best way to proceed with it.

My view is two things need to occur. We need better training of our State and local law enforcement that goes into their existing power so they know what they are able to do and they don't overreach; second, we need to pass legislation. But this is an appropriations bill and we cannot legislate on an appropriations bill. We are not able to offer an amendment that would change or would clarify what the powers of the local law enforcement are.

We should make it quite clear that they have the power to detain anyone in our country illegally. They can detain a Governor. They can detain a mayor. They can detain a Senator. Why can't they detain somebody who is not a citizen and is in the country illegally?

What do the American people think about this? Americans strongly value our heritage as a nation of immigrants. Americans openly welcome legal immigrants and new citizens. They value the character, the ability, the decency, and the strong work ethic of so many of those who have come to our country. However, it is also clear that Americans do not feel the same way about those who violate our laws. The fact is, a large majority feel that State and local governments should be aiding the Federal Government in stopping illegal immigration.

A Roper poll titled ''Americans Talk About Illegal Immigration'' found that 88 percent of Americans agree and 68 percent strongly agree that Congress should require State and local government agencies to notify INS, now ICE, and their local law enforcement when they determine that a person is here illegally or who has presented fraudulent documentation.

Additionally, 85 percent of Americans agree and 62 percent strongly agree that Congress should pass a law requiring State and local governments and law enforcement agencies to apprehend and turn over to the INS illegal immigrants with whom they come in contact.

So this amendment I have offered is far less reaching. Those numbers speak volumes about the instincts and the understanding of the American people about the enforcement of laws in America.

It is important to note that these responses were collected in response to questions about requiring State and local law enforcement action. The amendment I have offered does not require that, although it is mightily frustrating to see cities and certain jurisdictions open, call themselves sanctuary bodies, and assert to the whole world that not only will they not help in any way to enforce the law but will, in fact, not cooperate with the enforcement of Federal laws in their jurisdiction. To me that is inexcusable. It is an affront to our history as a lawful society, and I am troubled by it.

Again, the first step is we should do a better job of training local and State law enforcement officers, and, second, we should clarify their jurisdiction. If we do not do that, I don't think we are very serious about bringing under control illegal immigration in America.

I did offer a second-degree amendment earlier, and I withdrew it. I ask unanimous consent that I be allowed to modify Senator DOLE's amendment to include the language I proposed.

The PRESIDING OFFICER (Mr. NELSON of Florida). Is there objection?

Mrs. MURRAY. I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MURRAY. Mr. President, I say to the Senator, there are a number of amendments we expect to be called up shortly. For the information of all Senators, we are working through the order we have in front of us right now. Staff is working through a number of amendments we think will be agreed to. At that point, we can work through the final amendments, and we will talk with the Senator about offering his amendment.

Mr. SESSIONS. I thank the Chair and thank Senator MURRAY.

I do feel strongly about this issue. We have talked about it for quite a number of years. It is time for us to get this matter settled and fixed. It is overdue. I look forward to working with the Senator.

I thank the Chair. I see other Senators have arrived.

I yield the floor.

Mrs. MURRAY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. THUNE. I ask unanimous consent to speak in morning business.

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

(The remarks of Mr. THUNE are printed in today's RECORD under ''Morning Business.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. 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. REID. Mr. President, I have consulted with the Democratic manager of this bill, I have spoken to Senator COCHRAN, Senator MCCONNELL. We are going to plow on to finish this bill tonight.

Now, we have worked long and hard the last couple of weeks, late nights, and we may have to have one tonight. We really need to finish this legislation for all of the reasons we have all talked about before, not the least of which is we have so much to do next week that we have to finish this tonight. We also have some other things we are going to try to do, but everyone should be aware of that. Do not plan on going home for dinner tonight.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, we are making progress. We have been working through a number of amendments over the past several hours. I thank the majority leader, the minority leader, as well as the managers of the bill in helping us move forward.

AMENDMENT NO. 2496, WITHDRAWN

AMENDMENT NO. 2488, AS MODIFIED

I would just reiterate what Senator REID said earlier. I am happy that we

have finally resolved the issue regarding the amendment of the Senator from Louisiana. I believe we are at the point now where we can move forward on that.

I ask unanimous consent that the Cochran second-degree amendment No. 2496 be withdrawn; that the Vitter amendment No. 2488, as modified, be agreed to, and the motion to reconsider be laid upon the table with no intervening action or debate.

Mr. REID. And following the vote on that, that the Senator from Louisiana be recognized for 10 minutes to speak on the amendment.

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

The amendment (No. 2488), as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, let me thank both the majority leader and the Democratic manager of the bill, Senator MURRAY, for their work, for their amicable resolution of this issue. I think it is a very good bipartisan, productive, amicable result. I appreciate all of you working together in that regard.

I also extend my thanks to Senator COCHRAN, the Republican manager of the bill, who was also very helpful in that regard in coming to a productive, amicable resolution. I appreciate all of that work.

I just wanted to underscore the importance of what we have done because I think this is a very important issue for the people of Louisiana, for the people of the entire United States.

Last year, on this very same bill, I joined with you, Mr. President, and we were successful in passing an amendment on the Senate floor, and then in the conference committee we were successful in passing a version of that out of the conference committee into law. That was an important step forward at the time to ensure we would not have Federal agents, we would not have the heavy hand, if you will, of the Federal Government coming down to rip out of people's grasp—U.S. citizens—pharmaceuticals they had bought properly in Canada as they were coming back into our country. I think the policy of doing that in the past was outrageous, particularly considering the sky-high prices American consumers face in the United States and the very different lower prices they face in Canada. So that step forward a year ago was very important.

I think what we just agreed to a few minutes ago, what will be on this bill, is an even more significant step forward because compared to what came out of conference and what was signed into law last year, this takes two additional steps.

First of all, we are no longer saying it is limited to prescription drugs on the person of an American citizen. What that means is that we are also including protection of Internet and mail order sales. That is enormously important for you, Mr. President, representing the State of Florida, and for me, representing the State of Louisiana. It is one thing for folks in Minnesota to travel to Canada and to come back; it is obviously a very different thing for folks in Florida or Louisiana to physically travel to Canada and come back. So compared to what we got passed into law last year, this is far broader and far more significant because it also covers mail order and Internet sales.

The second big difference is, again, what we passed last year was limited to a 90-day supply, and what we are passing on the Senate floor right now has no such limitation. Again, I think that is another significant step forward, a significant expansion of the law on the road to full-blown reimportation.

Again, I thank everyone who was involved in this very productive resolution. We got a resounding vote a year ago—68 to 32. We got, technically, even a better vote today, in the sense that it was voice voted, unanimous consent, so technically unanimous. We got a much broader provision today, which I think is a very important step forward on the road to my ultimate goal, which is full-blown reimportation with all the requisite safety provisions and authorizing language that would be involved.

Of course, we cannot do that authorizing legislation on this bill because it is an appropriations bill, but we can, we should, we must, on another vehicle soon, very soon, absolutely this year. I look forward to continuing to work with you, Mr. President, with other leaders on this issue, Senator SNOWE, Senator DORGAN, Senator THUNE, Senator DEMINT, and many others who completely support the ultimate objective of full-blown drug reimportation to allow American consumers unbridled access to safe, cheaper prescription drugs, including by mail order and the Internet.

Again, I believe the step we are taking here tonight, compared to what we were able to pass into law through the Vitter-Nelson amendment last year, is an important additional step in removing the limitation that it has to be on your person, so saying we can do it by mail order and the Internet, and by removing the limitation of a 90-day supply.

With that, I again thank all of the participants for this very positive, amicable, bipartisan resolution of the issue on this bill. I look forward to continuing to walk down this path toward the ultimate goal I share with you and so many others on the Senate floor.

I yield the floor.

Mrs. MURRAY. I suggest the absence of a quorum

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT REQUEST—5849

Mr. DURBIN. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may at any time proceed to consideration of Calendar No. 127, S. 849, the Openness Promotes Effectiveness in our National Government Act of 2007; that the bill be considered under the following limitations: that there be a time limit of 2 hours of general debate on the bill, with the time equally divided and controlled between the chair and ranking member of the Judiciary Committee or their designees; that the only amendment in order be a Leahy-Cornyn technical amendment, which is at the desk; that upon the use or yielding back of time, the amendment be agreed to, the bill as amended be read three times, and the Senate vote on passage of the bill, with the above occurring without further intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. COCHRAN. Mr. President, it is my understanding that there are ongoing discussions with both sides of the aisle as well as the administration to come up with bipartisan, consensual language on this issue and that we are unable to clear the agreement at this time. Therefore, on behalf of several Republican senators, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DURBIN. Mr. President, I understand Senator COCHRAN has expressed the sentiments of some on his side of the aisle. I would like to say for the record that we have made this proposal for several months now. I think those who are trying to move this issue have shown extraordinary patience in trying to reach an accommodation, and this is no reflection on the Senator from Mississippi, who was not involved in this debate, that I know of. It only is a plea to those who are considering the merits of this legislation to try to do so in a timely fashion.

Mr. President, I would like to reiterate what the majority leader said earlier for those following the debate. If there are Members of the Senate of either political party who have pending amendments on the Homeland Security appropriations bill, we encourage you to come to the Senate floor as soon as possible and be prepared to call up your amendment. We are going to stay in session tonight until all amendments are disposed of. We will vote on final passage this evening, whatever time that may be. We hope it will not be a late-night session, but when there are many amendments pending and no Members on the floor, it is a frustrating situation for everyone.

So I hope that those who have amendments they care about will come forward as soon as possible, come to the floor and work to try to resolve those amendments, withdraw these amendments, or bring them to a vote.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2462

Mrs. MURRAY. Mr. President, the pending amendment, I believe, is the Dole amendment No. 2462; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mrs. MURRAY. Mr. President, I believe the amendment has been agreed to on both sides.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2462) was agreed to.

Mrs. MURRAY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2449 WITHDRAWN

Mrs. MURRAY. Mr. President, the next pending amendment is the Dole amendment No. 2449. I believe that is the pending amendment.

The PRESIDING OFFICER. The Senator is correct.

Mrs. MURRAY. Mr. President, I ask unanimous consent that amendment be withdrawn.

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

Mrs. MURRAY. Mr. President, I now ask unanimous consent that the following amendments be called up by the individual Senators, with the following time agreements, with no intervening action: amendment No. 2481, by Senator DEMINT; amendment No. 2516, by Senator SALAZAR; amendment No. 2498, by Senator SANDERS; that the Senators be allowed to speak for up to 10 minutes, with no intervening action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, with that we now have three Senators who will be calling up amendments.

I again say to any Senator who has an amendment they want to offer tonight, we are moving quickly to final passage. In a few minutes, we will have a number of amendments that have been agreed to on both sides. We will be calling those up.

Between now and then, the Senators I referred to will be speaking to their amendments and calling them up.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 2481 TO AMENDMENT NO. 2383

Mr. DEMINT. Mr. President, I call up amendment No. 2481.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment numbered 2481 to amendment No. 2383.

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

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

The amendment is as follows:

(Purpose: To prohibit the use of funds to remove offenses from the list of criminal offenses disqualifying individuals from receiving TWIC cards)

On page 69, after line 24, insert the following:

SEC. 536. None of the funds appropriated or otherwise made available by this Act may be obligated or expended by the Secretary of Homeland Security to remove offenses from the list of criminal offenses disqualifying individuals from receiving a Transportation Worker Identification Credential under section 1572.103 of title 49, Code of Federal Regulations.

Mr. DEMINT. Mr. President, I had an opportunity this morning to speak briefly about this amendment, and in the interest of time I will be brief again.

This amendment is about the security of our ports. Two times within the last year this body passed a bill that would prohibit access to convicted felons of secure areas of our ports. We passed it once in the SAFE Port Act, and that amendment was diluted when it came back. Also, we will find in the 9/11 Commission bill that will come back—we had passed it and put it in as part of that bill—it has been once again diluted.

This needs to be a serious consideration. We can spend billions and billions of dollars on screening and all kinds of equipment, but if one person in our ports turns away from something being shipped in and does not do the proper inspection and lets something in, we could be in a lot of trouble as a country.

So this amendment simply does not allow the Secretary to use funds to eliminate any of the felonies listed in the amendment. Please keep in mind, this list of felonies is one that has been adopted by the Homeland Security agency. It is very similar to the lists we use in our airports, which have protected us for a number of years.

It is very important we recognize that people who have been susceptible to criminal activity can be susceptible again. This is not that we do not want to give people a second chance, but second chances should not be at the expense of the security of this country.

So this amendment would disallow the use of funds to water down and eliminate any of the felonies listed in the Department of Homeland Security's list of those who are denied access to what we call the TWIC cards, which are the transportation worker identification cards.

So with that, Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, what is the pending business?

The PRESIDING OFFICER. The DeMint amendment No. 2481.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the pending amendment be set aside so I may call up an amendment.

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

AMENDMENT NO. 2516 TO AMENDMENT NO. 2383

Mr. SALAZAR. Mr. President, I call up amendment No. 2516 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. SALAZAR], for himself and Mr. MENENDEZ, proposes an amendment numbered 2516 to amendment No. 2383.

The amendment is as follows:

At the end, add the following:

SECTION 1. BORDER SECURITY REQUIREMENTS FOR LAND AND MARITIME BORDERS OF THE UNITED STATES.

(a) OPERATIONAL CONTROL OF THE UNITED STATES BORDERS.—Notwithstanding any provision in this Act, the President shall ensure that operational control of all international land and maritime borders is achieved.

(b) ACHIEVING OPERATIONAL CONTROL.—The Secretary of Homeland Security shall establish and demonstrate operational control of 100 percent of the international land and maritime borders of the United States, including the ability to monitor such borders through available methods and technology.

(1) STAFF ENHANCEMENTS FOR BORDER PATROL.—The United States Customs and Border Protection Border Patrol may hire, train, and report for duty additional full-time agents. These additional agents shall be deployed along all international borders.

(2) STRONG BORDER BARRIERS.—The United States Customs and Border Protection Border Patrol may:

(A) Install along all international borders of the United States vehicle barriers;

(B) Install along all international borders of the United States ground-based radar and cameras; and

(C) Deploy for use along all international borders of the United States unmanned aerial vehicles, and the supporting systems for such vehicles;

(c) PRESIDENTIAL PROGRESS REPORT.—

(1) IN GENERAL—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the President shall submit a report to Congress detailing the progress made in funding, meeting or otherwise satisfying each of the requirements described under paragraphs (1) and (2).

(2) PROGRESS NOT SUFFICIENT.—If the President determines that sufficient progress is not being made, the President shall include in the report required under paragraph (1) specific funding recommendations, authorization needed, or other actions that are or should be undertaken by the Secretary of Homeland Security.

SECTION 2. APPROPRIATIONS FOR SECURING LAND AND MARITIME BORDERS OF THE UNITED STATES.

Any funds appropriated under this Act shall be used to ensure operational control is

achieved for all international land and maritime borders of the United States.

Mr. SALAZAR. Mr. President, I ask unanimous consent that Senator MARTINEZ and Senator GRAHAM be added as cosponsors to this amendment.

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

Mr. SALAZAR. Mr. President, I note at the outset this amendment is sponsored by Senator MENENDEZ, myself, Senator GRAHAM, and Senator MARTINEZ.

What it does, in a very simple statement, is say any funds we appropriate under this legislation with respect to our border security should be used to ensure the operational control that needs to be achieved for all our international land and maritime borders of the United States.

This is an important amendment because the earlier amendment, which I cosponsored with Senator GRAHAM, focused on the appropriation of moneys to go to the southern border, the border between Mexico and the United States. The fact is, those of us who are here working on homeland security should care and do care about making sure we have secure borders to this country, including our land and our maritime borders.

So what this amendment does is it directs that these expenditures of moneys can be spent in securing our land borders to the north and to the south as well as our maritime borders of the United States of America. It is an amendment which is important, and there is an important statement to be made here. Much of the attention we have been giving to the southern border, in terms of the broken borders we are trying to fix in this immigration debate, has taken away the needed amount of attention we should be focused on with respect to the other borders.

The fact is, we have a very broken system of immigration. We have a very broken system of our borders today in the United States of America. But it is not just the border with Mexico that is broken. It is also the border between the United States and Canada, and it is also our maritime borders that need additional security. So it is my hope that with this amendment we will be able to put attention on our maritime borders as well as our northern border.

I wish to give a couple of examples about why it is that this amendment is needed. If you look at the number of examples we have with terrorists and other people who would wish to do us harm, they come in from across the borders, many of them come into this country legally and then they overstay their visas.

One example of what we know from the north, and that is in December of 1999, the Jordanian police foiled a plot to bomb hotels and other sites frequented by American tourists. It was a U.S. Customs agent on the U.S.-Canadian border who arrested the person who was smuggling explosives intended for an attack on Los Angeles International Airport. So when we talk about homeland security and we talk about securing our border to the south, it is equally important we are securing our border to the north, and it is equally important we are securing our maritime borders as well.

Another example: Recently, a human smuggling ring running undocumented work immigrants into the United States from Canada was dismantled. This was a human smuggling ring that was bringing undocumented workers through Canada. That ring was responsible for bringing dozens of Indian and Pakistani immigrants into the country.

So I think these are examples that demonstrate if we are going to secure our borders, it is not just the border between Mexico and the United States that needs to be secured; it is all the borders of the United States of America.

I urge my colleagues to join with Senator MENENDEZ, Senator MARTINEZ, Senator GRAHAM, and me in the adoption of this amendment.

Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER (Mr. DURBIN). Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the unanimous consent agreement, the Senator from Vermont is now recognized for up to 10 minutes.

Mr. SANDERS. Thank you, Mr. President.

What is the pending business?

The PRESIDING OFFICER. The pending business is Salazar amendment No. 2516.

Mr. SANDERS. Mr. President, I ask unanimous consent that the pending amendment be laid aside so I can call up an amendment.

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

AMENDMENT NO. 2498 TO AMENDMENT NO. 2383

Mr. SANDERS. Mr. President, I call up the Sanders-Feingold amendment No. 2498 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. SANDERS], for himself and Mr. FEINGOLD, proposes an amendment numbered 2498 to amendment No. 2383.

The amendment is as follows:

(Purpose: To prohibit funds made available in this Act from being used to implement a rule or regulation related to certain petitions for aliens to perform temporary labor in the United States)

On page 69, after line 24, add the following:

SEC. 536. PROHIBITION ON USE FUNDS FOR RULEMAKING RELATED TO PETITIONS FOR ALIENS.

None of the funds made available in this Act may be used by the Secretary of Homeland Security or any delegate of the Secretary to issue any rule or regulation which implements the Notice of Proposed Rulemaking related to Petitions for Aliens To Perform Temporary Nonagricultural Services or Labor (H–2B) set out beginning on 70 Federal Register 3984 (January 27, 2005).

Mr. SANDERS. Mr. President, let me begin by commending Chairman BYRD and Ranking Member COCHRAN for their outstanding leadership on this excellent piece of legislation. The fiscal year 2008 Homeland Security appropriations bill will make this country safer, and I thank Chairman BYRD and Senator COCHRAN for their hard work in crafting this bill.

The amendment I am offering now is, in fact, a very simple amendment. As you know, there is strong concern all over this country about the increase in poverty and the decline of the middle class. It seems to me—at a time when we are hemorrhaging millions of good-paying jobs; at a time when Americans are losing, by the millions, their health insurance, when moms cannot afford affordable childcare, people are losing their pensions—we have to do everything we can to make sure the policies we implement do not hurt low- and moderate-income families and make a bad situation even worse.

On the contrary, this Congress has to do everything we can to make sure we lift up wages—we lift up working conditions—and not push them down. Unfortunately, the Department of Homeland Security and the Department of Labor have proposed regulations that, if implemented, could have a significant negative impact in terms of lowering wages and working conditions for American workers.

Specifically, the Department of Homeland Security and the Department of Labor have proposed regulations that would eliminate the labor certification process and replace it with a labor attestation process. State workforce agencies and the Department of Labor as a whole would no longer be involved in certifying that employers applying for H–2B visas are not displacing American workers or adversely affecting the wages or working conditions of U.S. workers.

The proposed regulations, for the most part, would only require employers to attest—to attest—to the Department of Homeland Security that they are following the law. All they have to do is say: I am following the law. Trust us. In other words, the Federal Government would take employers at their word that they are complying with the law, with little, if any, oversight.

Among other things, the proposed regulations fail to ensure H–2B visa work is temporary in nature. H–2B work is supposed to be temporary. The proposed regulations fail to ensure that no qualified American worker is available for H–2B positions. In other words, the employer is supposed to go out and make sure there are not American workers available for that position. The proposed regulations fail to require that H–2B employers do not adversely affect U.S. wages and working

conditions, all of which are required by current law. In other words, the law says an employer cannot pay low wages which have the impact of lowering wages for all workers in that area.

Now, let me very briefly read to my colleagues what the AFL–CIO has written about these regulations:

The proposed regulations would significantly weaken the ability of the Department of Labor and the Department of Homeland Security to meet the statutory requirements of the H–2B program as established by Congress and would establish a new regulatory system that would be arbitrary and capricious. Current administrative procedures have so far failed to adequately protect H–2B workers, domestic workers, and the domestic labor market. The proposed regulations, rather than addressing and remedying these fundamental flaws in current procedures, would only further undermine the administration's ability to ensure the H–2B program operates in full compliance with the law and in a rational manner. The proposed regulations are not only unacceptable to the AFL–CIO and to worker and immigrant advocates as a matter of public policy—if enacted, they would also constitute an unjustified and unauthorized derogation from the administration's responsibilities under the law.

In addition, according to a recent report by the Southern Poverty Law Center entitled ''Close to Slavery,'' H–2B workers are routinely cheated out of wages; forced to mortgage their futures to obtain low wage, temporary jobs; held virtually captive by employers or labor brokers who seize their documents; forced to live in squalid conditions; and denied medical benefits for on-the-job injuries.

The amendment I am offering today would prohibit the Department of Homeland Security from using any of the funds in this act to implement these proposed regulations.

Given the serious abuses of the H–2B program by many employers documented by the Southern Poverty Law Center, and the strong opposition of working people from all over this country, I hope my colleagues will join me in supporting this amendment. We have a bad situation now. Let us not make it worse.

Simply put, we must make sure that labor protections for American workers and for foreign workers who are temporarily working in our country—we must make sure these regulations are strengthened, not weakened. Over the long term, I will be introducing legislation to accomplish that goal. But in the interim, we must not take a major step backwards in terms of protecting both U.S. workers and guest workers from unscrupulous employers. That is what this amendment is all about, and I urge my colleagues to vote ''yes'' on this amendment.

With that, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

Mrs. MURRAY. Mr. President, I ask unanimous consent that Senator LIEBERMAN be allowed 10 minutes to call up an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 2407 TO AMENDMENT NO. 2383

Mr. LIEBERMAN. Mr. President, I thank the Chair and I thank my friend Senator MURRAY from Washington State. I call up amendment No. 2407.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN], for himself and Mrs. COLLINS, proposes an amendment numbered 2407 to amendment No. 2383.

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

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

The amendment is as follows:

(Purpose: To provide funds for the Interoperable Emergency Communications Grant Program)

On page 35, line 20, strike ''$3,030,500,000'' and insert ''$3,130,500,000''.

On page 39, line 21, strike the colon, insert a period and add the following:

(4) $100,000,000 for grants under the Interoperable Emergency Communications Grants Program established under title XVIII of the Homeland Security Act of 2002; Provided, That the amounts appropriated to the Department of Homeland Security for discretionary spending in this Act shall be reduced on a pro rata basis by the percentage necessary to reduce the overall amount of such spending by $100,000,000.

Mr. LIEBERMAN. Mr. President, this amendment is introduced by the Senator from Maine, Ms. COLLINS, the ranking member of the Homeland Security Committee, and myself. At this time I wish to ask unanimous consent that Senator MCCASKILL of Missouri be added as an original cosponsor.

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

Mr. LIEBERMAN. Mr. President, as the Presiding Officer knows, in a short while this evening, the Senate will consider the conference report, which has brought together the so-called 9/11 legislation passed by both the House and the Senate. I am very pleased, as I will say when that matter comes up, that the conferees have reached an agreement, because I believe this bill will greatly enhance the security of the American people, protecting them from natural disasters and also, God forbid, from a terrorist attack. This conference report will enact remaining unenacted or inadequately enacted recommendations of the 9/11 Commission.

Specifically in regard to this amendment, the conference report will create, if favorably adopted, a new interoperability emergency communications grant program to help Federal, State, and local responders achieve comprehensive interoperability.

My colleagues know the need from which this amendment arises, and, in fact, some of the tragic experiences from which it arises. On September 11 at the World Trade Center and the Towers, we know as a matter of fact that lives were lost because the heroic emergency response personnel—the firefighters, the police officers, the emergency medical personnel—simply could not communicate with one another because their systems did not allow them to do that. During Hurricane Katrina, there was a breakdown because of the catastrophic impact of that natural disaster in the very operability of communications.

We have heard from experts on how best respond to these disasters and of the crying need for investment in making our communications systems interoperable. Our State and local emergency response officials, elected officials, tell us this is a crying need. The fact is it is a need that is very hard, particularly for local governments, to satisfy. Anybody who has ever dealt with a municipal budget looks at the budget of the firefighters, the police departments—these are personnel-intensive budgets. There is not enough left over for what might be called capital investments, equipment investments. So this need for interoperable communications, which will save lives, without question, will simply not be met fast enough if we leave it to the local governments.

Now, in the 9/11 Commission bill which we will consider later, this interoperability emergency communications grant program is not only created but authorizes the expenditure of $1.6 billion for this purpose over the next 4 years. This Homeland Security appropriations bill before us makes a substantial increase over the President's budget in funding for homeland security, $2¼ billion. It is absolutely the right thing to do. It is absolutely the necessary thing to do to protect the American people from disaster and/or a terrorist attack. However, the bill before us does not include any money for interoperability of communications at the local level.

Perhaps because this conference report we are going to consider tonight was not adopted when the Homeland Security Appropriations Subcommittee reached its judgments, I will say for the record that the Senate itself earlier this year, in the Senate budget resolution, supported $400 million in dedicated funding for this program, with passage of that budget resolution, in anticipation, I believe, of this new program.

What this amendment, offered by the Senator from Maine and myself and the Senator from Missouri, does is to provide $100 million to fund a first payment to fund this new interoperability emergency communications grant program. It is a kind of downpayment at a meaningful level; not as much as is necessary, but a beginning to this program. The authorization in the conference report is important. It takes a critical step forward. But it must be funded, or it will not mean anything to our first responders and those of the rest of us in America who depend on them for our protection.

I wish to note as an indication of the urgent need for this kind of funding that the following first responder groups have written and expressed their support for this amendment: the International Association of Firefighters, the International Association of Fire Chiefs, the International Association of Chiefs of Police, the Association of Public Safety Communications Officials International, the Congressional Fire Service Institute, and the National Volunteer Fire Council. All of these folks representing millions of first responders around America are asking for this funding.

I will report to my colleagues that the House has included $50 million as a first payment to fund this interoperability communications fund in its Homeland Security appropriations bill. I hope my colleagues will help us do our part, now that we are about to authorize the fund later tonight by adopting this amendment.

I ask when the vote is taken on this amendment that it be taken by the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

Mr. LIEBERMAN. I thank the Chair and I yield the floor.

Mrs. MURRAY. Mr. President, I want our colleagues to know we are trying to work as diligently as possible to move forward at this time. The Senator from New Jersey wants 10 minutes to speak, and after that I think we can start moving on some of the amendments. So I ask unanimous consent that the Senator from New Jersey to speak for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MENENDEZ. Mr. President, I appreciate my distinguished colleague from Washington State providing the time.

I rise in strong support of the Salazar-Menendez amendment. I expect from all of the voices I have heard in our debate about immigration as part of this Homeland Security bill that we will have resounding support for this amendment, because I know those who want to protect the United States at its border crossings are going to want to protect all of its border crossings.

I have heard a lot about our challenges along our southern border, but I have heard nothing about our challenges along our northern border. In that respect, I think it is important to call the attention of the Senate to the fact that over the last several years, according to official reports, the Congressional Research Service tells us there have been nearly 69,000 individuals who have crossed over the northern border and, of course, that number is small in comparison because we don't have the Border Patrol agents on the northern border to be dealing with the interdictions that would be called for.

So while there are 13,488 Border Patrol agents in the entire force, there are only 965 agents along the northern border. That northern border has over 5,525 miles of border between the United States and the North, significantly more than the 1,993 miles along the southern border. Yet over 69,000 people have crossed, to our knowledge, because if you divide out the number of Border Patrol agents at any given time on the northern border, they are looking at patrolling hundreds and hundreds of miles for a fraction of what is the Border Patrol on any given shift. Therefore, what that number tells us is that while thousands cross on the northern border, we don't even know the magnitude of it, because we are not paying attention. We are not paying attention on the northern border.

I will remind my colleagues that it was Ahmed Ressam in 1999, December of 1999, the millennium bomber, who came in through the northern border of the United States. We don't seem to be concerned about the northern border. What Senator SALAZAR's and my amendment simply does is to make sure that we are, in fact, looking at all of our international borders and allocating the resources appropriately.

Now, unless this debate is about something more than protecting the United States, we should have a resounding vote. Because if you are concerned about one terrorist coming through a border, you should be concerned about a border that is far more porous, far greater in length; the one that actually has a history of having someone who sought to commit an act of violence within the United States crossing that northern border—one that is totally undermanned in the context of protecting that border and, obviously, it means we have far greater numbers than the 69,000; at the same time, one in which we have actually seen the number of Border Patrol agents decrease. We have a mandate in the 2004 Intelligence Reform and Terrorist Prevention Act that mandated that the Canadian border receive increases in Border Patrol agents equal to 20 percent of the Border Patrol agents that exist. And, ultimately, we have seen a reduction during fiscal year 2005–2006 in the total number of Border Patrol agents by nearly 9 percent.

So we have a history of people crossing the border, a history of the millennium bomber. Yet we have a decrease in Border Patrol agents who are on the northern border. You are either for protecting the country or you are not. By the way, if I were a terrorist, and I wanted to get into the United States, and the bottom line is that I know they are going to put everybody down at the southern border, guess what. I would be coming through the northern border because with over 5,500 miles and with only 965 total Border Patrol agents for three shifts around the clock for that whole stretch, that makes it a much greater percentage for me to be able to come over the northern border than to face the challenges of the southern border.

I know our colleagues here who care so much, as we do, about the national security and the defense of this country are going to give this amendment an overwhelming vote. I expect it to be accepted by a voice vote. If the answer is no, we are not concerned about the northern border, then I have to question the motives of some in this debate because we are either concerned about the security of the country or we have a certain prejudice over a certain part of what we consider a threat to the United States. Porous borders are a collective threat. But when we focus all of our time and attention at one end, let's leave a wide gaping hole on the other part, the one that has over 2½ times more territory to cover and has probably 10 percent of all the Border Patrol agents in the country.

I am sure this will be accepted by voice or we will have an overwhelming vote because the absence of having an overwhelming vote to make sure we protect our country indicates to me that the concern of some is not about protecting our country, the concern of some is that, in fact, they have a concern about who comes to this country—not because they seek to provide an act of terrorism, but because of who they are. So I think this will be a defining moment in which we can collectively work to protect our country, make sure we have the appropriate resources and allocations of them to the northern border as well as the southern border, make sure that we fill up all of our security gaps and, therefore, strengthen the security of the country. In the absence of that, many of us will have to question what this debate has really been about.

With that, I yield the floor.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, I ask unanimous consent that at 8:30 this evening, the Senate proceed to vote in relation to the following amendments in the order listed; that no amendments be in order to any of the amendments in this agreement prior to the vote; that there be 2 minutes of debate equally divided in the usual form prior to each vote: Lieberman amendment No. 2407, Sanders amendment No. 2498, Salazar amendment No. 2516, and DeMint amendment No. 2481.

The PRESIDING OFFICER. Is there objection?

Ms. LANDRIEU. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Reserving the right to object, I ask the managers of the bill if there is going to be another set of amendments on which we are going to vote tonight.

Mrs. MURRAY. Mr. President, I understand that the Senator from Louisiana and the Senator from Oklahoma both would like to call up an amendment, but in the intervening time between now and 8:30, we welcome talking with the Senators to set up some time for those who want to call up their amendments to do so.

Ms. LANDRIEU. Reserving the right to object, are there only two other amendments that are to come up?

Mrs. MURRAY. No, there are a number of amendments beyond the four I just mentioned.

The PRESIDING OFFICER. Is there objection to the request?

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. KYL. Mr. President, might I take 30 seconds to explain why? I have no objection to the text of the Salazar amendment and have talked with Senator SALAZAR about it. My understanding is that it has the same rule XVI germaneness objection to it that is being posited against an amendment of mine, which I think also is not objectionable. I want to make sure all amendments are treated the same that have the same objection to them.

Mrs. MURRAY. Mr. President, if the Senator will withhold his objection, I inform him that when the Salazar amendment is pending before the Senate, he will be able to offer a rule XVI point of order if he so wishes.

Mr. KYL. Mr. President, I understand there was a unanimous consent request to consider the amendment. I was in the cloakroom at the time and had to come out. Perhaps I misunderstood.

Mrs. MURRAY. The amendment will be called up for a vote, and a rule XVI point of order could be raised at that point on the amendment. We are simply setting up these amendments to consider at that time.

Ms. LANDRIEU. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I registered my objection, and I continue to do so, but I am happy to try to work something out.

Mr. COCHRAN. Mr. President, isn't it true that we don't have to have unanimous consent to proceed to a vote? This is all that is being asked. We are not asking to adopt these amendments, but we are simply setting up an order and a time for the voting to begin. I just didn't want anybody to misunderstand what is being asked.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I revise my unanimous consent request: that at 8:30 this evening, the Senate proceed to vote in relation to the following amendments—we will remove the Salazar amendment—and that no other amendments will be in order: Lieberman amendment No. 2407, Sanders amendment No. 2498, and DeMint amendment No. 2481.

The PRESIDING OFFICER. Is there objection?

Ms. LANDRIEU. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I would like to be added to the unanimous consent request. I am very unclear as to whether there will be an objection to me offering an amendment. I would like it added to the list. The Senator from Mississippi said we don't need unanimous consent to file my amendment. I want my amendment to be filed and will take a vote up or down.

Mrs. MURRAY. I add to the unanimous consent I already put in place that following this order being put in place, between now and 8:30 p.m. that Senator COBURN and Senator LANDRIEU be allowed to call up their amendments and speak for 10 minutes each.

The PRESIDING OFFICER. Is there objection to the request as modified?

Mr. MENENDEZ. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. MENENDEZ. Is it the intention of the Senator from Washington—while I understand this is simply for the purposes of an order, are we expecting, regardless of the order, a vote to be called on the Salazar amendment?

Mrs. MURRAY. May I respond to the Senator? Their amendment is one of the pending amendments. The yeas and nays have been ordered on it. So before this bill is finally adopted, their amendment will be in order at some point.

We are trying to move our way through, Mr. President, to the end of this evening. The majority leader has said we will finish this bill tonight. There are a number of amendments that are pending. We hope to dispose of all of them before it gets too late this evening.

I again ask unanimous consent as I said before.

The PRESIDING OFFICER. Is there objection to the request as modified? Without objection, it is so ordered.

The Senator from Oklahoma.

AMENDMENT NO. 2442 TO AMENDMENT NO. 2383

Mr. COBURN. Mr. President, I thank the chairman and appreciate her consideration in giving me an opportunity to call up an amendment even though we are not going to debate it. We will put it in the pending file. I understand that. I thank her for her courtesy.

I ask that the pending amendment be set aside and that amendment No. 2442 be brought up.

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

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN], for himself and Mr. DEMINT, proposes an amendment numbered 2422 to amendment No. 2383.

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

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

The amendment is as follows:

(Purpose: To prohibit funding for no-bid earmarks)

At the appropriate place, insert the following:

SEC. ____. (a)(1)(A) None of the funds appropriated or otherwise made available by this Act may be used to make any payment in connection with a contract awarded through a congressional initiative unless the contract is awarded using competitive procedures in accordance with the requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), section 2304 of title 10, United States Code, and the Federal Acquisition Regulation.

(B) Except as provided in paragraph (3), none of the funds appropriated or otherwise made available by this Act may be used to make any payment in connection with a contract awarded through a congressional initiative unless more than one bid is received for such contract.

(2) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be awarded by grant or cooperative agreement through a congressional initiative unless the process used to award such grant or cooperative agreement uses competitive procedures to select the grantee or award recipient. Except as provided in paragraph (3), no such grant may be awarded unless applications for such grant or cooperative agreement are received from two or more applicants that are not from the same organization and do not share any financial, fiduciary, or other organizational relationship.

(3)(A) If the Secretary of Homeland Security does not receive more than one bid for a contract under paragraph (1)(B) or does not receive more than one application from unaffiliated applicants for a grant or cooperative agreement under paragraph (2), the Secretary may waive such bid or application requirement if the Secretary determines that the contract, grant, or cooperative agreement is essential to the mission of the Department of Homeland Security.

(b)(1) Not later than December 31, 2008, the Secretary of Homeland Security shall submit to Congress a report on congressional initiatives for which amounts were appropriated during fiscal year 2008.

(2) The report submitted under paragraph (1) shall include with respect to each contract and grant awarded through a congressional initiative—

(A) the name of the recipient of the funds awarded through such contract or grant;

(B) the reason or reasons such recipient was selected for such contract or grant; and

(C) the number of entities that competed for such contract or grant.

(3) The report submitted under paragraph (1) shall be made publicly available through the Internet website of the Department of Homeland Security.

(c) In this section:

(1) The term ''congressional initiative'' means a provision of law or a directive contained within a committee report or joint statement of managers of an appropriations Act that specifies—

(A) the identity of a person or entity selected to carry out a project, including a defense system, for which funds are appropriated or otherwise made available by that

provision of law or directive and that was not requested by the President in a budget submitted to Congress; and

(B) the amount of the funds appropriated or otherwise made available for such project.

(2) The term ''executive agency'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

Mr. COBURN. Mr. President, this is a fairly simple amendment. I plan on offering this on every appropriations bill. What it says to the American people is we know we are going to do certain things to send projects home. What this says is if you do that, then there ought to be a competitive bid on the project rather than a sweetheart deal to wherever it is going.

It is a very simple amendment. It says if we are going to send something home through an earmark, then the process of expending that money ought to be on a competitive bid basis so we get good value for the American taxpayer—no cost-plus, just competitively bid.

With that, I reserve my debate for a later time and yield the floor.

Mrs. MURRAY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2525 TO AMENDMENT NO. 2383

Ms. LANDRIEU. Mr. President, I ask unanimous consent to send an amendment to the desk.

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

Ms. LANDRIEU. Mr. President, in the underlying bill, which makes a tremendous amount of progress, in my opinion, with protecting the homeland—increasing funding for port security, transportation, et cetera, and I have said publicly and privately my great thanks, on behalf of the people of Louisiana whom I represent, to the leaders managing this bill—in the underlying bill, there is a provision that some of us have worked very hard on to help expedite the rebuilding of schools in the gulf coast area.

As you know, 2 years this August is the anniversary of Katrina and Rita. Literally hundreds of schools were destroyed. As I said a thousand times on this floor and will continue to say, the Federal Government was simply overwhelmed by the catastrophic nature of this event, the scope of which had never been seen. So I offer this amendment, and send one to the desk that I am speaking of now to help fix one very small problem with actually one school.

The underlying bill sets up a process—and I am very grateful to the committee, Republicans and Democrats, who supported a new process—and actually FEMA was very helpful in supporting a new process—to help us rebuild the schools faster, better; not at greater expense to the taxpayer but a better way to deal with this catastrophic disaster.

However, if this amendment I am offering right now does not pass, there will be one school that is left out of this fix, and that is why I offer it, on behalf of a very small parish in south Louisiana, a school I happened to visit, a school that thought they had one agreement with FEMA but, evidently, there was a great misunderstanding.

This school has 500 children who go here, and they have had a very difficult time over the last 2 years, so I offer this amendment for them. It is extremely small, when compared to all the amendments my colleagues are offering, but it would help them to get their small school district back up and running. That is the essence of what the amendment does. As I say, it will affect basically one school in New Iberia Parish.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside and the clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 2525 to amendment No. 2383.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to dispense with the reading of the amendment.

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

The amendment is as follows:

(Purpose: To require regional evacuation and sheltering plans)

On page 69, after line 24, add the following:

SEC. 536. EVACUATION AND SHELTERING.

(a) REGIONAL EVACUATION AND SHELTERING PLANS.—

(1) IN GENERAL.—Not later than 360 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency, in coordination with the heads of appropriate Federal agencies with responsibilities under the National Response Plan or any successor plan, States, local governments, and appropriate nongovernmental organizations, shall develop and submit to Congress, regional evacuation and sheltering plans that—

(A) are nationally coordinated;

(B) incorporate all appropriate modes of transportation, including interstate rail, commercial rail, commercial air, military air, and commercial bus;

(C) clearly define the roles and responsibilities of Federal, State, and local governments in the evacuation plan; and

(D) identify regional and national shelters capable of housing evacuees and victims of an emergency or major disaster in any part of the United States.

(2) IMPLEMENTATION.—After developing the plans described in paragraph (1), the Administrator of the Federal Emergency Management Agency and the head of any Federal agency with responsibilities under those plans shall take necessary measures to be able to implement those plans, including conducting exercises under such plans as appropriate.

(b) NATIONAL SHELTERING DATABASE.—The Administrator of the Federal Emergency Management Agency, in coordination with States, local governments, and appropriate nongovernmental entities, shall develop a national database inventorying available shelters, that can be shared with States and local governments.

(c) COST-BENEFIT ANALYSIS.—

(1) IN GENERAL.—The Administrator of the Federal Emergency Management Agency, in consultation with the heads of appropriate Federal agencies with responsibilities under the National Response Plan or any successor plan, shall conduct an analysis comparing the costs, benefits, and health and safety concerns of evacuating individuals with special needs during an emergency or major disaster, as compared to the costs, benefits, and safety concerns of sheltering such people in the area they are located when that emergency or major disaster occurs.

(2) CONSIDERATIONS.—In conducting the analysis under paragraph (1), the Administrator of the Federal Emergency Management Agency shall consider—

(A) areas with populations of not less than 20,000 individual needing medical assistance or lacking the ability to self evacuate;

(B) areas that do not have an all hazards resistance shelter; and

(C) the health and safety of individuals with special needs.

(3) TECHNICAL ASSISTANCE.—The Administrator of the Federal Emergency Management Agency shall, as appropriate, provide technical assistance to States and local governments in developing and exercising evacuation and sheltering plans, which identify and use regional shelters, manpower, logistics, physical facilities, and modes of transportation to be used to evacuate and shelter large groups of people.

(d) DEFINITIONS.—In this section, the terms ''emergency'' and ''major disaster'' have the meanings given those terms in section 102 of ther Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

AMENDMENT NO. 2407

Ms. COLLINS. Mr. President, shortly the Senate will vote on an amendment Senator LIEBERMAN and I have offered to provide $100 million in badly needed funding for a new emergency communications grant program. This program is about to be authorized in the Homeland Security bill we have recently completed the conference negotiations on, and which I anticipate will be cleared either tonight or tomorrow morning.

When we look at the needs of our first responders, interoperability of communications equipment is at the top of their list. We saw on 9/11 that firefighters, police officers, and emergency medical personnel lost their lives because of an inability to communicate due to incompatible equipment. We saw it again in the aftermath of Hurricane Katrina, where police could not communicate with firefighters, who could not communicate with emergency medical personnel.

Unfortunately, achieving interoperability is an expensive, lengthy, and difficult process, and it is one our State and local governments need assistance in meeting. The proposal Senator LIEBERMAN and I have put forth is a pretty modest proposal. The Homeland Security conference report authorizes a $400 million program. The budget resolution did as well for this year. What we are asking for is a modest downpayment of $100 million. It is offset by a modest reduction in other accounts.

Let me say that this amendment does have the strong support of our first responder community. It has been endorsed by the International Association of Fire Chiefs, the Congressional Fire Services Institute, the International Association of Firefighters, the International Association of Chiefs of Police, and the Association of Public Safety Communications Officials International.

Mr. President, I ask unanimous consent that endorsement letters from those organizations be printed in the RECORD.

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

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS®,
Washington, DC, July 26, 2007.

Hon. JOSEPH LIEBERMAN,
U.S. Senate,
Washington, DC.

Hon. SUSAN COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR LIEBERMAN AND SENATOR COLLINS: On behalf of the nation's more than 280,000 professional fire fighters and emergency medical personnel, I am writing to express our support for your amendment to the 2008 Homeland Security Appropriations Act for Fiscal Year 2008 providing $100 million for grants to improve emergency communications.

The Department of Homeland Security's 2006 National Interoperability Baseline Survey found that first responder agencies have made some progress towards achieving interoperability. However, the failure of emergency personnel to communicate with each other along the Gulf Coast in the wake of Hurricane Katrina provides a stark example of just how much work remains to ensure that first responders have adequate communications capabilities in emergencies.

The new grant program dedicated to improving first responder communications, established in the 9/11 Commission Act, will help states achieve this critical goal. By permitting funds to be used to assist with a variety of activities, including activities to achieve basic operability, this new program will enable states and regions to overcome their own unique communications challenges, and ensure a solid foundation upon which to build an interoperable communications network.

The ability of first responders to communicate with each other, as well as with state and federal authorities, is integral to any effective, coordinated emergency response. The Lieberman-Collins amendment will provide a down payment on our commitment to help America's first responders communicate during an emergency.

Thank you for your leadership on this vital issue and your continued strong support of our nation's fire fighters.

Sincerely,

HAROLD A. SCHAITBERGER,
General President.

[From the APCO International]

APCO SUPPORTS LIEBERMAN-COLLINS COMMUNICATIONS INTEROPERABILITY AMENDMENT

The Association of Public-Safety Communications Officials (APCO) International supports Senators Lieberman and Collins's amendment to appropriate $100 million for a new Interoperable Communications Grant Program.

Since 2002, our nation has had to overcome the devastation caused by Hurricanes Katrina and Rita on the Gulf Coast, which showed the operational vulnerability of emergency communications systems. The issue was not only interoperability but also operability. Due to the lack of operable emergency communications systems, command and control of the disasters was almost non-existent.

Five years after September 11, 2001 APCO International finds that, while there have been significant accomplishments to report on issues affecting public safety communications, there is also a disturbing lack of progress. Multiple nationwide surveys indicate there are significant shortfalls in communications operability and interoperability in many regions and locales with many contributing factors. The lessons learned from 9/11 and Hurricanes Katrina and Rita for emergency communications are simple. Be prepared. Preparedness, planning and training are the key elements to achieving operability and interoperability during day-to-day activities and disasters.

Preparedness involves planning and implementing current and effective technology solutions. Preparedness involves coordination and mutual aid agreements with surrounding jurisdictions, state and federal government agencies. Preparedness involves making sure your personnel and equipment are able to function during any emergency and meet the unexpected challenges that may arise at any time. Preparedness is making sure the daily operations of the emergency communications center are adaptable to any unexpected situation. Preparation also includes adequate funding for planning and operations.

We strongly believe this amendment will provide the funding needed to vastly enhance our Nation's operability and interoperable emergency communications systems and we hope that your Senator can support this amendment.

INTERNATIONAL ASSOCIATION OF FIRE CHIEFS,
Fairfax, VA, Mar. 2, 2007.

Hon. JOSEPH LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN LIEBERMAN: On behalf of the nearly 13,000 chief fire and emergency officers of the International Association of Fire Chiefs (IAFC), I would like to express our support for several major provisions included in S. 4, the Improving America's Security Act of 2007. I appreciate the hard work and dedication your committee has put into this legislation, and I urge the Senate to move expeditiously towards its passage.

The IAFC is proud to endorse the information sharing programs outlined in Title I of the bill. These programs, which include guidelines to help integrate the fire service into fusion centers and a fellowship program designed to improve the exchange of intelligence data between government entities, constitute a significant step forward in our nation's homeland security efforts. By ensuring that fire departments and other emergency response providers participate directly in fusion centers, Title I will open new doors for nontraditional information gathering, enhanced capabilities assessments, and better coordination between the fire service and law enforcement in planning for and responding to major disasters. Simply put, these changes will make our information sharing programs more effective and our country safer.

Additionally, the IAFC strongly supports the operable and interoperable communications programs defined in Title III. The IAFC is working with partners in public safety on numerous fronts to strengthen the voice and data communications capabilities of first responders throughout the United States. Accomplishing this goal requires adequate spectrum for responders to communicate, as well as funding for purchase and installation of the equipment necessary to utilize the available spectrum. At present, substantial action remains to be taken by the federal government on both fronts, and Title III of S. 4 will make a positive contribution by authorizing over $3 billion for the Emergency Communications Operable and Interoperable Grants program.

Furthermore, the IAFC supports the critical infrastructure provisions set forth in Title X of the Improving America's Security Act. The IAFC looks forward to working towards Title X's critical infrastructure goals through the partnership model currently reflected in the National Infrastructure Protection Plan (NIPP). In particular, we believe that ensuring adequate protection for human elements—as well as physical and cyber elements—will be an essential part of the critical infrastructure protection efforts carried out by the fire service under this title.

Finally, the IAFC strongly believes that however grant reform measures (such as those described in Title II) are resolved in this legislation, the final product should preserve the all-hazards nature of the FIRE and SAFER Act grant programs. These programs were created with an emphasis on equipping the fire service with the tools, equipment, training, staff, and other resources needed to respond effectively to all types of emergencies—whether natural or man-made, great or small. In its present form, section 2002(c) of the Improving America's Security Act fully protects the FIRE and SAFER Act grant programs, and any changes to the grant reform section should preserve section 2002(c) as it is currently written.

As the primary fire service leadership organization in the United States, the IAFC would like to thank you and your dedicated staff for your work thus far on S. 4. The IAFC stands ready to provide you with information and support as the Improving America's Security Act of 2007 moves forward in the legislative process.

Sincerely,

CHIEF JAMES B. HARMES,
CFO, President.

JUNE 7, 2007.

Hon. JOSEPH I. LIEBERMAN,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

Hon. SUSAN COLLINS,
Ranking Member, Committee on Homeland Security and Governmental Affairs U.S. Senate, Washington, DC.

DEAR CHAIRMAN LIEBERMAN AND RANKING MEMBER COLLINS: On behalf of our organizations, we urge you to consider the following issues as conference negotiations on H.R. 1, the Implementing the 9/11 Commission Recommendations Act, and S. 4, the Improving America's Security Act get underway. Individually and collectively, we appreciate the support you have shown for the fire and emergency services through your work on this critical homeland security legislation.

Over the past sereral years, the question of how homeland security grant funding should be distributed has been an extremely contentious issue. While we do not have a position on how this matter should be resolved, we do ask that you make sure that the FIRE and SAFER Act grant programs are not affected by reforms included in the conference report. The FIRE and SAFER Act grant programs were created with an emphasis on equipping the fire service with the tools, equipment, training, staffing, and other resources needed to respond effectively to all types of emergencies—whether natural or man-made,

great or small. Section 2002 of each bill fully protects these programs, and any compromise grant reform section should preserve these safeguards.

A second issue of critical importance to the fire service is the ability to communicate effectively. As you know, first life responders throughout the United States are currently facing major challenges in the area of wireless communications. Fortunately, both H.R. 1 and S. 4 create new grant programs designed to help address this problem. In crafting the final version of the communications grant program, we ask you to retain the $3.3 billion authorization total included in S. 4, ensure that funding is available for both operable and interoperable communications projects, and build in flexibility allowing funding to be used for systems in a wide range of operating frequencies. Furthermore, we urge you to ensure that these grants utilize the Department of Homeland Security's SAFECOM grant guidance and fund all of the areas defined in the SAFECOM ''Interoperability Continuum,'' including governance.

In addition to seeking progress on the issues above, the first responder community also wishes to see a well-prepared private sector that will voluntarily take its share of responsibility for emergency preparedness and business continuity. The voluntary private sector preparedness program outlined in S. 4, which relies on standards such as the NFPA 1600 Standard on Disaster/Emergency Management and Business Continuity Programs, would enable our nation to better protect lives and property. This initiative complements other first responder disaster and emergency preparedness plans and is critical for a robust homeland security policy. Accordingly, we believe that the Senate-passed language should be retained in the conference report.

Finally, we strongly urge you not to include provisions in the conference report that would establish new federal mandates for re-routing of hazardous materials around urban areas. While we understand that local re-routing may be necessary on a case-by-case basis, federal mandatory re-routing regulations would create additional dangers by shifting hazardous materials to rural areas that may not be as well-staffed or equipped to deal with an incident. In addition, re-routing hazardous materials would keep them in transit for a longer amount of time, which would increase the risk and the potential for an incident to occur. Larger, urban fire departments are generally in a better position to handle these incidents, because they have more specialized equipment and other resources.

Again, thank you for your attention to these pressing homeland security issues. Should you have questions or desire additional information as you move through the conference process, please do not hesitate to contact Kevin King.

Sincerely,

CHIEF JAMES B. HARMES,
CFO, President, IAFC.
THOMAS FEE,
President, IAAI.
JAMES M. SHANNON,
President, NFPA.
CHIEF PHILIP C. STITTLEBURG,
Chairman, National Volunteer Fire Council.

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS®,
Washington, DC, February 13, 2007.

Hon. JOSEPH LIEBERMAN,
Hon. SUSAN COLLINSm,
Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR CHAIRMAN LIEBERMAN AND RANKING MEMBER COLLINS: On behalf of the nation's more than 280,000 professional fire fighters and emergency medical personnel, I applaud you for your efforts to implement the recommendations of the 9/11 Commission. We are especially grateful that you included in your proposal provisions to reform our nation's Homeland Security Grant Program and enhance first responder communications.

The establishment of the new grant program dedicated to improving communications operability and interoperability is vital to protecting the health and safety of our nation's fire fighters. Permitting funds to be used to assist with a variety of activities, including activities to achieve basic operability, will enable states and regions to overcome their own unique communications challenges.

Provisions ensuring that states provide local governments and first responders homeland security funding in an expedited manner, and permitting a portion of funds to be used for the payment of overtime and backfill costs will allow communities to take full advantage of this invaluable federal assistance.

The Improving America's Security Act also demonstrates your strong commitment to America's fire service. By guaranteeing that members of the fire service are involved in local planning to determine effective funding priorities, and by maintaining FIRE and SAFER grants as separate and distinct programs, you properly ensure that America's fire service will continue to receive funding to fulfill its vital role in local emergency preparedness.

Thank you for your leadership on these vital issues. We appreciate your willingness to work closely with the IAFF in developing the Improving America's Security Act, and look forward to continuing our work together on behalf of our nation's emergency response personnel.

Sincerely,

BARRY KASINITZ,
Director, Governmental Affairs.

Ms. COLLINS. Mr. President, again, I hope our colleagues will take a hard look at this amendment and will decide it warrants their support to address one of the major problems that has hampered emergency response, decreased the effectiveness of those who are putting their lives on the line, and truly can be a matter of life and death.

Let me end my comments by applauding, nevertheless, the Homeland Security Appropriations Subcommittee for their hard work. Senator BYRD, Senator MURRAY, and Senator COCHRAN have done a terrific job on a very difficult issue, but this is an attempt to make their good work even better.

I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

There are now 2 minutes equally divided prior to a vote on the Lieberman amendment. The Senator from Washington.

Mrs. MURRAY. Mr. President, I would like to inform the Senate that I believe both sides are in agreement that the Lieberman amendment is accepted. I ask unanimous consent to vitiate the yeas and nays on the Lieberman amendment.

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

Mr. LIEBERMAN. Mr. President, may I first thank Senator MURRAY, Senator COCHRAN, and our colleagues for their support. This is an important amendment. It is a bipartisan amendment. The Homeland Security appropriations bill could not have funded the Emergency Grant Program set up by the 9/11 bill, which we have not passed yet, so I appreciate very much their support. This amendment is supported by almost all of the first responder groups—firefighters, police officers, volunteer firefighters, et cetera—because they desperately need funding to help them make their communication systems interoperable.

Thanks to our colleagues on both sides. Senator COLLINS and Senator MCCASKILL and I join in those thank yous.

I urge the adoption of the amendment.

The PRESIDING OFFICER (Mr. DURBIN). If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2407) was agreed to.

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

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2498

Mrs. MURRAY. What is the pending amendment?

The PRESIDING OFFICER. The pending business before the Senate under the unanimous consent agreement is the Sanders amendment, on which there are 2 minutes equally divided.

Who yields time? The Senator from Vermont is recognized.

Mr. SANDERS. Mr. President, what the H–2B program provides is that guest workers may come into this country on a temporary basis if no qualified U.S. worker is available for that position and that the wages paid to H–2B employees do not adversely impact U.S. wages and working conditions. Unfortunately, the Department of Homeland Security and the Department of Labor have proposed regulations that would eliminate the labor certification process and move toward a process which has virtually no enforcement mechanisms and which simply takes the employer's word as to

whether they are obeying these regulations. In other words: Trust us, we are doing the right thing.

This is absurd. This amendment would simply prohibit the Department of Homeland Security from using any of the funds in this act to implement these proposed regulations. This amendment is supported by Senator FEINGOLD as well.

The PRESIDING OFFICER. Who yields time in opposition?

One minute is allowed under the unanimous consent agreement.

Is the time yielded back? In the opinion of the Chair, the time is yielded back.

The question is on agreeing to the amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Minnesota (Mr. COLEMAN), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted ''no.''

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

The result was announced—yeas 51, nays 43, as follows:

[Rollcall Vote No. 280 Leg.]

YEAS—51

Akaka	Feinstein	Nelson (FL)
Baucus	Harkin	Nelson (NE)
Bayh	Inouye	Pryor
Biden	Kennedy	Reed
Bingaman	Kerry	Reid
Boxer	Klobuchar	Rockefeller
Brown	Kohl	Salazar
Byrd	Landrieu	Sanders
Cantwell	Lautenberg	Schumer
Cardin	Leahy	Sessions
Carper	Levin	Specter
Casey	Lieberman	Stabenow
Clinton	Lincoln	Tester
Conrad	McCaskill	Voinovich
Dorgan	Menendez	Webb
Durbin	Mikulski	Whitehouse
Feingold	Murray	Wyden

NAYS—43

Alexander	DeMint	Lugar
Allard	Dole	Martinez
Barrasso	Domenici	McConnell
Bennett	Ensign	Murkowski
Bond	Enzi	Roberts
Bunning	Graham	Shelby
Burr	Grassley	Smith
Chambliss	Gregg	Snowe
Coburn	Hagel	Stevens
Cochran	Hatch	Sununu
Collins	Hutchison	Thune
Corker	Inhofe	Vitter
Cornyn	Isakson	Warner
Craig	Kyl	
Crapo	Lott	

NOT VOTING—6

Brownback	Dodd	McCain
Coleman	Johnson	Obama

The amendment (No. 2498) was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, we are now to the DeMint amendment No. 2481. That is the pending item.

I believe the Senators on this side are ready to accept this amendment, and if the Senator wants a voice vote, we are more than happy to do it.

Mr. DEMINT. Mr. President, I would like the yeas and nays.

The PRESIDING OFFICER. The yeas and nays were previously ordered. Who yields time? Two minutes is allowed.

Mrs. MURRAY. Mr. President, I could not hear the Senator.

Mr. DEMINT. I have asked for the yeas and nays.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Mr. President, over the last year this body has taken a strong bipartisan stand to make our ports more secure. After the Department of Homeland Security established regulations to bar felons from the secure areas of our ports, the Senate passed an amendment by 94 votes to codify that regulation into law.

These regulations are very similar to the ones we use at our airports. Unfortunately, our strong stand on the Senate floor was diluted in conference with the House.

My amendment would prohibit the Secretary of the Department of Homeland Security from using any funds appropriated in this bill from being used to delete or modify any of the lists of felonies in the regulation.

I would encourage all of my colleagues to be consistent and vote again yes for this bill.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD. Mr. President, we didn't hear what the Senator said. Does the Senator want to say it again?

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Am I correct in that I have another minute to do the same thing again?

The PRESIDING OFFICER. The Senator can summarize.

Mr. DEMINT. I can summarize. Thank you, Mr. President. I thank the Senator for demanding order.

This is a very important amendment. There is no need to spend billions of dollars keeping our ports secure if we are going to allow serious felons to work there. We all know that. We voted already, 94 to 2, for this exact same provision, only in an appropriations bill. In order not to attract rule XVI, this is just to prohibit the use of funds in eliminating or deleting or changing any of the list of felonies for 1 year.

I encourage my colleagues to vote yes.

Mrs. MURRAY. Mr. President, I expect that most of the Members on our side will be voting for this. We had been willing to accept it without a vote. But having said that, I hope once we accept it on this bill, it means that we will not have to have a vote later this evening on a motion to recommit on the 9/11 Commission because once we vote on this and it is part of this package, it will mean, hopefully, we will not have to deal with it on the next bill that we will be considering tonight, the 9/11 Commission. So with that I will be voting aye. I urge adoption.

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. DURBIN. I announce that the Senator from Connecticut (Mr. DODD), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Illinois (Mr. OBAMA), are necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Minnesota (Mr. COLEMAN), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted ''yea.''

The result was announced—yeas 93, nays 1, as follows:

[Rollcall Vote No. 281 Leg.]

YEAS—93

Akaka	Domenici	McCaskill
Alexander	Dorgan	McConnell
Allard	Durbin	Menendez
Barrasso	Ensign	Mikulski
Baucus	Enzi	Murkowski
Bayh	Feingold	Murray
Bennett	Feinstein	Nelson (FL)
Biden	Graham	Nelson (NE)
Bingaman	Grassley	Pryor
Bond	Gregg	Reed
Boxer	Hagel	Reid
Brown	Harkin	Roberts
Bunning	Hatch	Rockefeller
Burr	Hutchison	Salazar
Byrd	Inhofe	Sanders
Cantwell	Inouye	Schumer
Cardin	Isakson	Sessions
Carper	Kennedy	Shelby
Casey	Kerry	Smith
Chambliss	Klobuchar	Snowe
Clinton	Kohl	Stabenow
Coburn	Kyl	Stevens
Cochran	Landrieu	Sununu
Collins	Lautenberg	Tester
Conrad	Leahy	Thune
Corker	Levin	Vitter
Cornyn	Lieberman	Voinovich
Craig	Lincoln	Warner
Crapo	Lott	Webb
DeMint	Lugar	Whitehouse
Dole	Martinez	Wyden

NAYS—1

Specter

NOT VOTING—6

Brownback	Dodd	McCain
Coleman	Johnson	Obama

The amendment (No. 2498) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2442

Mrs. MURRAY. Mr. President, I believe we now have agreement on the Coburn amendment No. 2442 that is pending. I believe we have agreed to accept that amendment.

The PRESIDING OFFICER (Mr. WEBB). Without objection, the amendment is now pending.

Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2442) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. MURRAY. Mr. President, for the information of all Senators, as the majority leader said, we are going to go to final passage tonight no matter what it takes. We are working our way through the amendments.

I am going to proceed to two amendments that I believe are agreed upon by Senator SALAZAR and Senator KYL that I believe will be adopted by voice vote.

Ms. LANDRIEU. Reserving the right to object.

Mrs. MURRAY. I have not made a unanimous consent request, I would say.

We are working with the Senator from Louisiana, Ms. LANDRIEU, on an amendment she intends to offer. Meanwhile, we are working to put together a final package of agreed-upon amendments that will take us about 20 minutes to put together. Hopefully, at that time we will have a vote on final passage. So I would like all Senators to know we are going to work our way through several amendments over the next 20 minutes or half hour and, hopefully, be at a point where we can move to final passage on this bill.

Mr. President, with that, we now have an agreement on both the Salazar and Kyl amendments. I send both——

Ms. LANDRIEU. Reserving the right to object.

The PRESIDING OFFICER. Can we have order in the Chamber.

Ms. LANDRIEU. Reserving the right to object.

Mrs. MURRAY. Mr. President, just to notify the Senator, I have not asked for unanimous consent. I say to the Senator, we will get to her amendment.

AMENDMENTS NOS. 2516, AS MODIFIED; AND 2518, AS MODIFIED

Mr. President, we now have an agreement on both the Salazar and Kyl amendments. I send both amendments to the desk, as modified, and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Without objection, amendment No. 2516, is modified.

The amendment, as modified, is as follows:

At the end, add the following

SECTION 1. BORDER SECURITY REQUIREMENTS FOR LAND AND MARITIME BORDERS OF THE UNITED STATES.

(a) OPERATIONAL CONTROL OF THE UNITED STATES BORDERS.—The President shall ensure that operational control of all international land and maritime borders is achieved.

(b) ACHIEVING OPERATIONAL CONTROL.—The Secretary of Homeland Security shall establish and demonstrate operational control of 100 percent of the international land and maritime borders of the United States, including the ability to monitor such borders through available methods and technology.

(1) STAFF ENHANCEMENTS FOR BORDER PATROL.—The United States Customs and Border Protection Border Patrol may hire, train, and report for duty additional full-time agents. These additional agents shall be deployed along all international borders.

(2) STRONG BORDER BARRIERS.—The United States Customs and Border Protection Border Patrol may:

(A) Install along all international borders of the United States vehicle barriers;

(B) Install along all international borders of the United States ground-based radar and cameras;

(C) Deploy for use along all international borders of the United States unmanned aerial vehicles. and the supporting systems for such vehicles;

(c) PRESIDENTIAL PROGRESS REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the President shall submit a report to Congress detailing the progress made in funding, meeting or otherwise satisfying each of the requirements described under paragraphs (1) and (2).

(2) PROGRESS NOT SUFFICIENT.—If the President determines that sufficient progress is not being made, the President shall include in the report required under paragraph (1) specific funding recommendations, authorization needed, or other actions that are or should be undertaken by the Secretary of Homeland Security.

SEC. 2. APPROPRIATIONS FOR SECURING LAND AND MARITIME BORDERS OF THE UNITED STATES.

Any funds appropriated under this Act shall be used to ensure operational control is achieved for all international land and maritime borders of the United States.

The PRESIDING OFFICER. The clerk will report the Kyl amendment, as modified.

The legislative clerk read as follows:

The Senator from Washington, [Mrs. MURRAY], for Mr. KYL, for himself and Mr. MARTINEZ, proposes an amendment numbered 2518, as modified, to amendment No. 2383.

The PRESIDING OFFICER. Without objection, reading of the amendment is dispensed with.

The amendment, as modified, is as follows:

At the appropriate place, insert the following:

SEC. ___. IMPROVEMENTS TO THE EMPLOYMENT ELIGIBILITY VERIFICATION BASIC PILOT PROGRAM.

Of the amounts appropriated for border security and employment verification improvements under section 1003 of Division B, $60,000,000 shall be made available to—

(1) ensure that State and local programs have sufficient access to, and are sufficiently coordinated with, the Federal Government's Employment Eligibility Verification System;

(2) ensure that such system has sufficient capacity to timely and accurately—

(A) register employers in States with employer verification requirements;

(B) respond to inquiries by employers; and

(C) enter into memoranda of understanding with States to ensure responses to subparagraphs (A) and (B); and

(3) develop policies and procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the basic pilot program, including appropriate privacy and security training for State employees.

(4) ensure that the Office for Civil Rights and Civil Liberties of the Department of Justice has sufficient capacity to conduct audits of the Federal Government's Employment Eligibility Verification System to assess employer compliance with System requirements, including the applicable Memorandum of Understanding.

Mrs. MURRAY. Mr. President, I believe both sides have agreed to this amendment, and we do not have further debate. I believe we are ready to vote.

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

If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 2518), as modified, was agreed to.

Mrs. MURRAY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mrs. MURRAY. Mr. President, I believe we now move to Senator SALAZAR's amendment.

The PRESIDING OFFICER. The question is on agreeing to the Salazar amendment, as modified.

The amendment (No. 2516), as modified, was agreed to.

Mrs. MURRAY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mrs. MURRAY. Mr. President, I ask unanimous consent that amendment No. 2419 be withdrawn.

The PRESIDING OFFICER. The amendment is not pending.

Mrs. MURRAY. Mr. President, for the information of all Senators, we are now working with the Senator from Louisiana who has an amendment that is pending, on how we are going to dispose of that. We will work that out over the next several minutes. We have a number of other amendments we have been working with Senators on that I believe will be agreed upon on all sides. Again, our staffs are working diligently. I expect it will take them the next 15 or 20 minutes. At that time, we hope to have all the amendments before the Senate and move to final passage on this bill.

With that, 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.

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

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

AMENDMENT NO. 2527 TO AMENDMENT NO. 2383

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Ms. LANDRIEU, proposes an amendment numbered 2527 to amendment No. 2383.

The amendment is as follows:

(Purpose: To require the Administrator of the Federal Emergency Management Agency to authorize an in-lieu contribution to the Peebles School)

On page 69, after line 24, add the following:

SEC. 536. IN-LIEU CONTRIBUTION.

The Administrator of the Federal Emergency Management Agency shall authorize a large in-lieu contribution under section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(1)) to the Peebles School in Iberia Parish, Louisiana for damages relating to Hurricane Katrina of 2005 or Hurricane Rita of 2005, notwithstanding section 406(c)(1)(C) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(1)(C)).

Mrs. MURRAY. Mr. President, I believe this amendment has been agreed to on both sides.

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

If not, the question is on agreeing to the amendment.

The amendment (No. 2527) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. MURRAY. Mr. President, we are going to move to a number of amendments that have been agreed to in a few short minutes. I ask the patience of all the Senators here, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2525 WITHDRAWN

Mrs. MURRAY. Mr. President, I ask unanimous consent to withdraw amendment No. 2525.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2469 TO AMENDMENT NO. 2383

Mrs. MURRAY. Mr. President, I call up amendment No. 2469 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Mr. COCHRAN and Mr. LOTT, proposes an amendment numbered 2469 to amendment No. 2383.

The amendment is as follows:

(Purpose: To provide that certain hazard mitigation projects shall not be subject to any precertification requirements)

On page 64, between lines 6 and 7, insert the following:

(d) Notwithstanding section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c), projects relating to Hurricanes Katrina and Rita for which the non-Federal share of assistance under that section is funded by amounts appropriated to the Community Development Fund under chapter 9 of title I of division B of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148; 119 Stat. 2779) or chapter 9 of title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 472) shall not be subject to any precertification requirements.

Mrs. MURRAY. Mr. President, I believe this amendment has been agreed to on both sides.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment was agreed to.

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

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2499, AS MODIFIED, TO AMENDMENT NO. 2383

Mrs. MURRAY. Mr. President, I call up amendment No. 2499, send a modification to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 2499, as modified to amendment No. 2383.

The amendment is as follows:

On page 6, line 16, after ''entry:'', insert ''of which $15,000,000 shall be used to procure commercially available technology in order to expand and improve the risk-based approach of the Department of Homeland Security to target and inspect cargo containers under the Secure Freight Initiative and the Global Trade Exchange.

Mrs. MURRAY. Mr. President, I believe this amendment has been agreed to on all sides.

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

If not, the question is on agreeing to the amendment.

The amendment (No. 2499), as modified, was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2475, AS MODIFIED, TO AMENDMENT NO. 2383

Mrs. MURRAY. Mr. President, I call up amendment No. 2475, send a modification to the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Mr. STEVENS, proposes an amendment No. 2475, as modified, to amendment No. 2383.

The amendment is as follows:

On page 7, line 7, insert after ''operations;'' the following: ''of which $40,000,000 shall be utilized to develop and implement a Model Ports of Entry program and provide resources necessary for 200 additional CBP officers at the 20 United States international airports that have the highest number of foreign visitors arriving annually as determined pursuant to the most recent data collected by the United States Customs and Border Protection available on the date of enactment of this Act, to provide a more efficient and welcoming international arrival process in order to facilitate and promote business and leisure travel to the United States, while also improving security;''

Mrs. MURRAY. I believe this amendment has been agreed to.

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

If not, the question is on agreeing to the amendment.

The amendment (No. 2475), as modified, was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2513 TO AMENDMENT NO. 2383

Mrs. MURRAY. Mr. President, I call up amendment No. 2513 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Mr. LIEBERMAN, proposes an amendment numbered 2513 to amendment No. 2383.

The amendment is as follows:

(Purpose: To require a national strategy and report on closed circuit television systems)

On page 69, after line 24, insert the following:

SEC. 536. NATIONAL STRATEGY ON CLOSED CIRCUIT TELEVISION SYSTEMS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall—

(1) develop a national strategy for the effective and appropriate use of closed circuit television to prevent and respond to acts of terrorism, which shall include—

(A) an assessment of how closed circuit television and other public surveillance systems can be used most effectively as part of an overall terrorism preparedness, prevention, and response program, and its appropriate role in such a program;

(B) a comprehensive examination of the advantages and limitations of closed circuit television and, as appropriate, other public surveillance technologies;

(C) best practices on camera use and data storage;

(D) plans for coordination between the Federal Government and State and local governments, and the private sector—

(i) in the development and use of closed circuit television systems; and

(ii) for Federal assistance and support for State and local utilization of such systems;

(E) plans for pilot programs or other means of determining the real-world efficacy and limitations of closed circuit televisions systems;

(F) an assessment of privacy and civil liberties concerns raised by use of closed circuit television and other public surveillance systems, and guidelines to address such concerns; and

(G) an assessment of whether and how closed circuit television systems and other public surveillance systems are effectively utilized by other democratic countries in combating terrorism; and

(2) provide to the Committees on Homeland Security and Governmental Affairs, Appropriations, and the Judiciary of the Senate and the Committees on Homeland Security Appropriations, and the Judiciary of the House of Representatives a report that includes—

(A) the strategy required under paragraph (1);

(B) the status and findings of any pilot program involving closed circuit televisions or other public surveillance systems conducted by, in coordination with, or with the assistance of the Department of Homeland Security up to the time of the report; and

(C) the annual amount of funds used by the Department of Homeland Security, either directly by the Department or through grants to State, local, or tribal governments, to support closed circuit television and the public surveillance systems of the Department, since fiscal year 2004.

(b) CONSULTATION.—In preparing the strategy and report required under subsection (a), the Secretary of Homeland Security shall consult with the Attorney General, the Chief Privacy Officer of the Department of Homeland Security, and the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security.

Mrs. MURRAY. Mr. President, I believe this amendment has been agreed to.

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

If not, the question is on agreeing to the amendment.

The amendment (No. 2513) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2502 TO AMENDMENT NO. 2383

(Purpose: To authorize the Secretary of Homeland Security to regulate the sale of ammonium nitrate to prevent and deter the acquisition of ammonium nitrate by terrorists, and for other purposes)

Mrs. MURRAY. Mr. President, I call up amendment No. 2502 and ask for its immediate consideration

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Mr. PRYOR, proposes an amendment numbered 2502 to amendment No. 2383.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mrs. MURRAY. Mr. President, I believe this amendment has been agreed to on both sides.

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

If not, the question is on agreeing to the amendment.

The amendment (No. 2502) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2514 TO AMENDMENT NO. 2383

Mrs. MURRAY. Mr. President, I call up amendment No. 2514 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Ms. CANTWELL, proposes an amendment numbered 2514 to amendment No. 2383.

The amendment is as follows:

(Purpose: To prevent procurement of any additional major assets until completion of an Alternatives Analysis, and to prevent the use of funds contained in this act for procurement of a third National Security Cutter until completion of an Alternatives Analysis)

On page 22, beginning in line 17, strike ''*Provided,*'' and insert ''*Provided,* That no funds shall be available for procurements related to the acquisition of additional major assets as part of the Integrated Deepwater Systems program not already under contract until an Alternatives Analysis has been completed by an independent qualified third party: *Provided further,* That no funds contained in this Act shall be available for procurement of the third National Security Cutter until an Alternatives Analysis has been completed by an independent qualified third party: *Provided further,*''.

Mrs. MURRAY. I believe this amendment has been agreed to on both sides.

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

If not, the question is on agreeing to the amendment.

The amendment (No. 2514) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2391 TO AMENDMENT NO. 2383

Mrs. MURRAY. Mr. President, I call up amendment No. 2391 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Ms. CANTWELL, proposes an amendment numbered 2391 to amendment No. 2383.

The amendment is as follows:

(Purpose: To require the Secretary of Homeland Security to develop a strategy and funding plan to implement the recommendations regarding the 2010 Vancouver Olympic and Paralympic Games in the Joint Explanatory Statement of the Committee of Conference on H.R. 5441 (109th Congress), the Department of Homeland Security Appropriations Act, 2007)

On page 69, after line 24, add the following:

SEC. 536. RISK MANAGEMENT AND ANALYSIS SPECIAL EVENT; 2010 VANCOUVER OLYMPIC AND PARALYMPIC GAMES.

As soon as practicable, but not later than 3 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Appropriations, the Committee on Homeland Security and Governmental Affairs, and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Appropriations, the Committee on Homeland Security, and the Committee on Transportation and Infrastructure of the House of Representatives a report regarding the plans of the Secretary of Homeland Security relating to—

(1) implementing the recommendations regarding the 2010 Vancouver Olympic and Paralympic Games in the Joint Explanatory Statement of the Committee of Conference on H.R. 5441 (109th Congress), the Department of Homeland Security Appropriations Act, 2007, with specific funding strategies for—

(A) the Multiagency Coordination Center; and

(B) communications exercises to validate communications pathways, test equipment, and support the training and familiarization of personnel on the operations of the different technologies used to support the 2010 Vancouver Olympic and Paralympic Games; and

(2) the feasibility of implementing a program to prescreen individuals traveling by rail between Vancouver, Canada and Seattle, Washington during the 2010 Vancouver Olympic and Paralympic Games, while those individuals are located in Vancouver, Canada, similar to the preclearance arrangements in effect in Vancouver, Canada for certain flights between the United States and Canada.

Mrs. MURRAY. I believe this amendment has been agreed to.

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

If not, the question is on agreeing to the amendment.

The amendment (No. 2391) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2466 TO AMENDMENT NO. 2383

Mrs. MURRAY. Mr. President, I call up amendment No. 2466 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Mrs. HUTCHISON, proposes an amendment numbered 2466 to amendment No. 2383.

The amendment is as follows:

AMENDMENT NO. 2466

(Purpose: To provide local officials and the Secretary of Homeland Security greater involvement in decisions regarding the location of border fencing)

At the appropriate place, insert the following:

SEC. ___. IMPROVEMENT OF BARRIERS AT BORDER.

Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) in subsection (a), by striking ''Attorney General, in consultation with the Commissioner of Immigration and Naturalization,'' and inserting ''Secretary of Homeland Security''; and

(2) in subsection (b)—

(A) in the subsection heading, by striking ''IN THE BORDER AREA'' and inserting ''ALONG THE BORDER'';

(B) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5), respectively;

(C) in paragraph (2), as redesignated—

(i) in the paragraph heading, by striking ''SECURITY FEATURES'' and inserting ''ADDITIONAL FENCING ALONG SOUTHWEST BORDER''; and

(ii) by striking subparagraphs (A) through (C) and inserting the following:

''(A) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security shall construct reinforced fencing along not less than 700 miles of the southwest border where fencing would be most practical and effective and provide for the installation of additional physical barriers, roads, lighting, cameras, and sensors to gain operational control of the southwest border.

''(B) PRIORITY AREAS.—In carrying out this section, the Secretary of Homeland Security shall—

''(i) identify the 370 miles along the southwest border where fencing would be most practical and effective in deterring smugglers and aliens attempting to gain illegal entry into the United States; and

''(ii) not later than December 31, 2008, complete construction of reinforced fencing along the 370 miles identified under clause (i).

''(C) CONSULTATION.—

''(i) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security shall consult with the Secretary of Interior, the Secretary of Agriculture, States, local governments, Indian tribes, and property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near the sites at which such fencing is to be constructed.

''(ii) SAVINGS PROVISION.—Nothing in this subparagraph may be construed to—

''(I) create any right of action for a State, local government, or other person or entity affected by this subsection; or

''(II) affect the eminent domain laws of the United States or of any State.

''(D) LIMITATION ON REQUIREMENTS.—Notwithstanding subparagraph (A), nothing in this paragraph shall require the Secretary of Homeland Security to install fencing, physical barriers, roads, lighting, cameras, and sensors in a particular 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.''; and

(D) in paragraph (5), as redesignated, by striking ''to carry out this subsection not to exceed $12,000,000'' and inserting ''such sums as may be necessary to carry out this subsection''.

Mrs. MURRAY. Mr. President, I believe this amendment is also agreed to.

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

If not, the question is on agreeing to the amendment.

The amendment (No. 2466) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2484 TO AMENDMENT NO. 2383

Mrs. MURRAY. Mr. President, I call up amendment No. 2484 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Mr. GREGG, proposes an amendment numbered 2484 to amendment No. 2383.

The amendment is as follows:

(Purpose: To provide for greater accountability in grant and contract administration)

On page 69, after line 24, add the following:

SEC. 536. ACCOUNTABILITY IN GRANT AND CONTRACT ADMINISTRATION.

The Department of Homeland Security, through the Federal Emergency Management Agency, shall—

(1) consider implementation, through fair and open competition, of management, tracking and accountability systems to assist in managing grant allocations, distribution, expenditures, and asset tracking; and

(2) consider any efficiencies created through cooperative purchasing agreements.

Mrs. MURRAY. I believe this amendment is also agreed to.

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

If not, the question is on agreeing on the amendment.

The amendment (No. 2484) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2486 TO AMENDMENT NO. 2383

Mrs. MURRAY. Mr. President, I call up amendment No. 2486 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Ms. COLLINS, proposes an amendment numbered 2486 to amendment No. 2383.

The amendment is as follows:

(Purpose: To require an appropriate amount of funding for the Office of Bombing Prevention)

On page 30, line 17, before the period insert the following: ''*Provided*, That $10,043,000 shall be for the Office of Bombing Prevention and not more than $26,100,000 shall be for the Next Generation Network''.

Mrs. MURRAY. I believe this amendment has been agreed to.

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

If not, the question is on agreeing to the amendment.

The amendment (No. 2486) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2497 TO AMENDMENT NO. 2383

Mrs. MURRAY. Mr. President, I call up amendment No. 2497 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Mr. BYRD, proposes an amendment numbered 2497 to amendment No. 2383.

The amendment is as follows:

(Purpose: To establish a wild horse and burro adoption program at the Department of Homeland Security)

On page 69, after line 24, insert the following:

SEC. ____. None of the funds made available in this Act may be used to destroy or put out to pasture any horse or other equine belonging to the Federal Government that has become unfit for service, unless the trainer or handler is first given the option to take possession of the equine through an adoption program that has safeguards against slaughter and inhumane treatment.

Mrs. MURRAY. Mr. President, I believe this amendment has been agreed to.

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

If not, the question is on agreeing to the amendment.

The amendment (No. 2497) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2404, AS MODIFIED, TO AMENDMENT NO. 2383

Mrs. MURRAY. Mr. President, I call up amendment No. 2404, with a modification, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Mr. MARTINEZ, proposes an amendment numbered 2404, as modified, to amendment No. 2383.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. _____. INTERNATIONAL REGISTERED TRAVELER PROGRAM.

Section 7208(k)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b(k)(3)) is amended to read as follows:

''(3) INTERNATIONAL REGISTERED TRAVELER PROGRAM.—

''(A) IN GENERAL.—The Secretary of Homeland Security shall establish an international registered traveler program that incorporates available technologies, such as biometrics and e-passports, and security threat assessments to expedite the screening and processing of international travelers, including United States Citizens and residents,

who enter and exit the United States. The program shall be coordinated with the US-VISIT program, other pre-screening initiatives, and the Visa Waiver Program within the Department of Homeland Security.

''(B) FEES.—The Secretary may impose a fee for the program established under subparagraph (A) and may modify such fee from time to time. The fee may not exceed the aggregate costs associated with the program and shall be credited to the Department of Homeland Security for purposes of carrying out the program. Amounts so credited shall remain available until expended.

''(C) RULEMAKING.—Within 365 days after the date of enactment of this paragraph, the Secretary shall initiate a rulemaking to establish the program, criteria for participation, and the fee for the program.

''(D) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall establish a phased-implementation of a biometric-based international registered traveler program in conjunction with the US-VISIT entry and exit system, other pre-screening initiatives, and the Visa Waiver Program within the Department of Homeland Security at United States airports with the highest volume of international travelers.

''(E) PARTICIPATION.—The Secretary shall ensure that the international registered traveler program includes as many participants as practicable by—

''(i) establishing a reasonable cost of enrollment;

''(ii) making program enrollment convenient and easily accessible; and

''(iii) providing applicants with clear and consistent eligibility guidelines.

Mrs. MURRAY. I believe this amendment has been agreed to.

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

If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 2404), as modified, was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2478 TO AMENDMENT NO. 2383

Mrs. MURRAY. Mr. President, I call up amendment No. 2478 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Mr. AKAKA, proposes an amendment numbered 2478 to amendment No. 2383.

The amendment is as follows:

(Purpose: To provide for a report on the Performance Accountability and Standards System of the Transportation Security Administration)

On page 69, after line 24, add the following:

SEC. 536. REPORT ON THE PERFORMANCE ACCOUNTABILITY AND STANDARDS SYSTEM OF THE TRANSPORTATION SECURITY ADMINISTRATION.

Not later than March 1, 2008, the Transportation Security Administration shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives on the implementation of the Performance Accountability and Standards System, including—

(1) the number of employees who achieved each level of performance;

(2) a comparison between managers and non-managers relating to performance and pay increases;

(3) the type and amount of all pay increases that have taken effect for each level of performance; and

(4) the attrition of employees covered by the Performance Accountability and Standards System.

Mrs. MURRAY. I believe this amendment has been agreed to.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 2478) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT—H.R. 1

Mr. REID. Mr. President, I ask unanimous consent that following the disposition of H.R. 2638, the Senate turn to the consideration of the conference report on H.R. 1, the 9/11 bill; that there be 90 minutes of debate to be equally divided under the control of the two leaders or their designees, and 30 additional minutes for Senator COBURN; that at the conclusion of the time for debate on the conference report Senator DEMINT be recognized to offer a motion to recommit the conference report to report back with his dock worker provisions; that there be 20 minutes equally divided for debate on his motion; that no other amendments or motions be in order; that at the conclusion or yielding back of time, the Senate vote on his motion to recommit; that if the motion is defeated, the Senate then vote on passage of the conference report, with the proceeding all occurring without intervening action or debate.

Of course, everybody knows this has been cleared with my counterpart, Senator MCCONNELL.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Reserving the right to object, I stipulate that Senator COLLINS will control up to 30 minutes of our time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that upon passage of H.R. 2638, the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses and the Chair be authorized to appoint conferees on the part of the Senate and the subcommittee be appointed as conferees, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, we are working our way through things, so we will go into a short quorum call.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2516, AS FURTHER MODIFIED

Mrs. MURRAY. Mr. President, I ask unanimous consent that notwithstanding the adoption of amendment No. 2516, the amendment be further modified with the version I now send to the desk.

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

The amendment (No. 2516), as further modified, is as follows:

At the end, add the following:

SECTION 1. BORDER SECURITY REQUIREMENTS FOR LAND AND MARITIME BORDERS OF THE UNITED STATES.

(a) OPERATIONAL CONTROL OF THE UNITED STATES BORDERS.—The President shall ensure that operational control of all international land and maritime borders is achieved.

(b) ACHIEVING OPERATIONAL CONTROL.—The Secretary of Homeland Security shall establish and demonstrate operational control of 100 percent of the international land and maritime borders of the United States, including the ability to monitor such borders through available methods and technology.

(1) STAFF ENHANCEMENTS FOR BORDER PATROL.—The United States Customs and Border Protection Border Patrol may hire, train, and report for duty additional full-time agents. These additional agents shall be deployed along all international borders.

(2) STRONG BORDER BARRIERS.—The United States Customs and Border Protection Border Patrol may:

(A) Install along all international borders of the United States vehicle barriers;

(B) Install along all international borders of the United States ground-based radar and cameras; and

(C) Deploy for use along all international borders of the United States unmanned aerial vehicles, and the supporting systems for such vehicles;

(c) PRESIDENTIAL PROGRESS REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the President shall submit a report to Congress detailing the progress made in funding, meeting or otherwise satisfying each of the requirements described under paragraphs (1) and (2).

(2) PROGRESS NOT SUFFICIENT.—If the President determines that sufficient progress is not being made, the President shall include in the report required under paragraph (1) specific funding recommendations, authorization needed, or other actions that are or

should be undertaken by the Secretary of Homeland Security.

SEC. 2. APPROPRIATIONS FOR SECURING LAND AND MARITIME BORDERS OF THE UNITED STATES.

Any funds appropriated under Division B of this Act shall be used to ensure operational control is achieved for all international land and maritime borders of the United States.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. BOXER). Without objection, it is so ordered.

AMENDMENT NO. 2518, AS FURTHER MODIFIED

Mrs. MURRAY. Madam President, I ask unanimous consent that notwithstanding adoption of Kyl amendment No. 2518, the amendment be further modified with the version I now send to the desk.

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

The amendment (No. 2518), as further modified, is as follows:

At the appropriate place, insert the following:

SEC. ___. IMPROVEMENTS TO THE EMPLOYMENT ELIGIBILITY VERIFICATION BASIC PILOT PROGRAM.

Of the amounts appropriated for border security and employment verification improvements under section 1003, of Division B, $60,000,000 shall be made available to—

(1) ensure that State and local programs have sufficient access to, and are sufficiently coordinated with, the Federal Government's Employment Eligibility Verification System;

(2) ensure that such system has sufficient capacity to timely and accurately—

(A) register employers in States with employer verification requirements;

(B) respond to inquiries by employers; and

(C) enter into memoranda of understanding with States to ensure responses to subparagraphs (A) and (B); and

(3) develop policies and procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the basic pilot program, including appropriate privacy and security training for State employees.

(4) ensure that the Office for Civil Rights and Civil Liberties of the Department of Justice has sufficient capacity to conduct audits of the Federal Government's Employment Eligibility Verification System to assess employer compliance with system requirements, including the applicable Memorandum of Understanding.

(5) These amounts are designated as an emergency requirement pursuant to section 204 of S. Con. Res. 21 (110th Congress).

Mrs. MURRAY. Madam President, I advise Senators that we have about 10 more minutes. We are working through the final package of agreed-upon amendments which we hope to have to the floor in the next 10 minutes. We will work our way through those amendments and on to final passage.

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.

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

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

Mrs. MURRAY. Mr. President, I have a list, a managers' package that I believe has been agreed to on both sides. I ask unanimous consent that I be allowed to send them to the desk en bloc, with the modifications, and have them agreed to en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. VITTER. I would like to object. There is objection.

The PRESIDING OFFICER. Objection is heard.

The Senator from Washington.

Mrs. MURRAY. Mr. President, with the objection heard, we have about 20 amendments. We will work our way through them one at a time.

We are getting a copy of the amendments to the desk. As soon as that is done, we will have to proceed through the amendments one by one until they are agreed to.

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.

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

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

Mrs. MURRAY. Mr. President, I know of no other amendments to come before the Senate on this bill. I move to third reading.

The PRESIDING OFFICER. If there are no further amendments, the question is on the committee substitute.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. I ask unanimous consent that we go back to second reading.

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

AMENDMENTS NOS. 2438, 2432, 2451, 2495, 2500, AS MODIFIED, 2507, 2477, 2519, 2439, 2406, 2417, AS MODIFIED, 2504, 2421, AS MODIFIED, 2422, 2526, 2445, AS MODIFIED, 2465, AS MODIFIED, 2508, 2509, 2463, 2490, 2521, 2467, AS MODIFIED, 2474, AS MODIFIED, 2522, AS MODIFIED, 2524 TO AMENDMENT 2383, EN BLOC

Mrs. MURRAY. I ask unanimous consent that the managers' package, as was presented, be sent to the desk, en bloc, with the modifications as requested and be agreed to.

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

The amendments considered and agreed to are as follows:

AMENDMENT NO. 2438

(Purpose: To require the Comptroller General to conduct a study on shared border management)

At the appropriate place, insert the following:

SEC. ___. SHARED BORDER MANAGEMENT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the Department of Homeland Security's use of shared border management to secure the international borders of the United States.

(b) REPORT.—The Comptroller General shall submit a report to Congress that describes—

(1) any negotiations, plans, or designs conducted by officials of the Department of Homeland Security regarding the practice of shared border management; and

(2) the factors required to be in place for shared border management to be successful.

AMENDMENT NO. 2432

(Purpose: To increase the authorized level for the border relief grant program from $50,000,000 to $100,000,000)

At the end of the amendment, add the following:

SEC. ____. Amounts authorized to be appropriated in the Border Law Enforcement Relief Act of 2007 are increased by $50,000,000 for each of the fiscal years 2008 through 2012.

AMENDMENT NO. 2451

(Purpose: To conduct a study to determine whether fencing on the southern border can be constructed for less than an average of $3,200,000 per mile)

At the appropriate place, insert the following:

SEC. __. GAO STUDY OF COST OF FENCING ON THE SOUTHERN BORDER.

(a) INQUIRY AND REPORT REQUIRED.—The Comptroller of the United States shall conduct a study examining—

(1) the total amount of money that has been expended, as of June 20, 2007, to construct 90 miles of fencing on the southern border of the United States;

(2) the average cost per mile of the 90 miles of fencing on the southern border as of June 20, 2007;

(3) the average cost per mile of the 370 miles of fencing that the Department of Homeland Security is required to have completed on the southern border by December 31, 2008, which shall include $1,187,000,000 appropriated in fiscal year 2007 for ''border security fencing, technology, and infrastructure'' and the $1,000,000,000 appropriated under this Act under the heading ''Border Security Fencing, Infrastructure, and Technology'';

(4) the total cost and average cost per mile to construct the 700 linear miles (854 topographical miles) of fencing on the southern border required to be constructed under section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 3 of the Secure Fence Act of 2006 (Public Law 109–367);

(5) the total cost and average cost per mile to construct the fencing described in paragraph (4) if the double layer fencing requirement were eliminated; and

(6) the number of miles of single layer fencing, if fencing were not accompanied by additional technology and infrastructure such as cameras, sensors, and roads, which could be built with the $1,187,000,000 appropriated in fiscal year 2007 for ''border security fencing, technology, and infrastructure'' and the $1,000,000,000 appropriated under this Act under the heading ''Border Security Fencing, Infrastructure, and Technology''.

(b) SUBMISSION OF REPORT.—Not later than 1 year after the date of the enactment of this

Act, the Comptroller General shall submit a report on the results of the study conducted pursuant to subsection (a) to—

(1) the Committee on Appropriations of the Senate;

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Appropriations of the House of Representatives; and

(4) the Committee on the Judiciary of the House of Representatives.

AMENDMENT NO. 2495

(Purpose: To restore the credibility of the Federal Government by taking action to enforce immigration laws, to request the President to submit a request to Congress for supplemental appropriations on immigration, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. SENSE OF SENATE ON IMMIGRATION.

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

(1) On June 28th, 2007, the Senate, by a vote of 46 to 53, rejected a motion to invoke cloture on a bill to provide for comprehensive immigration reform.

(2) Illegal immigration remains the top domestic issue in the United States.

(3) The people of the United States continue to feel the effects of a failed immigration system on a daily basis, and they have not forgotten that Congress and the President have a duty to address the issue of illegal immigration and the security of the international borders of the United States.

(4) People from across the United States have shared with members of the Senate their wide ranging and passionate opinions on how best to reform the immigration system.

(5) There is no consensus on an approach to comprehensive immigration reform that does not first secure the international borders of the United States.

(6) There is unanimity that the Federal Government has a responsibility to, and immediately should, secure the international borders of the United States.

(7) Border security is an integral part of national security.

(8) The greatest obstacle the Federal Government faces with respect to the people of the United States is a lack of trust that the Federal Government will secure the international borders of the United States.

(9) This lack of trust is rooted in the past failures of the Federal Government to uphold and enforce immigration laws and the failure of the Federal Government to secure the international borders of the United States.

(10) Failure to uphold and enforce immigration laws has eroded respect for those laws and eliminated the faith of the people of the United States in the ability of their elected officials to responsibly administer immigration programs.

(11) It is necessary to regain the trust of the people of the United States in the competency of the Federal Government to enforce immigration laws and manage the immigration system.

(12) Securing the borders of the United States would serve as a starting point to begin to address other issues surrounding immigration reform on which there is not consensus.

(13) Congress has not fully funded some interior and border security activities that it has authorized.

(14) The President of the United States can initiate emergency spending by designating certain spending as ''emergency spending'' in a request to the Congress.

(15) The lack of security on the international borders of the United States rises to the level of an emergency.

(16) The Border Patrol are apprehending some, but not all, individuals from countries that the Secretary of State has determined have repeatedly provided support for acts of international terrorism who cross or attempt to cross illegally into the United States.

(17) The Federal Bureau of Investigation is investigating a human smuggling ring that has been bringing Iraqis and other Middle Eastern individuals across the international borders of the United States.

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

(1) the Federal Government should work to regain the trust of the people of the United States in its ability of the Federal Government to secure the international borders of the United States;

(2) in order to restore the credibility of the Federal Government on this critical issue, the Federal Government should prove its ability to enforce immigration laws by taking actions such as securing the border, stopping the flow of illegal immigrants and drugs into the United States, and creating a tamper-proof biometric identification card for foreign workers; and

(3) the President should request emergency spending that fully funds—

(A) existing interior and border security authorizations that have not been funded by Congress; and

(B) the border and interior security initiatives contained in the bill to provide for comprehensive immigration reform and for other purposes (S. 1639) introduced in the Senate on June 18, 2007.

AMENDMENT NO. 2500, AS MODIFIED

At the appropriate place, insert the following:

SEC. ___. ENSURING THE SAFETY OF AGRICULTURAL IMPORTS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Food and Drug Administration, as part of its responsibility to ensure the safety of food and other imports, maintains a presence at 91 of the 320 points of entry into the United States.

(2) United States Customs and Border Protection personnel are responsible for monitoring imports and alerting the Food and Drug Administration to suspicious material entering the United States at the remaining 229 points of entry.

(b) REPORT.—The Commissioner of United States Customs and Border Protection shall submit a report to Congress that describes the training of United States Customs and Border Protection personnel to effectively assist the Food and Drug Administration in monitoring our Nation's food supply.

AMENDMENT NO. 2507

(Purpose: To require a study on the implementation of the voluntary provision of emergency services program)

On page 69, between after line 24, add the following:

SEC. 536. (a) STUDY ON IMPLEMENTATION OF VOLUNTARY PROVISION OF EMERGENCY SERVICES PROGRAM.—(1) Not later than 180 days after the date of the enactment of this Act, the Administrator of the Transportation Security Administration shall conduct a study on the implementation of the voluntary provision of emergency services program established pursuant to section 44944(a) of title 49, United States Code (referred to in this section as the ''program'').

(2) As part of the study required by paragraph (1), the Administrator shall assess the following:

(A) Whether training protocols established by air carriers and foreign air carriers include training pertinent to the program and whether such training is effective for purposes of the program.

(B) Whether employees of air carriers and foreign air carriers responsible for implementing the program are familiar with the provisions of the program.

(C) The degree to which the program has been implemented in airports.

(D) Whether a helpline or other similar mechanism of assistance provided by an air carrier, foreign air carrier, or the Transportation Security Administration should be established to provide assistance to employees of air carriers and foreign air carriers who are uncertain of the procedures of the program.

(3) In making the assessment required by paragraph (2)(C), the Administrator may make use of unannounced interviews or other reasonable and effective methods to test employees of air carriers and foreign air carriers responsible for registering law enforcement officers, firefighters, and emergency medical technicians as part of the program.

(4)(A) Not later than 60 days after the completion of the study required by paragraph (1), the Administrator shall submit to Congress a report on the findings of such study.

(B) The Administrator shall make such report available to the public by Internet web site or other appropriate method.

(b) PUBLICATION OF REPORT PREVIOUSLY SUBMITTED.—The Administrator shall make available to the public on the Internet web site of the Transportation Security Administration or the Department of Homeland Security the report required by section 554(b) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295).

(c) MECHANISM FOR REPORTING PROBLEMS.—The Administrator shall develop a mechanism on the Internet web site of the Transportation Security Administration or the Department of Homeland Security by which first responders may report problems with or barriers to volunteering in the program. Such mechanism shall also provide information on how to submit comments related to volunteering in the program.

(d) AIR CARRIER AND FOREIGN AIR CARRIER DEFINED.—In this section, the terms ''air carrier'' and ''foreign air carrier'' have the meaning given such terms in section 40102 of title 49, United States Code.

AMENDMENT NO. 2477

(Purpose: To require the Government Accountability Office to report on the Department's risk-based grant programs)

On page 40, line 15, after ''Security'' insert ''and an analysis of the Department's policy of ranking States, cities, and other grantees by tiered groups,''.

AMENDMENT NO. 2519

(Purpose: To provide that none of the funds appropriated or otherwise made available by this Act may be used to enter into a contract in an amount greater than $5 million or to award a grant in excess of such amount unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that the contractor or grantee owes no past due Federal tax liability)

On page 69, after line 24, insert the following:

SEC. 536. None of the funds appropriated or otherwise made available by this Act may be used to enter into a contract in an amount greater than $5 million or to award a grant in excess of such amount unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that the contractor or grantee has no unpaid Federal tax assessments, that the contractor or grantee has entered into an installment agreement or offer in compromise

that has been accepted by the IRS to resolve any unpaid Federal tax assessments, that the contractor or grantee has entered into an installment agreement or offer in compromise that has been accepted by the IRS to resolve any unpaid Federal tax assessments, or, in the case of unpaid Federal tax assessments other than for income, estate, and gift taxes, that the liability for the unpaid assessments is the subject of a non-frivolous administrative or judicial appeal. For purposes of the preceding sentence, the certification requirement of part 52.209-5 of the Federal Acquisition Regulation shall also include a requirement for a certification by a prospective contractor of whether, within the three-year period preceding the offer for the contract, the prospective contractor—

(1) has or has not been convicted of or had a civil judgment or other judicial determination rendered against the contractor for violating any tax law or failing to pay any tax;

(2) has or has not been notified of any delinquent taxes for which the liability remains unsatisfied; or

(3) has or has not received a notice of a tax lien filed against the contractor for which the liability remains unsatisfied or for which the lien has not been released.

AMENDMENT NO. 2439

(Purpose: To resolve the differences between the Transportation Worker Identification Credential program administered by the Transportation Security Administration and existing State transportation facility access control programs)

At the appropriate place, insert the following:

SEC. ___. TRANSPORTATION FACILITY ACCESS CONTROL PROGRAMS.

The Secretary of Homeland Security shall work with appropriate officials of Florida and of other States to resolve the differences between the Transportation Worker Identification Credential program administered by the Transportation Security Administration and existing State transportation facility access control programs.

AMENDMENT NO. 2406

(Purpose: To prohibit the use of funds for planning, testing, piloting, or developing a national identification card)

On page 69, after line 24, add the following:

SEC. 536. None of the funds made available in this Act may be used for planning, testing, piloting, or developing a national identification card.

AMENDMENT NO. 2417, AS MODIFIED

On page 69, after line 24, add the following:

SEC. 536. ADDITIONAL ASSISTANCE FOR PREPARATION OF PLANS.

Subparagraph (L) of section 33(b)(3) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229(b)(3)) is amended to read as follows:

''(L) To fund fire prevention programs, including planning and preparation for wildland fires.

AMENDMENT NO. 2504

(Purpose: To express the sense of Congress regarding to need to appropriate sufficient funds to increase the number of border patrol officers and agents protecting the northern border pursuant to prior authorizations)

At the appropriate place, insert the following:

SEC. ___. SENSE OF CONGRESS.

It is the sense of Congress that sufficient funds should be appropriated to allow the Secretary to increase the number of personnel of United States Customs and Border Protection protecting the northern border by 1,517 officers and 788 agents, as authorized by—

(1) section 402 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56);

(2) section 331 of the Trade Act of 2002 (Public Law 107–210); and

(3) section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458).

AMENDMENT NO. 2421, AS MODIFIED

On page 69, after line 24, add the following:

TITLE ___—BORDER INFRASTRUCTURE AND TECHNOLOGY MODERNIZATION

SEC. 601. SHORT TITLE.

This title may be cited as the ''Border Infrastructure and Technology Modernization Act of 2007''.

SEC. 602. DEFINITIONS.

In this title:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of United States Customs and Border Protection of the Department of Homeland Security.

(2) MAQUILADORA.—The term ''maquiladora'' means an entity located in Mexico that assembles and produces goods from imported parts for export to the United States.

(3) NORTHERN BORDER.—The term ''northern border'' means the international border between the United States and Canada.

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

(5) SOUTHERN BORDER.—The term ''southern border'' means the international border between the United States and Mexico.

SEC. 603. HIRING AND TRAINING OF BORDER AND TRANSPORTATION SECURITY PERSONNEL.

(a) OFFICERS AND AGENTS.—

(1) INCREASE IN OFFICERS AND AGENTS.—Subject to the availability of appropriations, during each of fiscal years 2009 through 2013, the Secretary shall—

(A) increase the number of full-time agents and associated support staff in United States Immigration and Customs Enforcement of the Department of Homeland Security by the equivalent of at least 100 more than the number of such employees as of the end of the preceding fiscal year; and

(B) increase the number of full-time officers, agricultural specialists, and associated support staff in United States Customs and Border Protection by the equivalent of at least 200 more than the number of such employees as of the end of the preceding fiscal year.

(2) WAIVER OF FTE LIMITATION.—The Secretary is authorized to waive any limitation on the number of full-time equivalent personnel assigned to the Department of Homeland Security to fulfill the requirements of paragraph (1).

(b) TRAINING.—As necessary, the Secretary, acting through the Assistant Secretary for United States Immigration and Customs Enforcement and the Commissioner, shall provide appropriate training for agents, officers, agricultural specialists, and associated support staff of the Department of Homeland Security to utilize new technologies and to ensure that the proficiency levels of such personnel are acceptable to protect the borders of the United States.

SEC. 604. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.

(a) REQUIREMENT TO UPDATE.—Not later than January 31 of every other year, the Commissioner, in consultation with the Administrator of General Services shall—

(1) review—

(A) the Port of Entry Infrastructure Assessment Study prepared by the United States Customs Service, the Immigration and Naturalization Service, and the General Services Administration in accordance with the matter relating to the ports of entry infrastructure assessment set forth in the joint explanatory statement on page 67 of conference report 106–319, accompanying Public Law 106–58; and

(B) the nationwide strategy to prioritize and address the infrastructure needs at the land ports of entry prepared by the Department of Homeland Security and the General Services Administration in accordance with the committee recommendations on page 22 of Senate report 108–86, accompanying Public Law 108–90;

(2) update the assessment of the infrastructure needs of all United States land ports of entry; and

(3) submit an updated assessment of land port of entry infrastructure needs to Congress.

(b) CONSULTATION.—In preparing the updated studies required under subsection (a), the Commissioner and the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Secretary, and affected State and local agencies on the northern and southern borders of the United States.

(c) CONTENT.—Each updated study required in subsection (a) shall—

(1) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(2) include the projects identified in the National Land Border Security Plan required by section 605; and

(3) prioritize the projects described in paragraphs (1) and (2) based on the ability of a project—

(A) to enhance the ability of United States Customs and Border Protection to achieve its mission and to support operations;

(B) to fulfill security requirements; and

(C) facilitate trade across the borders of the United States.

(d) PROJECT IMPLEMENTATION.—The Commissioner, as appropriate, shall—

(1) implement the infrastructure and technology improvement projects described in subsection (c) in the order of priority assigned to each project under subsection (c)(3); or

(2) forward the prioritized list of infrastructure and technology improvement projects to the Administrator of General Services for implementation in the order of priority assigned to each project under subsection (c)(3).

(e) DIVERGENCE FROM PRIORITIES.—The Commissioner may diverge from the priority order if the Commissioner determines that significantly changed circumstances, including immediate security needs, changes in infrastructure in Mexico or Canada, or similar concerns, compellingly alter the need for a project in the United States.

SEC. 605. NATIONAL LAND BORDER SECURITY PLAN.

(a) REQUIREMENT FOR PLAN.—Not later than January 31 of every other year, the Secretary, acting through the Commissioner, shall prepare a National Land Border Security Plan and submit such plan to Congress.

(b) CONSULTATION.—In preparing the plan required under subsection (a), the Commissioner shall consult with other appropriate Federal agencies, State and local law enforcement agencies, and private entities that are involved in international trade across the northern or southern border.

(c) VULNERABILITY ASSESSMENT.—

(1) IN GENERAL.—The plan required under subsection (a) shall include a vulnerability, risk, and threat assessment of each port of entry located on the northern border or the southern border.

(2) PORT SECURITY COORDINATORS.—The Secretary, acting through the Commissioner, may establish 1 or more port security coordinators at each port of entry located on the northern border or the southern border—

(A) to assist in conducting a vulnerability assessment at such port; and

(B) to provide other assistance with the preparation of the plan required under subsection (a).

(d) COORDINATION WITH THE SECURE BORDER INITIATIVE.—The plan required under subsection (a) shall include a description of activities undertaken during the previous year as part of the Secure Border Initiative and actions planned for the coming year as part of the Secure Border Initiative.

SEC. 606. EXPANSION OF COMMERCE SECURITY PROGRAMS.

(a) COMMERCE SECURITY PROGRAMS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commissioner, in consultation with the Secretary, shall develop a plan to expand the size and scope, including personnel needs, of the Customs-Trade Partnership Against Terrorism program or other voluntary programs involving government entities and the private sector to strengthen and improve the overall security of the international supply chain and security along the northern and southern border of the United States.

(2) SOUTHERN BORDER SUPPLY CHAIN SECURITY.—Not later than 1 year after the date of enactment of this Act, the Commissioner shall provide Congress with a plan to improve supply chain security along the southern border, including where appropriate, plans to implement voluntary programs involving government entities and the private sector to strengthen and improve the overall security of the international supply chain that have been successfully implemented on the northern border.

SEC. 607. PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary, acting through the Commissioner, shall carry out a technology demonstration program to test and evaluate new port of entry technologies, refine port of entry technologies and operational concepts, and train personnel under realistic conditions.

(b) TECHNOLOGY AND FACILITIES.—

(1) TECHNOLOGY TESTED.—Under the demonstration program, the Commissioner shall test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(2) FACILITIES DEVELOPED.—At a demonstration site selected pursuant to subsection (c)(3), the Commissioner shall develop any facilities needed to provide appropriate training to Federal law enforcement personnel who have responsibility for border security, including cross-training among agencies, advanced law enforcement training, and equipment orientation to the extent that such training is not being conducted at existing Federal facilities.

(c) DEMONSTRATION SITES.—

(1) NUMBER.—The Commissioner shall carry out the demonstration program at not less than 3 sites and not more than 5 sites.

(2) LOCATION.—Of the sites selected under subsection (c)—

(A) at least 1 shall be located on the northern border of the United States; and

(B) at least 1 shall be located on the southern border of the United States.

(3) SELECTION CRITERIA.—To ensure that 1 of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry out demonstration and port of entry operations, 1 port of entry selected as a demonstration site may—

(A) have been established not more than 15 years before the date of the enactment of this Act;

(B) consist of not less than 65 acres, with the possibility of expansion onto not less than 25 adjacent acres; and

(C) have serviced an average of not more than 50,000 vehicles per month during the 12 months preceding the date of the enactment of this Act.

(d) RELATIONSHIP WITH OTHER AGENCIES.—The Secretary, acting through the Commissioner, shall permit personnel from appropriate Federal agencies to utilize a demonstration site described in subsection (c) to test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(e) REPORT.—

(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out at each demonstration site under the technology demonstration program established under this section.

(2) CONTENT.—The report shall include an assessment by the Commissioner of the feasibility of incorporating any demonstrated technology for use throughout United States Customs and Border Protection.

SEC. 608. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any funds otherwise available, there are authorized to be appropriated such sums as may be necessary to carry out sections 603, 604, 605, 606, and 607 for FY2009–FY2013.

(b) INTERNATIONAL AGREEMENTS.—Funds authorized to be appropriated under this title may be used for the implementation of projects described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada, agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this title.

AMENDMENT NO. 2422

(Purpose: To conduct a study to improve radio communications for law enforcement officers operating along the international borders of the United States)

At the appropriate place, insert the following:

SEC. ___. STUDY OF RADIO COMMUNICATIONS ALONG THE INTERNATIONAL BORDERS OF THE UNITED STATES.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall conduct a study to determine the areas along the international borders of the United States where Federal and State law enforcement officers are unable to achieve radio communication or where radio communication is inadequate.

(b) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—Upon the conclusion of the study described in subsection (a), the Secretary shall develop a plan for enhancing radio communication capability along the international borders of the United States.

(2) CONTENTS.—The plan developed under paragraph (1) shall include—

(A) an estimate of the costs required to implement the plan; and

(B) a description of the ways in which Federal, State, and local law enforcement officers could benefit from the implementation of the plan.

AMENDMENT NO. 2526

(Purpose: To provide that certain funds shall be made available to the United States Citizenship and Immigration Services for the fraud risk assessment relating to the H–1B program is submitted to Congress)

At the appropriate place, insert:

Of the funds provided under this Act or any other Act to United States Citizenship and Immigration Services, not less than $1,000,000 shall be provided for a benefits fraud assessment of the H–1B Visa Program.

AMENDMENT NO. 2445 AS MODIFIED

At the end, add the following:

SEC. 536. (a) REPORT ON INTERAGENCY OPERATIONAL CENTERS FOR PORT SECURITY.—Not later than 180 days after the date of the enactment of this Act, the Commandant of the Coast Guard shall submit to Congress a report and make the report available on its website on the implementation and use of interagency operational centers for port security under section 70107A of title 46, United States Code.

(b) ELEMENTS.—The report required by subsection shall include the following:

(1) A detailed description of the progress made in transitioning Project Seahawk in Charleston, South Carolina, from the Department of Justice to the Coast Guard, including all projects and equipment associated with that project.

(2) A detailed description of that actions being taken to assure the integrity of Project Seahawk and ensure there is no loss in cooperation between the agencies specified in section 70107A(b)(3) of title 46, United State Code.

(3) A detailed description and explanation of any changes in Project Seahawk as of the date of the report, including any changes in Federal, State, or local staffing of that project.

AMENDMENT NO. 2465, AS MODIFIED

On page 69, after line 24, insert the following:

SEC. 536. (a) The amount appropriated by title III for necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 under the heading ''FIREFIGHTER ASSISTANCE GRANTS'' is hereby increased by $5,000,000 for necessary expenses to carry out the programs authorized under section 34 of that Act (15 U.S.C. 2229a).

(b) The amount appropriated by title III under the heading ''INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY'' is hereby reduced by $5,000,000.

AMENDMENT NO. 2508

(Purpose: To provide funds to modernize the National Fire Incident Reporting System and to encourage the presence of State and local fire department representatives at the National Operations Center)

On page 35, line 15, strike ''costs.'' and insert the following: ''costs: *Provided further*, That of the total amount made available under this heading, $1,000,000 shall be to develop a web-based version of the National Fire Incident Reporting System that will ensure that fire-related data can be submitted and accessed by fire departments in real time.''.

On page 5, line 3, strike ''expenses.'' and insert the following: ''expenses: *Provided*, That

the Director of Operations Coordination shall encourage rotating State and local fire service representation at the National Operations Center.''.

AMENDMENT NO. 2509

(Purpose: To mitigate the health risks posed by hazardous chemicals in trailers provided by Federal Emergency Management Agency, and for other purposes)

On page 5, line 20, before the period, insert the following: '': *Provided*, That the Inspector General shall investigate decisions made regarding, and the policy of the Federal Emergency Management Agency relating to, formaldehyde in trailers in the Gulf Coast region, the process used by the Federal Emergency Management Agency for collecting, reporting, and responding to health and safety concerns of occupants of housing supplied by the Federal Emergency Management Agency (including such housing supplied through a third party), and whether the Federal Emergency Management Agency adequately addressed public health and safety issues of households to which the Federal Emergency Management Agency provides disaster housing (including whether the Federal Emergency Management Agency adequately notified recipients of such housing, as appropriate, of potential health and safety concerns and whether the institutional culture of the Federal Emergency Management Agency properly prioritizes health and safety concerns of recipients of assistance from the Federal Emergency Management Agency), and submit a report to Congress relating to that investigation, including any recommendations''.

On page 35, line 15, before the period, insert the following: '': *Provided further*, That not later than 30 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall, as appropriate, update training practices for all customer service employees, employees in the Office of General Counsel, and other appropriate employees of the Federal Emergency Management Agency relating to addressing health concerns of recipients of assistance from the Federal Emergency Management Agency''.

On page 40, line 24, before the period, insert the following: '': *Provided further*, That not later than 15 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report detailing the actions taken as of that date, and any actions the Administrator will take, regarding the response of the Federal Emergency Management Agency to concerns over formaldehyde exposure, which shall include a description of any disciplinary or other personnel actions taken, a detailed policy for responding to any reports of potential health hazards posed by any materials provided by the Federal Emergency Management Agency (including housing, food, water, or other materials), and a description of any additional resources needed to implement such policy: *Provided further*, That the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall design a program to scientifically test a representative sample of travel trailers and mobile homes provided by the Federal Emergency Management Agency, and surplus travel trailers and mobile homes to be sold or transferred by the Federal government on or after the date of enactment of this Act, for formaldehyde and, not later than 15 days after the date of enactment of this Act, submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding the program designed, including a description of the design of the testing program and the quantity of and conditions under which trailers and mobile homes shall be tested and the justification for such design of the testing: *Provided further*, That in order to protect the health and safety of disaster victims, the testing program designed under the previous proviso shall provide for initial short-term testing, and longer-term testing, as required: *Provided further*, That not later than 45 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall, at a minimum, complete the initial short-term testing described in the previous proviso: *Provided further*, That, to the extent feasible, the Administrator of the Federal Emergency Management Agency shall use a qualified contractor residing or doing business primarily in the Gulf Coast Area to carry out the testing program designed under this heading: *Provided further*, That, not later than 30 days after the date that the Administrator of the Federal Emergency Management Agency completes the short-term testing under this heading, the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report describing the results of the testing, analyzing such results, providing an assessment of whether there are any health risks associated with the results and the nature of any such health risks, and detailing the plans of the Administrator of the Federal Emergency Management Agency to act on the results of the testing, including any need to relocate individuals living in the trailers or mobile homes provided by the Federal Emergency Management Agency or otherwise assist individuals affected by the results, plans for the sale or transfer of any trailers or mobile homes (which shall be made in coordination with the Administrator of General Services), and plans to conduct further testing: *Provided further*, That after completing longer-term testing under this heading, the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report describing the results of the testing, analyzing such results, providing an assessment of whether any health risks are associated with the results and the nature of any such health risks, incorporating any additional relevant information from the shorter-term testing completed under this heading, and detailing the plans and recommendations of the Administrator of the Federal Emergency Management Agency to act on the results of the testing.

AMENDMENT NO. 2463

(Purpose: To apply basic contracting laws to the Transportation Security Administration)

At the appropriate place, insert the following:

SEC. ____. TSA ACQUISITION MANAGEMENT POLICY.

(a) IN GENERAL.—Section 114 of title 49, United States Code, is amended by striking subsection (o) and redesignating subsections (p) through (t) as subsections (o) through (s), respectively.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

AMENDMENT NO. 2490

(Purpose: To provide for a report on regional boundaries for Urban Area Security Initiative regions)

On page 69, after line 24, add the following:

SEC. 536. REPORT ON URBAN AREA SECURITY INITIATIVE.

Not later than 180 days after the date of enactment of this Act, the Government Accountability Office shall submit a report to the appropriate congressional committees which describes the criteria and factors the Department of Homeland Security uses to determine the regional boundaries for Urban Area Security Initiative regions, including a determination if the Department is meeting its goal to implement a regional approach with respect to Urban Area Security Initiative regions, and provides recommendations for how the Department can better facilitate a regional approach for Urban Area Security Initiative regions.

AMENDMENT NO. 2521

(Purpose: To provide for special rules relating to assistance concerning the Greensburg, Kansas tornado)

At the appropriate place, insert the following:

SEC. ____. (a) In this section:

(1) The term ''covered funds'' means funds provided under section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) to a State that submits an application under that section not earlier than May 4, 2007, for a national emergency grant to address the effects of the May 4, 2007, Greensburg, Kansas tornado.

(2) The term ''professional municipal services'' means services that are necessary to facilitate the recovery of Greensburg, Kansas from that tornado, and necessary to plan for or provide basic management and administrative services, which may include—

(A) the overall coordination of disaster recovery and humanitarian efforts, oversight, and enforcement of building code compliance, and coordination of health and safety response units; or

(B) the delivery of humanitarian assistance to individuals affected by that tornado.

(b) Covered funds may be used to provide temporary public sector employment and services authorized under section 173 of such Act to individuals affected by such tornado, including individuals who were unemployed on the date of the tornado, or who are without employment history, in addition to individuals who are eligible for disaster relief employment under section 173(d)(2) of such Act.

(c) Covered funds may be used to provide professional municipal services for a period of not more than 24 months, by hiring or contracting with individuals or organizations (including individuals employed by contractors) that the State involved determines are necessary to provide professional municipal services.

(d) Covered funds expended under this section may be spent on costs incurred not earlier than May 4, 2007.

AMENDMENT NO. 2467, AS MODIFIED

On page 69, after line 24, add the following:

SEC. 536. DATA RELATING TO DECLARATIONS OF A MAJOR DISASTER.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, except as provided in subsection (b), and 30 days after the date that the President determines whether to declare a major disaster because of an event, and any appeal is completed; the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives, and the Senate Committee on Appropriations and publish on the website of the Federal Emergency Management Agency, a report regarding that decision, which shall summarize damage assessment information used to determine whether to declare a major disaster;

(b) EXCEPTION.—The Administrator may redact from a report under subsection (a) any data that the Administrator determines would compromise national security.

(c) DEFINITIONS.—In this section—

(1) the term ''Administrator'' means the Administrator of the Federal Emergency Management Agency; and

(2) the term ''major disaster'' has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

AMENDMENT NO. 2474

On page 17, line 6, before the period, insert the following: '': *Provided further*, the Secretary of Homeland Security shall ensure that the workforce of the Federal Protective Service includes not fewer than 1,200 Commanders, Police Officers, Inspectors, and Special Agents engaged on a daily basis in protecting Federal buildings (under this heading referred to as 'in-service'): Contingent on the availability of sufficient revenue in collections of security fees in this account for this purpose. *Provided further*, That the Secretary of Homeland Security and the Director of the Office of Management and Budget shall adjust fees as necessary to ensure full funding of not fewer than 1,200 in-service Commanders, Police Officers, Inspectors, and Special Agents at the Federal Protective Service''.

AMENDMENT NO. 2522, AS MODIFIED

At the appropriate place, insert the following:

SEC. 536. NATIONAL TRANSPORTATION SECURITY CENTER OF EXCELLENCE.

If the Secretary of Homeland Security establishes a National Transportation Security Center of Excellence to conduct research and education activities, and to develop or provide professional security training, including the training of transportation employees and transportation professionals, the Mineta Transportation Institute at San Jose State University may be included as a member institution of such Center.

AMENDMENT NO. 2524

(Purpose: To provide funding for security associated with the national party conventions)

At the end of the bill, insert the following:

SEC. ____. Of amounts appropriated under section 1003, $100,000,000, with $50,000,000 each to the Cities of Denver, Colorado, and St. Paul, Minnesota, shall be available for State and local law enforcement entities for security and related costs, including overtime, associated with the Democratic National Conventional and Republican National Convention in 2008. Amounts provided by this section are designated as an emergency requirement pursuant to section 204 of S. Con. Res. 21 (110th Congress).

Mrs. MURRAY. I believe those are all the amendments to come before the Senate.

AMENDMENT NO. 2521

Mr. KENNEDY. Mr. President, on May 4, Greensburg, KS, was devastated by a tornado. Our thoughts and prayers are very much with the many families affected by this disaster, and we fully support their rebuilding efforts.

I strongly support the amendment offered by Senator ROBERTS and Senator BROWNBACK to the Homeland Security appropriations bill that would allow Greensburg to hire the essential workers it needs to help rebuild the town.

The protections in current law governing national emergency grants under the Workforce Investment Act serve an important purpose. They ensure that the program is targeted to help workers who need it most, and is not used to displace public sector workers with workers that do not receive the same wage and merit system protections.

Greensburg, however, faces unique circumstances. In the wake of the disaster, this small city has an obvious need for professionals—such as zoning experts, planning professionals, and building inspectors—with expertise that is not readily available in the area. In these unique circumstances, the waivers provided for in this bill are a reasonable response. It is obviously not, however, a precedent for future recipients of these emergency grants.

I hope very much that these waivers will do as much as possible to help the people of Greensburg restore their city and rebuild their lives, and I wish them well in the years ahead.

AMENDMENT NO. 2474

Mrs. CLINTON. Mr. President, my amendment is an amendment I wish I did not have to offer. It is necessary, unfortunately, because of the administration's continued plan to outsource or privatize critical components of our homeland security.

I am proud to have Senators KENNEDY, SCHUMER, LAUTENBERG, AKAKA, MENENDEZ, KERRY, MIKULSKI, CARDIN and the chairman and ranking member of the Senate Homeland Security and Government Affairs Committee respectively, Senator LIEBERMAN and Senator COLLINS, as cosponsors of this amendment.

This amendment also has the endorsement of the American Federation of Government Employees. I will ask to have printed in the RECORD their letter of support.

Mr. President, the most recent key judgments of the National Intelligence Estimate were crystal clear: our homeland is under a ''heightened threat environment'' and that al-Qaida is undiminished in its goal in attacking us here at home.

At the very same time, despite a lot of tough rhetoric, the Bush administration wants to cut the only Federal agency responsible for protecting nearly 9,000 nonmilitary Federal buildings nationwide.

The Federal Protective Service, or FPS, protects more than 1.1 million Federal employees located in more than 2,100 communities across our country.

While protecting Federal buildings, the FPS also monitors the qualifications and performance of 15,000 privately contracted security guards.

In 1995, after the Oklahoma City bombing, the General Services Administration and Congress concluded that FPS required 1,480 field personnel to do its duty.

After 9/11, as we face even greater threat, as we have rightfully heightened our security and vigilance here at home, the Bush administration has slashed FPS personnel to fewer than 1,200. If it has its way, the administration will cut that number to 950 in 2008.

Just today, we learned that the FPS has recently issued an internal document, entitled ''Increased Risk of Terrorist Attack This Summer'' detailing high-risk threats to Federal buildings and employees.

The inspector general of the Department of Homeland Security, Richard L. Skinner, investigated the FPS. Among the disturbing findings: Only a dozen FPS employees are tasked with checking the credentials and performances of the 5,700 guards in the DC area—''an inadequate number'' according to the audit; 30 percent of contract security guards in the sample had at least one expired certification, security contractors failing to perform security services according to terms and conditions of their contracts.

The report concluded that many of the deficiencies cited occurred because FPS personnel were not effectively monitoring the contract guard program.

On May 1, 2007, Jim Taylor, the deputy inspector general for the Department of Homeland Security testified before the House Committee on Homeland Security and stated that further reductions in the FPS ''could lead to uneven effects across the nation, perhaps place some facilities at risk.''

Last month, contract security guards did not show up for work at the Department of Education and two Food and Drug Administration offices. The contract guards' employer had not paid 400 employees in a month, citing financial difficulties. But FPS did pay the company for its services. It turns out that the company's president served 5 years in jail for bank fraud and money laundering. According to company's general manager, the president of the company used company money to pay for luxury condos here in the District of Columbia and in Myrtle Beach, SC.

This latest episode only underscores the importance of not cutting the Federal Protective Services staff, but increasing it. It not only saves us from wasting Federal resources—it could save lives.

My amendment would stop the Department of Homeland Security from continuing to downsize the Federal

Protective Service. The amendment would require the Secretary of Homeland Security to assure that the workforce of the Federal Protective Service includes no fewer than 1,200 commanders, police officers, and special agents engaged on a daily basis in protecting Federal buildings.

This amendment does not require an offset or any additional spending. FPS operations are solely funded through security fees and reimbursements paid for by Federal agencies. The amendment would require the Office of Management and Budget and the Department of Homeland Security to adjust Federal building security fees as necessary to ensure full funding of not fewer than 1,200 in-service commanders, police officers, inspectors, and special agents at the Federal Protective Service.

Mr. President, security on the cheap is no security at all. Our Nation faces serious threats—this Congress should demand a response by the Bush administration commensurate with the danger—and the President's own rhetoric. I ask my colleagues to join me to ensure that the Federal Protective Services has the personnel needed to do its job and that we do not send the message that our Federal buildings are exposed.

Mr. President, last week's key judgments of the National Intelligence Estimate made clear that al-Qaida has ''protected or regenerated key elements of its Homeland attack capability'' and is now as strong as it was in 2001.

I commend the work of Senator BYRD and the members of the Appropriations Committee for putting together a Homeland Security appropriations bill that supports tough and smart measures to make our country more secure. This is a must-pass piece of legislation that we cannot afford to delay and I urge my colleagues on the other side of the aisle not to obstruct this critical legislation so we can implement these measures to make our country more secure.

I ask unanimous consent to have printed in the RECORD the letter to which I referred.

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

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO,
Washington, DC, July 24, 2007.

DEAR SENATOR: On behalf of the American Federation of Government Employees, AFL-CIO, I urge you to support Senator Clinton's amendment to the FY '08 Homeland Security Appropriations bill to insure that our nation's federal buildings are adequately protected. For the past several months the Department of Homeland Security's U.S. Immigration and Customs Enforcement has been implementing a proposal to eliminate over 350 commanders, police officers, and special agents from the Federal Protective Service (FPS). Experienced law enforcement officers have been actively encouraged to leave the agency. leaving vulnerable countless federal buildings that once receive around-the-clock FPS protection.

The Bush Administration is attempting to unilaterally alter the mission of this critical homeland security agency despite the demonstrated need for high security at federal buiidings and complexes. It would be hard to forget that day in April 1995, when domestic terrorists Timothy McVeigh and Terry Nichols drove up to the Alfred P. Murrah building in Oklahoma City and unleashed the first major terrorist attack in the U.S. In the post–9/11 world in which we live, to eliminate the law enforcement and antiterrorism activities of the Federal Protective Service is unthinkable.

The Senate Appropriations Committee included strong language opposing the FPS plan and the House calls it an unfunded mandate and requires the agency to negotiate security agreements with every impacted state and local law enforcement agency, yet the Department continues to press forward with its misguided, dangerous initiative.

For this reason it has become necessary to require the Department to maintain a specified level of manpower in order to insure our continuing safety. In order to assure that the FPS is restored to its full complement of personnel, Senator CLINTON will offer an amendment to the Homeland Security Appropriations bill that requires the Department to maintain a minimum of 1200 total in-service personnel (Commanders, Inspectors, Police Officers and Special Agents). This is based on a field staffing level for FPS of 1480 which was GSA's target until 2003.

The Federal Protective Service is an often overlooked, yet critical component of our overall homeland security safety net. The GAO has been asked by the Chairman and Ranking Member of the Senate Homeland Security and Governmental Affairs Committee to conduct a review of FPS funding and other issues. We strongly believe that in view of that pending study, fundamental reform of the FPS mission, such as the Administration is proposing, is inappropriate and should be stopped.

Sincerely,

BETH MOTEN,
Legislative and Political Director.

AMENDMENT NO. 2487

Mr. President, I would have called up amendment No. 2487.

This amendment is also cosponsored by Senator DORGAN.

Mr. President, in a little over a week, the Transportation Security Administration plans to lift its ban on disposable butane lighters, a decision that is both ill-advised and ill-considered. Lifting the ban on these lighters defies common sense and ignores the TSA's own recommendations.

In March 2005, a TSA spokesman said, ''The threat posed by lighters on board is valid.'' TSA has warned that al-Qaida and those seeking to do us harm intend to use everyday household items to conceal explosives and detonate them on board airliners.

In fact, the TSA actually wanted to go further than banning lighters alone. The TSA wanted to ban matches, too. But the Bush administration demanded that the TSA conduct cost-benefit analysis before banning matches, another decision that calls into question the commitment within the administration to matching security rhetoric with smart security policies. Even the CEO of the Zippo Company, a company that manufactures disposable butane lighters, expressed support for the lighter ban stating, ''We're never going to get lighters back into the cabin in carry-on baggage. We never really argued with the TSA on that because we don't want to compromise safety in any way.''

And we all remember, in December 2001, when Richard Reid, the so-called ''Shoe Bomber,'' attempted to murder 197 people onboard an American Airlines flight when he attempted to set off explosives hidden in his shoe using a box of matches. According to the FBI, Reid likely would have been successful if he had used a butane lighter.

The TSA claims that lifting the ban will free up time for security officers to focus on finding more high threat items. However, the TSA is not lifting the ban on all lighters. Passengers will still not be allowed to carry torch lighters or cigar lighters onboard an aircraft.

The result? Instead of banning all lighters, security officers will now have to differentiate between disposable butane lighters and other lighters in every single piece of luggage that they have to inspect. Even on the TSA's own website the difference between what is acceptable and what is not is hard to discern.

And this justification has been tested before, when the TSA lifted the ban on small scissors and knives. In April, the Government Accountability Office released a report on that decision. The GAO found that it is unclear whether lifting that ban ''had any impact on Transportation Security Officers' ability to detect explosives—a key goal for the change.''

The decision to lift the ban on disposable butane lighters makes inspecting luggage more difficult, makes the rules more complicated, and makes the skies more dangerous.

So, let's briefly summarize the TSA's decision. You can bring a disposable butane lighter but not a cigar lighter or a torch lighter. You can bring a fueled lighter onboard but you cannot check it in your luggage. You can bring explosive liquid in the form of a fueled butane lighter but cannot bring a large tube of toothpaste in the form of toothpaste. And you don't need the lighter anyway because you cannot smoke onboard. It seems that common sense has left the gate at the Transportation Security Administration.

Mr. President, my amendment would have continued to prohibit butane lighters onboard an aircraft until the TSA provides Congress a report identifying all anticipated security benefits and any possible vulnerabilities associated with allowing butane lighters into airport sterile areas and onboard an aircraft, as well as any supporting analysis justifying their conclusions.

Further, my amendment would have required the GAO to conduct an assessment of the report submitted by TSA to Congress. Until these reports were conducted, the ban on butane lighters would remain in place.

My amendment has the support of the 55,000-member Association of

Flight Attendants. I will ask that a letter from the Association of Flight Attendants be printed in the RECORD.

Flight attendants are on the front lines in the event of a terrorist attack involving aircraft. They are our first responders onboard and understand what could constitute a dangerous tool in the hands of a determined terrorist. After September 11, 2001, keeping weapons—and any device that could be used as a weapon—off passenger airplanes is not ''security theatre.'' It is security, plain and simple.

My amendment also has the endorsement of the Federal Law Enforcement Officers Association, which represents over 25,000 Federal law enforcement officers, including Federal Air Marshals. I will ask that their letter of support be printed in the RECORD.

In their letter, they say that ''allowing butane lighters onto commercial aircraft would jeopardize the safety of both the flying public and the Federal Air Marshals who protect them.''

I ask that my colleagues join me in support of this amendment. Let's restore common sense and do all we can to limit the kinds of potential weapons terrorists may employ onboard aircraft.

Mr. President, I ask unanimous consent that the letters to which I referred by printed in the RECORD.

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

ASSOCIATION OF FLIGHT ATTENDANTS—CWA, AFL–CIO,
Washington, DC, July 25, 2007.

DEAR SENATOR CLINTON: On behalf of the 55,000 members from 20 Airlines represented by the Association of Flight Attendants—CWA, I am writing to express our support for your efforts to reinstitute the ban on lighters onboard passenger aircraft. We look forward to working with you to reinstitute this common sense security measure.

As the first responders onboard passenger aircraft, we were extremely frustrated with the decision by the Transportation Security Administration (TSA) in December of 2005 to lift the ban on scissors, screwdrivers and other tools that could be used as potential weapons onboard the aircraft. Such a move by the TSA was shortsighted and not in the best interest of the overall security of passenger aircraft and our aviation system. Furthermore, they failed to take into consideration the concerns of flight attendants, those that are jeopardized the most by reintroducing these dangerous items into our workplace.

This recent TSA decision to lift the ban on lighters is no different. It is yet another shortsighted move on their part to supposedly free up screener time to check for other, more dangerous, items. If the shoe bomber, Richard Reid, had a lighter during his efforts to bring down an American Airlines flight he most likely would have succeeded. The ban on lighters was a common sense move to prevent another tragedy and must be reinstated.

Flight attendants are in a unique position, as the first responders onboard all passenger aircraft, to know what could constitute a dangerous tool in the hands of a determined terrorist. We remain adamant that TSA must reinstitute its ban on small blades and tools and this recent decision to allow lighters onboard the aircraft should be reinstated.

Again, we look forward to working with you to reinstate this common sense safety procedure.

Respectfully,

PATRICIA A. FRIEND,
International President.

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION,
Lewisberry, PA, July 26, 2007.

Hon. HILLARY CLINTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR CLINTON: As the President of the Federal Law Enforcement Officers Association (FLEOA), representing over 25,000 Federal law enforcement officers, I wish to offer our support for continuing the ban on butane lighters on commercial aircraft.

A decision to change the ''Prohibited Item List'' and allow butane lighters on commercial aircraft could have potentially life threatening consequences. If in the well known ''shoe bomber case'' Richard Reid had used a butane lighter the results might have been catastrophic.

Both the flying public and TSA screeners have become accustomed to the ban on butane lighters and a change now would only create confusion among them. Furthermore, allowing butane lighters onto commercial aircraft would jeopardize the safety of both the flying public and the Federal Air Marshals (FAMs) who protect them.

We fully support your efforts to keep butane lighters on the ''Prohibited Item List'' however we continue to have concerns about certain items that have been removed in the past. The safety of Federal law enforcement officers who fly armed to prevent terrorist attacks should never be compromised. The safety of the flight crew and the flying public is of paramount importance to all of us.

If I can be of any assistance, please feel free to contact me at 917–738–2300.

Sincerely,

ART GORDON,
National President.

FUNDING FOR MASS TRANSIT AND COMMUTER RAIL SYSTEMS

Mr. CASEY. Mr. President, I would like to engage in a brief colloquy with the distinguished chairman of the Appropriations Committee, Senator BYRD, concerning the amendment I have filed to the pending bill on the floor regarding the use of Transit Security Grant Program funding for mass transit and commuter rail systems across the Nation. My fellow home State Senator, Mr. SPECTER, is a cosponsor of this amendment. As the chairman is aware, the Southeastern Pennsylvania Transit Authority, SEPTA, is the fifth largest public transportation system in the Nation. SEPTA's mulimodal transit system provides a network of fixed-route service, including bus, subway, subway-surface, regional rail, light rail, trackless trolley and paratransit service. The SEPTA service area includes the heavily populated southeastern Pennsylvania counties of Bucks, Chester, Delaware, Montgomery, and Philadelphia. This area encompasses approximately 2,200 square miles. SEPTA serves over one-half million customers daily and provides over 303 million passenger trips annually. The safety and security of its passengers, infrastructure and equipment is a priority for SEPTA and it is a priority for me.

The current SEPTA communications system does not permit communication inside the system's 20-mile commuter tunnel network and underground concourses. This puts significant limits on SEPTA's ability to deal with emergencies that occur in its underground facilities. To address this matter, SEPTA is working to develop a system that will allow the Authority to effectively participate in all emergency response and recovery actions which may occur in the system's tunnel network. This project will enable SEPTA to take measures to enhance safety and security.

Based upon my conversations with SEPTA officials, I understand that it has been unable to fully utilize Federal homeland security funds in past years for this initiative. SEPTA officials report that Federal restrictions require expenditure of homeland security funds within a 3-year time period. SEPTA officials further report that implementing a system-wide underground communications network, including appropriate use of capital investment planning and effective procurement practices, is not possible within this existing time frame. SEPTA has therefore been unable to make the progress it desired on this project.

Given the potential consequences of current restrictions, it was my hope that an amendment expanding the timeframe for expenditure of fiscal year 2008 Transit Security Grant Program funds from the existing 36 months to 48 months be adopted to enable transit systems across the nation, including SEPTA, to use their available funds in a more flexible manner.

It is my understanding that the chairman of the Appropriations Committee, as well as the chairman of the authorizing committee, the Banking, Housing, and Urban Affairs Committee, has several concerns regarding this amendment. I fully appreciate the valid points they raise and look forward to working with them to come to an appropriate solution. I would note that the distinguished Member from West Virginia has been very supportive of assistance in providing appropriate Federal funding for important homeland security initiatives in my home State and I wish to convey my gratitude.

Mr. BYRD. I thank the distinguished Member from Pennsylvania for his remarks on the amendment he has filed. The safety and security of our Nation's mass transit systems is a critical priority for me. We only need be reminded of the terror attacks in Madrid on a commuter rail system in 2004 and in London on the underground system in 2005 to appreciate the magnitude and urgency of the threat to our transit and rail networks.

I look forward to working with my colleague to help ensure that SEPTA, and all mass transit and commuter rail systems, have the necessary resources to ensure their safety and security, including facilitation of communications

between first responders in the event of an attack. To the extent that the SEPTA system faces a unique challenge with regard to flexibility and duration of use of their existing Federal funds, I look forward to working with you and the Federal Emergency Management Agency to find an appropriate solution that meets the legitimate safety needs of the passengers and employees of the system.

THE NORTHERN BORDER

Mr. LEVIN. Mr. President, the PATRIOT Act required that DHS triple the number for border patrol agents at the northern border, the Trade Act of 2002 required 285 additional customs inspectors for the northern border and the Intelligence Reform and Terrorism Prevention Act of 2004 included a provision that authorized an increase of 2,000 U.S. border protection agents each year from FY2006 through FY2010 and further required that 20 percent of the increase in agent manpower each fiscal year be assigned to the northern border. However, nearly a third of those agents have not been deployed to the northern border. According to the Congressional Research Service, the gap between the authorized level of Customs and Border Protection officers at the northern border and the actual number of officers deployed there will be roughly 1,517 in FY2008.

I am pleased that the Senate just passed the Graham-Pryor amendment that will provide $3 billion for border security and 23,000 full time agents to our borders. I ask my friend from West Virginia, the chairman of the Appropriations Committee, is it the intent of the amendment to provide those assets to both the northern and southern borders, and, to further implement the authorizations I mentioned, to deploy more agents to the northern border?

Mr. BYRD. I appreciate my friend from Michigan's concern about the northern border and tell him that yes, the amendment is meant to increase staffing at both of our borders and it is not the intent of the amendment to favor one border over the other. The Appropriations Committee has been clear in its support for the Border Patrol and its mission of preventing entry into the Untied States of illegal aliens, terrorists, weapons of mass destruction and other illicit goods or individuals. Further, in recognition of the importance of security at our northern border, the Appropriations Committee has directed the Secretary of Homeland Security to assign to the Northern Border 20 percent of the net increase in agents in fiscal year 2008.

Mr. TESTER. I thank Senator BYRD for this important clarification. I thank Senator LEVIN for being such a leader on this issue. I think it is important that people understand that this is not an issue that the northern states just decided to raise in the interest of getting our fair share. It is a matter of national security. The 9/11 Commission's report cites a lack of balance in manpower between the northern and southern borders. They note that the would-be terrorists in the millennium plot were detained on the northern border.

This is not about being parochial. This is about our national security. This is about making sure that we have the resources to stop a terrorist from bringing materials for a dirty bomb in from Canada. It's about stopping the flow of illegal immigrants and illegal drugs like meth and marijuana that come in from the north each year.

So I thank Chairman BYRD for clarifying that the additional Border Patrol personnel and funding contained in the Graham-Pryor amendment is not just going to go to the southern border, but will go to both of our borders. This amendment is vital to our homeland security, and I think that if the northern border gets 20 percent of the resources outlined in the amendment, we will have really done something significant to enhance the security of our 4,300 mile border with Canada. And so I thank the authors of the amendment, one of whom is here with us.

Senator GRAHAM, can you clarify that the intent of your amendment was to make additional Border Patrol agents and funding available for both the northern and southern border?

Mr. GRAHAM. My friend from Montana is correct. The intent of the amendment was to improve our security and increase assets at both the northern and southern borders.

AMENDMENT NO. 2481

Mr. SPECTER. Mr. President, I seek recognition to explain my vote against the DeMint amendment no. 2481 to the Fiscal Year 2008 Homeland Security Appropriations Act.

I voted against the DeMint amendment because it prohibited the Secretary from modifying the existing list of crimes disqualifying someone from receiving a Transportation Worker Identification Credential when circumstances warrant a regulatory change. Sound public policy requires flexibility on such matters and Congress can rely on the Secretary, a Cabinet official, to exercise sound discretion. If the Secretary fails to do so, Congress can always intervene and change the law.

Mr. BIDEN. Mr. President, today I voted in favor of tabling the Alexander-Collins amendment on the REAL ID Act, Senate Amendment 2405, because I wanted to prevent reducing by almost 1 percent critical Federal spending on port and rail security, first responders' resources, and other homeland security protections. Rail infrastructure is the most widely attacked terrorist target in the world, and we must increase, not decrease, funding for our railroads. Similarly, port security is a top priority in our antiterrorism campaign, and I opposed this effort to divert funding from protecting our ports. I appreciate the work of my colleagues on the Senate Appropriations Committee to craft a balanced spending bill.

Mr. KERRY. Mr. President, I support the fiscal year 2008 Department of Homeland Security, DHS, appropriations bill. The underlying legislation provides $37.5 billion—$2.3 billion more than the President requested—to help DHS defend against what the recently declassified National Intelligence Estimate, NIE, concluded will be ''a persistent and evolving terrorist threat over the next three years.''

The President, however, has threatened to veto this bill and hold up essential security funding because its funding level is slightly above his budget request. After years of underfunding homeland security, cutting taxes for the wealthy at the expense of the middle class, and failing to veto one pork-laden spending bill passed by the GOP Congress, it is hard to take the President's sudden conversion to fiscal responsibility seriously. He has long since proven his appetite for spending beyond our means and has lost the support of his fiscally conservative base.

In crafting this and other spending bills, the Democratically-controlled Congress is meeting our needs while adhering to pay-as-you-go rules which will help stem the record deficits of the last 6 years. This critical legislation funds important programs to protect the border, improve aviation security, fund and train first responders, and provide disaster relief to the States, and it does it without busting the budget.

I am especially pleased that the bill provides $1 billion above the President's budget request for State and local grant programs such as the Urban Area Security Initiative and Port Security Grant Program. This will ensure that Massachusetts and other strategically important States receive an increase in counterterrorism funding in 2008. I remained concerned, however, that DHS still does not award grants solely according to risk. Given the sobering conclusions of the NIE, we cannot afford to misallocate homeland security grants. I thank Chairman BYRD and Senator COCHRAN for accepting an amendment that I offered which requires the Government Accountability Office to review the methodology the department uses to rank States and cities according to risk. Congress needs to know this information so that it can make informed decisions regarding the Department's grant policies.

I also want to thank Chairman BYRD and Senator COCHRAN for accepting my amendment to create a pilot program to test automated document authentication technology at ports of entry. The technology DHS uses to authenticate foreign travel documents is unfortunately no better now than on 9/11. It simply checks personal information against databases which we know are not always accurate. In keeping with the recommendations of the 9/11 Commission, this pilot program will hopefully compel DHS to deploy technology that can detect security features and distinguish between real and fraudulent travel documents. DHS is spending millions to implement the US–VISIT

and Western Hemisphere Initiative but has yet to test technology that can authenticate the documentation that visitors will be required to provide under those programs. It is imperative that DHS conduct this pilot program as soon as possible and improve its ability to detect fraudulent travel documents.

The Senate also adopted a bipartisan amendment to add $3 billion in emergency spending to help DHS hire more Border Patrol agents, detention beds, and monitoring equipment along the border which we all agree it needs. This amendment, while important, is not a substitute for finishing work on comprehensive immigration reform legislation, and I hope that Congress will revisit this important issue. Keeping 12 million undocumented workers in the shadows is neither good for our economy or our security.

Mr. President, H.R. 2368 provides for the first time adequate funding for agencies and programs within DHS. It would be irresponsible and reckless for the President to veto this bill, and I hope he reconsiders his position.

Mr. LEVIN. Mr. President, I will support final passage of the Homeland Security appropriations bill today because its funding is vital to our first responders and all of those responsible for protecting us.

Although all Americans are united in our commitment to secure our homeland, the administration's budget has too often not reflected that commitment. In particular, we have not kept faith with our first responders by giving them the tools they need, and we have not done enough to secure our borders. I am glad that this bill will make much needed improvements on these and other issues.

The bill appropriates $37.6 billion for homeland security programs for fiscal year 2008, which is an increase of $2.2 billion over the President's budget. Perhaps most significantly, the legislation provides vital funding to our first responders to protect our country from a terrorist attack and ensure that we are able to respond adequately should such an attack occur. Specifically, it provides $525 million for the State Homeland Security Grant Program, $820 million for the Urban Area Security Initiative, $700 million for the assistance to firefighters grants and $300 million for emergency management performance grants.

To secure our borders, a total of $10.2 billion is provided for Customs and Border Protection. I am pleased that, in addition to the funding in the underlying bill, the Senate also adopted an amendment to add an additional $3 billion for border security which will enable the Department of Homeland Security to hire, train and deploy 23,000 additional full-time boarder patrol agents and provide other essential security measures at our borders. The legislation also provides $4.432 billion for immigration and customs enforcement, including $146 million for 4,000 new detention beds.

Finally, I want to note that the bill increases funding for the Transportation Security Administration by $164.6 million above last year's level, which is $764 million more than requested by the President. It provides $529.4 million for the procurement and installation of explosive detection systems at airports.

The funding levels in this bill reflect our commitment to protecting the American people, and I am hopeful they will be maintained in conference and that we can quickly get this legislation to the President for his signature.

Mr. LAUTENBERG. Mr. President, I rise in strong support of the Homeland Security appropriations bill now on the floor. As a member of the Senate Appropriations Committee's Subcommittee on Homeland Security, I am proud of the bill we crafted. This bill will provide our country with more of the resources it needs to protect our communities and secure our residents.

Homeland security is particularly important to my home State. New Jersey lost 700 people on 9/11 families torn apart and lives ended without ever seeing loved ones again.

And New Jersey is ripe with targets for terrorists, from our ports to our chemical plants. In fact, the FBI has stated that the most dangerous 2 miles in America for terrorism lie within the stretch of land from Port Newark to Newark Liberty International Airport.

The level of funding for the Department of Homeland Security directly affects the safety of residents in my State.

That is why I'm glad that this legislation would invest $37.6 billion into making our homeland safer and more secure.

This figure is $2.2 billion more than what President Bush asked for. And because of that, the President is threatening to veto the bill. This is astonishing and it is wrong—$2.2 billion is less money than we spend in 1 week in Iraq.

The Senate must stand up, pass this legislation, and begin to turn a corner to provide more money to effectively defend our homeland.

In addition to more money for border security, this bill provides critical funding for first responders, including $560 million for firefighter equipment grants, $525 million for the State Homeland Security Grant Program—which is $275 million above the President's request—and $375 million for law enforcement and terrorism prevention grants.

This bill also doubles port and rail security grants in the Bush proposal to $400 million.

The Port of New Jersey and New York is largest port on the east coast—and the second-busiest container port in the country. Our ports in south Jersey are part of the Delaware River port system, which is the busiest crude oil tanker port in the country. Through these ports, many goods and materials transit to store shelves, gas pumps and factory assembly lines in the towns and cities in the interior of our country. In short, our ports are essential to our economy.

And in 2006, Amtrak had record ridership of 25 million. Ridership is already up in 2007 by 5 percent. On an average weekday, nearly a million New Jerseyans rely on our transit systems to get to work, including trains, buses, and light rail lines.

This funding for port and rail security is vital for our State.

In 2006, the President—with great fanfare—signed a port security which authorized $400 million for port security grants this year. But then he failed to fund it.

The Senate is prepared to follow through on the promise of this vital funding.

I am also proud that we are working to protect our homeland—and our economy—from terrorists who set their sights on hazardous cargoes at sea.

Senators INOUYE, STEVENS and I introduced legislation earlier this year to better protect maritime vessels carrying hazardous chemicals and petrochemicals. I am pleased that the committee has agreed with my request to include funding for maritime hazardous cargo protection—including liquefied natural gas—in this Homeland Security bill.

I am further pleased that the committee acknowledged in the Report for this bill the need to expand the laboratory space at the Transportation Security Lab, TSL, in Pomona, NJ, in order to accommodate the Department's explosives detection equipment certification program. This program certifies all explosives detection equipment used by the Transportation Security Administration, and provides certifications to equipment vendors. It is clear that this facility must be expanded to safely accommodate this important program.

Finally, I am glad the Senate is once again going on record to support my provision to protect the rights of states to pass chemical security laws that are stronger than Federal regulations.

DHS recently put rules into effect for the Federal regulation of chemical plant security. But in doing so, the agency wants to preempt states from enacting stronger chemical security laws. This is the wrong approach.

The language in the Homeland Security funding bill before us wisely preserves the right of states to adopt chemical security measures stronger than Federal regulations. This language is supported by the chairs of the 9/11 Commission, the National Governors Association, and the National Conference of State Legislatures.

Simply put: preempting State laws would make the people of my State and other States less safe.

The language in this bill will allow States to go beyond the Federal regulations as long as there is no actual conflict with the federal regulations. This

means that unless it is impossible to comply with both State law and Federal law, the State law is not preempted.

Between the increases in funding for first responders, port, rail and maritime security, and the protection of States rights to pass chemical security laws that are stronger than Federal regulations, this is the right bill at the right time.

I encourage my colleagues to support this legislation and I urge the President to sign it into law.

Mr. MCCONNELL. Mr. President, today marks an important milestone for this Congress. It seems that after spending the first half of the year staging political show-votes and investigations, our friends on the other side have woken up to the fact they only had two things to show for it: an angrier base and a long to-do list. In the fog of battle they forgot that getting things done in the Senate takes cooperation.

We have cooperated on this bill. And it is a lot better for it. I am extremely pleased the majority ultimately accepted Senator GRAHAM's border security amendment. We got the message last month: border security first. And now, thanks to this effort, we will be delivering a $3 billion downpayment on a stronger border. I also appreciate Senator CORNYN's insistence that interior enforcement be a part of that funding. To us it's pretty simple: there is no homeland security without border security. We will continue to push this idea on the floor of the Senate in the coming weeks and months. Today is just the beginning.

A lesson we can learn from the last 6 months is that there is a cost to everything. And the cost of putting off legislating in favor of around-the-clock politics is that there isn't much to show for it in the end.

It has been my view all along that we should have been working on appropriations bills all summer. Here we are almost in August and we have only passed one. So we are looking at a potential train wreck in September. But it is possible that if we work together, like we did this time, we can still make good progress. And I hope we do.

A brief word about cloture. Look: anybody who has been in the Senate for more than a week will tell you—if they are being honest—that 40 or so cloture votes in 6 months isn't a sign of minority obstruction; it is a sign of a majority that doesn't like the rules. The cloture club shouldn't be the first option. It should be the last. Hopefully today's vote is also a sign that we are moving away from cloture as a first resort.

I hope the majority will follow through on a pledge that the senior Senator from Illinois made on the first day of the session. He said the American people put Democrats in the majority "to find solutions, not to play to a draw with nothing to show for it." Very well said.

My Republican colleagues hope we can operate this way. I think it will be the best way to operate in the fall if we actually intend to legislate.

The PRESIDING OFFICER. If there are no further amendments, the question is on agreeing to the substitute, as amended.

The amendment (No. 2383), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mrs. MURRAY. Mr. President, I ask for the yeas and nays.

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

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Minnesota (Mr. COLEMAN), the Senator from Mississippi (Mr. LOTT), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted "yea."

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

The result was announced—yeas 89, nays 4, as follows:

[Rollcall Vote No. 282 Leg.]

YEAS—89

Akaka	Dorgan	Menendez
Alexander	Durbin	Mikulski
Allard	Ensign	Murkowski
Barrasso	Enzi	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Nelson (NE)
Bennett	Graham	Pryor
Biden	Grassley	Reed
Bingaman	Gregg	Reid
Bond	Hagel	Roberts
Boxer	Harkin	Rockefeller
Brown	Hatch	Salazar
Bunning	Hutchison	Sanders
Burr	Inouye	Schumer
Byrd	Isakson	Sessions
Cantwell	Kennedy	Shelby
Cardin	Kerry	Smith
Carper	Klobuchar	Snowe
Casey	Kohl	Specter
Chambliss	Kyl	Stabenow
Clinton	Landrieu	Stevens
Cochran	Lautenberg	Sununu
Collins	Leahy	Tester
Conrad	Levin	Thune
Corker	Lieberman	Vitter
Cornyn	Lincoln	Warner
Craig	Lugar	Webb
Crapo	Martinez	Whitehouse
Dole	McCaskill	Wyden
Domenici	McConnell	

NAYS—4

Coburn	Inhofe
DeMint	Voinovich

NOT VOTING—7

Brownback	Johnson	Obama
Coleman	Lott	
Dodd	McCain	

The bill (H.R. 2638), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mrs. MURRAY. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate insists on its amendment and requests a conference with the House, and the Chair appoints the following conferees:

The Presiding Officer appointed Mr. BYRD, Mr. INOUYE, Mr. LEAHY, Ms. MIKULSKI, Mr. KOHL, Mrs. MURRAY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. NELSON of Nebraska, Mr. COCHRAN, Mr. GREGG, Mr. STEVENS, Mr. SPECTER, Mr. DOMENICI, Mr. SHELBY, Mr. CRAIG, and Mr. ALEXANDER conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I thank all Senators who worked very hard to get the Homeland Security appropriations bill completed. I thank Senator COCHRAN and Senator BYRD, managers of the bill. It has been a long process. We got a lot accomplished. We have one appropriations bill that we will now send to conference. I especially thank the staffs who spent long hours.

I ask unanimous consent to have their names printed in the RECORD and to thank them publicly.

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

MAJORITY STAFF

Charles Kieffer
Chip Walgren
Scott Nance
Drenan E. Dudley
Tad Gallion
Christa Thompson
Adam Morrison

MINORITY STAFF

Rebecca Davies
Carol Cribbs
Mark Van de Water

IMPLEMENTING RECOMMENDATIONS OF THE 9/11 COMMISSION ACT OF 2007—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 1, which the clerk will report.

The assistant 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. 1)

to provide for the implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States, having met, after full and free conference, 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 a majority of the conferees on the part of both Houses.

The Senate proceeded to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 25, 2007.)

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that we proceed as under the previous order to debate Senator DEMINT's motion to recommit the conference report and that following the vote on the DeMint motion, if his motion is defeated, the Senate vote on the conference report as under the previous order, with the debate time on the conference report reserved for after the votes; further that the time on the motion to recommit be reduced to 10 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

The Republican leader.

Mr. MCCONNELL. Mr. President, reserving the right to object—I will not object, obviously—I want to thank all Senators on both sides for being willing to make their remarks after the vote. I do not object.

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

The Senator from South Carolina is recognized.

MOTION TO RECOMMIT

Mr. DEMINT. Mr. President, I know we are all tired and we have agreed to cut this short. But this 9/11 Commission bill is very important and a part of it that we have talked about tonight and actually for the last year is port security. All of us agreed once again tonight that we should not allow convicted, serious felons to have access to secure areas of our ports. Unfortunately this amendment tonight was on an appropriations bill, and it restricted the use of funds for 1 year. We have passed another time as part of the Safe Ports Act—94 to 2—to do this same thing: to take the Department of Homeland Security regulations they passed after careful study and codify it into law. But the 9/11 conference bill has come back to us and, once again, gutted that provision.

The reason it has been gutted is this: Once we pass this conference report the way it is, and it allows the Secretary to waive, to change, or to leave certain felonies that are listed, then it opens the whole regulatory process to lawsuit and challenge on a continuous basis.

We have voted in the open tonight to stop that from happening, to stop convicted felons from working in secure areas of our ports. My motion tonight is very simple. It is to recommit this bill to committee to restore the amendment in the exact words that we have passed on the floor and to avoid the watering down and the gutting of a very important port security measure.

The Senate has voted 93 to 1 tonight. The House voted last week on the same measure 354 to 66.

What the 9/11 Commission bill does is allow the Secretary to eliminate or change listed felonies, allowing TWIC cards, these secure area cards, to possibly be given to those who have been convicted of smuggling, arson, kidnapping, rape, extortion, bribery, money laundering, hostage taking, unlawful use of a firearm, drug dealing, immigration violations, assault with intent to kill, robbery, fraudulent entry to a seaport or racketeering.

These are serious crimes. Although there is often talk of giving people a second chance, that second chance should not come at the expense of the security of our Nation.

Mr. President, I send this motion to the desk, which they have, and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] moves to recommit H.R. 1, an act to provide for the implementation of the recommendations of the National Commission on Terrorist Attacks upon the United States, to the conference on the disagreeing votes of the two Houses on such bill, with an instruction that the conferees on the part of the Senate insist on the matter contained in section 1455 of the Senate engrossed amendment, which prohibits the issuance of transportation security cards to convicted felons.

Mr. DEMINT. Mr. President, I ask my colleagues to recommit this bill. It is something that can be done quickly without delaying the final passage of this conference report, but it restores a very important provision we all voted on. I hope we can all support this motion to recommit.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time in opposition?

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, with respect to my friend from South Carolina, I rise to urge my colleagues to defeat this motion to recommit.

Like all legislation that makes it out of both Chambers and onto the President's desk, this bill contains compromise. Compromises are at the heart of the legislative process, reconciling differences between the House and the Senate. In fact, this process is at the very heart of this remarkable system our Founding Fathers designed for us. So it was with this legislation.

In some cases, the House yielded to the Senate; in others, the Senate yielded to the House. That is why we have a conference report that, on balance, will greatly strengthen our homeland security.

I would say to Senator DEMINT that I supported his language in the original Senate bill. It was slightly modified in conference. That happens. But we ended up with language that had the support of both Democratic and Republican conferees in both the House and the Senate.

In my opinion, the difference is not great. We simply give the Secretary of Homeland Security the authority, with his judgment as the protector of our homeland security, to decide when and if certain of these enumerated convictions ought not any longer to be a prohibition to working in our ports.

I respect Senator DEMINT's position, but what he has asked us to do is to recommit the bill and delay all of the improvements in security that come with the underlying bill. So my colleagues will have to answer the question about whether it is worth it, whether it is worth delaying provisions that will ensure better security against attacks on airplanes, better security with regard to maritime and air cargo, better security against terrorists entering this country via, for instance, the visa waiver program, better technology and support for our first responders, and a provision to provide immunity from liability for citizens who see what they take reasonably and in good faith to be action that appears to them to be associated with a terrorist attack. We protect them from liability from those they are complaining against.

If we do not pass this legislation tonight and enable the House to pass it next week, we are going to be delaying its movement to the President and its enactment into law.

So I respectfully oppose the motion and ask my colleagues to vote against recommittal.

I thank the Chair and yield back my remaining time.

The PRESIDING OFFICER. Who yields time?

The majority leader is recognized.

Mr. REID. Mr. President, thank you.

We have accomplished a lot today. We have had a few blowups but not for long. That is the way it is. For those of us who have been here a while, this reminded us all of how we used to legislate. This is fun for us legislators. It is great.

I am so happy we did not file cloture on this bill. We were able to work through it. I would say that we have earned tomorrow off. I am anxious the people who have the important trip to Greenland will be able to do that. We will not be in session tomorrow. The next vote will be on the children's health bill sometime Monday. We will do it Monday. The first vote will be at about 5:15 or 5:30 on Monday night. I think that should be about it. We will have this vote. We will finish this vote and one more, and then we will have some speeches, and that will be it for the day.

The PRESIDING OFFICER. The supporters of the motion have 2 minutes 12 seconds. The opponents of the motion have 1 minute 1 second.

Mr. DEMINT. Mr. President, I yield back the remainder of my time.

Mr. LIEBERMAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to recommit.

Mr. LIEBERMAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD), the Senator from South Dakota (Mr. JOHNSON), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Minnesota (Mr. COLEMAN), the Senator from Mississippi (Mr. LOTT), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted ''nay.''

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

The result was announced—yeas 26, nays 67, as follows:

[Rollcall Vote No. 283 Leg.]

YEAS—26

Alexander	Crapo	Isakson
Barrasso	DeMint	Kyl
Bunning	Dole	McConnell
Burr	Ensign	Sessions
Chambliss	Enzi	Shelby
Coburn	Graham	Sununu
Corker	Grassley	Thune
Cornyn	Hutchison	Vitter
Craig	Inhofe	

NAYS—67

Akaka	Feinstein	Nelson (FL)
Allard	Gregg	Nelson (NE)
Baucus	Hagel	Pryor
Bayh	Harkin	Reed
Bennett	Hatch	Reid
Biden	Inouye	Roberts
Bingaman	Kennedy	Rockefeller
Bond	Kerry	Salazar
Boxer	Klobuchar	Sanders
Brown	Kohl	Schumer
Byrd	Landrieu	Smith
Cantwell	Lautenberg	Snowe
Cardin	Leahy	Specter
Carper	Levin	Stabenow
Casey	Lieberman	Stevens
Clinton	Lincoln	Tester
Cochran	Lugar	Voinovich
Collins	Martinez	Warner
Conrad	McCaskill	Webb
Domenici	Menendez	Whitehouse
Dorgan	Mikulski	Wyden
Durbin	Murkowski	
Feingold	Murray	

NOT VOTING—7

Brownback	Johnson	Obama
Coleman	Lott	
Dodd	McCain	

The motion was rejected.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mrs. MURRAY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD), the Senator from South Dakota (Mr. JOHNSON), the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Minnesota (Mr. COLEMAN), the Senator from Mississippi (Mr. LOTT), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Minnesota (Mr. COLEMAN) would have voted ''yea.''

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 8, as follows:

[Rollcall Vote No. 284 Leg.]

YEAS—85

Akaka	Durbin	Murray
Alexander	Ensign	Nelson (FL)
Allard	Feingold	Nelson (NE)
Baucus	Feinstein	Pryor
Bayh	Grassley	Reed
Bennett	Gregg	Reid
Biden	Hagel	Roberts
Bingaman	Harkin	Rockefeller
Bond	Hatch	Salazar
Boxer	Hutchison	Sanders
Brown	Inouye	Schumer
Bunning	Isakson	Sessions
Burr	Kennedy	Shelby
Byrd	Kerry	Smith
Cantwell	Klobuchar	Snowe
Cardin	Kohl	Specter
Carper	Landrieu	Stabenow
Casey	Lautenberg	Stevens
Chambliss	Leahy	Sununu
Clinton	Levin	Tester
Cochran	Lieberman	Thune
Collins	Lincoln	Vitter
Conrad	Lugar	Voinovich
Corker	Martinez	Warner
Cornyn	McCaskill	Webb
Craig	McConnell	Whitehouse
Crapo	Menendez	Wyden
Domenici	Mikulski	
Dorgan	Murkowski	

NAYS—8

Barrasso	Dole	Inhofe
Coburn	Enzi	Kyl
DeMint	Graham	

NOT VOTING—7

Brownback	Johnson	Obama
Coleman	Lott	
Dodd	McCain	

The conference report was agreed to.

Mr. LIEBERMAN. 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.

SMALL BUSINESS TAX RELIEF ACT OF 2007—MOTION TO PROCEED

Mr. REID. Mr. President, I ask unanimous consent that on Monday, July 30, following a period of morning business, the Senate proceed to calendar No. 58, H.R. 976, and that once the bill is reported, Senator BAUCUS be recognized to offer an amendment, which would be the text of the children's health legislation, also known as SCHIP, reported by the Senate Finance Committee.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. COBURN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

CLOTURE MOTION

Mr. REID. In view of the objection, I now move to proceed to calendar No. 58, H.R. 976, and I send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

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, hereby move to bring to a close debate on the motion to proceed to Calendar No. 58, H.R. 976, the Small Business Tax Relief Act of 2007.

Harry Reid, Max Baucus, Bernard Sanders, Jeff Bingaman, Ted Kennedy, Maria Cantwell, B.A. Mikulski, Barbara Boxer, Daniel K. Inouye, Christopher Dodd, Patty Murray, Benjamin L. Cardin, Barack Obama, Kent Conrad, Dick Durbin, Ken Salazar, Blanche L. Lincoln, Jack Reed.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

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

Mr. REID. Mr. President, finally, I hope that Monday, after the Republicans have a chance to study this legislation, we can move without a vote to this most important legislation. I had indications from the other side that that may be the case. If that is not the case, we will try to invoke cloture on this matter.

I appreciate everybody's hard work today. I now withdraw the motion.

The ACTING PRESIDENT pro tempore. The motion is withdrawn.

Mr. REID. I thank the Chair.

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

IMPLEMENTING RECOMMENDATIONS OF THE 9/11 COMMISSION ACT OF 2007

Mr. LIEBERMAN. Mr. President, before I describe some of the most important provisions in this legislation, I want to thank the 9/11 families who have played a critical role throughout this process. They first pushed for the establishment of the 9/11 Commission and then continued their fight, now through three major pieces of legislation, to see that its recommendations became law.

I want to thank the majority leader of the Senate for his leadership in helping to get this legislation through the Congress, and through a long but ultimately very productive conference.

I want to thank Senator COLLINS, Chairman THOMPSON, Senator COLLINS, Congressman KING, and all of my colleagues on the conference committee—and their staffs—on both sides of the aisle, from all of the relevant committees, and in both the House and the Senate for their willingness to work

through some difficult but critical issues to make our country safer.

All of us have not been able to agree on everything in this legislation, but most of us have agreed on most of it and that is why we are able to get this comprehensive legislation to the Congress, and hopefully, very soon, to the President's desk.

While this Nation was born in conflict, it was founded and grew in compromise—the melding of different threads of policy and personality into a national fabric that covers and protects us all.

This legislation was also born of conflict—the attacks by Islamist extremist terrorists against us on 9/11, and our response to these terrorists grows stronger as we come together in legislation like this.

This comprehensive, bipartisan legislation will make our Nation stronger, our cities and towns more secure and our families safer. Let me cite a few of its most important points:

Security enhancement in the legislation:

First, this legislation will help close one of the most obvious, and dangerous vulnerabilities in our Nation's defenses—that is the millions of cargo containers that flow into our country every year without being scanned and which could be the vehicle for bringing dangerous nuclear material into our country.

It requires that within 5 years, 100 percent of maritime cargo be scanned before it is loaded on ships in foreign ports bound for the United States. But it wisely gives the Secretary of Homeland Security the authority to extend this deadline in 2-year increments if certain conditions important to our economy are not met. This has been a contentious issue—but I believe this legislation strikes the right balance between aggressively pushing for better security while ensuring that we maintain a sensible approach.

This legislation also enhances security in nonaviation sectors that have received far too little protection in our own country, even while terrorists have demonstrated a willingness to attack them abroad—most notably in London and in Madrid. It requires that rail and transit systems work with DHS to develop comprehensive risk assessments and security plans, and authorizes more than $4 billion over 4 years for rail, transit, and bus security grants.

Keeping in mind that the 9/11 hijackers and Richard Reed, the shoe bomber, boarded commercial aircraft and traveled here legally, this legislation will make it harder for terrorists to enter our country, by adding much needed security enhancements to the Visa Waiver Program. These include a new electronic travel authorization system so that travelers from visa waiver countries can be checked against terrorist watch lists and improved reporting of lost and stolen passports.

This legislation also increases resources and staffing for the Human Smuggling and Trafficking Center and requires DHS to create a terrorist travel program to develop strategies and ensure coordination among relevant agencies involved with combating terrorist travel.

This legislation will also better secure our aviation system overall. It authorizes important funding increases for critical aviation security programs, like checkpoint screening, baggage screening and cargo screening on passenger aircraft. And it requires screening of all cargo carried onto passenger airlines within three years—again, closing another glaring vulnerability in our defenses that terrorists could exploit.

One of the critical failures of 9/11 was, of course, the failure to share vital information—and improving information sharing was a key recommendation of the 9/11 Commission.

While we have previously taken important steps to improve the unity of effort across intelligence agencies by creating the Director of National Intelligence and the National Counter Terrorism Center, this legislation moves the ball even further by strengthening the Information Sharing Environment, ISE, which was also established in the Intelligence Reform and Terrorism Prevention Act of 2004. It does so by extending the term of the ISE program manager and authorizing him or her to issue government-wide standards for information sharing, as appropriate, and rewarding government employees for sharing information.

And it will improve the sharing of information between the Federal Government and its State and local counterparts by codifying the new Interagency Threat Assessment Coordination Group, creating standards for State and local fusion centers, and ensuring that they receive Federal support and personnel. These measures will help ensure that intelligence to fight terrorism and keep Americans safe is shared more effectively among all levels of government.

In addition to strengthening Federal, State and local governments, as part of the compromise that brought this bill to the floor, this legislation will also provide legal protections to individuals who report suspicious activities. People acting in good faith to avert what they believe may be terrorist activity should not be punished for their vigilance.

Every citizen must observe his or her surroundings and be alert to suspicious activity without the fear of being sued for their life savings. That is why this bill grants immunity from lawsuits to those who in good faith report behaviour that they reasonably suspect is related to possible terrorist activity. We want to encourage—not discourage—citizens, like the video store employee in New Jersey, who stepped forward and alerted authorities to evidence which helped unravel a planned attack on Fort Dix.

This legislation will also improve the very controversial process for distributing homeland security grants, and just as importantly, it authorizes $2.2 billion in fiscal year 2008, increasing to $3.6 billion by 2012—$13.78 billion over the next 5 years—so that we can reverse the downward trend in funding for these programs that help State and local first preventers and responders do their jobs.

It authorizes for the first time the State Homeland Security Grant Program and Urban Area Security Initiative, UASI, to provide funds to States and high-risk urban areas to prevent, prepare, respond and recover from acts of terrorism. And it does so in a way that, while providing the vast majority of resources on the basis of risk, ensures that we build up the capabilities of all the states, knowing that terrorist plots can develop in any part of the country.

This legislation wisely authorizes emergency management performance grants and provides additional resources for this program—to assist States in preparing for all-hazards to ensure that every State has the basic capability to prepare for and respond to both man-made and natural disasters.

Following the communications disasters of both 9/11 and Hurricane Katrina, this legislation also creates a dedicated emergency communications interoperability grant program to improve emergency communications systems at the local, State, and Federal levels. This is clearly one of the highest priorities for our Nation's first responders—because it is necessary to save their lives so that they can save the lives of others—and by dedicating a program to interoperable communications we will enhance our Nation's ability to achieve it.

The 9/11 Commission rightly noted that while we must protect our homeland, we must do so in a way that also protects the freedom and civil liberties it was founded upon.

This legislation does so by strengthening the Privacy and Civil Liberties Oversight Board by establishing it as an independent agency within the executive branch, ensuring partisan balance among members, requiring improved public disclosure, allowing the board to request that the Attorney General issue subpoenas to private parties and increasing its budget over the next 4 years by up to $10 million in 2011.

It also requires that agencies with intelligence and security roles designate their own internal privacy and civil liberties officers, and expands the authority of the DHS privacy officer.

Also, since 85 percent of our Nation's critical infrastructure is under the control of the private sector, this legislation establishes a voluntary certification program so that those private sector entities that want to can receive certification that they have met consensus preparedness standards. This provision responds to another concern of the 9/11 Commission—which was also

reinforced during Katrina—that those companies that take preparedness seriously—that have plans and exercise them that provide life saving protection for their employees—will recover more quickly from a catastrophe and help get their local economy moving again.

This legislation responds directly to another 9/11 Commission recommendation—to improve Congress's ability to oversee the intelligence community—by requiring disclosure of the total amount spent by the intelligence community.

After the first 2 fiscal years the President may waive this requirement, but only after explaining to Congress why the disclosure would harm national security.

Like the 9/11 Commission, this bill also recognizes that we must do more to promote democracy abroad by requiring the Secretary of State expand strategies for democracy promotion in nondemocratic and democratic countries.

One of the great threats of our time is that nuclear material may be smuggled out of former Soviet states and fall into the hands of terrorists. This bill clears legislative obstacles that had constrained the cooperative threat reduction, CTR, program by repealing or modifying various conditions on CTR actions in former Soviet states and repealing a legislative prohibition on Department of Energy nonproliferation program assistance outside the former Soviet Union.

I want to thank my colleagues from both parties, from both houses, and their staffs who worked so hard and so late into so many nights to bring this to the floor. There is a lot in this legislation to make our country safer, and this result was only possible because of this hard work and dedication.

Mr. President, we began as a nation born in conflict as we fought for our freedom. Now we are a nation borne with confidence as we fight for our ideals against an adversary who promotes hate over hope and fear over a future that recognizes our shared humanity.

I urge my colleagues to adopt this conference report and the President to act swiftly to sign it to show the world that the spirit of this nation founded in freedom heeds the words of Abraham Lincoln that this ''government of the people, by the people, for the people, shall not perish from the Earth.''

Lincoln was right. Let us protect our Nation. Let us thwart our enemies.

Mr. President, again, I thank my colleagues for the very strong vote in favor of accepting the conference report. It means a lot to those of us who worked on it. I obviously also think it was the right thing to do. This is comprehensive, bipartisan legislation that will make America stronger, our cities and towns more secure, and our families safer.

I want to take a moment to thank some of the people without whom this successful result could not have occurred. I want to begin by thanking the 9/11 families—the families of those who were lost on 9/11, the victims of this brutal Islamist terrorist attack. They took their loss and grief and came to Congress to do everything it could to make sure that our Government acted in a way so as to protect every other American family from having to suffer the loss they suffered. They lobbied for the 9/11 Commission. It was created. When the commission reported out and the legislation it recommended was brought before the Congress in 2004, the 9/11 families hung in there. Without their support, it would not have been adopted and then signed by the President.

Now we return for the second phase of the 9/11 Commission report to adopt, as we just have, those previously unimplemented sections, inadequately implemented sections or, frankly, our own ideas about how to better protect the American people from the ongoing threat from al-Qaida and other Islamist extremist organizations and, at the same time, from natural disasters, some catastrophic like Hurricane Katrina. The 9/11 families deserve our gratitude.

I also thank Senator REID because he made this legislation a priority item for this session of Congress. I thank Senator COLLINS, my ranking member who, as always, was thoughtful, constructive, wonderful to work with, and set a tone where all the members of our committee worked very closely together to produce this legislation.

On the House side, in conference, we met with the chairman of the Homeland Security Committee, Congressman BENNIE THOMPSON of Mississippi, and his ranking member Congressman PETER KING of New York—good public servants. We had some differences, but we reasoned together and resolved a lot of them.

I would like to pay tribute to my staff, who have worked long nights and many weekends to produce excellent legislation.

I particularly want to thank my Homeland Security Committee Staff Director, Mike Alexander, for his superb leadership. I also want to thank the committee's Chief Counsel, Kevin Landy, for helping to shepherd the legislation through the process. Thanks also to Eric Anderson, Christian Beckner, Caroline Bolton, Janet Burrell, Scott Campbell, Troy Cribb, Aaron Firoved, Elyse Greenwald, Beth Grossman, Seamus Hughes, Holly Idelson, Kristine Lam, Jim McGee, Sheila Menz, Larry Novey, Deborah Parkinson, Leslie Phillips, Alistair Reader, Patricia Rojas, Mary Beth Schultz, Adam Sedgewick, Todd Stein, Jason Yanussi, and Wes Young—all on my committee staff. And thanks to Purva Rawal and Vance Serchuk on my personal office staff.

I must also thank Senator COLLINS' staff director, Brandon Milhorn, as well as Andy Weis, Rob Strayer, and the Senator's entire staff for working with us to move this very important legislation.

And of course, thank you to our colleagues and thanks to the 9/11 Commission.

There were an enormous number of committees involved in this legislation, in some ways even more than in the first 9/11 legislation. So it took a lot of cooperation, which is the essence of getting anything done and, obviously, bipartisan cooperation to bring us to this point.

Again, I thank Chairman COLLINS, Chairman THOMPSON, Congressman KING, and all our colleagues on the conference committee and their staff on both sides of the aisle from all the relevant committees in both the House and Senate for their willingness to work through some difficult, but critical, issues to make our country safe.

I have a particular debt of gratitude to my own Homeland Security staff: staff director Michael Alexander; chief counsel Kevin Landy; and Senator COLLINS' staff, beginning with staff director Brandon Milhorn.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. Mr. President, after the terrible attacks of September 11, 2001, Congress moved to strengthen America. Congress created the Department of Homeland Security, and Senator LIEBERMAN and I led a bipartisan effort to implement the recommendations of the 9/11 Commission—reforming our intelligence community, creating a Director of National Intelligence, and establishing the National Counterterrorism Center. We have also passed legislation to strengthen security at America's seaports and chemical facilities and to reform FEMA.

These were great advances in protecting our country. But as the recently released National Intelligence Estimate noted, the United States faces a ''persistent and evolving terrorist threat.'' Foremost among those threats is al-Qaida, which continues to plot attacks against us. We also face a growing threat of homegrown terrorism—violent radicals inspired by al-Qaida's perversion of the Islamic faith, but with no operational connection to foreign terrorist networks.

These real and evolving threats mean that we cannot stop improving our existing security arrangements, or ignore needs and opportunities to adopt new measures. Congress has, in fact, already enacted most of the 9/11 Commission recommendations, but our security must continually improve to meet the advances of our enemies.

The conference report that we consider today builds on our prior work, offering important enhancements to our homeland security.

Notably, the conference report will protect concerned citizens from civil liability when they make good-faith reports of suspicious activity that could threaten our transportation system. This provision, based on legislation

that I coauthored with Senators LIEBERMAN and KYL, also wisely protects security officials who take reasonable steps to respond to reports of suspicious activity.

Vigilant citizens should not have to worry about being dragged into court, hiring defense attorneys, and incurring big legal bills, because they did their civic duty by reporting a possible threat. The bill's protective language reinforces the important message that New York transit passengers see every day: ''If you see something, say something.'' And with TSA recently reporting possible ''dry run'' efforts to pass simulated bomb components through airport security, it is more urgent than ever that we remove any deterrents to citizens making their concerns known to authorities.

Another important aspect of the bill is its creation of a sensible formula for homeland security grant programs. We know two critical things about the prevention of, and response to, terrorist attacks: one, the attacks can be planned and executed anywhere and two, State and local agencies are likely to be the first and most urgently needed responders.

The compromise reached on minimum levels of grant funding will help ensure a strong baseline of capabilities across the Nation, helping to prevent the next terrorist attack before it occurs. Terror plots can emerge from any location. Planning, training, and logistics for these attacks often occur far from the location of the terrorists' final target and, in some cases, are preceded by other local criminal activities. And, as the most recent National Intelligence Estimate on this threat assessed:

> The ability to detect broader and more diverse terrorist plotting in this environment will challenge current US defensive efforts and the tools we use to detect and disrupt plots. It will also require greater understanding of how suspect activities at the local level relate to strategic threat information and how best to identify indicators of terrorist activity in the midst of legitimate interactions.

Much of the work to prevent homegrown terror plots—like the thwarted attempt to attack Fort Dix, NJ will occur at the State and local level. This legislation ensures adequate funding for prevention efforts in all our States.

Effective response, of course, requires that emergency workers and officials be able to talk with one another. The Senate Homeland Security Committee's investigation into the Hurricane Katrina catastrophe revealed many instances of tragic failures to deliver timely assistance to victims simply because communications systems were damaged or not interoperable. State and local governments recognize the problem. That is why DHS receives more requests for funding to upgrade and purchase emergency communications equipment and systems under the State Homeland Security Grant Program and Urban Area Security Initiative than for any other purpose.

We should, therefore, take special notice of this bill's provision for a dedicated grant program at the Department of Homeland Security to enhance emergency communications interoperability. With an authorization of $2 billion over 5 years, this critical program will fund development of a robust, national emergency communications network to assist emergency personnel whether they are responding to a terrorist attack, a tornado, a flood, an earthquake, or an ice storm.

The conference report also contains important provisions that will strengthen the intelligence functions at the Department of Homeland Security and will improve the sharing of information related to homeland security threats among Federal, State, local, and tribal officials.

Senator LIEBERMAN and I helped establish the Information Sharing Environment in the Intelligence Reform Act of 2004. This program is an essential element in promoting homeland security information sharing across the Federal Government and with our State and local partners. The conference report makes important improvements to the Information Sharing Environment—extending the tenure of the program manager, enhancing his authority to further develop and coordinate information-sharing efforts governmentwide, and providing additional guidance concerning the operation of the ISE.

The conference report will improve the operations of the intelligence components of the Department of Homeland Security. Through the creation of an Under Secretary for Intelligence and Analysis charged with strategic oversight of the intelligence components of the Department, the bill will improve the coordination of the Department's intelligence activities.

Whether homeland security information or national intelligence is collected by Customs and Border Protection, Immigration and Customs Enforcement, the Transportation Security Administration, or the Coast Guard, this information must be efficiently and effectively identified, processed, analyzed, and disseminated. The conference report charges the Under Secretary of Intelligence and Analysis with responsibilities for improving the sharing of information, training Department employees to recognize the intelligence value of the information they receive every day, and providing important budget guidance to the intelligence components of the Department.

The legislation will also improve the Department's ability to provide useful information to State and local officials and provide feedback on the value of the information they share with the Department.

It is important to recognize the tremendous effort and good work that has already gone into establishing fusion centers across the country. State governments, in particular, are devoting considerable resources to establishing fusion centers. I believe this demonstrates the value government entities and the private sector place on establishing mechanisms to integrate information and intelligence to protect against all kinds of threats.

The legislation establishes a DHS State, Local, and Regional Fusion Center Initiative whereby DHS will make available federal intelligence officers and analysts to assist the work of fusion centers. It also directs the Secretary of DHS to establish guidelines for fusion centers that seek Federal funding.

These guidelines are not meant to step on State toes, but to ensure that a fusion center has a clear mission statement and goals, incorporates performance measures, adheres to a privacy and civil liberties policy, ensures that all personnel receive training on privacy and civil liberties, has in place appropriate security measures, and provides usable intelligence products to its stakeholders.

Most fusion centers are established and operated by States. However, if federal funding is going to support these centers, we should ensure that they are operated in a responsible manner and in a way that ensures efficient information exchange with the Federal Government and with other fusion centers.

The bill also encourages deeper cooperation with State and local officials, by authorizing exchange programs that will send Federal intelligence analysts to state and local fusion centers, and by bringing the expertise of state and local officials to DHS and the National Counterterrorism Center.

Transportation security is another area that will be strengthened under the terms of this bill. Last year's SAFE Port Act made significant improvements to maritime security. This conference report bolsters the security of other transportation modes, including aviation, railroads, and mass transit. For example, the bill requires electronic screening of information on 100 percent of air cargo loaded on passenger planes through a known-shipper program. It also authorizes more than $1 billion annual funding for rail and mass transit grants.

The bill also enhances security in the Visa Waiver Program. It restricts expansion of the program until DHS can effectively track entries and exits from our country. And it encourages foreign governments' cooperation with U.S. counterterrorism efforts and information-sharing initiatives, including timely reporting of lost and stolen passports.

I finally note two other important sections of the conference report.

First, the legislation recognizes that security enhancements should not come at the expense of our rights to privacy or our civil liberties. The legislation enhances the authority of the Privacy and Civil Liberties Oversight

Board and mandates important privacy and civil liberties training for officials working at fusion centers.

Second, the conference report will establish an international science and technology R&D program with our allies in the global war on terror, providing money for joint homeland security ventures and facilitating technology transfers.

All of the provisions I have mentioned are worthy additions within the letter or spirit of the 9/11 Commission's recommendations. I continue, however, to have considerable concerns about other portions of the conference report.

Above all, I am disappointed that the House amendment mandating scanning of 100 percent of maritime containers was adopted by the conference committee, overturning the risk-based, layered security system enacted just last year as part of the SAFE Port Act. Based on current technology, this proposal is not practical because of the huge volume—11 million containers per year—coming into our seaports. It will divert resources from the focus on high-risk cargo and will likely cause considerable backlogs at our ports, disrupting trade and posing problems for businesses relying on just-in-time inventories.

My reservations on that point prevented me from signing the conference report.

While the proposed report makes important improvements to our national preparedness, I fear that its language on private-sector preparedness could short-circuit the progress that DHS and the private sector have already made in the recent release of all 17 sector-specific plans under the National Infrastructure Protection Program. I also believe that, at this time, Congress has insufficient data to warrant mandating a new private-sector preparedness certification program.

Now that the conference report has reached the floor of the Senate, however, I must weigh my concerns with this legislation against the benefits that it undoubtedly offers. Because I believe the net benefits to our homeland security are substantial, I intend to support final passage of the conference report.

I close by offering my congratulations and appreciation to Senator LIEBERMAN for his efforts to advance this legislation.

I also thank my staff who worked so hard on this legislation: Brandon Milhorn, Andy Weis, Rob Strayer, Amy Hall, Jane Alonso, Asha Mathew, Kate Alford, Melvin Albritton, John Grant, Amanda Wood, Mark LeDuc, Steve Midas, Leah Nash, Patrick Hughes, Jen Tarr, Clark Irwin, Emily Meeks, Douglas Campbell, and Neil Cutter.

Mr. President, I congratulate Senator LIEBERMAN on his outstanding leadership on this bill. This was truly a bipartisan effort in a Congress that has seen precious few bipartisan bills taken to completion. I join him in thanking our staffs on both sides of the aisle. They worked extremely hard. This was a very difficult bill because it involved many different issues, complex issues, and also jurisdictions that overlapped various committees, and that always is difficult in the Senate to resolve.

I do want to touch again on three points. First, this bill builds upon legislation that Senator LIEBERMAN and I authored in 2004, the Intelligence Reform and Terrorist Prevention Act. This bill implemented the vast majority of the recommendations of the 9/11 Commission. It created, for example, the Director of National Intelligence. It established the National Counterterrorism Center. It set forth standards for information sharing. That legislation has made a real difference. In fact, last summer when the plot which was hatched in Great Britain against our airliners was thwarted, Secretary Chertoff told me he believed the reforms we put into place through the Intelligence Reform Act of 2004 helped connect the dots, and information was shared with our allies and helped lead to the detection and the thwarting of that plot. So that made a difference.

Nevertheless, there were some areas where we hadn't finished the job, and this bill will help take us further down the road.

I want to highlight a second point, and this is the provision that is in this bill that I think is absolutely critical and will help to increase the safety of our country.

A recently released National Intelligence Estimate noted that the United States continues to face a persistent and evolving terrorist threat, and foremost among these threats is, of course, al-Qaida which continues to plot attacks against us.

We also face a growing threat of homegrown terrorism, violent radicals inspired by al-Qaida but not necessarily linked directly to al-Qaida. These real and evolving threats mean we cannot stop improving our existing security arrangements or ignore needs and opportunities to adopt new measures.

Most notably, this conference report will protect concerned citizens from civil liability when they in good faith report suspicious activity to the authorities. This provision, which is based on legislation that I coauthored with Senators LIEBERMAN and KYL, also wisely protects security officials who take reasonable steps to respond to reports of suspicious activity.

Vigilant citizens should not have to worry that if in good faith they report suspicious activity that may indicate a terrorist threat, the result is going to be they are dragged into court, have to hire defense attorneys, incur big legal bills, just because they did what we would want them to do. The New York subway has signs saying: ''See something, say something.'' And with TSA recently reporting possible dry run efforts to pass simulated bomb components through airport security, it is more urgent than ever that we remove any deterrence to citizens making their concerns known to authorities. I think these are very important provisions in this bill.

Finally, let me comment on one provision in this bill that is of great disappointment to me. I am very disappointed that the final version of this bill mandates scanning of 100 percent of maritime containers. That overturns the risk-based, layered security system enacted just last year as part of the SAFE Port Act. Based on current technology, this proposal is simply not practical because of the huge volume, some 11 million containers per year, coming into our seaports. It will divert resources from the focus on high-risk cargo, and it will likely cause considerable backlogs at our ports, disrupting trade, and posing problems for businesses that rely on just-in-time inventories.

My reservations about these provisions prevented me from signing the conference report. But on balance, this is a very good bill. It contains a lot of provisions that I think will improve our homeland security and, in the end, I am pleased to vote for it, and I am delighted with the strong vote for its passage tonight.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. COBURN. Mr. President, first of all, I thank Senator LIEBERMAN and Senator COLLINS for their hard work on this bill. I think we shouldn't be so quick to pat ourselves on the back as far as the 9/11 Commission. The No. 1 thing the 9/11 Commission said is, the money that is spent on protecting this country ought to be based on risk. Fifty percent of the money in this bill is not based on risk. It is based on political calculations, on each one of us getting so much money for our State. That is absolutely wrong.

There are a lot of good provisions in this bill, I don't disagree with that point. But when we take $14 billion over the next 5 years for grants and say $7 billion of it isn't going to go based on the highest risk in this country, it is going to solve the political problems that Members of both the House and Senate have in terms of bringing home the bacon rather than putting that money where it should be put. What if something happens between now and the next 4 years and we could have spent the money in the high-risk areas, but we chose not to because we ignored it and we spent the money elsewhere taking care of our own political needs rather than the needs of our country?

The second point that ought to be made, and Senator COLLINS made this point, is, it is absolutely impossible for us, over the next 3 years, to screen 100 percent of the cargo. Yet that is what we have mandated. In fact, we are going to take a very effective high-risk program right now, and we are going to stop it and we are going to go to 100 percent screening. In the meantime, we are going to screen 50 percent of it, and we are not going to look at the high-

risk cargo. What we are doing with this bill on cargo is making our country less safe. It doesn't fit with any common sense, but yet that is what we have done because a majority of us want to answer the emotional call for 100 percent screening when, in fact, the scientists and people trained to protect us tell us that is not the way to go. We reversed, and we walked away from what we were told by the experts to do.

What do we know about grants? What we know is that of the $10 billion we have already given in grants, 30 percent of it was wasted, and we don't know about the other 70 percent because there are only eight people in the whole Department of Homeland Security who look at the $10 billion we have spent. And we are going to spend $14 billion.

We did get in some post-grant review, but there is no rigorous assessment and transparency of how the money is going to be spent. So it is going to go out there, and we are never going to know if it did the right thing.

On our track record for the $10 billion we have already spent, 30 percent of it we know failed, and 30 percent we know didn't go for legitimate homeland security items. And we don't have and didn't put the resources in this bill, if we are going to spend $14 billion over the next 5 years on grants, to make sure that money goes to do what it is supposed to do. So we are creating problems and taking money and not spending it in the way that is most appropriate, and that is what the Homeland Security said.

The other point the 9/11 Commission said is we ought to reorganize how we oversight intelligence. We didn't do any of that recommendation. We didn't do any of it. They also commented that we have to have the oversight and priorities, that you don't fight turf battles but what you do is fight the terrorists. This bill is loaded with turf battles where money is spent, ordered, and managed by one department, but the checks are cut somewhere else; not because that is the way to do it, but because we are protecting some politicians' turf in terms of controlling the money. I think that does not reflect well.

There is another interesting item we have created. We created a weapons of mass destruction czar and commission in this bill. That may be a good idea. I am not sure I disagree with that. But we also said to that czar—this is going to be a White House position—anything you tell the President, you cannot tell him in confidence. We gutted executive privilege to have an adviser to the President on weapons of mass destruction to have the confidence that what he says to the President in private, in confidence for the best part of this country, will become available to all of us.

First of all, no President is ever going to fill this position because they are not about to have an adviser behind them advising them who cannot give a clear, concrete recommendation without it being second-guessed by somebody on the outside knowing what they are saying. It goes against all common sense.

Finally, what we have done is we have taken our black box intelligence numbers, and we are going to tell the world what they are, which is crazy. We are going to tell the world how much money we spend on covert activities, and we are going to share that with them. We shouldn't be sharing that information. That information should not be out there, and yet we have decided to do it to our own disadvantage.

I know there has been great work put in on this bill both by Chairman LIEBERMAN and Ranking Member COLLINS, and I appreciate it.

One final point that I will mention. We had in our bill some oversight in the BBG, the Broadcasting Board of Governors. Here is what we know about Farsi Voice of America TV and Arabic TV. What we know is most of the time they are not presenting America's viewpoint. They are presenting our enemy's viewpoint, and we know this because my office has been translating and having translated their broadcasts. We put into the bill to have those translations become public as a part of BBG, and that got rejected.

So we are going to continue to have a foreign policy where we are paying money to have radio programs go into Iran that are counter to what our own policies are, and yet we are not going to have accountability in this bill, to hold BBG accountable. It is not there. It has been taken away.

Transparency is a great thing for this country, and when we spend money to create an American position in a foreign land, to not have transcripts and for them to not want us to have transcripts of what is going on, the first thing one has to ask is, Why not? Why shouldn't American taxpayers know where they are spending their money and know what the message is that they are sending? Unless the message is something different than what it should be. And that is the case with Radio Farsi and Radio Farda.

There are several other things I will not spend any more time on but that I think the American people ought to ask themselves. Last year, $434 billion on credit cards was charged to our grandkids. We have $14 billion worth of grants in this bill over the next 5 years; $7 billion that we don't know if it is going to be spent well. We certainly don't know if it is truly going to be spent on homeland security and at a priority of what is best and what is based on the highest risk.

So I am disappointed that we didn't get a lot of things in the bill that we should, and I know this is an effort at compromise, but it seems to me that certain things that are common sense, such as spending money to make sure our message is right, and knowing that it is right; making sure we are spending the money where the highest risk is, rather than where the greatest political need is, ought to have been principles that should have gotten into this bill.

I voted against this bill not because I don't think we should be protecting the homeland, not because I don't think we should be following these recommendations but because we have ignored the No. 1 recommendation of the 9/11 Commission, which is the money ought to go where the risk is. We ignored it. We ignored it. We played the political game that makes us all happy, but we didn't fix the problem. If we have another event where we should have put the money, then how will we answer that? How will we answer that?

They didn't say some of the money should go to the highest risk. They said all the money should go to the highest risk. What we have are three grant programs, one of which is very good at risk and two of which are not. So we ought to ask ourselves: Have we done the best we could have done?

The effort by Senator LIEBERMAN and Senator COLLINS was extraordinary. We had great debate in our committee on a lot of these issues. By the way, they supported me in these things. We didn't get them out of conference. The question we are going to be judged on is how effective we did this. My hope was and my feeling is we could have done better.

Mr. LIEBERMAN. Mr. President, I thank my friend from Oklahoma. The truth is the Senate is a better place because he is here, he is persistent, he is demanding, he spends a lot of time actually reading bills, and he brings his opinions to the table and to the floor. Although we may be in disagreement on some of the particulars, he cares enough about all this to not only work through the details but to stay here after midnight, after a busy week, to make these points. So I thank him for all that.

I thank him for the contributions he made along the way to the bill as a member of our committee. I am going to put some statements in the record to respond to some of the points in more detail that Senator COBURN made, but I do wish to say that Senator COLLINS and I worked very hard, both in the committee and then particularly in the conference committee, to take the State homeland security grants and make sure that they were allocated, a much greater percentage of them was allocated based on risk.

We heard the concerns. So the conference report allocates the overwhelming share of State funding based on the risk the State faces from terrorism. All States initially will be guaranteed a minimum of 0.375 percent. The number was up to .75 percent earlier on. This will be reduced to .35 percent over the course of the 5 years.

The reason for having any minimum is twofold: One is that, unfortunately, the enemy we face—Islamist extremist terrorism—has a higher probability of

attacking, at least by our experience in this country, very visible targets, such as the World Trade Center and the Pentagon. But the truth is the whole country is, unfortunately, vulnerable to their attacks. As we have seen in other countries, they attack trains, they are prepared to blow up themselves with bombs in the middle of shopping areas, in crowds, et cetera. So there is some reason to have a minimum amount for every State in the country.

Secondly, homeland security generally—and we particularly get into this in one of the other grant programs that I will talk about in a minute—deals not only with protecting the States from terrorism but from all hazards, including natural disasters. The Department of Homeland Security is an all-hazard agency now, including within it, most particularly, FEMA, the Coast Guard, and other agencies that are involved when you think more in terms of protection from natural disasters. So I think we have made some progress there, and that is the reason why we have done what we have done.

There is a separate program, which perhaps is the one Senator COBURN was referring to, the urban area security initiative. That is allocated entirely based on risk. We also create, for the first time, two programs that are intended to be all-hazard programs and to support law enforcement and emergency response around the country. The first is an Emergency Management Grant Program and the second, which we talked about earlier, is the interoperability of communications.

So I think, on balance, when it comes to terrorism, we have allocated much more now than before based on risk. Yet we also, I think quite appropriately, provide something for areas all around the country to deal with all the other hazards, natural disasters, that can and have struck every section of the country.

There is also a substantial increase in funding that is authorized by this bill. Of course, ultimately, it has to be appropriated, but this is a new challenge, this terrible challenge of terrorism, against an unconventional brutal enemy, which, as someone other than myself has said, hates us more than they love their own lives. They hate us more than they love their own lives, so that they are prepared to kill themselves to express their hatred of us. Of course, these are not conventional armies fighting our conventional Army on a field of battle or at sea or in the air.

These are enemies who strike from the shadows and intend to strike at unprotected civilians—at innocents. So this requires a substantial commitment by our country to raise our defenses. I think it is part of the reason, along with the reform of our intelligence apparatus, that we have not, thank God, suffered another terrorist attack since 9/11. Part of it, of course, is good fortune, or, if you are so inclined, by the grace of God. But I do believe what we have invested is an important part of it.

I myself have said more than once that I thought after 9/11, entering this new era of both homeland security needs and the need to involve our military in seeking out for the purpose of capturing or killing these terrorists, then being engaged in wars in Afghanistan and Iraq, that we would have done better if we had considered a special tax and one in which we asked everybody to pay to meet the additional expenses brought on by this war that Islamist terrorists started against us, so we would not be facing the increasing long-term debt that Senator COBURN is quite right that our children are going to have to pay.

What I am saying is the money we have authorized to be spent here is important. We have the best defense—the best military in the world. Part of the reason we do is because we are spending money on it, an enormous amount of money. We will continue to have the best homeland security and homeland defense if we do the same.

One of the great contributions Senator COBURN makes is to be very persistent at making sure we don't waste taxpayer money, and he has made a contribution to this bill. There are many provisions in the bill that improve the oversight of the spending of homeland security funds, and in my statement I make clear our gratitude to Senator COBURN and his staff for all that they did to strengthen the auditing provisions of this bill.

I will say, finally, on the question of congressional oversight of intelligence and the declassification of the top line of the national intelligence budget, this is a direct recommendation of the 9/11 Commission. It doesn't make it sacrosanct, but it does give it some force. They argued that the specifics of the intelligence appropriations should remain classified, as they do in this proposal, but that the top line ought to be publicized to combat the secrecy and complexity the Commission had commented on earlier. That is what we intend to do.

But we are mindful of the concerns that Senator COBURN and others have had. We have spent some time discussing this with members of the administration, and this is compromise language. The bill contains this provision, which is that the President would be required to disclose the total appropriated amount for the national intelligence budget for this year and the coming year, after which the President may waive this requirement by sending to Congress a notification explaining the reasons for this waiver.

Listen, I think most people, including most people in the media, know what the top line budget for intelligence is. But we are now bringing it out and giving the President the opportunity to stop the disclosure if he determines it is in the national security interest in future years, for various reasons, to do that.

The conference report addresses the oftentimes contentious issue of homeland security grants. It may not make everyone happy, but it represents a good and fair compromise and will do much to improve the process by which these grants are distributed and used.

The conference report allocates a greater share—indeed the overwhelming share—of state funding based on the risk a state faces from terrorism, yet still ensures that each state will get money to meet its basic needs in preparing for acts of terrorism. All States will initially be guaranteed a minimum of 0.375 percent of funds; this will be reduced to 0.35 percent over the course of 5 years.

Urban Area Security Initiative, UASI, grants will be allocated entirely based on risk of terrorism. There will be a two-step process for selecting UASI cities. In the first stage, DHS will do a risk assessment of the 100 largest metropolitan areas in the country, and each of these areas will be permitted to submit information to the Department concerning the risks faced by that area—thus opening up a dialogue with cities and bringing light to a process that has largely taken place behind the scenes. After doing this initial assessment, the FEMA Administrator will then have the discretion—as he does now—to select those high-risk urban areas eligible to apply for UASI grants.

The conference report also reverses the recent disturbing downward trend in funding for these essential grant programs. It would authorize $1.8 billion for the State Homeland Security Grant Program, SHSGP, and UASI program in fiscal year 2008—our principal antiterrorism grants to first responders—and increase this over the next 5 years to $2.25 billion. Also, as a complement to this, the conference report would ensure that states have increased funds available for key all-hazards grant programs, including the emergency management performance grants and dedicated grants for communications interoperability. These programs help ensure that all States have basic preparedness capabilities for all disasters, whether natural or manmade.

The conference report would also for the first time specifically authorize State and urban area grants, and provide legislative guidelines for the programs, including permissible uses.

Finally, the conference report would provide a whole series of oversight measures to ensure that funds were being spent effectively and appropriately to achieve preparedness, and not wasted.

The 9/11 Commission report said:

> To combat the secrecy and complexity we have described, the overall amounts of money being appropriated for national intelligence and to its component agencies should no longer be kept secret. Congress should pass a separate appropriations act for intelligence, defending the broad allocation of how these tens of billions of dollars have been assigned among the varieties of intelligence work.

The Commission went on to say that:

The specifics of the intelligence appropriation would remain classified, as they are today. Opponents of declassification argue that America's enemies could learn about intelligence capabilities by tracking the top-line appropriations figure. Yet the top-line figure by itself provides little insight into U.S. intelligence sources and methods.

A provision was passed to declassify the top-line of the National Intelligence Budget was passed by the Senate as part of the Intelligence Reform Act in 2004 but removed in conference.

In December 2005, the 9/11 Public Discourse Project, an independent organization led by the 9/11 Commission members, issued a grade of ''F'' on the implementation of this recommendation, writing that ''Congress cannot do robust intelligence oversight when funding for intelligence programs is buried within the defense budget. Declassifying the overall intelligence budget would allow for a separate annual intelligence appropriations bill, so that the Congress can judge better how intelligence funds are being spent.''

The final bill contains a compromise that we have worked closely with the White House to craft, one which finally addresses this important 9/11 Commission recommendation to disclose the top line of the National Intelligence Budget.

The compromise agreement will require the President to disclose the total appropriated for the National Intelligence Budget for 2 years—2007 and 2008—after which the President may waive this requirement by sending to Congress a notification explaining the reasons for this waiver.

The inclusion of this provision means that this important recommendation of the 9/11 Commission will now finally be implemented.

In this bill, we authorize significant additional funds for homeland security grants for State and local governments: for State Homeland Security Grants, for Urban Area Security Initiative, UASI, grants, for Emergency Management Performance Grants, EMPG, for interoperable emergency communications, for rail and transit security, in order to ensure that our first responders across the Nation are prepared for disasters, natural and man-made.

In authorizing these additional funds, we are cognizant that we need to spend these funds wisely, in a way that will make our first responders most prepared and our nation most secure. For this reason, the conference report includes extensive oversight and accountability provisions designed to ensure that all grant funds are used as effectively as possible and for their intended purposes.

At least every 2 years, DHS is required to conduct a programmatic and financial review of each State and urban area receiving grants administered by the Department to examine whether grant funds are being used properly.

The DHS inspector general is tasked with following up these agency reviews by conducting full, in-depth audits of a sample of States and urban areas each year, and then report to Congress on his findings, and to post the results of the audits on the Internet.

For the Public Safety Interoperable Communications grants that go through the Commerce Department and are administered jointly by the Commerce Department and DHS, there are separate provisions requiring that the Commerce Department inspector general conduct audits of those grants.

The conference report also builds on provisions in the Post—Katrina Emergency Management Reform Act that we passed last fall by requiring that DHS develop and use performance metrics to assess the progress of States and urban areas in becoming prepared, and that States and urban areas test their performance against these metrics through exercises.

All states are required to report quarterly on their expenditures and annually on their level of preparedness.

Finally, The FEMA Administrator is also required to provide to Congress annually an evaluation of the efficacy of the Department's homeland security grants have contributed to State and local governments in meeting their target levels of preparedness and have led to the overall reduction of risk.

From the beginning, we have been aware of Senator COBURN'S strongly held view that there be adequate oversight and auditing of homeland security grants, and his support for the provisions to this effect in the Senate bill—provisions that were not part of the House bill. Senator COLLINS' and I, and our staffs, have fought for the Senate auditing provisions in conference, in the face of a number of objections and concerns raised by House staff from various committees. And we have been successful in retaining in the conference report what we believe are very strong provisions to ensure accountability for homeland security grant funds.

Working with Senator COBURN, we were able to retain what I believe are very significant provisions to ensure the appropriate and effective use of homeland security dollars.

Mr. LEVIN. Mr. President, I am pleased that the Senate today will finally pass the Improving America's Security Act of 2007. Over 3 years ago, the 9/11 Commission gave us its recommendations, and we are finally taking a big step toward implementing them. Let me mention a few highlights.

This comprehensive legislation goes a long way toward helping our first responders. First, it establishes a $400 million annual grant program dedicated to funding interoperable communications equipment. We know that lives were lost on September 11, 2001, because first responders could not communicate. The same situation continues to play out across our country every day. For years, I have been urging the Department of Homeland Security to establish a dedicated funding source for interoperable communications equipment. I am pleased that this legislation creates a grant program dedicated to improving operability and interoperability at local, regional, State, and Federal levels. Second, to improve collaboration and help identify solutions to communications problems on our international borders, the legislation also includes language that I authored that establishes International Border Community Interoperable Communications Demonstration Projects on the northern and southern borders. These demonstration projects will address the interoperable communications needs of police officers, firefighters, emergency medical technicians, National Guard, and other emergency response providers at our borders and will improve the ability of U.S. personnel to work well, for example, with their Canadian counterparts.

Another key accomplishment is that the legislation provides a more equitable distribution of homeland security grant funding. For the past 5 years, the largest homeland security grant programs distributed funds using a formula that arbitrarily set aside a large portion of the funds to be divided equally among the States, regardless of size, need, or risk. This legislation allocates more of the funding based on risk. Specifically, the legislation would reduce the funds guaranteed to each State from 0.75 percent to 0.375 percent of grant funds in fiscal year 2008; the minimum would then decline over a period of 5 years to 0.35 percent in fiscal year 2012 and thereafter. All other funds would be distributed to States based on the risk of acts of terrorism and the anticipated effectiveness of the proposed use of the grants.

Also included in the bill is language I authored that will require the Department of Homeland Security, before publishing the final rule, to conduct a cost-benefit analysis of the Western Hemisphere Travel Initiative, WHTI, including the cost to the State Department and resources required to meet the increased volume of passports requests. The WHTI seeks to require individuals from the United States, Canada, and Mexico to present a passport or other document proving citizenship before entering the United States. While we need to make our borders as secure as they can be, we also need to make sure that we are achieving that goal in a way that will not cause economic harm to our States. A cost-benefit analysis will help ensure we identify and weigh the expenses and benefits of the WHTI.

The legislation also takes important steps to shore up rail, transit, bus, air and cargo security in the United States. It establishes a grant program for freight and passenger rail security upgrades and requires railroads shipping high-hazard materials to create threat mitigation plans. It establishes

a grant fund for system-wide Amtrak security improvements and much needed infrastructure upgrades. It authorizes studies to find ways to improve passenger and baggage security screening on passenger rail service between the U.S. and Canada which should identify what is needed to prescreen rail passengers on the northern border. I hope these studies will also advance a long standing effort I have undertaken to implement a preclearance system at other land crossings so that, for example, we can inspect vehicles for hazardous materials before they cross bridges and tunnels between U.S. and Canada.

In addition to improving rail security, the bill establishes grant programs for improving intercity bus and bus terminal security and public transportation system security. It takes steps to improve the safety of transporting radioactive and hazardous materials on our railroads and highways. I am also pleased that this legislation requires the screening of all cargo carried on passenger airplanes within 3 years. It also requires all containers to be scanned for radiation at foreign ports before entering U.S. ports. The legislation also establishes an appeal process at the Department of Homeland Security for passengers that believe they have been wrongly included in ''no-fly'' or ''selectee'' watch lists.

While the conference report takes important steps toward implementing many 9/11 Commission recommendations, I am disappointed that it fails to address one critical recommendation and excludes several provisions that were in the Senate-passed bill.

The 9/11 Commission report stated: ''Of all our recommendations, strengthening congressional oversight may be among the most difficult and important.'' I am troubled that the conference report does not contain critical provisions—included in the Senate-passed bill—that were intended to strengthen congressional oversight and promote independent and objective intelligence analysis.

There is a long, painful history of congressional efforts to obtain information from the intelligence community that have been slow-walked or simply not answered. The bill that passed the Senate required the intelligence community to provide Congress timely access to existing intelligence information unless the President asserted a constitutional privilege. Unfortunately, the conference report excludes that provision.

The Senate-passed bill also provided that no executive branch official could require the intelligence community to get permission to testify or to submit testimony, legislative recommendations, or comments to the Congress. That provision was also stripped from the conference report. We should insist that the intelligence community be able to provide Congress its assessment of intelligence matters uninfluenced by the policy goals of whatever administration is in power.

It is important for whistleblowers to know that they can come directly to Congress if they have evidence that someone has made a false statement to Congress. And Congress has a right to that information—even if it is classified. The Senate-passed bill made it clear that intelligence community employees and contractors can report classified information directly to appropriate Members of Congress and cleared staff if the employee reasonably believed that the information provides direct and specific evidence of a false or inaccurate statement to Congress. That provision was also removed in conference.

While I am disappointed that the conference report does not contain these provisions, on balance it is a good bill and I am pleased that we are passing it today—both for the families and friends of those we lost on September 11, 2001, and for the security of our Nation.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. DODD. Mr. President, I rise in support of the legislation reported by the conference, the Implementing Recommendations of the 9/11 Commission Act of 2007. I was proud to serve on this very important conference, and while I may not agree with every part of the act, I believe that on balance it is a very important piece of legislation that will serve to make our Nation more secure and help protect Americans of all walks of life. Over 5 years after the tragic events of 9/11 and almost 2 years since Hurricanes Katrina and Rita, we continue to hear from Governors, county executives, mayors, first responders, health professionals, and emergency preparedness officials that our country as a whole remains unprepared for another manmade or natural disaster. We have heard the argument, which I support, that Congress needs to do more to support regional and local efforts to protect Americans. Overall, I believe this conference report takes a critical step forward in making America more secure.

I am going to focus on the titles of this legislation dealing with transportation security, with which I was deeply involved throughout this process as chairman of the Banking, Housing and Urban Affairs Committee, which has jurisdiction over public transportation.

Title XIV of this bill creates a new grant program to improve the security of public transportation and its 14 million daily passengers. Safe and secure transit systems are essential to the well-being of our citizens and the health of our economy. The Banking Committee examined the state of transit security in our very first hearing of the 110th Congress, which was my first hearing as chairman. At that hearing, the committee heard from some very compelling witnesses, including the directors of the London and Madrid transit systems. It is not all that common that we invite witnesses who are not U.S. citizens to come and participate in congressional hearings. But given the tragedies in Madrid and London, we thought it would be worthwhile to have those who manage the transit operations in those two cities come and share with us information about their experiences. I think their testimony was very helpful in demonstrating the importance of this issue and galvanizing the attention of the Congress to address this issue in the legislation before us.

We learned in those hearings that transit attacks have unfortunately been a major component of terrorist activities over the last several decades. It is no secret that worldwide, terrorists have favored public transit as a target. In the decade leading up to 2000, 42 percent of terrorist attacks worldwide targeted rail systems or buses, according to a study done by the Brookings Institution. In 2005 they attacked, as I mentioned, London's rail and bus system, killing 52 riders and injuring almost 700 more in what has been called London's bloodiest peacetime attack. In 2004, they attacked Madrid's metro system, killing 192 people and leaving 1,500 people injured.

Transit is frequently targeted because it is tremendously important to any nation's economy. Securing our transit systems and our transportation networks generally is a difficult challenge under any circumstances. We must do all that we can to meet that challenge. Beyond the obvious implications of physically protecting our citizens, safe transit systems can help to maintain public confidence, encouraging transit use, reducing pollution, and preventing our cities from being mired in gridlock.

The first piece of legislation that the Banking Committee marked up after I became chairman addressed with transit security. That legislation, reported out of the committee as S. 763, was included in the Senate version of the 9/11 bill. I am extremely pleased that it is included in the conference report which the Senate is considering. Similar to the bill that was reported by the Banking Committee, the conference report provides $3.5 billion in grants directly to transit agencies for security equipment, evacuation drills, and worker training—on which several witnesses, particularly from Madrid and London, testified would be the most important investment we could make. Indeed, the conference report requires worker training for all transit systems that receive security grants. The importance of worker training can scarcely be overstated. Transit workers are the first line of defense against an attack and the first to respond in the event of an attack. Mr. O'Toole, the director of London's transit system, said it well: ''You have to invest in your staff and rely on them. You have to invest in technology, but don't rely on it.''

The conference report also authorizes funds for the research and development of security technologies and authorizes

funding for the Information Sharing Analysis Center, ISAC, a valuable tool that provides transit agencies timely information on active threats against their systems. At the Banking Committee hearing we heard testimony from the American Public Transportation Association in strong support of the ISAC, and I am very pleased that the conference report authorizes this important center.

The conference report follows the Banking Committee's bill in allocating grants directly to transit systems on the basis of risk. The legislation makes clear that the Department of Homeland Security is responsible for making these critical decisions and allocating the grants among the Nation's 6,000 public transit agencies. The report does leave open the important decision of which agency, the Department of Homeland Security or the Department of Transportation, should actually distribute these grants and audit recipients' compliance with important provisions of transit law, including labor protections. The legislation requires the Secretaries of these 2 Departments to make this decision on the basis of which Department can distribute grants in the most effective and efficient manner. It is my opinion that at this moment, and at least for the next few years, the Department of Transportation is the agency that can best meet these criteria. DOT already has an efficient and effective grant distribution system in place that directly reaches our Nation's transit systems. The Federal Transit Administration is well aware of the various provisions of transit law that the recipients of security grants will be required to comply with and will therefore be able to monitor for compliance effectively. These transit security grants must go out to agencies quickly, as we face an urgent threat. It is my hope that the Secretaries will make a decision based on sound policy to best protect the American public and not with an eye toward jurisdiction or turf.

Over the years we have invested heavily in aviation security. In fact, we have invested about $7.50 per aviation passenger per trip. About 1.8 million people travel using the aviation system daily in this country. Fourteen million people use mass transit systems every workday. We have invested about $380 million in the security of mass transit systems. That is about one penny per passenger per trip.

I am not suggesting, nor do we require, that there be an equilibrium between the security investment in aviation and mass transit systems. I am simply suggesting that the Federal government can and should do more to secure our transit systems. To that end, the conference report provides an authorization of $3.5 billion for transit security. We believe with this additional authorization, and we hope an appropriate appropriation from the responsible committees, that we will be able to provide some additional security for this critically important component of our economy.

Again, I am grateful to the members of the conference committee for their support of this effort. I also want to thank my colleague and ranking member on the Banking Committee, Senator SHELBY, who has been a true champion for transit security for many years. This National Transit Systems Security Act of 2007 would never have reached this stage without Senator SHELBY's work. This was truly a bipartisan product, and I want to thank Senator SHELBY and our colleagues on the Banking Committee, including the former chairmen of the Housing and Transportation Subcommittee, Senators REED and ALLARD, who have also made very valuable contributions to this bill over the many years that we have been working to improve transit security.

I also want to make a few comments about other items that are included in this conference report. First, as chairman of the Banking Committee, I recognize the preparedness requirements that the Federal financial regulators have imposed on institutions under their jurisdiction and which those institutions have observed. I am pleased to have worked with my colleagues Senators LIEBERMAN and COLLINS on title IX to clarify that the private sector preparedness certification is voluntary and should not be construed as a requirement to replace any preparedness, emergency response, or business continuity standards, requirements, or best practices established under any other provision of Federal law, or by any sector-specific agency.

The Committee on Banking, Housing and Urban Affairs also exercises jurisdiction over the preparedness of American industry to supply our Government in times of defense and homeland security emergencies. Key to this effort is ensuring that our Nation's critical infrastructure operates uninterrupted and unhindered by natural or manmade disasters. Title X of this bill will enable the Department of Homeland Security to assess our vulnerabilities and hopefully work with other agencies to build up defenses for our critical infrastructure. In one specific provision, we built off of the Banking Committee's work 4 years ago when we reauthorized the Defense Production Act, DPA. In 2003, we emphasized the importance of the DPA's authorities in protecting our critical infrastructure. Today, under the conference agreement, we will require the Homeland Security Department, in coordination with the Departments of Commerce, Transportation, Defense, and Energy, to explain how it is implementing these 2003 DPA requirements. With the DPA's authorities expiring in September 2008, this report may prove helpful for our Committee's eventual markup of the reauthorization and modernization of the DPA.

Finally, I want to express my disappointment that the conference report includes an immunity provision that was added to the report despite not being contained in either the Senate bill or the House bill that was sent to conference. I note that this provision was not supported by the chairman of the Senate Judiciary Committee, which has jurisdiction over this matter, and I believe it should have been dealt with in a very different manner. While I share the belief that our citizens are the first line of defense against terrorism and that they need to be encouraged to report legitimate suspicious behavior, we need to be very careful whenever we grant blanket immunity and even more careful when we pass legislation granting this immunity retroactively.

To conclude, Mr. President, I am pleased to recommend this conference report to my colleagues, as I believe that it will serve us well in our efforts to make Americans more secure.●

Mr. CARDIN. Mr. President, I am very happy to rise today in support of a conference report that implements the remaining 9/11 Commission recommendations.

Finally, three years after the Commission released its bi-partisan report, we are sending President Bush legislation that implements the last of those recommendations—recommendations that will improve Maryland's as well as our nation's security. This bill increases citizens' safety when they travel by air, road, or rail; improves first responders' communications capabilities; facilitates intelligence sharing at all levels of law enforcement; and protects citizens' privacy and liberty.

This conference report is the first legislation to formally authorize the State Homeland Security Grant Program and Urban Area Security Initiative, UASI, which provide funds to states and high-risk urban areas—like the D.C. Metropolitan area—to prevent, prepare for, respond to and recover from acts of terrorism. This legislation authorizes more money than previous years, but most importantly—and I want to stress this most importantly, this legislation ensures the vast majority of that funding is distributed based on risk.

In the past, too great a percentage of our first responder grants were distributed without regard to risk and vulnerability. As the 9–11 Commission final report stated:

> [f]ederal homeland security assistance should not remain a program for general revenue sharing.

By increasing the percentage of grant money distributed based on risk, this legislation moves us toward the full implementation of the Commission's prescription.

This legislation also requires the Department of Homeland Security, DHS, to consider certain factors when allocating funds based on risk including history of threats, risk associated with critical infrastructure, coastline, and the need to respond to neighboring areas; considerations critical to adequate risk assessment for many of

Maryland's communities. All of us were both outraged and deeply concerned when DHS ranked the Washington D.C. and New York City metropolitan areas in a low-risk category for terrorist attack or catastrophe, a decision that would have cost those regions millions in anti-terror funds and had devastating impacts on their ability to respond to attack had the rankings been allowed to stand. By setting criteria for risk assessment, this bill guards against future gross miscalculations.

The legislation includes several important provisions improving transportation security, but I am particularly glad to see the bill requires DHS to develop its capacity to screen all—100 percent—of maritime cargo in foreign ports before it is loaded on ships bound for the United States within 5 years. Further, the conference substitute requires that DHS be able to screen all cargo carried on passenger airplanes within the next three years. And, the legislation authorizes substantial funds—more than $4 billion over four years—for rail, transit, and bus security grants.

Not only does the legislation provide funding for improving communications systems, it also provides guidance. Maryland's first responders and administrators have explained to me that a truly interoperable communications system and a functioning incident command system require more than equipment. Practically, cooperation between and among local, state, national, and even international governments requires governance structures, protocols, agreements, and training. By providing money for staff, exercises, simulations, training, and any other activities necessary to achieve, maintain, or enhance emergency communications, this legislation addresses critical governance concerns.

But to keep us safe, different government agencies need more than the ability to communicate. They need to actually *be* communicating critical information and intelligence to the officials and officers who need it. The conference substitute encourages the free transfer of intelligence across agencies by authorizing government-wide standards for information sharing, and creating standards for state, local, and regional intelligence fusion centers and ensures they receive federal support and personnel.

The 9–11 attacks and Hurricanes Katrina and Rita demonstrated how inadequate information sharing and inadequate communications systems can compound disasters. Let us hope that with these changes we will never again have to witness firefighters rushing into buildings when they should have been running out or distraught citizens trapped by flood waters while national officials remain unaware of the disaster.

But this legislation does more than protect our physical safety; it contains provisions to safeguard our most cherished liberties. Recent revelations regarding FBI abuse of its PATRIOT Act authority to gather phone, bank, and credit information on thousands of citizens underscore the importance of this legislation's enhanced privacy and civil liberties protections. The bill strengthens the Privacy and Civil Liberties Oversight Board independence and expands its oversight authority. The bill requires agencies with access to citizens' private information to designate at least one senior official to serve as a source of advice and oversight on privacy and civil liberties matters. Finally, under this legislation, federal agencies must report annually on their development and use of data mining technologies so this body can ensure proper usage of any technologies that raise privacy or civil liberties concerns.

This Conference Substitute also encourages this country to look beyond its own borders to promote others' safety and liberty through diplomacy. The legislation requires the Secretary of State expand strategies for democracy promotion in non-democratic and democratic transition countries, and to expand the effectiveness of the State Department's annual human rights reports. It further supports democracy promotion through international institutions, such as the UN Democracy Fund, the Community of Democracies, and the International Center for Democratic Transition, specifically through encouraging the establishment of an office of multilateral democracy promotion. To allow ''maximum effort'' on non-proliferation by the U.S. Government, as the 9–11 Commission called for, the bill establishes a Presidential Coordinator for the Prevention of WMD Proliferation and Terrorism.

We know now how closely our own safety is linked to other nations' internal security. These efforts are critical to creating a more stable Middle East and a safer world.

The 9–11 families, several of whom are my constituents, asked us to pass this legislation, and I am proud that we have fulfilled this obligation to them and to the country.

Mr. President, I yield the floor.

Mr. INOUYE. Mr. President, I am pleased we are considering the conference report to H.R. 1, the Improving America's Security Act of 2007. This legislation is particularly timely given the daily reports that the terrorist threat against our Nation is increasing. We must be proactive in defending the homeland and take particular care to protect the transportation systems which have so often been targeted.

The conference report we are voting on today contains significant provisions to strengthen the security of the Nation's transportation system, including our surface, aviation and maritime networks. We also take action to improve the interoperability of public safety communications.

For surface transportation security, we have worked with the relevant House conferees to reach consensus on provisions that would authorize new security assessments, grant programs, and security measures for the nation's major surface modes, including passenger and freight railroads, trucks, intercity buses, and pipelines. This bill will finally authorize adequate funding and a much needed statutory framework for the Transportation Security Administration's, TSA, surface transportation and rail security efforts.

The conference report also takes critical steps to address the remaining recommendations of the 9/11 Commission on aviation security. The commission's report expressed continuing concern over the state of air cargo security, the screening of passengers and baggage, access controls at airports, and the security of general aviation.

Under this bill, all cargo going on passenger aircraft must be screened within 3 years. Requirements will be put in place to plan and fund improvements for the detection of explosives in checked baggage and at passenger screening checkpoints. The TSA will also be required to ensure a system is in place to coordinate passenger redress matters and develop a strategic plan to test and implement an advanced passenger prescreening system.

With respect to giving our Nation's first responders the necessary resources to communicate effectively during times of crisis, the bill will further bolster our previous efforts to improve interoperable, public safety communications by eliminating statutory ambiguities for eligibility and by directing specific funds in support of State Strategic Technology Reserves that can be tapped in times of crisis by State and local personnel, as proposed in S. 4.

This conference report is an important step toward securing our Nation. The Commerce Committee worked for years to craft many of these provisions, and they reflect the expertise and dedication of our members. I urge my colleagues to support this legislation.

Mr. AKAKA. Mr. President, we have completed action on the conference report on H.R. 1, the Implementing Recommendations of the 9/11 Commission Act of 2007, and I wish to commend Senators JOSEPH LIEBERMAN and SUSAN COLLINS for leading this effort in the Senate. I appreciate their hard work and dedication in forging a compromise on this important piece of legislation. As a conferee I was pleased to take part in reconciling the differences between the Senate and House versions of this bill. The work that has gone into this legislation has been matched by the tremendous commitment of all of those involved to ensure that our country remains secure in the face of natural and man-made threats. Now that the Senate votes on passage of the conference report, I would like to take this opportunity to highlight a few issues that are particularly important to me.

The provision to create a Chief Management Officer, CMO, is a necessary

step in addressing the serious management and integration challenges at the Department of Homeland Security. I am disappointed that the conference report language does not encompass the entire provision passed by the Senate designating the CMO as the principal advisor to the Secretary on management issues. The CMO must have the authority of a Deputy Secretary to address department-wide management functions. My good friend Senator VOINOVICH, with whom I have worked closely on the Oversight of Government Management Subcommittee, as well as Comptroller General Walker, and I have long advocated for a CMO at the Deputy Secretary level.

I am pleased to see that strong privacy provisions included in the House and Senate bills were retained in this report. The Privacy Officer With Enhanced Rights Act, or the POWER Act, a provision championed by Congressman BENNIE THOMPSON and I, will strengthen the investigative authority of the chief privacy officer at the Department of Homeland Security. I am also pleased that the report increases the independence of the Privacy and Civil Liberties Oversight Board, so that there will be no undue influence exerted on them. Both of these provisions go a long way in ensuring that increased security efforts will not be at the cost of Americans' right to privacy.

The conference report also includes an important provision to increase reporting requirements for agencies using data mining. I was pleased to work with my good friends Senators RUSSELL FEINGOLD and JOHN SUNUNU, on this language. Federal agencies use data mining technology to review and analyze millions of public and private records for many reasons, including the detection of criminal and terrorist activities. This raises privacy concerns since an agency may analyze various databases containing personal information without any specific suspicion of wrongdoing.

In 2003, I asked the Government Accountability Office, GAO, to look into this issue, and in 2004, GAO reported that 122 Government data mining activities involved the use of personal information, 46 of which involved sharing personal information between agencies. GAO also found 36 data mining programs which used personal information from the private sector. However, these numbers did not include programs that are used for intelligence purposes. In 2005, GAO issued a follow-up report which found that agencies are not following all privacy and security policies. Given the increasing use of data mining and the threats such activities pose to Americans' privacy rights, I believe Congress must have a full accounting of agencies' data mining programs. That is why I am pleased the conference report retains the Senate language.

Finally, I want to express my disappointment that we were not able to address protections for airline screeners in this legislation. It is essential that transportation security officers are given adequate employee protections, especially the right to collectively bargain like their colleagues at the Department of Homeland Security. I hope we will be able to address this issue in the future.

While more still needs to be done, the conference report before us now provides much needed reform.

Mr. REED. Mr. President, I believe that securing our Nation's public transportation systems is one of the most pressing homeland security issues facing our Nation. Over 180 public transportation systems throughout the world have been primary targets of terrorist attacks. In 2001, as chairman of the Senate Banking, Housing, and Urban Development Subcommittee on Housing, Transportation, and Community Development, I held the first hearing on transit security in the wake of September 11. The hearing took place early in the 107th Congress so I am saddened that it has taken us this long to enact legislation to protect our transit systems. I am pleased, however, that tonight we are prepared to pass the conference report to implement the 9/11 Commission recommendations, including the transit security measures that I authored.

While our Nation acted quickly after 9/11 to secure airports and airplanes against terrorists, major vulnerabilities remain in surface transportation. Transit agencies around the country have identified in excess of $6 billion in transit security needs.

Transit is vital to providing mobility for millions of Americans and offers tremendous economic benefits to our Nation. In the United States, people use public transportation over 33 million times each week day compared to 2 million passengers who fly daily. Paradoxically, it is the very openness of the system that makes it vulnerable to terrorism. When one considers this and the fact that roughly $7 per passenger is invested in aviation security, but less than 1 cent is invested in the security of each transit passenger, the need for an authorized transit security program is clear. We need to be more vigilant to protect public transit from terrorists.

As a member of the Senate Committee on Banking, Housing, and Urban Affairs, I was proud to author with Senators DODD and SHELBY comprehensive legislation to protect our public transportation systems and the Americans that they serve. Title XIV of The Improving America's Security Act of 2007 authorizes $3.5 billion in grants to transit agencies for capital and operational costs. It also establishes an essential security training program for public transportation employees who are at the front lines of preventing terrorist acts. The act allows the Secretaries of Transportation and Homeland Security to determine which federal Department will distribute the grant funding. I urge the Secretaries and the administration to place responsibility for the grant program with the Department of Transportation and make this decision promptly. It is my opinion that this will result in the effective and efficient administration of the program for local transit agencies.

Taking action to protect our public transportation systems is long overdue. I am pleased to support the Improving America's Security Act.

Mr. STEVENS. Mr. President, I thank the Chairman and ranking member of the 9/11 bill conference committee for their efforts to bring the conference report before the Senate. This was no small task and they, along with other conferees and staff, are to be commended.

Despite these efforts, however, the final conference report includes objectionable maritime cargo scanning language that could be devastating to both the international and domestic flow of commerce.

The decision to mandate scanning for 100 percent of cargo containers is a risky proposition because it does not follow a risk-based approach:

The title of the final conference report clearly states that its purpose is to implement the recommendations of the 9/11 Commission. But the commission did not advocate for the scanning—or even screening—of 100 percent of the containers arriving at our shores.

The 9/11 Commission recommended instead that we mitigate our vulnerabilities to terrorism in a logical manner by applying our resources based on risk, and specifically cautioned us not to employ a blanket approach.

Our Nation's ports, including the Port of Anchorage, are vital to our economies—both regional and national. Ensuring their security must be a top priority. But a mandate to scan every cargo container entering the U.S. could shut down many of these ports, and the resulting delays for both imports and exports would be excessive and costly for consumers.

Moreover, it is likely that foreign nations will disregard any caveats we may provide, and according to a European union diplomat,

The E.U. would consider imposing reciprocal requirements and filing a complaint against the United States in the World Trade Organization.

This fact renders the approach taken by this bill with respect to scanning cargo unworkable internationally.

Here at home, these cargo scanning provisions may be equally, if not more, devastating to rural economies. Communities in the lower 48 are served by multiple transportation modes distributing basic supplies like food and other consumer goods. In Alaska, however, over 90 percent of our supplies flow through the Port of Anchorage. Any disruption at this port would be a disaster for Alaskans, not to mention to the Port of Tacoma, which serves as a

conduit for cargo transiting to and from Alaska.

Some contend that we are not doing enough for port security. I disagree. Not even one year ago, we passed the Safe Port Act. While many of us made these same arguments concerning 100 percent scanning during the debate of that bill, we ultimately settled on directing DHS to conduct a pilot program to determine whether 100 percent scanning of cargo containers is even feasible. The pilot began earlier this year and we are only now beginning to get a clearer picture of the complexities that scanning entails.

Mandating 100 percent scanning of cargo containers without the benefit of the results of the pilot tests is premature and counterproductive.

Homeland security should not be used as a rhetorical tool. Let us first learn from the lessons promised by the Safe Port Act's pilot tests before committing ourselves to an irrational, costly, and potentially ineffective approach to securing our Nation.

I thank the following staff of the Senate Commerce Committee for their hard work on this bill:

Pamela Friedman, Mark Delich, Jarrod Thompson, Chris Bertram, Mike Blank, Kim Nahigian, Paul Nagle, Christine Kurth, Dan Neumann, Betsy McDonnell, and David Wonnenberg.

Mr. President, I yield the floor.

Mr. DURBIN. Mr. President, I commend Senators LIEBERMAN and COLLINS for their leadership and the members of the Conference Committee for their work on this important legislation.

More than five years after 9/11—despite tens of billions of dollars spent—America's ports, rails, airports, borders, nuclear powerplants and chemical plants are still not as safe as they could be.

It has been almost 3 years since the 9/11 Commission issued its final recommendations.

This legislation is a major step toward fully implementing the recommendations of the bipartisan 9/11 Commission. It changes course after years of inadequate action on critical homeland security needs.

The bill will make America more secure because it: provides funding for first responders; makes it harder for potential terrorists to enter the United States; helps secure our rail, air, and mass transit systems; and improves intelligence and information sharing at all levels of law enforcement.

I am especially proud to highlight a few provisions in the bill that I have championed for some time.

The legislation specifies that States can use Federal grants to design, conduct, and evaluate mass evacuation plans and exercises.

MASS EVACUATION

As we learned from Hurricanes Katrina and Rita, there is no substitute for being prepared.

Last fall, Rockford, IL, was flooded after heavy storms. Public safety workers were able to vacate an entire neighborhood quickly and safely because they were prepared.

They had an evacuation plan. They knew where they would take people. They had a mobile command center set up there within hours.

Most cities and States have evacuation plans. But you need to have training drills and exercises to identify where the plan breaks down. Evacuation exercises allow you to work out solutions before lives are at risk in a real emergency. We may only have one chance to get it right.

CIVIL LIBERTIES

The 9/11 Commission recognized that one of the biggest challenges we face in fighting the war on terrorism is protecting civil liberties. The Commission said:

While protecting our homeland, Americans should be mindful of threats to vital personal and civil liberties. This balancing is no easy task, but we must constantly strive to keep it right.

To help keep this balance right, the Commission wisely recommended the creation of a board to ensure that the Government does not violate privacy or civil liberties. Three years ago, when Congress passed the first 9/11 bill, it included a provision I worked on to create a Privacy and Civil Liberties Oversight Board. The bill that the Senate passed would have created a strong and independent board with subpoena power, a full-time Chairman, and a broad statutory mandate, among other things.

Unfortunately, House Republicans were able to water down the bill to reduce the independence and authority of the Privacy and Civil Liberties Board. As a result, the board has not been an effective check on this administration, which has shown reckless disregard for the constitutional rights of innocent Americans.

The conference report we consider tonight will fix those deficiencies.

Throughout American history, in times of war, we have sacrificed liberty in the name of security. As the 9/11 Commission said, ''The choice between security and liberty is a false choice.'' We can be both safe and free. I hope the new and improved Privacy and Civil Liberties Oversight Board will help make that a reality.

RISK-BASED

Two years ago Congress earned an F from the 9/11 Commission for creating a Homeland Security Grant Program that is not sufficiently focused on risk.

This bill puts more emphasis on risk as a factor in distributing homeland security grants. Right now, homeland security grants are based on a variety of factors—but risk is one of many.

INFORMATION SHARING

The 9/11 Commission strongly recommended that we change the culture in Government, so that agencies talk to each other and share information so everyone can do their jobs.

In 2001, the FBI had information about the hijackers that was never shared with local officials.

The conference report responds to that challenge. This bill: makes the Office of Information Sharing permanent, establishes an interagency coordination group on threat assessment, and makes it easier to share information between State and local government and across Federal agencies.

I am pleased that conferees made the program manager for the Information Sharing Environment (ISE) permanent and authorizes funds and staff to carry out the ISE mission.

The bill also calls for progress reports to Congress on the Information Sharing Environment.

''JOHN DOE'' PROVISION

I will support the conference report, but I want to make clear that it contains one provision that has not been properly written or carefully considered. The so-called John Doe provision would give blanket immunity to citizens and Government officials who engage in racial profiling, as long a court finds they were acting in good faith.

The proponents of this legislation claim that it is necessary because citizens will not report suspicious behavior if they are afraid they will be sued for racial profiling.

With all due respect, this is a solution in search of a problem. There is no evidence that people are reluctant to file complaints about suspicious behavior and there is no epidemic of nuisance lawsuits against people who do so.

In fact, all the evidence points in the opposite direction—vigilant Americans are playing a crucial role in homeland security.

The reality is that this provision is targeted at one pending lawsuit. There is no indication that the courts are incapable of handling this or any other racial profiling lawsuit. There are immunity rules that the courts have developed over many years and there is no evidence that those rules are not working to protect innocent people from nuisance lawsuits.

I cannot judge the merits of this particular lawsuit, but I do know this: Congress should not be in the business of passing legislation to affect the outcome of individual cases that are pending in court. We should not substitute our judgment for that of a jury of American citizens, doing their civic duty, who will hear and weigh all of the relevant evidence.

Remember the last time Congress did this? It was the Terri Schiavo case. That should be a warning to Congress not to go down this road again.

Its proponents claim that the John Doe provision is necessary so that people would not be deterred from reporting suspicious behavior. But this legislation will have another chilling effect: It will deter victims of racial profiling from seeking justice in the courts.

This legislation would require a plaintiff to pay attorneys fees to a defendant if the defendant who allegedly engaged in racial profiling acted in

good faith. Let's be clear: even if a defendant acted in bad faith, many victims of racial profiling will not file a lawsuit because they cannot take the risk that they will be forced to pay attorney's fees if they lose.

Despite what its proponents claim, the John Doe provision applies to more than just terrorism cases. In fact, it applies to any activity related to a threat to a passenger vehicle or its passengers. As a result, this provision will probably be invoked by every defendant in every future racial profiling case.

I am especially disappointed that this legislation was inserted into the 9/11 conference report without any consideration of the concerns I have outlined. This provision was not in the 9/11 bill that the Senate passed. In the Senate, it has received no hearings, no debate, and no votes.

The John Doe bill falls under the jurisdiction of the Judiciary Committee, of which I am a member. Senator LEAHY, the chairman of the Judiciary Committee, asked that it not to be included in the 9/11 conference report so that we could hold hearings on it, but unfortunately his request was not granted.

This reminds me of another controversial bill that was inserted into a conference report without any debate in the Senate. It's called the REAL ID Act, and it is now opposed by States across our country.

I will be tracking closely how this legislation is implemented. I suspect that, as with REAL ID, the John Doe law will be met with rising opposition across this country as more and more Americans learn about it.

CLOSE

The 9/11 Commission gave Congress a critically important job.

The Commission charged Congress with making structural changes to close the gaps in America's homeland security defenses. This legislation responds to that challenge, and I support final passage of the conference report.

Mr. LIEBERMAN. Mr. President, I am prepared to yield back all remaining time, and Senator COBURN, in the spirit of not only the good spirit I identify with him but in the spirit of the hour, I gather, is prepared to yield back his remaining time as well.

Ms. COLLINS. Mr. President, I yield back the time on this side as well.

Mr. LIEBERMAN. Mr. President, again, I thank Senator COLLINS and Senator COBURN. It is a measure of their devotion that they are both still here at this hour.

MORNING BUSINESS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

TRIBUTE TO LIEUTENANT COLONEL JEAN McGINNIS

Mr. REID. Mr. President, I rise today to congratulate LTC Jean McGinnis upon retiring from military service. For more than 25 years, our Nation has been fortunate to have such an intelligent, accomplished and decorated American in our armed services.

Lieutenant McGinnis exemplifies selfless devotion to one's country. Born in Deadwood, SD, Lieutenant McGinnis began her service early. The New Mexico Military Institute commissioned her as a 2nd lieutenant before she even completed her bachelor's degree at Texas A&M. She joined the Army Reserve as an active Guard Reserve Officer, and continued her education at Fort Eustis, VA, where she successfully passed the aviation maintenance officer course to become an Army test pilot in the UH–1 Huey helicopter.

In 1991, Captain McGinnis was stationed in Pennsylvania at the Willow Grove Naval Air Station as the aviation operations officer for the 2/288th Aviation Regiment. Five years later, she was assigned to the Office of the Chief, Army Reserve, Program Analysis and Evaluation Division and then as a budget analyst for the Army. In 1999, Major McGinnis moved to Arlington, VA, in order to serve as a congressional liaison after training at the Command and General Staff College.

Throughout her service, Lieutenant McGinnis has gained wide recognition from her commanding officers. She has earned the Meritorious Service Medal, the Army Commendation Medal, the Army Achievement Medal, the National Defense Service Medal, the Senior Army Aviator Badge, and the Air Assault Badge and the Army Staff Badge. These accomplishments speak volumes for her dedicated service to the country.

It is with great pride that I commend Lieutenant Jean McGinnis on this wonderful accomplishment. You have served our Nation with distinction, and I wish you the best on your well-deserved retirement.

LIEUTENANT COLONEL JEAN M. McGINNIS

Mr. INOUYE. Mr. President, today I honor, and pay tribute to LTC Jean M. McGinnis, who will retire from the U.S. Army on August 31, 2007, after 25 years of distinguished service. Lieutenant Colonel McGinnis is an outstanding American soldier who served in a succession of command and staff positions worldwide of increasing responsibility.

In her last assignment in the U.S. Army as the Deputy Chief of the Army, Senate Liaison Division, Lieutenant Colonel McGinnis demonstrated the managerial and leadership skills that have characterized her career. She demonstrated Army values daily, supported her subordinates and chief tirelessly, and traveled extensively escorting Senators, their staffs, and Senate committee professional staff members on inspections and factfinding trips in the United States and overseas.

Lieutenant Colonel McGinnis previously served as a Congressional Budget Liaison Officer in the Office of the Chief of Army Reserve and as an Operations Research Analyst in Programs, Analysis, and Evaluation in the Pentagon. From 1982 to 1994, she served as an Aviation Officer, in the positions of Platoon Leader, Detachment Commander, Company and Battalion Flight Operations Officer.

During her aviation career Lieutenant Colonel McGinnis had many assignments ranging from humanitarian assistance missions in Guatemala and Honduras to piloting the Chairman of the Joint Chiefs of Staff and the Chief of Staff of the U.S. Army in Egypt as part of Operation Bright Star.

In 1997, Lieutenant Colonel McGinnis was assigned to the Office of the Chief of Army Reserve in Washington, DC, as an Operations Research Systems Analyst. During this assignment she reconciled Army Reserve resource requirements with Army program needs. She later served as a Budget Analyst in the Office of the Deputy Chief of Staff for Personnel, Resource Division. While in this challenging assignment, she served again as an Operations Research Budget Analyst of Reserve personnel and was directly involved with complex Army training and Reserve personnel policy issues.

She was then selected to represent the Army on Capitol Hill and served 4 years working for the Army Senate Liaison Division and the Office of the Chief of Army Reserve. Lieutenant Colonel McGinnis' expertise and knowledge of the Active Army and Reserve policies and procedures has been of great value to Senators and their staffs. Lieutenant Colonel McGinnis' leadership, resourcefulness, and professionalism made lasting contributions to Army readiness and mission accomplishments. Her service to our Nation has been exceptional, and Lieutenant Colonel McGinnis is more than deserving of this recognition.

DIGNIFIED TREATMENT OF WOUNDED WARRIORS ACT

Mr. CRAIG. Mr. President, I wish to take a moment to comment on the passage of the Dignified Treatment of Wounded Warriors Act. The President's blue ribbon Wounded Warrior Commission met with the President to provide

him with recommendations as to how the Veterans' Administration, along with the Department of Defense, can best provide service to our dramatically injured veterans in a seamless fashion.

Our action, with passage of this legislation, is a step in the same direction. It fulfills the pledge we made a few months ago when the Veterans' Affairs Committee, along with the Armed Services Committee, held joint hearings to receive testimony on needed changes to transition programs and health care benefits.

At that time, many of us stated our intention to make a good-faith effort to work on issues under our respective committees' jurisdictions and then to merge our work back together again at the earliest possible time.

This bill not only contains the legislation that went through the Armed Services Committee earlier in the form of S. 1606, but it also includes title II of the bill, legislation sponsored by Senator DANNY AKAKA and me to address issues surrounding the treatment provided to those veterans with traumatic brain injuries.

Of course, I am proud of the comprehensive nature of the legislation Senator AKAKA and I have put forward in this legislation and pleased to see its passage.

Under the provisions in this bill, injured veterans will benefit from new investments in research into mild, moderate, and serious traumatic brain injury. They and their families will be assured that care is provided in age-appropriate settings. We will explore whether assisted living services are the most appropriate and least restrictive settings to provide care for those with traumatic brain injury.

Most important to me is that our servicemembers, veterans, and their families will have peace of mind knowing the Secretary can provide traumatic brain injury care in a private, non-VA facility anytime the Secretary determines that doing so would be optimal to the recovery and the rehabilitation of that patient. In other words, with passage of this legislation, we are assuring that whenever it is in the best interest of the patient's recovery, then VA can purchase private care to treat traumatic brain injury.

These are a few of the very important provisions in title II of the legislation. Of course, there are many other notable pieces of the bill in title I, which, as I previously stated, was produced by my colleagues in the Armed Services Committee. I compliment them again for their work on this important bill.

We said we would do this as expeditiously as possible. The earliest time possible was, of course, the National Defense Authorization Act, which was on the floor a few weeks ago. There, we added the substance of the bill as an amendment to that act.

Unfortunately, the NDAA was pulled from the floor—a little premature, in my judgment, but it was. But I do wish to compliment both leaders for agreeing in a bipartisan way to bring this important part of that bill before us quickly so our troops and our injured veterans and their families can receive the care and benefits they deserve as quickly as it can be delivered.

I said on the floor a few weeks ago, during consideration of the National Defense Authorization Act, the legislation was very important because it demonstrated that Congress can break down the walls of jurisdiction and territory and do the right thing at the right time for our troops.

I and other Senators have been very critical of the bureaucratic roadblocks DOD and VA can put up against one another, when we all want to make sure they are working together in a seamless fashion. We now see those walls breaking apart. So I believe we are going to demand that these two agencies break down further those barriers of territory and jurisdiction. When we demonstrate we can do it, we then must ask them to do it. In this legislation, you saw two committees come together to make it possible. I am proud we have done so. It is the kind of work we ought to do.

I also think it is fitting we passed this bill yesterday because the President's Commission on Care for America's Returning Wounded Warriors is set to issue its final report. That happened. We have now had an opportunity to review it. I thank all of the Members of that Commission for their service and for all of the work they did in a short timeframe. Former Senator Bob Dole and Secretary Donna Shalala were great leaders on this issue for us and for our veterans and for our troops.

The passage of this bill is only the beginning of changes that we will make and must make for the health care and the benefit services offered to our veterans and offered through VA and DOD. I look forward to hearings on the panel's recommendations soon and to finalize the reading of the report. I now have it in hand. I am hopeful that with the passage of this legislation, which will soon be on its way to the President for signature, we in the Congress can focus on the recommendations of the Dole-Shalala panel.

With that, I again thank the chairman of the Veterans' Affairs Committee, Senator AKAKA, for his work and support in the production of title II of this bill. I also want to thank and compliment Senator MCCAIN and Senator LEVIN and Senator WARNER for their work on title I, the Wounded Warrior legislation. I truly appreciate the coming together of these diverse but connected jurisdictions to show we can break down our walls and to once again demonstrate and encourage both the Department of Defense and VA to work in a progressive, seamless fashion for the benefit of our fighting men and women and for the benefit of those same men and women when they become veterans and the responsibility for them shifts to a different jurisdiction. It is important legislation and work of which we can be proud.

LIVESTOCK INDEMNITY PROGRAM PAYMENTS

Mr. THUNE. Mr. President, I rise today to highlight an important piece of legislation that was passed by the Senate last night. This legislation would fix a potentially devastating mistake in the agriculture disaster assistance legislation Congress passed last May.

Over the past few years, drought conditions and other natural disasters have financially strained tens of thousands of agriculture producers across the country. Last May, Congress responded to the needs of America's producers by enacting more than $3 billion in emergency disaster assistance for farmers and ranchers who experienced losses in 2005, 2006, and early 2007.

This assistance includes payments for livestock losses under the Livestock Indemnity Program and compensation for grazing losses under the Livestock Compensation Program.

Last month, it was brought to my attention that as many as 90% of livestock producers will be ineligible for assistance due to an unintended technicality in the emergency supplemental bill. The USDA's Office of General Counsel is interpreting Section 9012 of the emergency supplemental bill in a very narrow manner. This section requires participation in the Non-Insured Crop Disaster Assistance Program—NAP—or Federal crop insurance pilot program during the year livestock disaster assistance is requested.

If disaster benefits are limited to only those livestock producers with NAP or crop insurance coverage, the vast majority of livestock producers in drought-stricken regions will be ineligible for disaster assistance.

While crop insurance is typically required for crop disaster assistance, similar requirements are highly unusual for livestock disaster assistance. In fact, NAP coverage has never been a prerequisite for livestock disaster assistance in previous emergency spending bills.

Only a small percentage of livestock producers have traditionally participated in the NAP program, because indemnity payments range from $1 to $2 per acre. Since NAP payments are so low, few grazing producers have participated. It is simply bad policy to exclude producers from disaster assistance who chose not to participate in an ineffective program.

Congress clearly intended disaster assistance to be available to those producers most impacted by years of devastating weather conditions. My legislation would strike Section 9012 of the 2007 emergency supplemental spending bill, and would ensure that livestock producers impacted by natural disasters receive assistance they deserve in a timely manner.

The USDA is currently preparing policy, procedure and software to implement disaster programs authorized under this legislation. USDA has promised to conduct signup and deliver financial assistance to our agriculture producers this fall. By the time these disaster dollars reach individual producers, many will have waited for over two years since first experiencing weather-related losses. Without this legislative fix, unacceptable disaster program implementation delays will occur.

I thank the cosponsors of this legislation who have made another strong stand for America's farm and ranch families. I also thank my colleagues in the Senate for recognizing the urgency of this situation and passing this bill by unanimous consent last night.

Cosponsors of the bill are: Senators NELSON of Nebraska, BAUCUS, TESTER, JOHNSON, CONRAD, HARKIN, LANDRIEU, BARRASSO, ENZI, HAGEL, DORGAN, and INHOFE.

I urge the House of Representatives to quickly pass my bill to ensure that livestock producers are able to qualify for the disaster assistance that was signed into law earlier this year.

NOMINATION OF LESLIE SOUTHWICK

Mr. DURBIN. Mr. President, I made remarks yesterday on the Senate floor about the nomination of Judge Leslie Southwick to the U.S. Court of Appeals for the Fifth Circuit.

Some of my Republican colleagues then came to the floor and made their own remarks about Judge Southwick. I would like to respond to some of their points and set the record straight.

First, I take issue with the way they described the procedural history of a case involving a White employee in Mississippi who was fired for calling an African-American colleague the ''N'' word. In this sharply divided 5- to 4-case, Judge Southwick joined the majority, and he voted to reinstate the White employee with full backpay and no punishment whatsoever.

Senator CORNYN came to the Senate floor and said that the Southwick majority ''was ultimately upheld by the Mississippi Supreme Court in compliance with appropriate legal standards.''

That statement does not accurately describe what actually happened.

Yes, the Mississippi Supreme Court said that termination was too Draconian a punishment, but it also said that the decision to reinstate the White employee with full backpay and with no punishment whatsoever—the decision that Judge Southwick signed onto—was erroneous.

Let me read the last three words of the Mississippi Supreme Court's opinion in this case so the record is clear. The three words are: ''reversed and remanded.''

The Mississippi Supreme Court concluded: ''[W]e remand this matter back to the Employee Appeals Board for the imposition of a lesser penalty, or to make detailed findings on the record why no penalty should be imposed.''

This conclusion is the same one reached by Judge Diaz, who dissented from Judge Southwick and the five-person majority at the appeals court level. Judge Diaz wrote: ''I write separately to object to the EAB's failure to impose sanctions upon Bonnie Richmond for using a racial slur in describing another DHS employee. . . . This is not to say that the EAB should have followed the DHS's recommendations to terminate Richmond, but there is a strong presumption that some penalty should have been imposed.''

That conclusion, which the Mississippi Supreme Court embraced, undermines Senator CORNYN's assertion that the Southwick majority ''was ultimately upheld by the Mississippi Supreme Court.''

The bottom line is that Judge Southwick voted to reinstate the White employee with complete impunity—with no punishment whatsoever. The Mississippi Supreme Court said: No, punishment should be considered.

Let me address another aspect of this case that was mentioned by a Republican colleague. In trying to minimize the significance of the case and defend Judge Southwick's position, this Senator stated that the White employee's use of the ''N'' word was ''a one-time comment.''

I would dispute that characterization. It is true that the Southwick majority referred to ''this one use of a racial epithet.'' However, according to a letter from the State agency reprinted in the State supreme court opinion, there were at least two instances in which the White employee used the ''N'' word: once in front of the victim and once at a meeting where the victim was not present.

In addition, as set forth in the State supreme court opinion, the White employee testified that she didn't think her Black colleague would be offended by use of the ''N'' word because: ''You know, I thought that we had used that terminology previously and Varrie [the black employee] didn't seem to have a problem with it, nor anyone else.''

So it seems that the use of the ''N'' word was not an isolated comment in this workplace.

Senator CORNYN tried to defend Judge Southwick's vote in this case, and he said the following: ''A judge has no choice but to vote. He voted for the result, for the outcome of the case, but I think it's unfair to attribute the writing of the opinion to Judge Southwick.''

I disagree. As I noted yesterday, Judge Southwick had other options in this case. He could have written a concurrence. He could have written a dissent. He could have joined one of two different dissents that were written by other members of his court in this case. He did none of these things.

The ''N'' word case is not the only case in which Judge Southwick has demonstrated racial insensitivity. A coalition of four leading civil rights groups—the NAACP, the NAACP Legal Defense and Educational Fund, the National Urban League, and the Rainbow/PUSH Coalition—wrote a letter to the Senate Judiciary Committee and stated:

> We are also troubled by Judge Southwick's record in cases involving race discrimination in jury selection. . . . Generally, Southwick has upheld the rejection of claims by defendants that the prosecution was motivated by race discrimination in striking African Americans from juries. However, Southwick appears to have less difficulty finding race discrimination when the prosecution makes 'reverse Batson' claims that defendants have struck white jurors for racial reasons.

The letter discusses several examples of this trend in Judge Southwick's track record.

Let me also say a little more about the case in which Judge Southwick voted to take away an 8-year-old girl from her lesbian mother.

What is troubling about this case is not only the result that Judge Southwick reached but also the fact that he was the only judge in the majority to sign onto a troubling concurring opinion that said sexual orientation is a choice and that losing a child in a custody battle is a consequence of that choice.

Judge Southwick is opposed by the Human Rights Campaign—a prominent gay rights organization—which has said the following about this nominee:

> No parent should face the loss of a child simply because of who they are. If he believes that losing a child is an acceptable 'consequence' of being gay, Judge Southwick cannot be given the responsibility to protect the basic rights of gay and lesbian Americans.

As I said yesterday, this nomination isn't just about the ''N'' word case and the gay custody case. Judge Southwick has a long track record of favoring employers and corporations over employees and consumers. There are two studies that bear this out: One was conducted by the Business and Industrial Political Education Committee, as reported by the Biloxi, Mississippi Sun Herald on March 24, 2004. The other study was undertaken by an organization called the Alliance for Justice and is available on their website.

I would make one final point. One of my Republican colleagues criticized me for opposing Judge Southwick for a seat on the Fifth Circuit while having voted for him last year to be a Federal district court judge.

It is true that Judge Southwick was voted out of the Senate Judiciary Committee last year by voice vote as part of a package of 10 judicial nominees. But we did not know about the ''N'' word case at that time. It is an unpublished decision and was not brought to our attention until this year.

In any event, the reality is that our circuit courts are more crucial to the protection of our rights and liberties than our district courts. Because the U.S. Supreme Court takes so few cases,

the circuit courts of appeal are the final word in 99 percent of Federal cases that are appealed. That is why most of the judicial nomination battles of the past few years have involved circuit court nominees, not district court nominees.

I know the Senators from Mississippi, and others, feel strongly that Judge Southwick should be confirmed. I respect their beliefs, and I have listened to their arguments. But I hope they will recognize the controversy surrounding this nomination and encourage the White House to put forward a different nominee—someone who can gain bipartisan support in the Senate Judiciary Committee.

BUDGET SCOREKEEPING REPORT

Mr. CONRAD. Mr. President, I rise to submit to the Senate the second set of budget scorekeeping reports for the 2008 budget resolution. The reports, which cover fiscal years 2007 and 2008, were prepared by the Congressional Budget Office pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended.

The reports show the effects of congressional action through July 24, 2007, and includes legislation that was enacted and or cleared for the President's signature since I filed my first report last month. The new legislation includes: Public Law 110–42, an act to extend the authorities of the Andean Trade Preference Act until February 29, 2008; Public Law 110–48, a bill to provide for the extension of transitional medical assistance, TMA, and the abstinence education program through the end of fiscal year 2007, and for other purposes; and H.J. Res. 44; pending Presidential action, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes. The estimates of budget authority, outlays, and revenues used in the reports are consistent with the technical and economic assumptions of S. Con Res. 21, the 2008 budget resolution.

For 2007, the estimates show that current level spending equals the budget resolution for both budget authority and outlays while current level revenues exceed the budget resolution by $4.2 billion. For 2008, the estimates show that current level spending is below the budget resolution by $928.1 billion for budget authority and $586.7 billion for outlays while current level revenues exceed the budget resolution level by $34.6 billion.

I ask unanimous consent that the letters and accompanying tables from CBO be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 26, 2007.

Hon. KENT CONRAD,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC 20510

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2007 budget and is current through July 24, 2007. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008, as approved by the Senate and the House of Representatives.

Pursuant to section 204(a) of S. Con. Res. 21, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 1 of Table 2 of the report).

Since my last letter, dated June 27, 2007, the Congress has cleared and the President has signed:

An act to extend the authorities of the Andean Trade Preference Act until February 29, 2008 (Public Law 110–42); and

A bill to provide for the extension of Transitional Medical Assistance (TMA) and the Abstinence Education Program through the end of the fiscal year 2007, and for other purposes (Public Law 110–48).

The effects of those actions are detailed on Table 2.

Sincerely,

ROBERT A. SUNSHINE,
For Peter R. Orszag, Director.

TABLE 1.—SENATE CURRENT LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2007, AS OF JULY 24, 2007

(In billions of dollars)

	Budget Resolution [1]	Current Level [2]	Current Level Over/Under (-) Resolution
ON-BUDGET			
Budget Authority	2,255.6	2,255.6	0.0
Outlays	2,268.6	2,268.6	0.0
Revenues	1,900.3	1,904.5	4.2
OFF-BUDGET			
Social Security Outlays [3]	441.7	441.7	0.0
Social Security Revenues	637.6	637.6	0.0

SOURCE: Congressional Budget Office.

[1] S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008, as adjusted pursuant to section 207(f), assumed approximately $120.8 billion in budget authority and $31.1 billion in outlays from emergency supplemental appropriations. Such emergency amounts are exempt from the enforcement of the budget resolution. Since current level totals exclude the emergency requirements enacted in P.L. 110–28 (see footnote 1 of table 2), budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

[2] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations, even if the appropriations have not been made.

[3] Excludes administrative expenses of the Social Security Administration, which are off-budget, but are appropriated annually.

TABLE 2.—SUPPORTING DETAIL FOR THE CURRENT LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2007, AS OF JULY 24, 2007

(In millions of dollars)

	Budget authority	Outlays	Revenues
Enacted in previous session:			
Revenues.			
Permanents and other spending legislation	n.a.	n.a.	1,904,706
Appropriation legislation	1,347,423	1,297,059	n.a.
	1,480,453	1,543,072	n.a.
Offsetting receipts	−571,507	−571,507	n.a.
Total, enacted in previous session	2,256,369	2,268,624	1,904,706
Enacted this session:			
Appropriation Acts:			
U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (P.L. 110–28) 1/	−794	9	−166
An act to extend the authorities of the Andean Trade Preference Act until February 29, 2008 (P.L. 110–42)	0	0	−24
A bill to provide for the extension of Transitional Medical Assistance (TMA) and the Abstinence Education Program through the end of fiscal year 2007, and for other purposes (P.L. 110–48)	12	3	0
Total, enacted this session	−782	12	−190
Entitlements and mandatories:			
Budget resolution estimates of appropriated entitlements and other mandatory programs	−30	0	0
Total Current Level 1, 2/	2,255,557	2,268,636	1,904,516
Total Budget Resolution	2,376,360	2,299,752	1,900,340
Adjustment to the budget resolution for emergency requirements 3/	−120,803	−31,116	0
Adjusted Budget Resolution	2,255,557	2,268,636	1,900,340
Current Level Over Adjusted Budget Resolution	0	0	4,176
Current Level Under Adjusted Budget Resolution	0	0	n.a.

SOURCE: Congressional Budget Office

NOTES: n.a. = not applicable; P.L. = Public Law

[1] Pursuant to section 204(a) of S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. The amounts so designated for fiscal year 2007, which are not included in the current level total, are as follows:

	Budget a uthority	Outlays	Revenues
U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (P.L. 110–28)	120,803	31,116	n.a.

[2] Excludes administrative expenses of the Social Security Administration, which are off-budget.

[3] S. Con. Res. 21, as adjusted pursuant to section 207(f), assumed $120,803 million in budget authority and $31,116 million in outlays from emergency supplemental appropriations. Such emergency amounts are exempt from the enforcement of the budget resolution. Since current level totals exclude the emergency requirements enacted in P.L. 110–28 (see footnote 1), budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 26, 2007.

Hon. KENT CONRAD,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed report shows the effects of Congressional action on the fiscal year 2008 budget and is current through July 24, 2007. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008, as approved by the Senate and the House of Representatives.

Pursuant to section 204(a) of S. Con. Res. 21, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the enclosed current level report excludes these amounts (see footnote 1 of Table 2 of the report).

Since my last letter, dated June 27, 2007, the Congress has cleared and the President has signed:

An act to extend the authorities of the Andean Trade Preference Act until February 29, 2008 (Public Law 110–42); and

A bill to provide for the extension of Transitional Medical Assistance (TMA) and the Abstinence Education Program through the end of the fiscal year 2007, and for other purposes (Public Law 110–48).

In addition, the Congress has cleared for the President's signature a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes (H.J. Res. 44).

The effects of those actions are detailed on Table 2.

Sincerely,

PETER R. ORSZAG,
Director.

TABLE 1.—SENATE CURRENT LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2008, AS OF JULY 24, 2007

(In billions of dollars)

	Budget Resolution [1]	Current Level [2]	Current Level Over/Under(−) Resolution
ON-BUDGET			
Budget Authority	2,350.3	1,422.2	−928.1
Outlays	2,353.9	1,767.2	−586.7
Revenues	2,015.8	2,050.4	34.6
OFF-BUDGET			
Social Security Outlays [3]	460.2	460.2	0.0
Social Security Revenues	669.0	669.0	0.0

SOURCE: Congressional Budget Office.

[1] S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008, as adjusted pursuant to section 207(f), assumed approximately $0.6 billion in budget authority and $48.6 billion in outlays from emergency supplemental appropriations. Such emergency amounts are exempt from the enforcement of the budget resolution. Since current level totals exclude the emergency requirements enacted in P.L. 110–28 (see footnote 1 of table 2), budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

Additionally, section 207(c)(2)(E) of S. Con. Res. 21 assumed $145.2 billion in budget authority and $65.8 billion in outlays for overseas deployment and related activities. Pending action by the Senate Committee on Appropriations, the Senate Committee on the Budget has directed that these amounts be excluded from the budget resolution aggregates in the current level report.

[2] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations, even if the appropriations have not been made.

[3] Excludes administrative expenses of the Social Security Administration, which are off-budget, but are appropriated annually.

TABLE 2.—SUPPORTING DETAIL FOR THE CURRENT LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2008, AS OF JULY 24, 2007

(In millions of dollars)

	Budget Authority	Outlays	Revenues
Enacted in previous session:			
Revenues	n.a.	n.a.	2,050,796
Permanents and other spending legislation	1,410,115	1,351,590	n.a.
Appropriation legislation	0	419,862	n.a.
Offsetting receipts	−575,635	−575,635	n.a.
Total, enacted in previous session	834,480	1,195,817	2,050,796
Enacted this session:			
U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (P.L. 110–28)[1]	1	42	−335
An act to extend the authorities of the Andean Trade Preference Act until February 29, 2008 (P.L. 110–42)	0	0	−41
A bill to provide for the extension of Transitional Medical Assistance (TMA) and the Abstinence Education Program through the end of fiscal year 2007, and for other purposes (P.L. 110–48)	96	99	0
Total, enacted this session	97	141	−376
Passed, pending signature:			
A joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes (H.J. Res. 44, Pending Signature)	0	0	−2
Entitlements and mandatories:			
Budget resolution estimates of appropriated entitlements and other mandatory programs	587,601	571,260	0
Total Current Level I, [2]	1,422,178	1,767,218	2,050,418
Total Budget Resolution	2,496,053	2,468,314	2,015,841
Adjustment to the budget resolution for emergency requirements [3]	−605	−48,639	n.a.
Adjustment to the budget resolution pursuant to section 207(c)(2)(E) [4]	−145,162	65,754	n.a.
Adjusted Budget Resolution	2,350,286	2,353,921	2,015,841
Current Level Over Adjusted Budget Resolution	n.a.	n.a.	34,577
Current Level Under Adjusted Budget Resolution	928,108	586,703	n.a.

SOURCE: Congressional Budget Office

NOTES: n.a. = not applicable; P.L. = Public Law

[1] Pursuant to section 204(a) of S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. The amounts so designated for fiscal year 2008, which are not included in the current level total, are as follows:

	Budget Authority	Outlays	Revenues
U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (P.L. 110–28)	605	48,639	n.a.

[2] Excludes administrative expenses of the Social Security Administration, which are off-budget.

[3] S. Con. Res. 21, as adjusted pursuant to section 207(t), assumed $605 million in budget authority and $48,639 million in outlays from emergency supplemental appropriations. Such emergency amounts are exempt from the enforcement of the budget resolution. Since current level totals exclude the emergency requirements enacted in P.L. 110–28 (see footnote 1), budget authority and outlay totals specified in the budget resolution have also been reduced (by the amounts assumed for emergency supplemental appropriations) for purposes of comparison.

[4] Section 207(c)(2)(E) of S. Con Res. 21 assumed $145,162 million in budget authority and $65,754 million in outlays for overseas deployment and related activities. Pending action by the Senate Committee on Appropriations, the Senate Committee on the Budget has directed that these amounts be excluded from the budget resolution aggregates in the current level report.

TREASURY CONFERENCE

Mr. SMITH. Mr. President, I rise today to commend Treasury Secretary Paulson and his staff at the Treasury Department for convening the Treasury Conference on Business Taxation and Global Taxation. The purpose of this conference is to examine ways our current business tax system affects economic growth, job creation, and competitiveness. This is a very important issue that requires our immediate attention.

Today American companies compete in a global market. In the 1960s, trade in goods to and from the United States represented just over 6 percent of GDP. Today, it represents over 20 percent of GDP, a threefold increase. The U.S. role in the global economy also is quite different. Forty years ago, the United States was dominant, accounting for over half of all multinational investment in the world. Yet, today the United States economy represents 20 percent of global GDP.

However, our Tax Code has not kept up with the globalization of the U.S. economy. The rules are outdated and penalize U.S. economic interests by hindering American businesses' ability to effectively compete in our global economy.

The most significant demonstration of our Tax Code's inadequacies is the corporate tax rate. As Treasury stated in its conference materials, since 1980, the United States has gone from a high corporate tax-rate country to a low-rate country and back again to a high-rate country today. According to research done by the Tax Foundation, the United States has the second highest corporate tax rate in the OECD. The only country with a higher corporate tax rate is Japan. The U.S. corporate tax rate is higher than the rate in all European Union countries.

Furthermore, the United States is one of only two OECD countries that has not reduced rates since 1994—and one of only six OECD countries that have not reduced rates since 2000. According to KPMG, the average corporate tax rate in the European Union has fallen from 38 percent in 1996 to 24 percent in 2007. The United States has an average corporate tax rate of about 39 percent, including State level corporate taxes. The U.S. rate has not dropped recently. In fact, the last time Congress acted on the corporate tax rate, we actually raised it.

According to a recent Treasury study, a country with a tax rate 1 percentage point lower than another country's attracts 3 percent more capital. Therefore, this international trend of lower corporate tax rates is not surprising, and it is critical that the United States follow suit.

A high corporate tax rate is not good for American businesses—or our economy. A high rate deters corporate investment in the United States. It also incentivizes companies to shift their profits to lower tax jurisdictions. To attract businesses and profits to America, we need to lower our corporate tax rate.

This fall I plan to introduce legislation that will lower our corporate tax rate. I look forward to working with the administration and Congress in enacting this important reform. And I once again applaud the Treasury Department for examining our broken corporate tax code.

HONORING OUR ARMED FORCES

SERGEANT JOHN R. MASSEY

Mrs. LINCOLN. Mr. President, Arkansas lost another great young patriot last week when Sergeant John R. Massey of Judsonia, AR, died from combat wounds after an improvised explosive device detonated near his vehicle in Baghdad. Sergeant Massey was a member of the Arkansas National Guard's C Battery, 2nd Battalion, 142nd Fires Brigade based in Ozark, AR.

Sergeant Massey was remembered by friends and family as a good father who enjoyed playing with his kids, spending time with his family, and riding his Harley-Davidson motorcycle. Major General William D. Wofford also shared stories about Sergeant Massey's dedication to serve. According to the Arkansas Democrat Gazette, Wofford had been told by Sergeant Massey's father that he had always wanted to be in the military and that ''this is the way John would have wanted to go out—as a soldier.'' A fellow soldier noted, ''All you needed to tell him was when and where, and it would be done.'' In fact, Wofford recalled once asking Massey if he would like to give up his spot manning a .50 caliber machine gun in the turrets of his armored patrol vehicle. According to Wofford, Sergeant Massey said, ''You can order me out of the turret . . . That's the only way I'm leaving.'' When it was all said and done, Major General Wofford said that ''Sergeant. Massey stayed in the turret until the very end.''

Sergeant Massey was posthumously awarded the Bronze Star and Purple Heart, as well as the Arkansas Distinguished Service Medal. He is survived by his wife Amanda ''Mandy'' Massey; two daugthers, Monica and Emily; son Joseph; mother Deborah Massey; and father Ray Massey; as well as other relatives and friends.

SPECIALIST ROBERT D. VARGA

Mr. President, I also rise to recognize SPC Robert D. Varga of Monroe City, MO, who died on July 15, 2007, from noncombat related injuries in Baghdad. Rob and his wife, Ellie Madder Stone, called Little Rock, AR, home and were married last year on September 5, 2006.

According to Specialist Varga's mother, Cecilia Varga, he was in the Army to serve his country and further his education. He came from a military family: his father served in Vietnam, grandfather served in World War II, and two brothers-in-law served in Iraq. Specialist Varga joined the Army in 2003 and was originally deployed as a cook with the Headquarters and Headquarters Detachment, 759th Military Police Battalion. After his first deployment, he switched duties and trained with the military police. He was then assigned to the 984th Military Police Company in October 2005.

He received many military honors, including the Combat Action Badge, Army Commendation Medal, Army Good Conduct Medal, Iraq Campaign Medal, Global War on Terror Service Medal, Army Service Medal, Army Service Ribbon, and National Defense Service Medal.

Family members remembered him for his outgoing personality and his love of cooking and drawing. He is survived by his wife Ellie; his father and mother, Frank and Cecilia Varga; sisters Pamela Poelker, Carey Noland, and Amanda Reimann; paternal grandmother, Marge Varga; maternal grandparents, Glen and Charlotte Little, as well as numerous nephews and nieces.

THE CYPRIOT PEACE PROCESS

Mr. BIDEN. Mr. President, 1 year ago this month, the United Nations Under Secretary-General for Political Affairs, Ibrahim Gambari, presided over a joint meeting between the President of the Republic of Cyprus, Tassos Papadopoulos, and the head of the Turkish Cypriot community, Mehmet Ali Talat. Their discussions reaffirmed a commitment by both sides to forge a lasting peace on Cyprus and push forward with talks to that end.

In the months since that meeting, the Cypriot peace process has stagnated. The talks that both sides agreed to never took place, and petty disputes over bureaucratic issues have stymied progress on substantive negotiations. Simply put, the people of Cyprus deserve better.

A generation of Cypriots has now grown to adulthood estranged from their peaceful shared history and their promising shared destiny. I believe we must correct this wrong before others on the island endure a similar fate. Unless the peace process begins to move at a much faster pace, that may not happen.

In the last few days, there have been some signs of progress but also troubling indications that the paralysis of the past year might continue. President Papadopoulos invited Mr. Talat to discuss the peace process, a significant step in the right direction. However, Mr. Talat—after first accepting the invitation—later claimed that it was not the right time for a meeting. I sincerely hope he will change his view and that the resulting discussions will yield real results. Neither side can afford to engage in another round of foot-dragging. I do not want to look back in a year on another anniversary of missed opportunities.

Since 2003, there have been millions of peaceful crossings at the Green Line that segregates the island's two communities. Cypriots of all ethnicities

have clearly demonstrated their ability to coexist. It is time for political leaders to bring their policies in line with the actions of their people. As part of that process, Turkey should begin the withdrawal of troops from Cyprus. The presence of these forces is neither justified nor necessary and complicates efforts to return the island to a state of lasting peace.

Mr. President, as I have said before, the reunification of Cyprus will have significance far beyond the Mediterranean. The island could serve as an example of how different ethnic groups can overcome past wrongs, bridge differences, and live together as neighbors. I am confident that future generations of Cypriots can serve as such a model and, in doing so, enjoy the peace that they rightly deserve. I hope that their political leaders will move quickly to afford them that opportunity.

NATIONAL DAY OF THE AMERICAN COWBOY

Mr. ENZI. Mr. President, I rise to remember my dear friend and colleague, Senator Craig Thomas. Craig was a champion for Wyoming, the West, and its values. Every year, for the last several years, Craig championed a resolution honoring the American cowboy. A true cowboy in his own right, Craig sought to honor those who serve as stewards of the land, embody the courageous and daring spirit of the West, and uphold the values of freedom and responsibility that we all cherish.

I was proud to support my friend in this endeavor over the years to honor these great individuals, and today, I am pleased the President has also stated his support for the National Day of the American Cowboy. As cowboys, cowgirls, family, and friends gather on July 28, 2007, to celebrate at Cheyenne Frontier Days and nationwide, I extend my best wishes to all.

FDA LEGISLATION

Mr. GRASSLEY. Mr. President, I am here today to speak about S. 1082, the Food and Drug Administration Revitalization Act, and H.R. 2900, the Food and Drug Administration Amendments Act of 2007.

The Senate passed S. 1082 in May and the House passed H.R. 2900 earlier this month. As the House and Senate go into conference and work to resolve differences between these two bills, I urge my colleagues to keep in mind the public's interest.

Both bills contain provisions that attempt to address some of the problems that have been plaguing the FDA over the past 3 years. Some of these issues are better addressed by the Senate bill and others by the House bill.

I am going to spend the next few minutes to comment on what the bills don't do and point out some of the provisions that I believe are important to improving drug safety at the FDA that will benefit all Americans.

Two months ago, I offered amendment No. 1039 to S. 1082, because I believed—and still believe—that S. 1082 does not address a fundamental problem at the Food and Drug Administration—the lack of equality between the preapproval and postapproval offices of the agency, the Office of New Drugs and the Office of Surveillance and Epidemiology, respectively. The Office of New Drugs approves drugs for the market, while the Office of Surveillance and Epidemiology monitors and assesses the safety of the drugs once they are on the market.

My amendment was intended to curb delays in FDA actions when it comes to safety.

The Institute of Medicine recognized the imbalance between the Office of New Drugs and the Office of Surveillance and Epidemiology and recommended joint authority between these two offices for postapproval regulatory actions related to safety. My amendment did just that.

While I believe an independent postmarketing safety center is still the best solution to the problem, joint postmarketing decisionmaking between the Office of Surveillance and Epidemiology and the Office of New Drugs at least would allow the office with the postmarketing safety expertise to have a say in what drug safety actions the FDA would take.

Unfortunately, this amendment lost by one vote. But the fact that it lost by such a narrow margin demonstrates that many of my Senate colleagues also recognize the seriousness of this problem and believe action by Congress is necessary.

I have seen time and time again in my investigations that serious safety problems that emerge after a drug is on the market do not necessarily get prompt attention from the Office of New Drugs, the office that approves drugs to go on the market in the first place. We saw this with Vioxx and more recently with the diabetes drug Avandia.

FDA has disregarded and downplayed important concerns and warnings from its own best scientists. We saw evidence of that in the way FDA treated Dr. Andrew Mosholder's findings on antidepressants and Dr. David Graham's findings on Vioxx. The FDA even attempted to undermine the publication of Dr. Graham's findings in the journal Lancet.

My current review of FDA's handling of Avandia has unearthed concerns similar to those we have seen in the past—a situation where FDA ignored its own postmarketing safety experts and once again left the public in the dark regarding potential, serious health risks.

Not only did the FDA disregard the concerns and recommendations from the office responsible for postmarketing surveillance, but I have found that it also attempted to suppress scientific dissent.

As I have said many times before, FDA employees dedicated to postmarketing drug safety should be able to express their opinions in writing and independently without fear of retaliation, reprimand, or reprisal. But in the past 2 months, I have had to write to the FDA regarding the suppression of dissent from not one but two FDA officials involved in the review of Avandia.

Last month, I expressed concerns about FDA's treatment of the former Deputy Director of the Division of Drug Risk Evaluation. I urged the Commissioner to take appropriate corrective actions. That deputy director had been verbally reprimanded because she signed off on a recommendation that a black box warning be placed on Avandia for congestive heart failure.

This week, I wrote to the Commissioner about a senior medical officer in the Office of New Drugs who was removed from the review of potential cardiovascular safety problems associated with Avandia. This medical officer also believed that there was enough evidence to support a black box warning on Avandia regarding congestive heart failure. But I guess that FDA management just did not want to hear about drug safety problems—again.

Of the two bills up for discussion, neither the Senate nor the House version will give postmarketing surveillance the equal footing it deserves with drug approval. But I appreciate the attempt by my colleagues in the House to provide some transparency in FDA's postmarketing drug safety system. Transparency is the key to accountability. In particular, I welcome the provision in H.R. 2900 that would require FDA to report to Congress on drug safety recommendations received in consultation with, as well as the reports from, the Office of Surveillance and Epidemiology. If FDA does not act on a recommendation from the Office of Surveillance and Epidemiology or it takes a different action, the agency would be required to provide its justification to Congress.

In its report released last fall, the Institute of Medicine called for specific safety-related performance goals in the Prescription Drug User Fee Act, PDUFA, of 2007 to restore balance between speeding access to drugs and ensuring their safety.

I have heard from FDA employees that because of the PDUFA deadlines, the staff in the Office of New Drugs is under tremendous time pressure to approve new drugs quickly, so safety concerns often needed to be ''fit in'' wherever they could. This reinforces a point I have frequently made in the past—the Office of New Drugs doesn't give postmarketing drug safety the attention or priority it deserves.

The House bill attempts to address this, in part, by requiring that postmarketing safety performance measures be developed that are ''as measurable and rigorous as the ones already developed for premarket review.''

S. 1082 requires that the Secretary assess and implement the risk evaluation and management strategies in

consultation with the Office of New Drugs and the Office of Surveillance and Epidemiology. It also calls for a report to Congress on the assessment of that coordination.

The requirement that these two offices be consulted doesn't necessarily change the status quo. The Office of Surveillance and Epidemiology is still just a consultant to the Office of New Drugs, and the Office of New Drugs decides—and will continue to decide—what, if any, action will be taken to address a safety issue. But I hope that requiring that the office responsible for postmarketing surveillance be at the table would encourage FDA to better define the role of this office on drug safety matters and give this office a greater voice, albeit a limited one.

Last fall, the Government Accountability Office reported that the Office of New Drugs typically sets the agenda and chooses the presenters at FDA's scientific advisory meetings. The GAO recommended that the role of the Office of Surveillance and Epidemiology be clarified. After all, this office is the expert on postmarketing safety matters.

This week, Senator BAUCUS and I sent a letter to the FDA to express concerns regarding an upcoming advisory committee meeting on Avandia. As usual, the Office of New Drugs is setting the agenda here. We pointed out to the FDA that it doesn't make sense that it is the drug approval office and not the postmarketing safety office that controls the advisory committee meeting convened for the purpose of discussing postmarketing safety matters.

In addition to the provisions I have mentioned so far, both the Senate and House bills would give FDA the much needed authorities to require labeling changes and postapproval studies; however, the House bill includes additional provisions outside of the risk evaluation and management strategy process that is established under both bills.

The House bill specifically enables the Secretary to initiate action on drug labeling and postapproval studies. For example, outside of the risk evaluation and management strategy process, the Secretary may require a manufacturer to conduct postapproval research to assess or identify potential health risks.

Another provision that would improve transparency at the FDA is a provision in the Senate bill that requires FDA to post on its Web site, the ''action package'' for the approval of a new drug within 30 days of approval. That action package would contain any document generated by the FDA related to the review of the drug application, including a summary review of all conclusions and, among other things, any disagreements and how they were resolved.

Further, in light of the many allegations that FDA safety reviewers are sometimes coerced into changing their scientific findings, I believe it is critical that the following provision in S. 1082 survives the legislative conference process—the provision that states that a scientific review of a drug application must not be changed by FDA managers or the reviewer once it is final.

S. 1082 also requires FDA to seek outside expert opinions on drug safety questions at least two times a year from its Drug Safety and Risk Management Advisory Committee and other advisory committees.

Another important provision in S. 1082 is a requirement that FDA establish and make publicly available clear, written policies on the review and clearance of scientific publications by FDA employees.

Some of the stronger provisions regarding the expansion of the clinical trial registry come from the House bill. While both bills address clinical trial registration, the House bill adopts a much broader definition of applicable clinical trials. ''Thus, information about many more trials would be made publicly available through the Internet under the House bill.''

Clinical trial registries serve an important function—they foster transparency and accountability in health-related research and development by ensuring that the scientific and medical communities and the general public have access to basic information about clinical trials. Mandatory posting of clinical trial information would help prevent companies from withholding clinically important information about their products.

I have heard from some scientists that they can't disclose the findings of their studies because the data belongs to the manufacturer. It is up to the manufacturer to decide if and when the results would be published, and those results don't always see the light of day.

But scientists need access to all of the evidence to conduct a full and independent review of a product's safety. However, we know that relevant data are not always made available for further review by independent scientists. While the House bill does not require manufacturers to share its data with other scientists, it does require the sponsor of a study to report whether or not agreements were made restricting individuals from discussing or publishing trial results.

In addition, for FDA's new authorities to be effective, there has to be strong civil monetary penalties. In May, I also offered amendment No. 998 to S. 1082. That amendment passed.

Amendment No. 998 provides for the application of stronger civil monetary penalties for violations of approved risk evaluation and mitigation strategies.

While significant monetary penalties may be imposed under the House bill for continuous violations, the minimum penalty for a violation under the Senate bill would be higher because of my amendment. We need to make sure that we're giving FDA, the watchdog, some bite to go with the bark. If monetary penalties are nothing more than the cost of doing business, you won't change behavior. More importantly, you can't deter intentional bad behavior.

In closing, I would like to thank Senators KENNEDY and ENZI and Congressmen DINGELL and BARTON for their tremendous efforts on these bills. We have an opportunity to reform, improve, and reestablish the FDA as the gold standard for drug safety. If Congress is going to make meaningful changes to the FDA to increase transparency and accountability, it is critical that the provisions I have discussed today make it into the bill that comes out of conference. To do less would deny the American people safer drugs when they reach into their medicine cabinets.

HONORING THE PRESIDENT OF THE REPUBLIC OF CYPRUS

Mr. BAYH. Mr. President, I believe that Members of the Senate and House of Representatives will be pleased that two of our distinguished former colleagues were this month honored by President of the Republic of Cyprus, Tassos Papadopoulos.

In ceremonies on July 3 at the Presidential Palace in Nicosia, the capital of Cyprus, President Papadopoulos bestowed on Senator Sarbanes and Congressman Brademas the Grand Cross of the Order of Makarios III.

John Brademas, who served for 22 years as Representative in Congress from the District centered in South Bend, IN, was author or coauthor of much of the legislation enacted during those years in support of schools, colleges, and universities; libraries and museums; the arts and the humanities. In his last 4 years, he was Majority Whip of the House of Representatives.

Paul Sarbanes served in the House of Representatives for 6 years and the Senate for 30 years. As chair of the Senate Committee on Banking and Urban Affairs, he was principal author of the Sarbanes-Oxley Act of 2002, to ensure integrity in corporate governance.

Both John Brademas and Paul Sarbanes were Rhodes scholars and so studied at Oxford University, from which both earned degrees. John Brademas also graduated from Harvard University and Paul Sarbanes from Princeton University and the Harvard Law School.

John Brademas was the first native-born American of Greek descent elected to Congress, House or Senate; Paul Sarbanes was the first Greek-American elected to the Senate. I note that his son, JOHN SARBANES, was last November in Maryland elected to Paul's former seat in the House of Representatives.

While in Nicosia, both former Senator Sarbanes and former Congressman Brademas also visited the HSPH-Cyprus International Initiative for the

Environment and Public Health, a program associated with the Harvard School of Public Health.

At this point in the RECORD, I ask unanimous consent that the remarks of President Papadopoulos of the Republic of Cyprus at the Presidential Palace, Nicosia, Cyprus, on July 3, 2007, be printed in the RECORD.

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

REMARKS OF PRESIDENT TASSOS PAPADOPOULOS OF THE REPUBLIC OF CYPRUS

Senator Sarbanes; Congressman Brademas; Your Eminence, Archbishop Chrysostomos; Your Eminence, Archbishop Demetrios; Ambassador Schlicher; distinguished friends and guests,

It gives me great pleasure to welcome you tonight at the Presidential Palace in order to pay tribute to two long-standing and unwavering supporters of the people of the whole of Cyprus, Senator Paul Sarbanes and Congressman John Brademas.

I have had the privilege of knowing both these distinguished gentlemen for many years and I consider them to be among the most ardent, tireless and unflinching supporters for the just cause of Cyprus in the United States.

Senator Sarbanes and Congressman Brademas ably represented the people in their respective constituencies for decades, as well as successfully advancing the aspirations and objectives of the Hellenic American Community. I can think of no other two people who have done more for the nurturing of closer bonds between the people of Cyprus and the United States of America. I have always held the view and have declared on several public occasions that the first loyalty of Americans of Greek origin is to their host country, the United States of America. When, however, the best interests of the United States and the rules of international law and practice are not incompatible with the special interests of Greece and of Cyprus, we hope and expect that they will lean towards and publicly remember their ethnic roots. Both gentlemen have admirably honoured these principles.

For all these reasons, the Government of the Republic of Cyprus has decided to pay tribute to their life-long commitment to the Rule of Law, ''justice for Cyprus'', for the condemnation of the Turkish invasion of Cyprus, for the end of the occupation of Cyprus soil by Turkish troops, for the end of the massive violations of human rights in Cyprus by Turkey and for promoting a just, functional and lasting solution to the Cyprus issue.

JOHN BRADEMAS

John Brademas was born in Mishawaka, Indiana, of Greek parentage. He was elected to the United States Congress in 1958 as a Representative of Indiana's Third District, thus becoming the first U.S.-born Greek-American to be elected to the United States Congress and paving the way for, among others, Paul Sarbanes, Paul Tsongas and Mike Bilirakis.

He represented his district for twenty-two years (1959–1981), the last four as Majority Whip for the Democratic Party. Upon leaving Congress, Dr. Brademas served as President of New York University from 1981 to 1992 and has since been President Emeritus. He has been integral in establishing a close-knit relationship between Cyprus and New York University, examples of which are the current excavations in Yeronisos under Professor Joan Connelly and the Cyprus Global Professorship on History and Theory of Justice, which I will have the honour of inaugurating in September.

PAUL SARBANES

Paul Sarbanes was born in Salisbury, Maryland, of Greek parents. After serving in the Maryland House of Delegates for four years, he was elected to the United States Congress in 1970 and served in the House of Representatives for six years.

In 1976 he was elected to the United States Senate for the State of Maryland and was re-elected four more times, serving for a total of thirty years, before retiring this January. As Chair of the Senate Banking and Urban Affairs Committee in 2001–02, he was the main architect of the 2002 Sarbanes-Oxley Act, which effectuated one of the most significant changes to United States Securities laws in over 70 years.

As impressive as their domestic record, it is the steadfast support for the just cause of Cyprus of Senator Sarbanes and Congressman Brademas which brings us here today.

Immediately after the Turkish invasion of 1974, John Brademas and Paul Sarbanes, with the help of the late Congressman Benjamin Rosenthal of New York and Senator Thomas Eagleton of Missouri, who recently passed away, led the successful effort of enforcing an arms embargo against Turkey. As Dr. Brademas put it himself, Paul Sarbanes and he were not the Greek lobby, but the ''rule of law lobby''.

This last notion forms the cornerstone of their support towards Cyprus. Both men have for many years advocated for a just solution to the Cyprus problem, not only because it is a Hellenic issue, but because it is essentially a rule of law and human rights issue, under United States law. Only a solution based on the relevant Security Council Resolutions and in accordance with the principles of international law, as well as the Acquis Communautaire of the European Union, can secure a permanent, viable and stable solution, which will benefit all Cypriots. Such a solution, which is not tailor-made for the satisfaction of outside parties, will enhance the stability of the Eastern Mediterranean and is conducive to the interests of the United States.

THE RULE OF LAW

John Brademas and Paul Sarbanes consistently advanced the cause of Cyprus throughout their political careers. In so doing, they have been the embodiment of values cherished by America, such as the rule of law, respect for human rights and democratic governance, which are, alas, all too often swept aside for reasons of political expedience.

Tonight's honourees, have been exceptional leaders of the Greek-American Community. I would be remiss if I did not dedicate a few words towards the Hellenic diaspora in the United States. The President of the Cyprus Federation of America, Mr. Peter Papanicolaou, is amongst us today, so I take this opportunity to convey through him the sincere appreciation of the Cypriot people for the Community's tireless support and to urge you, dear Peter, to continue with your efforts until Cyprus is free and freely reunified, in its territory, society, institutions and economy.

I would also like to welcome again to Cyprus the spiritual leader of the community, His Eminence, Archbishop Demetrios, and to thank him for his efforts to stop the pillage and destruction of Cyprus' religious and cultural heritage in the occupied area.

Before I conclude my remarks, I wish to once again express the heartfelt gratitude and appreciation of the Government and people of Cyprus to Paul Sarbanes and John Brademas for their unwavering commitment, all these years, and to wish them the best of luck for all their future endeavors.

Mr. BAYH. Mr. President, at this point in the RECORD, I ask unanimous consent that the remarks of former Congressman Brademas on this occasion be printed in the RECORD. Senator Sarbanes responded extemporaneously on this occasion.

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

REMARKS OF DR. JOHN BRADEMAS PRESIDENT EMERITUS, NEW YORK UNIVERSITY AND FORMER MEMBER, INDIANA, 1959–1981, UNITED STATES HOUSE OF REPRESENTATIVES

President Papadopoulos; Your Eminence, Archbishop Chrysostomos; Your Eminence, Archbishop Demetrios; Ambassador Schlicher; distinguished guests and friends all, I want to express to you, Mr. President, my deepest appreciation for the high honor that you do my colleague and valued friend, Senator Paul Sarbanes, and me with the award of the Grand Cross of the Order of Makarios III.

I want to recognize as well Dr. Phillip Mitsis, Alexander S. Onassis Professor of Hellenic Culture and Civilization and Professor of Classics at New York University, and his wife, Sophia Kalantzakos, a Member of the Parliament of Greece.

Let me here also thank the distinguished Ambassador of the United States to the Republic of Cyprus, His Excellency, Ronald L. Schlicher, for having this week so graciously received Senator and Mrs. Sarbanes, my wife and me.

It was nearly one year ago, on September 8, 2006, that I had the privilege of welcoming to New York University the distinguished President of the Republic of Cyprus, His Excellency, Tassos Papadopoulos, and now I am pleased to be in the country he so faithfully serves as leader.

I hope, Mr. President, and ladies and gentlemen, you will allow me a few words to say why this honor is so meaningful to me.

As most of you know, I am the first native-born American of Greek origin elected to the Congress of the United States—my late father was born in Kalamata.

I was for 22 years a Member of the House of Representatives, from the State of Indiana.

In Congress, I was a member of the committee with responsibility for education legislation and so helped write all the laws enacted during those two decades and two years to support schools, colleges and universities; libraries and museums; the arts and the humanities. And in my last four years, I served as the Majority Whip of the House of Representatives, part of the Leadership of the Democratic Party.

In 1981 I became president of New York University or, as we call it, NYU, the largest private university in my country. I am now president emeritus.

SENATOR PAUL SARBANES

I am so pleased that my distinguished friend, United States Senator Paul Sarbanes of Maryland, is here with his lovely wife, Christine, and am, of course, delighted that my brilliant and beautiful physician wife, Mary Ellen, has joined me for this ceremony.

And I want to thank my dear cousin, Anna Bredima-Savopoulou, Counsel for the Union of Greek Shipowners, for having flown here from Athens to be on hand for this ceremony. I am very proud of Anna's accomplishments.

Paul Sarbanes, as you know, for many years a leading member of the United States Senate and, indeed, the first Greek-American elected to the Senate, and a valued ally in the struggle for justice for Cyprus, is someone I have often described as ''a modern Pericles''.

I am delighted that Paul's son, John Sarbanes, was last November elected to represent Paul's former constituency in the

House of Representatives even as I'm pleased to say that only a few weeks ago, Michael Sarbanes, another son of Paul and Christine, has announced his candidacy for the presidency of the City Council of Baltimore. Obviously, politics runs in the Sarbanes family!

I'm glad, too, to welcome some other friends from my days in Washington, including the distinguished former Ambassador of Cyprus to the United States, Andreas Jacovides, and his wife, Pamela, as well as two great champions of the Hellenic cause in my country and, indeed, the world, Andrew Athens and Andrew Manatos.

I'm pleased also that two vigorous voices of the Cypriot community in the United States are here today, Phillip Christopher and Panicos Papanicolaou.

I'm glad as well to greet a colleague from New York University, an outstanding scholar, Professor Joan Breton Connelly, leader of the excavation of Yeronisos Island and of an international team there. Professor Connelly has just published a magnificent book, Portrait of a Priestess: Women and Ritual in Ancient Greece, which has won splendid reviews in the New York Times and New York Review of Books.

And I must salute that eminent archaeologist, Professor Vassos Karageorghis, director of the Anastasios G. Leventis Foundation.

LINKS WITH CYPRUS

I have still other links with Cyprus.

I serve on the international advisory counsel of The Pharos Trust, that splendid chamber of cultural activity in Cyprus, led by Garo Keheyan. And as a graduate of Harvard University, I'm pleased also to serve on the Executive Council of the Cyprus International Initiative for the Environment and Public Health—Harvard School of Public Health. And as I'm recalling connections, I'm glad again to see a respected Cypriot businessman, George Paraskevaides, and his wife, Thelma.

Tonight I recall that it was nearly ten years ago in June of 1998, that I had the privilege of visiting the University of Cyprus and being received by its distinguished Rector, Professor Dr. Miltiades Chacholiades, and of addressing members of the Cyprus Chamber of Commerce & Industry and Cyprus American Business Association.

Of course, particularly meaningful, all the more so in light of the decoration Paul Sarbanes and I are today receiving, is the trip Paul and I made in August 1977 when we came here for the funeral of the great leader of the Cypriot people, His Eminence, Archbishop Makarios.

The connection, however, with Cyprus of which some of you may be most aware is the one of which I shall say a few words now.

In 1967, when a group of Greek colonels overthrew young King Constantine of Greece, I, the only Greek-American in Congress, sharply attacked the coup. I refused to visit Greece or go to the Greek Embassy in Washington and I publicly opposed U.S. military aid to Greece, arguing that as Greece was a member of NATO, which championed freedom, democracy and the rule of law, none of which values the Greek military junta supported, the United States should not be sending them arms.

TURKISH INVASION OF CYPRUS

In July 1974, the junta attempted to overthrow Archbishop Makarios, President of Cyprus, an action that brought the downfall of the colonels but also triggered two invasions of Cyprus by Turkish armed forces, forces equipped with weapons supplied by the United States, a legal ''No-No''.

So I led a group of several Members of the House of Representatives, including then Representative Sarbanes, to call on the Secretary of State, Henry Kissinger, and we told him that as American law mandated an immediate halt to further shipment of arms to any country using American weapons for other than defensive purposes, he should enforce the law and impose an embargo on further U.S. arms to Turkey.

As this was the same week that Richard Nixon resigned the presidency, I reminded Secretary Kissinger that the reason Mr. Nixon was on his way in exile to California was that he had not respected the laws of the land or the Constitution of the United States.

''You should do so,'' I told Kissinger.

He and the new President, Gerald R. Ford, refused to enforce the law, and, therefore, we in Congress did.

I remind you that the United States has a separation-of-powers constitutional system, not a parliamentary system! So in 1974, Congress voted an embargo on sending further American weapons to Turkey. As I have from time to time heard criticisms, in respect of the role of ''the Greek lobby'' in Congress, I observe that when we voted the embargo on further U.S. arms to Turkey, there were only five of us of Greek origin in Congress, all in the House of Representatives: John Brademas, Paul Sarbanes, Peter Kyros, Gus Yatron—all Democrats, all of whom supported the embargo—and one Republican, Skip Bafalis, who voted against it. There were at that time no Americans of Greek descent in the Senate.

Accordingly, this so-called ''Greek lobby'' was effective because of the validity of our arguments and, if I may say so, of our work to generate support for our position not only among Greek-Americans across the country but among other Americans who shared our views.

''THE RULE OF LAW LOBBY''

We were ''The Rule of Law Lobby''!

I shall not here take time to review with you my subsequent experience when President Jimmy Carter, to my distress, as I generally supported his Administration, called on Congress to support lifting the embargo on Turkey despite the fact that there had been no action to resolve the Cyprus question.

Here I must pay tribute to my friend of many years, Costa Carras, founder in London of ''Friends of Cyprus'' who has continued to call attention to the issue that concerns us all—justice for Cyprus. In my view, finding a just resolution for Cyprus is an indispensable requirement as the European Union considers the application for membership of Turkey even as I believe there are other commitments Turkey must make if it wishes to join the EU.

First, of course, is that Turkey comply with the so-called Copenhagen criteria, which include respect for minorities, respect for human rights, respect for decent treatment of peoples.

Certainly it is not rational that a European Union member-state militarily occupy another EU member-state, and Cyprus is now a member of the European Union.

As today there are over 40,000 Turkish armed forces in Cyprus, their continued presence, if Turkey were in the European Union, would be an offense to common sense.

I add that there are an estimated 160,000 Turkish settlers in northern Cyprus while there are only 100,000 Turkish Cypriots!

A second point: It is also unreasonable for one member of the European Union to refuse to give diplomatic recognition to the existence of another member, and as we all know, Turkey has refused to recognize the Republic of Cyprus.

So these then are two of the conditions—removal of Turkish troops and diplomatic recognition of Cyprus—that it seems to me must be met by the Government of Turkey as it seeks to join the European Union and take advantage of the benefits of such membership.

If a just settlement on Cyprus is one issue related to Turkey's desire to join the European Union, there is another of which I shall say a word.

ATTACKS ON ECUMENICAL PATRIARCHATE

Three years ago, His Eminence, Archbishop Demetrios, Primate of the Greek Orthodox Church in America, testified on Capitol Hill before the United States Helsinki Commission. His Eminence and religious leaders of other traditions voiced their concern about the systematic efforts on the part of Turkey to undermine the Orthodox Church and the Ecumenical Patriarchate.

I cite, by way of example, the expropriation by Turkish authorities of properties of Christian Orthodox communities, the refusal by the Turkish Government to accord recognition as a legal entity to the Ecumenical Patriarchate, the shutdown of the Halki School of Theology and other attacks on religious minorities—Greek Orthodox, Armenian Orthodox, Roman Catholics, Jews.

For an impressive analysis of Turkish persecution of religious minorities, I refer you to the report issued only in May of this year by the United States Commission on International Religious Freedom.

And I could add the powerful statement on religious freedom made by Congressman Tom Lantos of California, chairman of the Committee on Foreign Affairs of the United States House of Representatives, also last May. Chairman Lantos sent a letter to Turkish Prime Minister Erdogan urging him to take several steps to liberalize Turkey's policies toward the Ecumenical Patriarchate, once and for all.

Forty-two of Chairman Lantos' Committee colleagues, Democrats and Republicans, signed the letter urging the Turkish Government to stop trying to bully the Ecumenical Patriarchate into extinction.

You here better than I can speak of the desecration of Greek Orthodox churches in Turkish-occupied Cyprus.

Let me conclude. As one who in the year 2001, in an address at the Bosphorous University in Turkey, said that I wanted to see a democratic Turkey, Turkey part of Europe and Turkey in the European Union, provided that country comply with the Copenhagen criteria, including respect for human rights, I must tell you that in 1974, when Paul Sarbanes, our colleagues and I in Congress voted an embargo on further American arms to Turkey, we made clear that for us this decision was a matter of respecting the rule of law—a point I have made earlier.

Paul Sarbanes and I, to repeat, were leaders of ''The Rule of Law Lobby''!

Paul Sarbanes and I and many of our former colleagues in Congress—and I regret that I cannot include the present President of the United States in this regard—will continue to call on respect for the laws of our own country even as we will continue to urge justice for the brave people of Cyprus.

President Papadopoulos, thank you again for the great honor that you do Senator Sarbanes and me.

LANDMINES IN COLOMBIA

Mr. LEAHY. Mr. President, the people of Colombia have endured decades of civil conflict characterized by widespread killings and disappearances of civilians perpetrated by rebel groups and paramilitary death squads, sometimes with the active participation of government security forces. In recent

years, both rebels and paramilitaries have financed their illegal activities through the sale of cocaine, which has also corrupted government institutions.

Each year since the inception of Plan Colombia, the United States has provided Colombia with more than half a billion dollars in mostly military and counter-drug assistance, totaling more than $5 billion.

The primary goal of Plan Colombia, at least as sold to the Congress, was to decrease by half the amount of coca produced, resulting in commensurate reductions in the income derived from cocaine to the rebels and paramilitaries and the amount of cocaine entering the United States.

While there is no reliable evidence that Plan Colombia has affected either the price or availability of cocaine in the United States, the Office of National Drug Control Policy reports that profits from illegal drugs to the FARC rebels declined by about one-third between 2003 and 2005. This is welcome news. But whether this trend has continued since then or has ebbed and flowed like most other statistics relating to drug cultivation and trafficking in Colombia, is unknown. Unfortunately, it is also not yet apparent that this reported reduction in profits has affected the FARC's ability to operate.

While the majority of killings of civilians during the 7 years of Plan Colombia are attributed to paramilitaries, sometimes with the active or tacit support of government forces, the FARC has engaged in many atrocities, including attacks against civilian targets and kidnapping. But perhaps the most insidious of their crimes is the widespread use of landmines.

According to a report released yesterday by Human Rights Watch, casualties from landmines used by the FARC, as well as by another rebel group known as the ELN, have risen steadily in recent years. As is so often the case with landmines which are triggered indiscriminately by the victim, most of the casualties in Colombia have been civilians.

While the number of casualties did not exceed 148 a year in the 1990s, Human Rights Watch reports that last year the number was 1,107. This increase contrasts sharply with the worldwide decline in the use of these insidious weapons. In fact, Colombia is among the more than 150 nations that have signed or ratified the international treaty banning antipersonnel mines.

According to press reports, the FARC defends its use of mines by claiming that they are used only against government security forces, not civilians. That, however, is a specious claim, since mines are inherently indiscriminate. They will kill or maim whoever comes into contact with them, often months or years after they are laid. I have seen photographs of the horrific injuries suffered by both government soldiers and innocent civilians from rebel mines.

While the FARC, like others who continue to use landmines, would undoubtedly claim that their military utility justifies their continued use, I reject that argument. The harm to civilians and the contamination of the countryside caused by mines cannot be justified.

While there are programs to assist Colombia's mine victims with rehabilitation and vocational training, they are far from adequate. I have supported efforts to increase U.S. assistance. We are looking at ways to use the Leahy War Victims Fund to assist Colombian civilians who have been injured by mines, and we are supporting United for Colombia's efforts to obtain surgery in the U.S. for Colombian soldiers who have suffered grievous mine injuries.

I have been a consistent critic of human rights violations in Colombia where impunity remains a persistent problem. There have been thousands of killings of civilians, including of human rights defenders, union members, journalists, and others who have been targeted by one armed group or another. Hardly any of these crimes have resulted in convictions and punishment. But none of that excuses the continued use of landmines by the FARC and ELN. As I have said many times before, the use of landmines should be a war crime. It is barbaric; it is inhumane; it is indefensible.

INTERNATIONAL COMMISSION AGAINST IMPUNITY IN GUATEMALA

Mr. LEAHY. Mr. President, last week, I spoke in this Chamber about the current debate underway in Guatemala concerning the International Commission Against Impunity in Guatemala, CICIG. In my brief remarks I recalled the 30 years of civil war that caused widespread atrocities against civilians, particularly Guatemala's Mayan population. A substantial majority of those killings and disappearances were perpetrated by Guatemalan security forces.

Since the signing of the Peace Accords in 1996, most Guatemalans have tried to put the past behind them and rebuild their country. The United States and other donors have supported that effort.

But key aspects of the Peace Accords remain unfulfilled, and there has been no justice for the families of the war's many victims. Meanwhile, gang violence, drug trafficking, brutal killings of women, and attacks against human rights defenders and others who speak out against corruption and impunity have increased exponentially and threaten the very foundations of Guatemala's fragile democracy.

In recent years, the Guatemalan Government has worked with officials of the United Nations to draft the CICIG agreement, the latest version of which has been upheld by Guatemala's constitutional court.

The CICIG is necessary to expose the truth about clandestine groups and to bring accountability for the violence. Far from weakening national sovereignty, CICIG will support Guatemala by helping to strengthen the capacity of the country's dysfunctional judicial system.

On July 18, a majority of members of the International Relations Committee of the Guatemalan Congress, for reasons that only they can explain, voted against the CICIG agreement. Since then, several have changed their votes and I understand that on August 1 the full Congress will approve or reject the CICIG agreement or refer it to another committee.

The question of whether to approve CICIG is, of course, a decision solely for Guatemala's Congress to make. But the importance of this historic decision cannot be overstated for U.S.-Guatemalan relations and for Guatemala's future.

Guatemala, like many impoverished countries emerging from years of civil conflict, faces immense social, economic and political challenges. Without the support of countries like the United States in building its economy, promoting foreign investment and trade, and strengthening the institutions of democracy, Guatemala will lag behind its neighbors.

Today, that support hangs in the balance.

The Bush administration has voiced strong support for CICIG. The U.S. Congress has linked a resumption of U.S. assistance for the Guatemalan Armed Forces, in part, on approval of CICIG. In addition, I would be reluctant to support assistance for Guatemala to take part in any regional security initiative with the United States, unless CICIG is approved and supported. There is little point in trying to work with a government that fails to demonstrate a strong commitment to ending impunity and to combating gang violence and corruption, which have infiltrated the very institutions that would participate in such a strategy.

CICIG is nothing less than a choice between the past and the future. Rejecting this historic initiative an outcome most Americans would find inexplicable would signal that the Guatemalan Congress is more interested in protecting the forces of evil, and in covering up the truth, than in ending the lawlessness that is taking Guatemala backwards.

INTERNALLY DISPLACED PERSONS IN COLOMBIA

Mr. LEAHY. Mr. President, at a time when we are focused on the chaos in Iraq and the flood of Iraqis who have fled their homes and are living either as displaced persons in Iraq or as refugees in Jordan, Syria and elsewhere, I want to call attention to a humanitarian crisis in our own hemisphere.

In Colombia, a country of roughly 44 million people, over 3 million have

been internally displaced as a result of political and drug-related violence and the aerial spraying of chemical herbicides to eradicate coca. They are the second largest displaced population in the world after Darfur, Sudan. An average of 18,000 Colombians are uprooted every month, with more than 1 million forced to flee in the past 5 years alone, according to the United Nations High Commissioner for Refugees.

To put that in perspective, if the same ratio were applied to the United States, a country of roughly 300 million people, there would be over 20 million internally displaced Americans. That is a staggering number when you consider the burden they would place on public services and the environment. Colombia by comparison is a relatively poor country, and many of these people, the majority of whom are women and children, lack access to basic health care, sanitation, education, adequate shelter, or employment.

It is my understanding that Colombia has suitable laws for addressing the needs of the internally displaced, but the laws are too often ignored or poorly implemented. Insecurity and inadequate public services in isolated areas, where many of the displaced are located, hinder return to their homes and contribute to further displacement.

Recently, the House of Representatives passed a resolution calling on the Colombian Government and the international community to prioritize the needs of displaced persons, and recommending that the United States increase funding for emergency and long-term assistance.

The Senate version of the fiscal year 2008 State-Foreign Operations bill provides $40 million for assistance for displaced persons in Colombia. This is a $5 million increase above the President's budget request, which was woefully inadequate. As the White House urges Congress to continue funding aerial eradication programs which, despite billions of dollars, have failed to make an appreciable dent in the amount of coca under cultivation, one would like to think that at some point they will exhibit the same zeal for meeting the basic needs of Colombia's most vulnerable people.

RETIREMENT OF DAVID DEMAG

Mr. LEAHY. Mr. President, I wish to take a moment to recognize the career of a real-life hero who stands tall as one of the bravest and most dedicated public servants we have in Vermont if not anywhere—Police Chief David Demag of the town of Essex Police Department. After 36 years in law enforcement, Dave will hang up his uniform early next month and enter a well-earned retirement.

Dave comes from a family dedicated to police service—he is the fourth generation in his family to serve as a police officer. In fact, his great-grandfather and namesake, Chief David Demag, was the first chief of police of the Village of Essex in the early 1900s. It seems to me that it is only fitting that Dave will finish his law enforcement career in Essex, where his roots grow deep.

I am proud to be able to call Dave not only an accomplished Vermonter but also a good friend. We have known each other for years, having both started our careers in law enforcement in the city of Burlington. Dave began in 1971 as a patrol officer for the Burlington Police Department, and was promoted through the ranks as corporal, detective, sergeant, lieutenant and, finally, commander. In 1996, he was appointed chief of police in St. Albans, a post he held until May 2001, when he was named to Chief of Police in Essex.

When he began his law enforcement career in the early 1970s, Dave worked undercover on drug cases. One of the cases we worked together on—he as an undercover agent and me as the State's attorney for Chittenden County—set up a successful sting to catch Paul Lawrence, a corrupt cop who framed dozens of narcotics suspects. The Lawrence case remains the first item Dave cites as the most memorable moments of his professional life.

Known for his ability to earn and command respect from his employees and the public he serves, Chief Demag has led the Essex Police Department with a steady hand and a calm presence. He is credited with revitalizing the Essex Police Department and changing the way it trains and promotes officers. As chief, he has emphasized continuing education for members of the force and required promotions to be based on ability rather than length of service.

Dave's leadership was especially apparent last August when a gunman went on a shooting spree at three sites across Essex, including an elementary school, leaving two dead and three wounded, including the gunman himself. Taking swift and deliberate action, Dave and his officers ushered dozens of teachers and several children away from the chaos at Essex Elementary School and to safety as tactical-response officers wearing body armor and carrying automatic weapons moved in and surrounded the building.

As a U.S. Senator, I have been privileged to work with Chief Demag and have his vocal support on an array of initiatives—from bulletproof vests to first responder funding—that have helped make the lives and work of Vermont's and our Nation's police officers a bit easier. But what stands out most in my mind is his unwavering support for the Hometown Heroes Survivors Benefits Act, which became law in 2003 and expanded the Public Safety Officer Benefits, PSOB, Program by allowing survivors of public safety officers who suffer fatal heart attacks or strokes while acting in the line of duty to qualify for the Federal survivor benefits. Dave understood how important it was for that bill to become law because his father, special Deputy Sheriff Bernard Demag of the Chittenden County Sheriff's Office, suffered a fatal heart attack within 2 hours of his chase and apprehension of an escaped juvenile whom he had been transporting. The Demag family spent nearly two decades fighting in court for workers' compensation death benefits to no avail. What Dave and his family went through left no doubt in my mind that we should be treating the surviving families of officers who die in the line of duty with more decency and respect. Although Dave knew that his family would not receive survivor benefits under the PSOB law, he did not want other survivors of public safety officers to endure what his family suffered. It was a great day when I told Dave that the Hometown Heroes Act had finally been signed into law.

In 2001, Chief Demag was appointed on my recommendation to serve on the 11-member U.S. Medal of Valor Review Board, which selects and recommends to the President public safety officers to receive the Public Safety Officer Medal of Valor. The Medal of Valor is the highest national award for valor by a public safety officer and is designed to recognize the extraordinary heroism of our police, firefighters and correctional officers. As a board member, Dave has worked faithfully to award the medal to his public safety officers who demonstrate extraordinary valor above and beyond the call of duty.

I wish Dave and his wife Donna nothing but the best as they head into the next phase of their life together. I will say, however, that whoever Essex appoints as its next police chief will have the biggest of shoes to fill, as Dave Demag is the best kind of leader a community can hope for and he will be missed. Thank you, Dave, and congratulations for your service and commitment to the people of Essex and all Vermonters.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

IRAN DIVESTMENT

• Mr. OBAMA. Mr. President, I want to bring to the attention of the Senate an important article that appeared in today's Baltimore Sun. It describes the progress States are making in passing laws that divest their pension funds of companies that invest heavily in Iran's oil and gas industry. As highlighted in the article, Florida enacted a significant law along these lines, and other States, including my State of Illinois, are on the verge of doing so.

The need for these laws is clear. Iran uses the revenue it generates from its energy sector to finance its pursuit of nuclear weapons and support for terrorist groups like Hezbollah and Hamas. Along with a sustained diplomatic effort and toughened multilateral sanctions on Iran, divestment is a

useful tool that State and local governments can use to increase economic pressure to persuade Iran to end its dangerous policies.

But, as the article points out, past Supreme Court decisions have called into question whether States have the constitutional authority to pass such laws. For that reason, Congress needs to pass the Iran Sanctions Enabling Act, S. 1430, which I introduced in May. This bill would clarify that States have the authority to pass divestment legislation with respect to Iran, and it would provide information from the Federal Government to make it easier for them to do so. I am proud that 14 of my colleagues have cosponsored this bill so far, but Iran's seemingly unbridled drive for nuclear weapons makes this a matter of considerable urgency. I urge the rest of my colleagues to join us in working to pass this legislation without delay.

I ask unanimous consent that the article in today's Baltimore Sun be printed in the RECORD.

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

[From baltimoresun.com, July 26, 2007]

LET STATES DIVEST FROM IRAN

(By Jonathan Schanzer and Howard Slugh)

Last month, Florida Gov. Charlie Crist signed a bill ordering his state to divest its pension fund from businesses that work with Iran's energy sector. The legislation, led by Adam Hasner, Republican majority leader of Florida's House of Representatives, passed unanimously in both chambers of the Legislature.

Unfortunately, the state legislation is unconstitutional. Only new federal legislation can legally allow states to divest from Iran.

In 1996, Massachusetts restricted state businesses from working with companies that dealt with Myanmar, formerly called Burma. Massachusetts sought to press Myanmar's military junta to take steps toward democracy and provide better treatment for dissidents. In 2000, the Supreme Court unanimously struck down the Massachusetts law in Crosby v. National Foreign Trade Council.

The problem was that the state legislation conflicted with a federal statute that enabled the president to impose sanctions on Myanmar. The court argued that the president ''has less to offer and less economic and diplomatic leverage as a consequence'' of the Massachusetts law. According to the Constitution's supremacy clause, federal sanctions must trump state law.

Florida's sanctions against Iran could face a similar fate. Under federal law, only Congress and the president can implement federal tools—such as the Iran Freedom Support Act—to deter Iran from nuclear proliferation and terrorism. As in the Myanmar case, the Florida divestment plan conflicts with federal sanctions.

Florida has attempted to distinguish its statute from Massachusetts' by adding wording claiming that the law aims to lower fiduciary risk, not create an alternate foreign policy. But just because a state claims its law doesn't conflict with federal law doesn't make it so. The Florida law could be struck down if challenged—unless Congress does the right thing.

The House and Senate are considering the Iran Sanctions Enabling Act to authorize states to pass divestment laws aimed at Iran's energy sector. The bill would cure any constitutional conflict. It would integrate the state sanctions as an element of congressional sanctions, rather than leaving them outside the congressional framework.

Broad bipartisan support of this bill is a sign that Congress sees sanctions—on both the state and federal levels as an important tool to weaken Iran. It also shows that Congress understands that divestment is a tool that Americans broadly support. Indeed, the growing ''terror-free investing'' movement is gaining traction nationwide. It echoes grassroots efforts to divest from South Africa in the 1980s, which eventually brought the apartheid regime to its knees.

Despite the bill's wide popularity, some in Washington oppose it. William Reinsch, former commerce undersecretary in the Clinton administration and current president of the National Foreign Trade Council, claims that ''a unified U.S. foreign policy—not multiple state sanctions or divestment laws—is best suited to address'' the Iran challenge. Those who join Mr. Reinsch in opposing the bill claim that divestment would create economic tensions with our allies, making it more difficult to act multilaterally.

Opponents of the bill fail to understand that the lack of enforcement of federal sanctions in the past is exactly why the American people have taken matters into their own hands. They have lobbied their state legislatures because they want to punish Iran. They do not care whether their states offend our allies who continue to do business with Iran.

A handful of states are considering their own divestment bills, including Maryland, where Del. Ron George, an Anne Arundel County Republican, has proposed legislation that would bar the state pension fund from investing in companies tied to Iran. Other states are weighing different divestment options. In Ohio, state Rep. Josh Mandel reports that he and his colleagues led an effort for ''state pension funds to divest the retirement dollars of policemen, firefighters and teachers from an Iranian regime that is calling for the destruction of America and Israel.''

The House and Senate have deliberated over the Iran Sanctions Enabling Act since May. It is imperative that Congress pass the bill quickly, to ensure that these state efforts are constitutional.

This is an effective way to push Iran to cease developing nuclear weapons and to encumber its efforts to support terrorism.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

COMMON ARTICLE 3

• Mr. OBAMA. Mr. President, like much of the Senate, I was taken aback to hear what the Attorney General had to say—and what he refused to say—before the Judiciary Committee this week. It is the latest in an effort to obfuscate and avoid accountability on issues of vital importance to this country's well being.

I fear the same was true on Friday, when the President signed an Executive order on Geneva Conventions Common Article 3 as Applied to a Program of Detention and Interrogation.

A year and a half ago, the Congress overwhelmingly adopted the McCain amendment to ensure that no prisoner in our Nation's custody is ever subjected to torture or cruel treatment. Since then, all agencies of our Government have been abiding by the humane and professional standards in the U.S. Army's Field Manual on interrogation, and getting, by the administration's own account, excellent intelligence in the war on terror.

I am deeply concerned that President Bush may now be trying to reopen the door to cruelty that Congress shut. While the Executive order appears to rule out unlawful treatment, the administration has said that the order allows the CIA to resume at least some elements of its ''enhanced interrogation'' program, and to use methods beyond those that our military employs. The administration still refuses to rule out torture techniques such as water boarding.

As our own military leadership repeatedly warns, if we say we can lawfully use an interrogation technique on enemy prisoners, what is there to prevent our enemies from employing the same interrogation technique on captured American military personnel? On Sunday, Director of National Intelligence Admiral McConnell acknowledged that the CIA can now use techniques to which he would not want to see American citizens subjected.

A policy that permits cruel and inhumane treatment at the hands of any U.S. Government personnel—whether referred to as ''enhanced interrogation'' techniques or any other name—is simply counterproductive to an effective war against terrorists. As General Petraeus put it in his recent directive to those under his command in Iraq:

> Some may argue that we would be more effective if we sanctioned torture or other expedient methods to obtain information from the enemy. They would be wrong. Beyond the basic fact that such actions are illegal, history shows that they also are frequently neither useful nor necessary.

These words are no less applicable to practices of the CIA.

Beyond the fact that they are neither useful nor necessary, torture and cruel and inhumane treatment of those in U.S. custody diminish the moral authority our country needs to wage an effective war against terrorists, and are simply used by al-Qaida as a recruitment tool to enlist more enemies faster than we can take them off the battlefield.

Every agency of our Government should be held to the same interrogation standards that our military lives and swears by. No one should be subject to treatment that would outrage us if inflicted on an American. Whenever America has been threatened in the past, there has been a divide in our country between those who believe that our liberties and laws make us weaker, and those who believe they make us stronger. I believe that our commitment to the rule of law is our greatest strength. We will win this war as we have won every great conflict in our history—by staying true to who we are and to the values that distinguish us from our enemies.•

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

IMPROVING EMERGENCY MEDICAL CARE AND RESPONSE ACT

• Mr. OBAMA. Mr. President, today I wish to discuss the Improving Emergency Medical Care and Response Act of 2007, which I introduced yesterday. I am joined in this effort by Representative HENRY WAXMAN, who introduced a companion bill in the House.

This bill focuses on improving communication systems used in emergency care response and provides financial support for research in emergency medicine. Disasters that strike our Nation, be it manmade or natural, can have catastrophic effects on the health and well-being of our citizens. The ability to provide adequate, timely health care following these ''sudden-impact'' events—or any emergency situation, for that matter—relies heavily on an effective and comprehensive emergency communication system. However, recent studies show that various emergency medical services throughout the country are struggling to efficiently handle just the day-to-day operations. Therefore, the concern is even greater when disaster does strike and the struggle becomes grossly amplified, ultimately exposing the gaps in our emergency care and response infrastructure. There was no clearer example of this than the flawed response to the devastating effects of Hurricane Katrina in 2005.

Patients waiting in the emergency department, ED, for extended periods of time or, potentially worse, patients leaving the ED before medical evaluation because of these long wait-times are both strong indicators that improved strategies and systems are needed to reduce the burden on our emergency medical services across the country. Extended offloading times and diversion of ambulances are also contributing factors to a slow emergency response, which can have a fatal impact on prehospital care. Unfortunately, we do not have to look far to see what tragedies will come from not addressing these issues. In fact, just months ago, tragedy struck Edith Isabel Rodriguez, a Los Angeles woman who made national headlines after she was ignored by hospital personnel, dismissed by 9–1-1 dispatchers, and denied immediate care despite vomiting blood and writhing in pain for 45 minutes until she died. How does this happen in a country that boasts one of the highest standards of living of any nation in the world? Ms. Rodriguez's death is unacceptable and is a harrowing reminder of the ultimate penalty our citizens are paying for a fractured emergency care system.

For these reasons, my bill establishes demonstration programs designed to coordinate emergency medical services, expand communication and patient-tracking systems, and implement a regionalized data management system. The types of information garnered from such demonstration programs will contain vital information such as the impact of emergency care systems on patient outcomes, program efficiency, financial impact, and identification of remaining barriers to developing regionalized, accountable emergency care systems. Of equal importance is the bill's support for research in the field of emergency medicine and emergency medical care systems. Specifically, funds are requested to support research in the basic science of emergency medicine, model of service delivery, and incorporation of basic scientific research into day-to-day practice.

Improving and identifying the best practices of emergency medical care is necessary to ensure high-quality, efficient, and reliable care for all who need it. I ask my fellow colleagues to support this legislation so that we can better prepare for emergencies and future disasters.•

BOSTON CELTICS ''HEROES AMONG US'' AWARDS 2007

Mr. KENNEDY. Mr. President, all of us in Massachusetts are proud of the Boston Celtics. The team is one of the most storied franchises in NBA history, and its players are also impressive leaders in the community. Each year, the Celtics honor outstanding persons in New England as ''Heroes Among Us''—men and women who have made an especially significant impact on the lives of others.

The award, now in its 10th year, recognizes men and women who stand tall in service to their community. The extraordinary achievements of this year's honorees include saving lives, sacrificing for others, overcoming obstacles to achieve goals, and lifelong commitments to improving the lives of those around them. The winners include persons of all ages and all walks of life—students, community leaders, founders of nonprofit organizations, member of the clergy, and many others.

At home games during the season each year, the Celtics and their fans salute the efforts of various honorees in special presentation to them on the basketball court. So far, over 500 persons have received the ''Heroes Among Us'' award during the past decade.

The award has become one of the most widely recognized honors in New England. I commend each of the honorees for the 2006 to 2007 season, and I ask unanimous consent to have their names, their achievements, and their communities printed in the RECORD.

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

HERO AMONG US AWARD RECIPIENTS 2006–2007

Arnold ''Red'' Auerbach (Boston, MA) founded the Red Auerbach Youth Foundation in 1985 to encourage the healthy development of children.

Ayman Kafel (Sharon, MA) as a member of the Massachusetts National Guard, served on the Military Police Headquarters' Task Force and later on the Protective Service Security Squad during his one year tour in Iraq.

David Youngerman (Hudson, MA) was chosen to be the Child Ambassador for this year's Miles for Miracles Walk for his recovery from Moyamoya Disease.

Catherine Pisacane (Hopedale, MA) is the founder and executive director of Project Smile, a non-profit organization that collects stuffed animals for police officers, fire fighters and paramedics to give to children.

Helen Ford (Cambridge, MA) worked 28 years in security for the Cambridge School Department.

Eric Christopher (Melrose, MA) has been with the Gloucester Fire Department for 8 years and in January went into a fire without protective gear to save the life of a woman trapped in a blaze.

Lawanda Myrick (Dorchester, MA) has been a committed parent, employee and advocate for the Massachusetts Society for the Prevention of Cruelty to Children.

Lynn Dadekian (Worcester, MA) volunteered to donate her liver for a chance for her ailing father to live.

Robbie and Brittany Bergquist (Norwell, MA) started the ''Cell Phones for Soldiers'' campaign, which has collected over $1,000,000 and has sent more than 80,000 calling cards to troops in the Middle East.

Corp. Gregory M. Chartier (East Templeton, MA) upon returning from Afghanistan, volunteered to be deployed to Iraq to help create a local police force.

Brian Binette (Saco, ME) was born with cerebral palsy, but has overcome this challenge and will begin a career at the Saco Island School in Maine as a mentor, assistant teacher and head of the school's monthly newsletter.

Clementina Chery (Dorchester, MA) cofounded the Louis D. Brown Peace Institute and also founded the Mothers' Walk for Peace, an annual walk now in its tenth year.

Benjamin Smith (Springfield, MA) is the executive director of Dream Studios Inc., to introduce urban youth to the performing arts and provide mentoring to strengthen their academic skills.

Alan Borgal (Boston, MA) has spent the last 31 years with the Animal Rescue League of Boston, working tirelessly for the care and protection of animals.

Dick Arieta (Kingston, MA) has been the head basketball coach at Silver Lake Regional High School since 1970 and has instilled his values of sportsmanship, hard work and teamwork to all he has coached.

Dante Carroccia (Johnston, RI) singlehandedly assisted a man injured in an automobile accident and saved his life.

Helen Lamb (Boston, MA) founded ''Camp Jabberwocky'' in 1953, which has brought the simple joys of childhood to thousands of children with disabilities.

Seth Lampert (Sudbury, MA) earned the Volunteer of the Year Award from Easter Seals for his fundraising efforts for the annual Easter Seals Shootout.

Kevin Sullivan (Carver, MA) moved his truck to absorb the impact of a speeding truck heading directly towards a highway work crew and a police officer on duty, probably saving their lives.

Jennifer Putnam (Wellesley, MA) a volunteer for Horizons for Homeless Children, has spearheaded the preparation of annual feasts for hundreds of homeless children and their families.

Danny Vierra (Somerville, MA) is a Transit Police Officer who pulled a man from the railroad tracks before a speeding train could hit him.

Brooke Rallis (Hampton, NH) is one of only seven people to have overcome the type of

extreme spinal injury she suffered and has since dedicated her life to inspire others through the power of faith, courage, and tenacity.

Marilyn Smith (Medford, MA) has given foster care to over 70 children and was recognized as the Massachusetts Foster Parent of the Year.

Eric Weihenmayer (Amelia Island, FL) is the only blind person to have climbed the tallest peak on each of the seven continents. He also led a group of blind teenagers up Mount Everest, higher than any blind group had ever climbed before.

Rob McCormick (Norton, MA) a former Navy Rescue Swimmer, was driving home from work when he saw a house in flames and saved two people trapped inside.

Cheryl Durant (Mattapan, MA) is a foster mother who has taken in more than 25 teenage girls over the past 20 years.

Jason Schappert (Lakeville, MA), without regard for his own safety, crossed thin ice to rescue a man who had fallen into a freezing pond.

Ralph Marche (Tewksbury, MA) and Anthony Santilli (Woburn, MA) co-founded the New England Winter Sports Clinic for Disabled Veterans which enables these veterans to enjoy skiing and snowboarding despite their disabilities.

Carla Lynton (Brookline, MA) has spent more than 22,000 hours volunteering with the deaf-blind community at Perkins School for the Blind over the past 33 years.

Michael Dennehy (Newton, MA) was named the director of Boston University's Upward Bound program eight years ago and under his leadership, 95% of his students have pursued higher education.

Stefan Nathanson (Newton, MA) is the founder of The Room to Dream Foundation, a local charity whose mission is to create healing environments for children facing chronic and debilitating illnesses.

Dylan DeSilva (Brewster, MA) at age 12 founded ''Cape Cod Cares For Our Troops,'' which has sent over 1,500 care packages and raised over $40,000 for our soldiers in Iraq.

John Duffy (Winchester, MA) since 1997 has taken students to Peru to install solar panels to provide power for medical clinics in remote villages.

John Gonsalves (Taunton, MA) is the president and founder of Homes for our Troops, which has collected over $10 million in donations to build adaptive homes for severely wounded veterans.

Sean Cronk (Everett, MA) overcame the challenge of being born with cerebral palsy and scored two critical free throws in Everett High School's league championship basketball game.

Kevin Whalen (Danvers, MA) raised money and donated three months of his salary to aid an Iraq veteran displaced by Hurricane Rita who gave birth to a premature baby that needed 24-hour care at Children's Hospital.

Officer Michael Briggs (Manchester, NH) a Manchester, NH police officer, was shot and killed while responding to a domestic disturbance call.

Rick Phelps (Hanson, MA) rushed into a burning house to save four girls trapped by a fire.

Kathy Savage (Revere, MA), a dedicated volunteer for Special Olympics of Massachusetts since 1985, was named Special Olympics Volunteer Medical Chair and has helped countless athletes to compete.

Billy Starr (Needham, MA) founded the Pan Mass Challenge with 35 friends in 1980, which has raised over $100 million for the Dana-Farber Cancer Institute.

Deborah Weaver (Cambridge, MA) is the founder and Executive Director of Girls LEAP, a free self-defense and safety-awareness program for girls aged 8–18 in low-income communities in Greater Boston.

17TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

Mr. KENNEDY. Mr. President, today we celebrate the enactment of the Americans with Disabilities Act, one of the great civil rights laws in the Nation's history. Seventeen years ago, Congress acted on the fundamental principle that people should be measured by what they can do, not what they can't do. The Americans with Disabilities Act began a new era of opportunity for millions of disabled citizens who had been denied full and fair participation in society.

For generations, people with disabilities were treated with pity and as persons who deserved charity, not opportunity. Out of ignorance, the Nation accepted discrimination for decades and yielded to fear and prejudice. The passage of the ADA finally ended these condescending and suffocating attitudes and widened the doors of opportunity for all people with disabilities.

The anniversary of this landmark legislation is a time to reflect on how far we have come in improving the ''real life'' possibilities for the Nation's 56 million people with disabilities. In fact, the seeds of action were planted long before 1990.

In 1932, the United States elected a disabled person to the highest office in the land, and he became one of the greatest Presidents in our history. But even Franklin Roosevelt felt compelled by the prejudice of his times to hide his disability as much as possible. The World War II generation began to change all that.

The 1940s and the 1950s introduced the Nation to a new class of Americans with disabilities—wounded and disabled veterans returning from war and finding a society grateful for their courage and sacrifice but relegating them to the sideline of the American dream. Even before the war ended, however, rehabilitation medicine had been born. Disability advocacy organizations began to grow. Disability benefits were added to Social Security. Each decade since then has brought significant new progress and more change.

In the 1960s, Congress responded with new architectural standards, so we could have a society everyone could be a part of. No one would have to wait outside a new building because they were disabled.

The 1970s convinced us that greater opportunities for fuller participation in society were possible for the disabled. Congress responded with a range of steps to improve the lives of people with mental disabilities as well. We supported the right of children with disabilities to attend public schools. We guaranteed the right of people with disabilities to vote in elections, and we insisted on greater access to cultural and recreational programs in their communities.

The 1980s brought a new realization, however, that in helping people with disabilities, we can't rely only on Government programs. We began to involve the private sector as well. We guaranteed fair housing opportunities for people with disabilities, required fair access to air travel, and made advances in technology available for people hard of hearing or deaf.

The crowning achievement of these decades of progress was passage of the Americans with Disabilities Act of 1990 and its promise of a new and better life for every disabled citizen in which their disabilities would no longer put an end to their dreams.

As one eloquent citizen with a disability said, ''I do not wish to be a kept citizen, humbled and dulled by having the state look after me. I want to take the calculated risk, to dream and to build, to fail and to succeed. I want to enjoy the benefits of my creations and face the world boldly, and say, this is what I have done.''

Our families, our neighbors, and our friends with disabilities have taught us in ways no books can teach. The inclusion of people with disabilities enriches all our lives. Every day, my son Teddy, who lost his leg at the age of 12, continues to teach me every day the greatest lesson of all—that disabled does not mean unable.

As the saying goes, when people are excluded from the social fabric of a community, it creates a hole—and when there is a hole, the entire fabric is weaker. It lacks the strength that diversity brings. The fabric of our Nation is stronger today than it was 17 years ago because people with disabilities are no longer left out and left behind, and because of that, America is a greater and better and fairer Nation.

Today, in this country, we see the many signs of the progress that mean so much in our ongoing efforts to include persons with disabilities in every aspect of life—the ramps beside the steps, the sidewalks with curb-cuts to accommodate wheelchairs, the lifts for helping disabled people to take a bus to work or the store or a movie.

Disabled students are no longer barred from schools and denied education. They are learning and achieving at levels once thought impossible. They are graduating from high schools, enrolling in universities, joining the workforce, achieving their goals, enriching their communities and their country. They have greater access than ever to the rehabilitation and training needed to be successfully employed and become productive, contributing members of their communities.

With the Ticket to Work and Work Incentives Improvement Act in 1999, we finally linked civil rights much more closely to health care. It isn't civil and it isn't right to send a disabled person to work without the health care they need and deserve.

These milestones show that we are continuing the way to fulfilling the

promise of a new, better, and more inclusive life for citizens with disabilities—but we still have a way to go. Today, as we rightly look back with pride, we also need to look ahead with hope and dedication.

We still face many challenges, especially in areas such as health care and in home-based and community-based services and support. Many persons with disabilities still do not have the services and support they need to make choices about how best to live their lives. Many are unwillingly confined to institutions or unable to have a financial plan for their future.

A strong Medicare prescription drug benefit is essential for all people with disabilities. Today, about one in six Medicare beneficiaries—over 6 million people—is a person with disabilities under aged 65. Over the next 10 years that number is expected to increase to 8 million. These persons are much less likely to be able to obtain or afford private insurance coverage. Many of them are forced to choose between buying groceries, paying their mortgage, or paying for their medication.

Families raising children with significant disabilities deserve health care for their children. No family should be forced to go bankrupt, live in poverty, or give up custody of their disabled child in order to get needed health care for disabled child. They deserve the right to buy-in to Medicaid so that their family can stay together and stay employed. Congress did its job, and now every State should do its part under the Family Opportunity Act, adopted in 2005.

People with disabilities and older Americans need community-based assistance as well, so they can live at home with their families and in their communities. We need to pass the CLASS Act to ensure this support is available, without forcing families into poverty. It is a challenge for the Nation, and we need to work together to meet it.

The Americans with Disabilities Act was an extraordinary milestone in the pursuit of the American dream. Many disability and civil rights leaders in communities throughout the country worked long and hard and well to achieve it.

To each disabled American, I say thank you. It is all of you who are the true heroes of this achievement and who will lead us in the fight to keep the ADA strong in the years ahead.

Sadly, the Supreme Court has not been on our side. In the past 17 years, it has restricted the intended scope of the ADA. Suppose you are a person with epilepsy in a job you love and you get excellent personnel reviews. You are taking medicine that controls the seizures and you have no symptoms. But your employer finds out you have epilepsy and fires you. Should you be able to sue your employer for discrimination? Suppose you are a person with Down's syndrome, doing a fantastic job at the local Wal-Mart, but the manager really doesn't want someone with Down's syndrome greeting the public. Should you be able to sue for discrimination or are you no longer even covered under the ADA? Congress intended full protection from discrimination—but the courts are ruling differently. It is time now to restore the intent of the ADA.

The Supreme Court continues to carve out exception after exception in the ADA. But discrimination is discrimination, and no attempt to blur that line or write exceptions into the law should be tolerated. Congress wouldn't do it, and it is wrong for the Supreme Court to do it.

The ADA was a spectacular example of bipartisan cooperation and success. Passed by overwhelming majorities in both the House and the Senate, Republicans and Democrats alike took rightful pride in the goals of the law and its many accomplishments.

I know that the first President Bush, Senator Bob Dole, Senator HARKIN, and many other Members of Congress from both sides of the aisle consider their work on the ADA to be among their finest accomplishments in public service. It is widely regarded today as one of the giant steps in our ongoing two-centuries-old civil rights revolution.

The need for that kind of bipartisan cooperation is especially critical today as Congress embarks on restoring the ADA to its original intent, so that the rights of those with disabilities are protected, not violated.

Today, more than ever, disability need no longer mean the end of the American dream. Our goal is to banish stereotypes and discrimination, so that every disabled person can realize the dream of working and living independently and becoming a productive and contributing member of our community.

That goal should be the birthright of every American and the ADA opened the door for every disabled American to achieve it.

A story from the debate on the ADA eloquently made the point. A postmaster in a town was told to make his post office accessible. The building had 20 steep steps leading up to a revolving door at the only entrance. The postmaster questioned the need to make such costly repairs. He said, ''I've been here for thirty-five years, and in all that time, I've yet to see a single customer come in here in a wheelchair.'' As the Americans with Disabilities Act has proved so well, if you build the ramp, they will come, and they will find their field of dreams.

So let's ramp up our own efforts across the country. We need to keep building those ramps, no matter how many steps stand in the way. We will not stop today or tomorrow or next month or next year. We will not ever stop until America works for all Americans.

I ask all of us in Congress join today in committing to keep the ADA strong. It is an act of conscience, an act of community, and above all, an act of continued hope for a better future for our country as a whole.

ADDITIONAL STATEMENTS

COMMENDING SEAN SWARNER

• Mr. ALLARD. Mr. President, today I wish to commend an extraordinary man from Colorado who just became the only two-time cancer survivor to reach the peaks of the world's highest tallest mountains on every continent.

At the age of 13, Sean Swarner was diagnosed with stage IV Hodgkin's disease and was told he only had a few months to live. Sean battled back, but only 2 years later he was forced to face the possibility of death again. He was diagnosed with Askin's sarcoma, had a golf-ball sized tumor removed from his lung, and given only 10 days to live. Sean underwent intense chemotherapy and radiation, often slipping into comas from the abrasive treatments. The intensity of the radiation damaged one of his lungs to the point where it was no longer fully functional. Sean endured more in those few years than most of us experience in a lifetime, but he survived and eventually thrived.

The cancers had been unrelated and doctors told Sean how lucky he was to survive, and that the odds of him surviving both cancers are similar to winning the lottery four times in a row with the same numbers. I don't believe luck had anything to do with Sean's survival. It was his absolute strength and fortitude that allowed him to fight the cancers. Sean beat the cancers and is now the only two-time cancer survivor to reach the summits of the highest mountains on all seven continents.

Sean began his trek in 2002 when he conquered Mount Everest. Since then, he has climbed Mount Kilimanjaro, Mount Elbrus, Mount Aconcagua, Mount Vinson Massif, Mount Kosciusko, and on June 16, 2007 he climbed Alaska's Mount Denali, the seventh and final mountain in his quest to reach the highest summits on each continent. Conquering all seven peaks is an incredible accomplishment for anyone, but for someone in Sean's condition it is nothing short of amazing. The determination, perseverance, and courage that Sean demonstrated stands as an example to all of us that anything is possible if you really want it to happen.

As amazing as these accomplishments are, Sean's story does not end with his successful mountain climbs and victory over two cancers. Sean is only 32 years old and has a lifetime ahead of him. He plans to climb the Carstensz Pyramid in Indonesia and the North and South Poles. Once he reaches the Poles, Sean will become one of less than a dozen people to complete the ''Adventure Grand Slam'' and the first cancer survivor to do so. When he isn't climbing mountains, Sean uses his experience with cancer and stories

from his expeditions to spread hope and inspiration. He makes regular visits to cancer wards and provides strength and courage for those who continue to suffer from and battle cancer. Sean has also begun a motivation speaking tour by visiting wounded troops and veterans all over the country and is currently making arrangements to speak in Afghanistan and Iraq.

Sean's story is truly inspirational, not only to those struggling to beat cancer, but to anyone who seeks to accomplish something that others say is impossible. I would like to commend Sean for his success and thank him for serving as such a positive role model to anyone who has faced long odds. Sean has proven the power of determination.●

RECOGNIZING DR. W. RON DEHAVEN

● Mr. CHAMBLISS. Mr. President, I wish to recognize Dr. W. Ron DeHaven, Administrator of USDA's Animal and Plant Health Inspection Service, APHIS. As Administrator for the last 3 years, he has ably carried out the agency's mission of protecting american agriculture.

As a strong leader of APHIS' domestic safeguarding efforts, Dr. DeHaven has been the public face of USDA's effective, science-based response to bovine spongiform encephalopathy, BSE, in the United States. He has brought strong leadership skills to increasing U.S. preparedness to deal with avian influenza viruses in our poultry industry and ensuring that APHIS maintains robust emergency response and antismuggling programs designed to prevent the establishment of exotic pests and diseases of agriculture in our country.

Dr. DeHaven serves as one of USDA's principal liaisons to the Department of Homeland Security. He has worked closely with his colleagues there on a number of fronts, including agricultural commodity inspections at our Nation's ports of entry and the joint work of USDA and DHS officials at the Plum Island Animal Disease Center off Long Island, NY. The work of the researchers and diagnosticians at the Center ensures our nation is prepared in the event of a detection of a highly contagious foreign animal disease, such as foot-and-mouth disease or classical swine fever.

The agency's role has been shaped on the international front under Dr. DeHaven's direction. He has spearheaded efforts to stop the spread in poultry of the Asian strain of H5N1 highly pathogenic avian influenza. He has also advocated for improving international animal disease response infrastructure, traveling extensively to create a coalition of like-minded developed countries to work with the United Nation's Food and Agriculture Organization, FAO, and the World Organization for Animal Health. Dr. DeHaven helped push for implementation of a Crisis Management Center at the FAO's headquarters in Rome, with the goal of coordinating global H5N1 response efforts. I believe that the U.S. poultry industry is better protected as a result of his efforts.

Dr. DeHaven's integrity, dedication, and professionalism have represented the United States proudly in all of these endeavors. He has consistently championed U.S. agriculture in all of his international relationships and activities.

We congratulate him on his retirement from the Federal Government, and thank him for his 28 years of service with APHIS.●

HONORING DANIEL BALDINGER

● Mr. LAUTENBERG. Mr. President, today I wish to pay tribute to a valued friend, Daniel Baldinger, who passed away on July 4, 2007. Throughout his life he displayed a special kindness and a deep commitment to his friends and family. His spontaneous humor and wit made for a personality to which people were quickly attracted. He was multilingual, able to communicate in French, Italian, and Spanish among other languages as well. I enjoyed his company and looked forward to our times together. Dan, though creative and artistic, was also a skilled executive and presided over a family business started in 1955, which he quickly expanded into a booming business. The company, Louis Baldinger & Sons, became one of the leading companies in the lighting industry. Under Dan's leadership, Louis Baldinger & Sons' products were obtained by some of the countries most prestigious architects and designers.

While Dan achieved substantial success in his business ventures; he would be most proud of the breadth of friendships and loving relationships he shared with his family. He was a devoted and loving husband to his wife Marjorie of 48 years and together they enjoyed a wonderful family life. Dan was a proud father of his son Howard and daughter Toby, about whom he constantly bragged.

Dan was a caring man with deep intellectual curiosity and myriad interests. He was a person of various talents and abilities including cooking, which he did with flourish and gusto. At any given moment, one could find him discussing—in one of the many languages he spoke—baseball, his plans for the Design Industries Foundation Fighting AIDS, of which he was the national chairman, or his completion of the New York Marathon in 4 hours and 28 minutes.

While Dan is no longer with us, his memory will carry on. He lived life to the fullest and was a compassionate man who acted with integrity and decency. Dan touched so many lives and all of those that had the pleasure of knowing him will miss him greatly, including my wife Bonnie and me.●

HONORING DAVID A. WAKS

● Mr. LAUTENBERG. Mr. President, this week New Jersey lost one of its great citizens when Judge David A. Waks passed away far too early in life at 66 years of age.

I have known the Waks family over a number of years and his son, Joe Waks, carries on a proud family tradition of public service as chief of staff of my Senate operations in New Jersey.

David Waks was respected and admired for his candid, forthright action on decency and integrity in Government service. Known as someone who had a sympathetic ear and a generous heart, so much so that when a person in serious need sought his help he would reach into his own limited resources to assist. He was a model of a compassionate public servant who all in public service should emulate. Anyone who had the good fortune to know him was inspired by his genuine affection and concern. His life was exemplary and I wanted to ensure that a permanent record of David Waks' life existed as an outstanding example of how public service can be ennobled by the right kind of leadership.

I ask that an article from the Herald News be printed in the RECORD.

The article follows

[From Herald News, July 19, 2007]

DAVID A. WAKS, 66, LED LIFE OF SERVICE

(By Suzanne Travers)

WAYNE.—David A. Waks, who championed integrity in public service for almost 40 years, first as a councilman, then as mayor in Wayne, and later as a state Superior Court judge in Paterson, died at his home here Wednesday.

The cause of death was lung cancer, diagnosed in mid-November, his wife, Joan, said.

Waks, 66, who once described himself to a reporter as an ''ornery cuss'' but told voters they could count on him to be fair-minded, even-handed and flexible, was known for his honesty, compassion, intelligence and hard work.

''He was one of Passaic County's real jewels,'' said Rep. Bill Pascrell Jr. (D–Paterson), a close friend for whom Waks' son, Joseph, previously worked as spokesman.

Born and raised in Paterson, Waks moved to Wayne and got his start in politics in 1971 as an advocate for local tenants after his landlord hiked his apartment's rent by 20 percent.

He was elected to the council with heavy support from 5th Ward renters, and continued to support enforcement of tenants' rights. Often the only Democrat on a Republican governing body, Waks was elected mayor in 1994 and again in 1997, resigning to become judge in 2000.

In December 1971, Wayne's township council voted to give one of its last liquor licenses to the friend of a councilman. Soon after he was sworn in, in January 1972, Waks drafted a resolution to rescind the issuance of the license. To avoid public allegations of cronyism, the councilman's friend returned the license before the resolution could go before the council, and the license was later issued to a Vietnam veteran who opened a now-defunct liquor store on Route 23.

''It was a nice way to get started,'' said Waks. ''Everybody knew the first time it was political patronage. It was the first thing I ever did, and still one of the proudest.''

Waks' tenure coincided with an era in which former Wayne officials, including its

former mayor, business administrator, and township attorney, pleaded guilty to taking part in various bribery schemes involving developers. Later, Waks and his wife, an attorney who served on the Wayne council after her husband's departure, sued the wrongdoers for damages in an innovative racketeering lawsuit that brought the township more than $300,000.

Running for mayor, Waks refused to take campaign contributions from those doing business with the township.

''He drove me nuts in this office,'' Beverly Tierney, administrative assistant in the Wayne mayor's office, said of her friend and former boss. ''He never let anyone do anything. He would not accept a gift. A restaurant sent over a tray of cookies, and he had me send them back.''

He was sworn in as a Civil Division judge in state Superior Court in Paterson seven years ago today, according to Assignment Judge Robert Passero.

Waks wasn't above getting personally involved in his job, according to Passero. He recalled a case before Waks in which a single mother with children faced eviction for failure to pay rent. ''He gave her the money to pay the rent,'' Passero said. ''While liking inwardly what he did, I actually had to admonish him for that as not being appropriate.''

For as hard as he worked and as compassionate as he was, Passero said Waks never let the grandiosity of being a judge go to his head. ''He was the type of guy who never wore socks. I think he still wore the same ties as he had in high school,'' he said, with a laugh. ''He was very unassuming. Very casual.''

Passero added, ''He studied hard, he worked hard. In my opinion, he was an ideal judge.''

Waks graduated School 20 and Eastside High School in Paterson, and received a bachelor's degree from Rutgers University. In 1966, he earned a law degree from Georgetown University, where he met his wife. He joined his father, Isadore Waks, in his Paterson law practice the following year. On occasion Waks filled in for his father as attorney for Paterson's Board of Adjustment, and gave the money he earned for that work to his mother, Joan Waks said. Later, Waks continued as a solo practitioner.

State Sen. John Girgenti, D–Hawthorne, who appointed Waks to state Superior Court, said Waks was ''a perfect candidate for the bench, because he got along well with everyone.''

Waks received a lifetime appointment to the bench before the state Senate Judiciary Committee in May, Joan Waks said. Family members brought a wheelchair because he was weak at that point, but Waks stood for a brief speech about how ''important it was to serve the people,'' said his wife.

''He really was so proud to be recognized for the work he did,'' she said. ''He loved being a judge.''

Waks quit smoking about 15 years ago, his wife said. She said he expressed his fear about dying and said he was ''not ready to go.'' ''I don't think he believed it 'til the end,'' she said. ''He died like he lived, stubbornly.''

In addition to his wife, Waks is survived by a brother, Jay Waks, of Larchmont, N.Y.; his children, Joseph Waks and his wife Nancy Slowe of Bayonne; daughters Jennifer Kennelly and her husband Thomas, of Pompton Plains; and Melanie Graceffo and her husband Gerald, of Cranford, six grandchildren: Cole, McKenzie, and Aidan Kennelly, and Gordon, Gabriel, and Isabel Graceffo, and what his wife termed ''his two granddogs.''

Joan Waks said she would hold a ''family-only'' service Monday. Waks, who was proud to be Jewish but nonpracticing, will be cremated, she said. A memorial service will likely be held Aug. 4 at DePaul High School in Wayne, where Waks sold coffee at Friday bingo games long past the time their children attended the school. Wayne Mayor Scott Rumana ordered flags to fly at half staff for 30 days to honor Waks.●

HONORING FAUSTA SAWAL

● Mrs. MURRAY. Mr. President, today I recognize Mrs. Fausta Sawal for her outstanding service in senior citizen communities in our home State of Washington. Mrs. Sawal was selected among 16,000 volunteers to receive the Senior Companion 2007 Spirit of Service Award.

The Spirit of Service awards are given to individuals who have demonstrated both leadership and a commitment to service within their communities. Mrs. Sawal has been a true role model in the community, helping senior citizens and disabled adults for more than 16 years. During her service with the Volunteers of America Senior Companion Program in Seattle/King County, she made a profound difference in the quality of life for dozens of people. Mrs. Sawal was there to call 911 when one of her clients suffered from a heart attack. She also provided assistance when another client fell from a bus and needed to be taken to the hospital. Time and again, Mrs. Sawal demonstrated her caring nature and her ability to effectively assist individuals in a time of need.

Mrs. Sawal has not limited her work to helping individuals. She has been a leader within many community organizations. Currently, she is the president of the Senior Companion Program Advisory Council, a member of the Filipino Community Center, and a volunteer at both the Asian Counseling and Referral Services and the International Drop-In Center. Mrs. Sawal has been active in each of these organizations, taking on many responsibilities including organizing special events, assisting case managers and clients, assisting with in-service trainings, procuring sponsors, and recruiting volunteers.

In addition to her role in the community, this amazing woman has raised eight children. Mrs. Sawal has more than 20 grandchildren and 4 great-grandchildren. In 2004, she was chosen as the Mother of the Year in Seattle's Asian community.

I would like to thank Mrs. Sawal for the positive impact she has had on so many lives in Washington State. Both her past activities and her current pursuits are helping to create healthier and happier communities. I am sure Mrs. Sawal will continue to make significant contributions to her family and in the elderly and disabled communities in Washington. Mrs. Sawal is a remarkable woman, and I am pleased she is being honored for her years of dedication to helping others.●

200TH ANNIVERSARY OF NELSON COUNTY, VIRGINIA

● Mr. WEBB. Mr. President, I wish to recognize a county in the Commonwealth of Virginia that is celebrating its bicentennial anniversary. Throughout this year, Nelson County residents will gather to celebrate their county's history and founding.

Nelson County is nestled in the rolling foothills of the Blue Ridge Mountains, midway between Charlottesville and Lynchburg. It was settled by colonists of English and German descent, as well as by the Scotch-Irish, whom I proudly recognize as my ancestors. The county was officially founded in 1807 and named in honor of Thomas Nelson, Jr., third Governor of Virginia. Nelson County is now home to about 14,500 people.

For those who call Nelson County home, it is a comfortable place to work and live. Nelson County is also a community in the truest sense of the word. This was most clearly demonstrated when neighbors came together and offered comfort and helping hands after Hurricane Camille caused widespread destruction in the county in 1969. Today community members can look to each other and remember with pride how they came together under hard circumstances to make Nelson County prosper once again.

Nelson County's economy is based on agriculture and natural resource-based industries such as timber and quarrying. The scenic surroundings have also attracted recreational development in recent years, making the county an outdoor enthusiast's haven. Outdoor recreation opportunities include hiking along the magnificent Appalachian Trail or to the top of Crabtree Falls, the highest cascading waterfall east of the Mississippi River, as well as canoeing and fishing on the James or Tye Rivers and skiing at Wintergreen Resort.

Many Americans may not be familiar with Nelson County by name, but millions have had a glimpse of what life was like in this rural community due to the writings of Nelson County native, Earl Hamner, Jr. During the Great Depression, Hamner began writing of his experience growing up in Nelson County. These writings eventually provided the substance for ''The Waltons'' television series.

The Nelson County Museum of History, which is currently being developed, will soon offer visitors opportunities to learn the rich heritage and rural culture of Nelson County through events, exhibits, and educational programs.

The rural community of Nelson County has much to remember and much to be proud of.

Mr. President, I ask the Senate to join me in congratulating Nelson County and its residents on their first 200 years and in wishing them well in the future.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:08 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2429. An act to amend title XVIII of the Social Security Act to provide an exception to the 60–day limit on Medicare reciprocal billing arrangements between two physicians during the period in which one of the physicians is ordered to active duty as a member of a reserve component of the Armed Forces.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

At 12:41 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. 1495) to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon.

Ordered, that the following Members be the managers of the conference on the part of the House:

From the Committee on Transportation and Infrastructure, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. OBERSTAR, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. TAUSCHER, Messrs. BAIRD, HIGGINS, MITCHELL, KAGEN, MCNERNEY, MICA, DUNCAN, EHLERS, BAKER, BROWN of South Carolina, and BOOZMAN.

From the Committee on Natural Resources, for consideration of sections 2014, 2023, and 6009 of the House bill, and sections 3023, 5008, and 5016 of the Senate amendment, and modifications committed to conference: Mr. RAHALL, Mrs. NAPOLITANO, and Mrs. MCMORRIS RODGERS.

At 3:32 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 bill, in which it requests the concurrence of the Senate:

H.R. 2929. An act to limit the use of funds to establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq or to exercise United States economic control of the oil resources of Iraq.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 187. Concurrent resolution expressing the sense of Congress regarding the dumping of industrial waste into the Great Lakes.

The message further announced that pursuant to 14 U.S.C. 194(a), and the order of the House of January 4, 2007, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Coast Guard Academy: Mr. MICHAUD of Maine, Ms. HIRONO of Hawaii, and Mr. MICA of Florida.

The message also announced that pursuant to 14 U.S.C. 194(a), and the order of the House of January 4, 2007, the Speaker appoints the following Members of the House of Representatives to the Board of Visitors to the United States Coast Guard Academy: Mr. COURTNEY of Connecticut and Mr. SHAYS of Connecticut.

ENROLLED BILL SIGNED

At 5:39 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1868. An act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

The following enrolled joint resolution, previously signed by the Speaker of the House, was signed on today, July 26, 2007, by the President pro tempore (Mr. BYRD):

H.J. Res. 44. Joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2929. An act to limit the use of funds to establish any military installation or base for the purpose of providing for the permanent stationing of United States Armed Forces in Iraq or to exercise United States economic control of the oil resources of Iraq; to the Committee on Foreign Relations.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 187. Concurrent resolution expressing the sense of Congress regarding the dumping of industrial waste into the Great Lakes; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAUCUS, from the Committee on Finance, without amendment:

S. 1893. An original bill to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. BAUCUS for the Committee on Finance.

*Peter B. McCarthy, of Wisconsin, to be an Assistant Secretary of the Treasury.

*David H. McCormick, of Pennsylvania, to be an Under Secretary of the Treasury.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

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. SCHUMER:

S. 1879. A bill to amend titles 10 and 37, United States Code, to reduce the minimum age of retirement for years of non-regular service for reserves who serve on active duty in Iraq and Afghanistan, to increase the amount of educational assistance for members of the Selected Reserve, and to provide certain other benefits relating to service in the reserve components of the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mr. KERRY (for himself and Mrs. BOXER):

S. 1880. A bill to amend the Animal Welfare Act to prohibit dog fighting ventures; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HARKIN (for himself and Mr. SPECTER):

S. 1881. A bill to amend the Americans with Disabilities Act of 1990 to restore the intent and protections of that Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HAGEL (for himself, Mr. DURBIN, Mr. BIDEN, and Mrs. BOXER):

S. 1882. A bill to amend the Public Health Service Act to establish various programs for the recruitment and retention of public health workers and to eliminate critical public health workforce shortages in Federal, State, local, and tribal public health agencies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL (for himself, Mr. DORGAN, and Mr. WYDEN):

S. 1883. A bill to amend title XVIII of the Social Security Act to provide for standardized marketing requirements under the Medicare Advantage program and the Medicare prescription drug program and to provide for State certification prior to waiver of licensure requirements under the Medicare prescription drug program, and for other purposes; to the Committee on Finance.

By Mr. SALAZAR:

S. 1884. A bill to amend the Farm Security and Rural Investment Act of 2002 to reauthorize and improve agricultural energy programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. REID (for Mr. OBAMA (for himself, Mrs. MCCASKILL, Mr. HARKIN, Mr. KERRY, Mr. BAUCUS, Mr. BIDEN, Mr. DURBIN, and Mr. KENNEDY)):

S. 1885. A bill to provide certain employment protections for family members who are caring for members of the Armed Forces recovering from illnesses and injuries incurred on active duty; to the Committee on Health , Education, Labor, and Pensions.

By Mr. BURR (for himself, Mr. CORKER, Mr. COBURN, Mr. MARTINEZ, and Mrs. DOLE):

S. 1886. A bill to provide a refundable and advanceable credit for health insurance through the Internal Revenue Code of 1986, to provide for improved private health insurance access and affordability, and for other purposes; to the Committee on Finance.

By Mr. SMITH (for himself and Mr. KERRY):

S. 1887. A bill to amend title XVIII of the Social Security Act in order to ensure access to critical medications under the Medicare part D prescription drug program; to the Committee on Finance.

By Mrs. CLINTON (for herself and Mr. COCHRAN):

S. 1888. A bill to amend title 4, United States Code, to add National Korean War Veterans Armistice Day to the list of days on which the flag should especially be displayed; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself, Mr. SMITH, Mrs. CLINTON, Mr. KERRY, and Mr. SCHUMER):

S. 1889. A bill to amend title 49, United States Code, to improve railroad safety by reducing accidents and to prevent railroad fatalities, injuries, and hazardous materials releases, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LOTT:

S. 1890. A bill to allow individuals to opt-out of the National Flood Insurance Program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SALAZAR:

S. 1891. A bill to provide limited immunity for reports of suspected terrorist activity or suspicious behavior and response; to the Committee on the Judiciary.

By Ms. CANTWELL (for herself, Ms. SNOWE, Mr. INOUYE, Mr. STEVENS, Mr. LAUTENBERG, and Mr. LOTT):

S. 1892. A bill to reauthorize the Coast Guard for fiscal year 2008, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BAUCUS:

S. 1893. An original bill to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. REID (for Mr. DODD (for himself, Mr. NELSON of Nebraska, Mr. KENNEDY, Mr. REED, and Mr. LIEBERMAN)):

S. 1894. A bill to amend the Family and Medical Leave Act of 1993 to provide family and medical leave to primary caregivers of servicemembers with combat-related injuries; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. MIKULSKI (for herself, Mr. CARDIN, and Mr. SCHUMER):

S. Res. 281. A resolution congratulating Cal Ripken Jr. for his induction into the Baseball Hall of Fame, for an outstanding career as an athlete, and for his contributions to baseball and to his community; to the Committee on the Judiciary.

By Mr. KOHL (for himself and Mr. HATCH):

S. Res. 282. A resolution supporting the goals and ideals of a National Polycystic Kidney Disease Awareness Week to raise public awareness and understanding of polycystic kidney disease and to foster understanding of the impact polycystic kidney disease has on patients and future generations of their families; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 65

At the request of Mr. INHOFE, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 65, a bill to modify the age-60 standard for certain pilots and for other purposes.

S. 367

At the request of Mr. DORGAN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 367, a bill to amend the Tariff Act of 1930 to prohibit the import, export, and sale of goods made with sweatshop labor, and for other purposes.

S. 543

At the request of Mr. NELSON of Nebraska, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 543, a bill to improve Medicare beneficiary access by extending the 60 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility under the Medicare program.

S. 557

At the request of Mr. SCHUMER, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 557, a bill to amend the Internal Revenue Code of 1986 to make permanent the depreciation classification of motorsports entertainment complexes.

S. 600

At the request of Mr. SMITH, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 600, a bill to amend the Public Health Service Act to establish the School-Based Health Clinic program, and for other purposes.

S. 680

At the request of Ms. COLLINS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 680, a bill to ensure proper oversight and accountability in Federal contracting, and for other purposes.

S. 718

At the request of Mr. CRAPO, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 718, a bill to optimize the delivery of critical care medicine and expand the critical care workforce.

S. 742

At the request of Mrs. MURRAY, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 742, a bill to amend the Toxic Substances Control Act to reduce the health risks posed by asbestos-containing products, and for other purposes.

S. 805

At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 805, a bill to amend the Foreign Assistance Act of 1961 to assist countries in sub-Saharan Africa in the effort to achieve internationally recognized goals in the treatment and prevention of HIV/AIDS and other major diseases and the reduction of maternal and child mortality by improving human health care capacity and improving retention of medical health professionals in sub-Saharan Africa, and for other purposes.

S. 958

At the request of Mr. SESSIONS, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 958, a bill to establish an adolescent literacy program.

S. 969

At the request of Mr. DODD, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 969, a bill to amend the National Labor Relations Act to modify the definition of supervisor.

S. 986

At the request of Mr. REID, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 986, a bill to expand eligibility for Combat-Related Special Compensation paid by the uniformed services in order to permit certain additional retired members who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for that disability and Combat-Related Special Compensation by reason of that disability.

S. 988

At the request of Ms. MIKULSKI, the name of the Senator from Wyoming (Mr. BARRASSO) was added as a cosponsor of S. 988, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

S. 991

At the request of Mr. DURBIN, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 991, a bill to establish the Senator Paul Simon Study Abroad Foundation under the authorities of the Mutual Educational and Cultural Exchange Act of 1961.

S. 1060

At the request of Mr. BIDEN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1060, a bill to reauthorize the grant program for reentry of offenders into the community in the Omnibus Crime Control and Safe Streets Act of 1968, to improve reentry planning and implementation, and for other purposes.

S. 1070

At the request of Mrs. LINCOLN, the name of the Senator from Delaware

(Mr. BIDEN) was added as a cosponsor of S. 1070, 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. 1146

At the request of Mr. SALAZAR, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1146, a bill to amend title 38, United States Code, to improve health care for veterans who live in rural areas, and for other purposes.

S. 1152

At the request of Ms. CANTWELL, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 1152, a bill to promote wildland firefighter safety.

S. 1175

At the request of Mr. DURBIN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1175, a bill to end the use of child soldiers in hostilities around the world, and for other purposes.

S. 1185

At the request of Mr. BINGAMAN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1185, a bill to provide grants to States to improve high schools and raise graduation rates while ensuring rigorous standards, to develop and implement effective school models for struggling students and dropouts, and to improve State policies to raise graduation rates, and for other purposes.

S. 1239

At the request of Mr. ROCKEFELLER, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1239, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2013, and for other purposes.

S. 1245

At the request of Mr. CARDIN, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 1245, a bill to reform mutual aid agreements for the National Capitol Region.

S. 1310

At the request of Mr. SCHUMER, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1310, a bill to amend title XVIII of the Social Security Act to provide for an extension of increased payments for ground ambulance services under the Medicare program.

S. 1374

At the request of Mr. CASEY, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1374, a bill to assist States in making voluntary high quality full-day prekindergarten programs available and economically affordable for the families of all children for at least 1 year preceding kindergarten.

S. 1418

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1418, a bill to provide assistance to improve the health of newborns, children, and mothers in developing countries, and for other purposes.

S. 1502

At the request of Mr. CONRAD, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1502, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 1518

At the request of Mr. REED, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1518, a bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes.

S. 1556

At the request of Mr. SMITH, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 1556, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes.

S. 1651

At the request of Mr. KENNEDY, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1651, a bill to assist certain Iraqis who have worked directly with, or are threatened by their association with, the United States, and for other purposes.

S. 1718

At the request of Mr. BROWN, the names of the Senator from Montana (Mr. TESTER) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1718, a bill to amend the Servicemembers Civil Relief Act to provide for reimbursement to servicemebers of tuition for programs of education interrupted by military service, for deferment of students loans and reduced interest rates for servicemembers during periods of military service, and for other purposes.

S. 1790

At the request of Mr. OBAMA, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1790, a bill to make grants to carry out activities to prevent the incidence of unintended pregnancies and sexually transmitted infections among teens in racial or ethnic minority or immigrant communities, and for other purposes.

S. 1817

At the request of Mr. OBAMA, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 1817, a bill to ensure proper administration of the discharge of members of the Armed Forces for personality disorder, and for other purposes.

S. 1848

At the request of Mr. BAUCUS, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1848, a bill to amend the Trade Act of 1974 to address the impact of globalization, to reauthorize trade adjustment assistance, to extend trade adjustment assistance to service workers, communities, firms, and farmers, and for other purposes.

S. 1849

At the request of Mr. SMITH, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Montana (Mr. TESTER) were withdrawn as cosponsors of S. 1849, a bill to amend the Internal Revenue Code of 1986 to clarify that wages paid to unauthorized aliens may not be deducted from gross income, and for other purposes.

S. 1850

At the request of Mr. SMITH, the names of the Senator from Montana (Mr. TESTER) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 1850, a bill to amend the Internal Revenue Code of 1986 to provide for the treatment of Indian tribal governments as State governments for purposes of issuing tax-exempt governmental bonds, and for other purposes.

S. RES. 203

At the request of Mr. MENENDEZ, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Illinois (Mr. OBAMA) were added as cosponsors of S. Res. 203, a resolution calling on the Government of the People's Republic of China to use its unique influence and economic leverage to stop genocide and violence in Darfur, Sudan.

At the request of Mr. BYRD, his name was added as a cosponsor of S. Res. 203, supra.

At the request of Mr. CORNYN, his name was added as a cosponsor of S. Res. 203, supra.

S. RES. 276

At the request of Mr. BIDEN, the names of the Senator from West Virginia (Mr. BYRD), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. DODD), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Michigan (Mr. LEVIN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Ohio (Mr. BROWN), the Senator from Arkansas (Mr. PRYOR), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. Res. 276, a resolution calling for the urgent deployment of a robust and effective multinational peacekeeping mission with sufficient size, resources, leadership, and mandate to protect civilians in Darfur, Sudan, and for efforts to strengthen the renewal of a just and inclusive peace process.

AMENDMENT NO. 2398

At the request of Mrs. CLINTON, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of amendment No. 2398 intended to be proposed to H.R. 2638, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 2400

At the request of Mr. NELSON of Florida, his name was withdrawn as a cosponsor of amendment No. 2400 intended to be proposed to H.R. 2638, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 2405

At the request of Mr. ALEXANDER, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of amendment No. 2405 proposed to H.R. 2638, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 2407

At the request of Mr. LIEBERMAN, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of amendment No. 2407 proposed to H.R. 2638, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 2413

At the request of Mr. MARTINEZ, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of amendment No. 2413 proposed to H.R. 2638, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 2416

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of amendment No. 2416 proposed to H.R. 2638, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 2417

At the request of Mrs. BOXER, her name was added as a cosponsor of amendment No. 2417 proposed to H.R. 2638, a bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.

At the request of Mr. SALAZAR, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of amendment No. 2417 proposed to H.R. 2638, supra.

AMENDMENT NO. 2442

At the request of Mr. COBURN, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of amendment No. 2442 proposed to H.R. 2638, a bill making appropriations for the Department of Homeland Securityfor the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 2464

At the request of Mr. OBAMA, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 2464 intended to be proposed to H.R. 2638, a bill making appropriations for the Department of Homeland Securityfor the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 2468

At the request of Ms. LANDRIEU, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of amendment No. 2468 proposed to H.R. 2638, a bill making appropriations for the Department of Homeland Securityfor the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 2473

At the request of Mr. OBAMA, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 2473 intended to be proposed to H.R. 2638, a bill making appropriations for the Department of Homeland Securityfor the fiscal year ending September 30, 2008, and for other purposes.

AMENDMENT NO. 2476

At the request of Mr. GRASSLEY, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of amendment No. 2476 proposed to H.R. 2638, a bill making appropriations for the Department of Homeland Securityfor the fiscal year ending September 30, 2008, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HARKIN (for himself and Mr. SPECTER):

S. 1881. A bill to amend the Americans with Disabilities Act of 1990 to restore the intent and protections of that Act, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I am joining, today, with the senior Senator from Pennsylvania, Senator SPECTER, in introducing the ADA Restoration Act of 2007.

Today, July 26, marks the 17th anniversary of the signing of the Americans with Disabilities Act, one of the landmark civil rights laws of the 20th century, and a long-overdue emancipation proclamation for the 50 million Americans with disabilities.

As chief sponsor of the ADA in the Senate, I take pride in the progress we have made as a Nation since 1990. We have removed most physical barriers to movement and access for the 50 million Americans with disabilities. We have required employers to provide reasonable accommodations so that people with disabilities can have equal opportunity in the workplace. We have advanced the 4 goals of the ADA, equality of opportunity, full participation, independent living, and economic self-sufficiency.

So today is a day, first and foremost, to celebrate all that has been accomplished over the last 17 years.

But despite that progress, there is a problem. In recent years, the courts have ignored Congress's clear intent as to who should be protected under the ADA. And the courts have narrowed the definition of who qualifies as an ''individual with a disability.'' As a consequence, millions of people we intended to be protected under the ADA, including people with epilepsy, diabetes, and cancer, are not protected any more. In a ruling just this spring, the 11th Circuit court even concluded that a person with mental retardation was not ''disabled'' under the ADA.

Looking back through the legislative history, it is abundantly clear that Congress intended that the protections in the ADA apply to all persons without regard to mitigating circumstances, such as taking medication or using an assistive device.

In the Senate Labor and Human Resources Committee report Congress said:

> Whether a person has a disability should be assessed without regard to the availability of mitigating measures, such as reasonable accommodations or auxiliary aids.

The House Education and Labor Committee report says the same thing, and goes on to say:

> For example, a person who is hard of hearing is substantially limited in the major life activity of hearing, even though the loss may be corrected through the use of a hearing aid. Likewise, persons with impairments, such as epilepsy or diabetes, which substantially limit a major life activity are covered under . . . the definition of disability, even if the effects of the impairment are controlled by medication.

Nonetheless, in a series of cases, the Supreme Court ignored Congressional intent. Together, these Supreme Court cases have created an absurd and unintended Catch 22. People with serious health conditions like epilepsy or diabetes who are fortunate to find treatments that make them more capable and independent, and more able to work, may find that they are no longer protected by the ADA. If these individuals are no longer covered under the ADA, then their requests for a reasonable accommodation at work can be denied, or they can be fired. On the other hand, if they stop taking their medication, they will be considered a person with a disability under the ADA, but they will be unable to do their job.

This is not just absurd, it is wrong. It flies in the face of clear, unambiguous Congressional intent. When we passed the law, there was common agreement on both sides of the aisle, and on the part of the White House, that the law was designed to protect any individual who is treated less favorably because of a current, past, or perceived disability.

This situation cries out for a modest, reasonable legislative fix, and that is exactly what we are doing, today, by introducing the ADA Restoration Act of 2007.

Our bill amends the definition of ''disability'' so that people who Congress originally intended to be protected from discrimination are covered under the ADA.

Mr. Presdient, 17 years ago, the Americans with Disabilities Act passed with overwhelming bipartisan support. Likewise, today, we are building a strong bicameral, bipartisan majority to support ADA Restoration. A companion bill is being introduced, today, in the House.

As with the original passage of the ADA in 1990, it is going to take time to hold hearings and build strong majorities. But I look forward to working to restore Congress' original intent, and, once again, to ensure that Americans with disabilities are protected from discrimination.

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 orderd to be printed in the RECORD, as follows:

S. 1881

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 ''Americans with Disabilities Act Restoration Act of 2007''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in enacting the Americans with Disabilities Act of 1990, Congress intended that the Act ''establish a clear and comprehensive prohibition of discrimination on the basis of disability'', and provide broad coverage and vigorous and effective remedies without unnecessary and obstructive defenses;

(2) decisions and opinions of the Supreme Court have unduly narrowed the broad scope of protection afforded by the Americans with Disabilities Act of 1990, eliminating protection for a broad range of individuals whom Congress intended to protect;

(3) in enacting the Americans with Disabilities Act of 1990, Congress recognized that physical and mental impairments are natural parts of the human experience that in no way diminish a person's right to fully participate in all aspects of society, but Congress also recognized that people with physical or mental impairments having the talent, skills, abilities, and desire to participate in society are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers;

(4)(A) Congress modeled the Americans with Disabilities Act of 1990 definition of disability on that of section 504 of the Rehabilitation Act of 1973 (referred to in this section as ''section 504''), which had, prior to the date of enactment of the Americans with Disabilities Act of 1990, been construed broadly to encompass both actual and perceived limitations, and limitations imposed by society; and

(B) the broad conception of the definition contained in section 504 had been underscored by the Supreme Court's statement in its decision in School Board of Nassau County v. Arline, 480 U.S. 273 (1987), that the definition ''acknowledged that society's myths and fears about disability and disease are as handicapping as are the physical limitations that flow from actual impairment'';

(5) in adopting, in the Americans with Disabilities Act of 1990, the concept of disability expressed in section 504, Congress understood that adverse action based on a person's physical or mental impairment is often unrelated to the limitations caused by the impairment itself;

(6) instead of following congressional expectations that the term ''disability'' would be interpreted broadly in the Americans with Disabilities Act of 1990, the Supreme Court has ruled, in Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), that the elements of the definition ''need to be interpreted strictly to create a demanding standard for qualifying as disabled'' and, consistent with that view, has narrowed the application of the definition in various ways; and

(7) contrary to explicit congressional intent expressed in the committee reports for the Americans with Disabilities Act of 1990, the Supreme Court has eliminated from the Act's coverage individuals who have mitigated the effects of their impairments through the use of such measures as medication and assistive devices.

(b) PURPOSE.—The purposes of this Act are—

(1) to effect the Americans with Disabilities Act of 1990's objectives of providing ''a clear and comprehensive national mandate for the elimination of discrimination'' and ''clear, strong, consistent, enforceable standards addressing discrimination'' by restoring the broad scope of protection available under the Americans with Disabilities Act of 1990;

(2) to respond to certain decisions of the Supreme Court, including Sutton v. United Air Lines, Inc., (527 U.S. 471 (1999), Murphy v. United Parcel Service, Inc., 527 U.S. 516 (1999), Albertson's, Inc. v. Kirkingburg, 527 U.S. 555 (1999), and Toyota Motor Manufacturing, Kentucky, Inc. v. Williams, 534 U.S. 184 (2002), that have narrowed the class of people who can invoke the protection from discrimination that the Americans with Disabilities Act of 1990 provides; and

(3) to reinstate the original congressional intent regarding the definition of disability in the Americans with Disabilities Act of 1990 by clarifying that the protection of that Act is available for all individuals who are—

(A) subjected to adverse treatment based on an actual or perceived impairment, or a record of impairment; or

(B) adversely affected—

(i) by prejudiced attitudes, such as myths, fears, ignorance, or stereotypes concerning disability or particular disabilities; or

(ii) by the failure to remove societal and institutional barriers, including communication, transportation, and architectural barriers, or the failure to provide reasonable modifications to policies, practices, and procedures, reasonable accommodations, and auxiliary aids and services.

SEC. 3. FINDINGS IN AMERICANS WITH DISABILITIES ACT OF 1990.

Section 2(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1)(A) physical and mental disabilities are natural parts of the human experience that in no way diminish a person's right to fully participate in all aspects of society; and

''(B)(i) people with physical or mental disabilities having the talent, skills, abilities, and desire to participate in society are frequently precluded from doing so because of discrimination; and

''(ii) other people who have a record of a disability or are regarded as having a disability have also been subjected to discrimination;''; and

(2) by striking paragraph (7) and inserting the following:

''(7)(A) individuals with disabilities have been subjected to a history of purposeful unequal treatment, have had restrictions and limitations imposed upon them because of their disabilities, and have been relegated to positions of political powerlessness in society; and

''(B) classifications and selection criteria that exclude individuals with disabilities should be strongly disfavored, subjected to skeptical and meticulous examination, and permitted only for highly compelling reasons, and never on the basis of prejudice, myths, irrational fears, ignorance, or stereotypes about disability;''.

SEC. 4. DISABILITY DEFINED.

Section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102) is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) DISABILITY.—

''(A) IN GENERAL.—The term 'disability' means—

''(i) a physical or mental impairment;

''(ii) a record of a physical or mental impairment; or

''(iii) being regarded as having a physical or mental impairment.

''(B) RULE OF CONSTRUCTION.—

''(i) DETERMINATION OF IMPAIRMENT.—The determination of whether an individual has a physical or mental impairment shall be made without regard to—

''(I) whether the individual uses a mitigating measure;

''(II) the impact of any mitigating measures the individual may or may not be using;

''(III) whether any manifestation of the impairment is episodic; or

''(IV) whether the impairment is in remission or latent.

''(ii) MITIGATING MEASURES.—The term 'mitigating measure' means any treatment, medication, device, or other measure used to eliminate, mitigate, or compensate for the effect of an impairment, and includes prescription and other medications, personal aids and devices (including assistive technology devices and services), reasonable accommodations, and auxiliary aids and services.''; and

(2) by redesignating paragraph (3) as paragraph (7) and inserting after paragraph (2) the following:

''(3) MENTAL IMPAIRMENT.—The term 'mental', used with respect to an impairment, means any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disability.

''(4) PHYSICAL IMPAIRMENT.—The term 'physical', used with respect to an impairment, means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting 1 or more of the following body systems:

''(A) Neurological.

''(B) Musculoskeletal.

''(C) Special sense organs.

''(D) Respiratory, including speech organs.

''(E) Cardiovascular.

''(F) Reproductive.

''(G) Digestive.

''(H) Genitourinary.

''(I) Hemic and lymphatic.

''(J) Skin.

''(K) Endocrine.

''(5) RECORD OF A PHYSICAL OR MENTAL IMPAIRMENT.—The term 'record of a physical or mental impairment' means a history of, or a

misclassification as having, a physical or mental impairment.

''(6) REGARDED AS HAVING A PHYSICAL OR MENTAL IMPAIRMENT.—The term 'regarded as having a physical or mental impairment' means perceived or treated as having a physical or mental impairment, whether or not the individual involved has an impairment.''.

SEC. 5. ADVERSE ACTION.

The Americans with Disabilities Act of 1990 is amended by inserting after section 3 (42 U.S.C. 12102) the following:

''SEC. 4. ADVERSE ACTION.

''An adverse action taken by an entity covered under this Act against an individual because of that individual's use of a mitigating measure or because of a side effect or other consequence of the use of such a measure shall constitute discrimination under this Act.''.

SEC. 6. DISCRIMINATION ON THE BASIS OF DISABILITY.

Section 102 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112) is amended—

(1) in subsection (a), by striking ''against a qualified individual with a disability because of the disability of such individual'' and inserting ''against an individual on the basis of disability''; and

(2) in subsection (b), in the matter preceding paragraph (1), by striking the term ''discriminate'' and inserting ''discriminate against an individual on the basis of disability''.

SEC. 7. QUALIFIED INDIVIDUAL.

Section 103(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 2113(a)) is amended by striking ''that an alleged'' and inserting ''that—

''(1) the individual alleging discrimination under this title is not a qualified individual with a disability; or

''(2) an alleged''.

SEC. 8. RULE OF CONSTRUCTION.

Section 501 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201) is amended by adding at the end the following:

''(e) BROAD CONSTRUCTION.—In order to ensure that this Act achieves the purpose of providing a comprehensive prohibition of discrimination on the basis of disability and to advance the remedial purpose of this Act, the provisions of this Act shall be broadly construed.

''(f) REGULATIONS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Americans with Disabilities Act Restoration Act of 2007—

''(A) the Attorney General, the Equal Employment Opportunity Commission, and the Secretary of Transportation shall issue regulations described in sections 106, 204, 223, 229, 244, and 306, as appropriate, including regulations that implement sections 3 and 4, to carry out the corresponding provisions of this Act, as this Act is amended by the Americans with Disabilities Act Restoration Act of 2007; and

''(B) the Architectural and Transportation Barriers Compliance Board shall issue supplementary guidelines described in section 504, to supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of titles II and III of this Act, as this Act is amended by the Americans with Disabilities Act Restoration Act of 2007.

''(2) CONSTRUCTION.—Nothing in this subsection shall be construed to limit the authority of an officer or agency described in paragraph (1) to issue regulations or guidelines under any other provision of this Act, other than this subsection.

''(g) DEFERENCE TO REGULATIONS AND GUIDANCE.—Duly issued Federal regulations and guidance for the implementation of the Americans with Disabilities Act of 1990, including provisions implementing and interpreting the definition of disability, shall be entitled to deference by administrative agencies or officers, and courts, deciding an issue in any action brought under this Act.''.

By Mr. HAGEL (for himself, Mr. DURBIN, Mr. BIDEN, and Mrs. BOXER):

S. 1882. A bill to amend the Public Health Service Act to establish various programs for the recruitment and retention of public health workers and to eliminate critical public health workforce shortages in Federal, State, local, and tribal public health agencies; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, in the last few years, our Nation's public health has been threatened repeatedly. We have faced natural disasters like the horrific damage done by Hurricane Katrina. We have endured human-led catastrophes like the tragic September 11 attacks. Only a couple of months ago, a man infected with a potentially lethal strain of extremely drug-resistant tuberculosis was able to travel from his home in Atlanta to France, Greece, the Czech Republic, and Canada, before ending up at a center in Denver for treatment.

These emergencies have made it clear that our public health system must be prepared for the unexpected.

Our ability to prevent, respond to, and recover from incidents like these depends upon an adequately staffed and well trained public health workforce. But if we look at our public health workforce today, what we see is alarming: an aging staff nearing retirement with no clear pipeline of trained employees to fill the void.

The average age of lab technicians, epidemiologists, environmental health experts, microbiologists, IT specialists, administrators, and other public health workers is 47. That is 7 years older than the average age of the Nation's workforce. Retirement rates are as high as 20 percent in some State public health agencies. Nearly half of the Federal employees in positions critical to our biodefense will be eligible to retire by 2012. The average age of a public health nurse is near 50 years.

These statistics are sobering. As the responsibilities of our public health workforce are growing, their ranks continue to shrink. These are shortages that impact not just for the security of our health, but our national security.

We can't afford to overlook this problem any longer. For the third consecutive Congress, Senator HAGEL and I are introducing the Public Health Preparedness Workforce Development Act of 2007. This is a bill that will increase the pipeline of qualified public health workers at all levels—Federal, State, local, and tribal. It offers scholarships and loan repayment as recruitment and retention incentives for students who enter and stay in the field of public health. It also provides opportunities for mid-career public health professionals to go back for additional training in public health preparedness or biodefense.

The time to prepare for a public health emergency, whether that be a natural disaster or one of our own making, is not tomorrow, nor next month, nor a year from now, but today. Looking forward we must strengthen our public health workforce. I urge my colleagues to join me and the Senator from Nebraska in taking up and passing the Public Health Preparedness Workforce Development Act. We must all make a commitment to securing the safety of our nation, and that security begins with our public health.

By Mr. KOHL (for himself, Mr. DORGAN, and Mr. WYDEN):

S. 1883. A bill to amend title XVIII of the Social Security Act to provide for standardized marketing requirements under the Medicare Advantage program and the Medicare prescription drug program and to provide for State certification prior to waiver of licensure requirements under the Medicare prescription drug program, and for other purposes; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to introduce the Accountability and Transparency in Medicare Marketing Act, on behalf of myself and Senator DORGAN and WYDEN. This legislation aims to regulate the marketing standards and sales tactics of Medicare Advantage and Medicare prescription drug plans, now the fastest growing segment of Medicare and a prime target for fraud, misrepresentation, and deceptive sales practices.

As chairman of the Special Committee on Aging, I recently held a hearing entitled, ''Medicare Advantage Marketing and Sales: Who Has the Advantage?'' Our hearing uncovered that a large majority of State insurance departments have received, and continue to receive, an unprecedented number of complaints about inappropriate or confusing marketing practices that have led Medicare beneficiaries to enroll in Medicare Advantage plans without adequately understanding the consequences of their decisions.

My legislation will facilitate the creation of uniform marketing standards that will be adopted and enforced by individual states. Based on current law, CMS has exclusive authority to investigate and discipline the marketing and selling of Medicare advantage products, while States have only been permitted to examine and enforce violations against individual insurance agents. This unusual arrangement, which some might call a pre-emption of authority, has left a sizable enforcement gap that has exacerbated the problems found by the committee.

This legislation will close that gap, giving States the ability to standardize marketing and sales regulations, as well as regulate both agents and companies in the marketing and sales of

Medicare Advantage and prescription drug plans. Ultimately, State insurance commissioners will have the ability to work in conjunction with CMS in order to provide the most comprehensive protection possible for Medicare beneficiaries.

Senior citizens deserve to have access to the health care plan that best serves their needs without having to worry about being purposely mislead and deceived. I believe we must repair this disconnect in oversight and ensure the protection of American seniors, and I hope my colleagues will join in my effort to do so.

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 placed in the RECORD, as follows:

S. 1883

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 ''Accountability and Transparency in Medicare Marketing Act of 2007''.

SEC. 2. STANDARDIZED MARKETING REQUIREMENTS UNDER THE MEDICARE ADVANTAGE AND MEDICARE PRESCRIPTION DRUG PROGRAMS.

(a) MEDICARE ADVANTAGE PROGRAM.—

(1) IN GENERAL.—Section 1856 of the Social Security Act (42 U.S.C. 1395w–26) is amended—

(A) in subsection (b)(1), by inserting ''or subsection (c)'' after ''subsection (a)''; and

(B) by adding at the end the following new subsection:

''(c) STANDARDIZED MARKETING REQUIREMENTS.—

''(1) DEVELOPMENT BY THE NAIC.—

''(A) REQUIREMENTS.—The Secretary shall request the National Association of Insurance Commissioners (in this subsection referred to as the 'NAIC') to—

''(i) develop standardized marketing requirements for Medicare Advantage organizations with respect to Medicare Advantage plans and PDP sponsors with respect to prescription drug plans under part D; and

''(ii) submit a report containing such requirements to the Secretary by not later than the date that is 9 months after the date of enactment of this subsection.

''(B) PROHIBITED ACTIVITIES.—Such requirements shall prohibit the following:

''(i) Cross-selling of non-Medicare products or services with products or services offered by a Medicare Advantage plan or a prescription drug plan under part D.

''(ii) Up-selling from prescription drug plans under part D to Medicare Advantage plans.

''(iii) Telemarketing (including cold calling) conducted by an organization with respect to a Medicare Advantage plan or a PDP sponsor with respect to a prescription drug plan under part D (or by an agent of such an organization or sponsor).

''(iv) A Medicare Advantage organization or a PDP sponsor providing cash or other monetary rebates as an inducement for enrollment or otherwise.

''(C) ELECTION FORM.—Such requirements may prohibit a Medicare Advantage organization or a PDP sponsor (or an agent of such an organization or sponsor) from completing any portion of any election form used to carry out elections under section 1851 or 1860D–1 on behalf of any individual.

''(D) AGENT AND BROKER COMMISSIONS.—Such requirements shall establish standards—

''(i) for fair and appropriate commissions for agents and brokers of Medicare Advantage organizations and PDP sponsors, including a prohibition on extra bonuses or incentives; and

''(ii) for the disclosure of such commissions.

''(E) CERTAIN CONDUCT OF AGENTS.—Such requirements shall address the conduct of agents engaged in on-site promotion at a facility of an organization with which the Medicare Advantage organization or PDP sponsor has a cobranding relationship.

''(F) OTHER STANDARDS.—Such requirements may establish such other standards relating to marketing under Medicare Advantage plans and prescription drug plans under part D as the NAIC determines appropriate.

''(2) IMPLEMENTATION OF REQUIREMENTS.—

''(A) ADOPTION OF NAIC DEVELOPED REQUIREMENTS.—If the NAIC develops standardized marketing requirements and submits the report pursuant to paragraph (1), the Secretary shall promulgate regulations for the adoption of such requirements. The Secretary shall ensure that such regulations take effect not later than the date that is 10 months after the date of enactment of this subsection.

''(B) REQUIREMENTS IF NAIC DOES NOT SUBMIT REPORT.—If the NAIC does not develop standardized marketing requirements and submit the report pursuant to paragraph (1), the Secretary shall promulgate regulations for standardized marketing requirements for Medicare Advantage organizations with respect to Medicare Advantage plans and PDP sponsors with respect to prescription drug plans under part D. Such regulations shall prohibit the conduct described in paragraph (1)(B), may prohibit the conduct described in paragraph (1)(C), shall establish the standards described in paragraph (1)(D), shall address the conduct described in paragraph (1)(E), and may establish such other standards relating to marketing under Medicare Advantage plans and prescription drug plans as the Secretary determines appropriate. The Secretary shall ensure that such regulations take effect not later than the date that is 10 months after the date of enactment of this subsection.

''(C) CONSULTATION.—In establishing requirements under this subsection, the NAIC or Secretary (as the case may be) shall consult with a working group composed of representatives of Medicare Advantage organizations and PDP sponsors, consumer groups, and other qualified individuals. Such representatives shall be selected in a manner so as to insure balanced representation among the interested groups.

''(3) STATE REPORTING OF VIOLATIONS OF STANDARDIZED MARKETING REQUIREMENTS.—The Secretary shall request that States report any violations of the standardized marketing requirements under the regulations under subparagraph (A) or (B) of paragraph (2) to national and regional offices of the Centers for Medicare & Medicaid Services.

''(4) REPORT.—The Secretary shall submit an annual report to Congress on the enforcement of the standardized marketing requirements under the regulations under subparagraph (A) or (B) of paragraph (2), together with such recommendations as the Secretary determines appropriate. Such report shall include—

''(A) a list of any alleged violations of such requirements reported to the Secretary by a State, a Medicare Advantage organization, or a PDP sponsor; and

''(B) the disposition of such reported violations.''.

(2) STATE AUTHORITY TO ENFORCE STANDARDIZED MARKETING REQUIREMENTS.—

(A) IN GENERAL.—Section 1856(b)(3) of the Social Security Act (42 U.S.C. 1395w–26(b)(3)) is amended—

(i) by striking ''or State'' and inserting '', State''; and

(ii) by inserting '', or State laws or regulations enacting the standardized marketing requirements under subsection (c)'' after ''plan solvency''.

(B) NO PREEMPTION OF STATE SANCTIONS.—Nothing in title XVIII of the Social Security Act or the provisions of, or amendments made by, this Act, shall be construed to prohibit a State from imposing sanctions against Medicare Advantage organizations, PDP sponsors, or agents or brokers of such organizations or sponsors for violations of the standardized marketing requirements under subsection (c) of section 1856 of the Social Security Act (as added by paragraph (1)) as enacted by that State.

(3) CONFORMING AMENDMENT.—Section 1851(h)(4) of the Social Security Act (42 U.S.C. 1395w–21(h)(4)) is amended by adding at the end the following flush sentence:

''Beginning on the effective date of the implementation of the regulations under subparagraph (A) or (B) of section 1856(c)(2), each Medicare Advantage organization with respect to a Medicare Advantage plan offered by the organization (and agents of such organization) shall comply with the standardized marketing requirements under section 1856(c).''.

(b) MEDICARE PRESCRIPTION DRUG PROGRAM.—Section 1860D–4 of the Social Security Act (42 U.S.C. 1395w–104) is amended by adding at the end the following new subsection:

''(l) STANDARDIZED MARKETING REQUIREMENTS.—A PDP sponsor with respect to a prescription drug plan offered by the sponsor (and agents of such sponsor) shall comply with the standardized marketing requirements under section 1856(c).''.

SEC. 3. STATE CERTIFICATION PRIOR TO WAIVER OF LICENSURE REQUIREMENTS UNDER MEDICARE PRESCRIPTION DRUG PROGRAM.

(a) IN GENERAL.—Section 1860D–12(c) of the Social Security Act (42 U.S.C. 1395w–112(c)) is amended—

(1) in paragraph (1)(A), by striking ''In the case'' and inserting ''Subject to paragraph (5), in the case''; and

(2) by adding at the end the following new paragraph:

''(5) STATE CERTIFICATION REQUIRED.—

''(A) IN GENERAL.—The Secretary may only grant a waiver under paragraph (1)(A) if the Secretary has received a certification from the State insurance commissioner that the prescription drug plan has a substantially complete application pending in the State.

''(B) REVOCATION OF WAIVER UPON FINDING OF FRAUD AND ABUSE.—The Secretary shall revoke a waiver granted under paragraph (1)(A) if the State insurance commissioner submits a certification to the Secretary that the recipient of such a waiver—

''(i) has committed fraud or abuse with respect to such waiver;

''(ii) has failed to make a good faith effort to satisfy State licensing requirements; or

''(iii) was determined ineligible for licensure by the State.''.

(b) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to plan years beginning on or after January 1, 2008.

SEC. 4. NAIC RECOMMENDATIONS ON THE ESTABLISHMENT OF STANDARDIZED BENEFIT PACKAGES FOR MEDICARE ADVANTAGE PLANS AND PRESCRIPTION DRUG PLANS.

Not later than 30 days after the date of enactment of this Act, the Secretary of Health

and Human Services shall request the National Association of Insurance Commissioners to establish a committee to study and make recommendations to the Secretary and Congress on—

(1) the establishment of standardized benefit packages for Medicare Advantage plans under part C of title XVIII of the Social Security Act and for prescription drug plans under part D of such Act; and

(2) the regulation of such plans.

By Mr. SALAZAR:

S. 1884. A bill to amend the Farm Security and Rural Investment Act of 2002 to reauthorize and improve agricultural energy programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry,

Mr. SALAZAR. Mr. President, today I am introducing a bill that will help deliver clean energy technologies from the research pipelines of our labs into the hands of our farmers and ranchers, so that we can take better advantage of our farms and fields for clean energy production. This bill, called the Harvesting Energy Act, will bolster the energy title of this year's farm bill, building on the good ideas that Chairman HARKIN, Ranking Member CHAMBLISS, and the rest of us on the Agriculture Committee have been working on for several months.

I am proud that the Harvesting Energy Act reflects the broad-based, bipartisan input of the 25 by '25 coalition which, earlier this year, provided us with their policy recommendations for how we can produce 25 percent of our energy from renewable resources by 2025. The 25 by '25 vision has been endorsed by 22 current and former Governors and several State legislatures across the country, along with over 500 organizations and companies, including the Big Three automobile manufacturers, agricultural producers, and environmental groups. We established 25 by '25 as a national goal earlier this year when we passed the Energy bill in the Senate. We must now implement the policies that are necessary to achieve that goal.

I have spoken many times about the urgency of moving this Nation toward energy independence by making better use of the resources we have here at home. Responsible development of our oil and gas resources, improved efficiency and conservation, and more aggressive investment in renewable energy technologies—these are the three pillars upon which we must build an economy that is less dependent on foreign oil.

I do not need to remind my colleagues of the dangers that oil dependence poses to the United States and to global security. It is oil that empowers states such as lran, Venezuela, and Syria. It is oil that contributes to violence in Iraq, Nigeria, and the Sudan. It is oil that places Russia and China in a dangerous competition for oil in Central Asia and Africa.

This Congress has made remarkable progress since January in confronting the daunting task of reducing our dependence on foreign oil. It is an effort that has spanned several committees.

The Energy bill that we passed in early June represented the diligent work of the Energy and Natural Resources Committee, the Commerce Committee, and the Finance Committee. I was proud of the work we did on that bill, from creating meaningful oil savings targets to making smarter investments in renewables, improving vehicle standards, and establishing a national goal of producing 25 percent of our energy from our farms and fields by 2025.

I am also proud of the energy work we are doing on the farm bill in the Agriculture Committee. Thanks to Chairman HARKIN's leadership, the 2007 farm bill will build on the 2002 farm bill's first-ever energy title.

This is an important step that recognizes the central role that our farmers and ranchers must play in a new, clean energy economy. We have the most productive lands and most efficient farmers in the world, allowing America to be the breadbasket for the global community. With these resources, talent, and ingenuity, there is no doubt that we can grow our way to energy independence.

As I travel through Colorado, the possibilities of a clean energy revolution, driven by farmers and ranchers, are clear.

In Weld County, Logan County, and Yuma County, we are seeing biofuel plants spring to life, creating new markets and new opportunities for our rural communities. In 2004, there were no ethanol plants in Colorado. Today, three plants produce more than 90 million gallons per year, and a fourth plant will come on line later this year, adding another 50 million gallons per year.

But it is not just biofuels. In the San Luis Valley, where my family has lived for five generations, Xcel Energy just broke ground on the largest solar plant in North America.

We have added 60 megawatts of wind capacity in Colorado in the last 2 years, and by the end of 2007, we will add another 775 megawatts, more than tripling the State's production of wind power to more than 1,000 megawatts. This is good for households along the Front Range that get clean, affordable power, and it is good for the ranchers in Prowers County, who own the land on which the turbines sit.

These biofuel plants, wind turbines, and solar farms are revitalizing rural communities that have been withering on the vine. They are bringing life back to main streets that were boarded up and excitement back to farmers and ranchers who are eager to be a part of our clean energy revolution.

The bill I am introducing today will help stimulate this revolution by getting more renewable energy technologies out of the development pipeline and into the fields, where they belong.

It is based on the recommendations contained in the 25 by 25 Action Plan and builds on those ideas with important new initiatives to supplement the energy title of the farm bill. Our goal is to ensure that the renewable energy work being done at the Department of Energy and in colleges and universities throughout the country, in which we invested earlier this year through the Energy bill, is accompanied by a strong commitment at USDA to bring the resulting technologies and methods out to farmers and ranchers.

USDA has a long history of identifying promising new production methods and technologies, refining them, and making them available to agricultural producers. The Akron Research Station in Washington County, CO, is a great example. For 100 years it has connected our farmers in eastern Colorado with the latest practical agricultural research available.

USDA can and should be making the same efforts to disperse the latest and best developments from the renewable energy revolution to farmers and ranchers.

I want to briefly describe four ways in which my bill will bolster USDA's capabilities in this area and help make the 25x'25 vision a reality.

First, the Harvesting Energy Act of expands and extends Section 9006 of the farm bill, which offers competitive grants and loan guarantees to help farmers, ranchers, and rural small businesses invest in proven clean energy technologies. My bill adds $280 million to section 9006, following the recommendations of the 25x'25 Agriculture Energy Alliance. This will ramp up the loan guarantees for cellulosic ethanol facilities, encourage community wind and other electric power projects, and expand the number of eligible applicants for these loans and grants. This is a responsible way to help more farmers become net energy producers of on-farm renewable energy.

Second, my bill accelerates research, development, demonstration, and deployment of renewable resources such as biomass, wind, solar, and renewable natural gas. I am proposing that we devote an additional $200 million per year to these efforts, with the specific goals of bringing biomass energy feedstocks such as native grasses and short-rotation trees into production; perfecting our biorefinery and conversion technologies; refining biofuels from these biomass feedstocks; and making use of the biobased coproducts to add value to the process.

Third, if we are to continue to expand biofuels production, we need to ensure that the supply is stable so that we don't encounter major shortages in droughts or in periods of adverse weather. Storing feedstocks like corn, oilseed crops, and biomass for cellulosic ethanol will better protect consumers from huge price fluctuations or shortages. My bill would create a voluntary biofuel feedstock reserve that would encourage farmers to store these feedstocks on-farm and make them available for biofuel production when a price spike or a shortage occurs.

Fourth, the Harvesting Energy Act invests in research and development in new production technologies that promise to yield high energy returns and carbon storage. One of the key investments that this bill makes is in biochar. Biochar is a type of charcoal produced from biomass that is valuable as a soil amendment. The USDA and DOE are finding that they can produce biochar as a carbon-capturing byproduct of cellulosic ethanol production. This is good for farmers, who put the biochar back into the soil as a fertilizer, good for the environment because it reduces carbon emissions, and good for consumers because it could drive down cellulosic ethanol production costs. My bill would provide $50 million in competitive funding for research and development grants to scale-up and commercialize biochar production systems. Like so much else we are doing in the energy title of the farm bill, this would move ideas from the research pipeline out into the field, where they need to be.

This bill includes a wide range of other provisions that build on the good work that the Agriculture Committee is doing on the farm bill. Like the provisions I have described, they aim to expand the menu of renewable energy options we have available as we work to reduce our dependence on foreign oil.

I again thank Chairman HARKIN and Senator CHAMBLISS for their leadership on the Agriculture Committee and for their commitment to creating a robust energy title in this year's farm bill. I firmly believe that with the right investments and a commitment from this Congress, our farmers and ranchers can help lead us down the path to energy independence.

By Mr. SMITH (for himself and Mr. KERRY):

S. 1887. A bill to amend title XVIII of the Social Security Act in order to ensure access to critical medications under the Medicare Part D prescription drug program; to the Committee on Finance.

Mr. Smith. Mr. President, today I am introducing the Access to Critical Medications Act ACMA, a bill that will vastly improve the coverage millions of vulnerable Medicare beneficiaries receive through the Medicare prescription drug program, known as Part D. The new drug benefit has been a tremendous success, providing access to affordable prescription drug therapies to millions of beneficiaries, some for the very first time. But many of our most vulnerable seniors, especially those suffering from serious health conditions like mental illness, HIV/AIDS or cancer, often have difficulty obtaining the vital drug therapies they need to remain functional, or in some cases, to survive. To remedy these problems, the bill I am introducing today will give the Centers for Medicare and Medicaid Services, CMS, the regulatory tools it needs to ensure that all prescription drug plans, PDP, provide unfettered access to medically essential drug therapies.

My connection to this issue began long before Medicare's new prescription drug benefit went into effect. As chairman of the Aging Committee, I held a hearing in the spring of 2005 to explore how well CMS was preparing to transition dual-eligible beneficiaries, those who qualify for both Medicare and Medicaid, into Medicare Part D. At that hearing, advocates expressed a number of concerns with the implementation of the new drug benefit, and chief among them was guaranteeing that vulnerable beneficiaries had access to important drug therapies that either stabilized or improved their health condition. I made a personal request to then CMS Administrator Dr. Mark McClellan to work with prescription drug plans to ensure that their formularies provide access to all available drugs in certain pharmaceutical classes, including those that contain innovative treatments for mental illness, epilepsy, cancer and HIV/AIDS. The result of that conversation was the creation of the ''all or substantially all'' policy for six protected drug classes. CMS initially included this new policy as part of the sub-regulatory formulary guidance it issued to plans in 2005 and again in 2006.

While I was pleased with CMS providing this additional protection for the vital drug therapies in the six protected classes, its actual impact on beneficiaries gaining access to the medications they need has been uneven at best. For one, the policy was issued as sub-regulatory guidance, which limits CMS' ability to enforce it. While it is true that the annual contracts CMS develops with prescription drug plans generally include a requirement that they abide by the ''all or substantially all'' guidance, the agency's record of enforcing the policy has been quite poor. Instead of plans covering all drugs in the six protected classes, as CMS claims plan contracts require, beneficiaries, often the most frail and vulnerable, have had extensive access problems because their PDPs do not include their medication on its formulary. In fact, data from a study being conducted by the American Psychiatric Institute for Research and Education, APIRE, released earlier this year, showed that roughly 68 percent of surveyed beneficiaries, many of them dual eligibles, experienced some sort of problem accessing the prescription drug they needed because their PDP's formulary did not cover it. This would suggest that CMS' current approach to enforcing the ''all or substantially all'' policy is woefully lacking.

I should note that beneficiaries often are able to access a drug that should be covered on their plan's formulary by filing a coverage appeal. However, that process is usually long and difficult to complete, and results in the problem only being solved for one beneficiary. I appreciate the responsiveness of drug plans to specific beneficiaries' difficulties with accessing the drugs they need, but if they are not addressing the concerns raised through the appeals process on a broader scale, problems will only continue to occur. I believe we need a system-wide approach to ensuring that beneficiaries have access to the life-saving and life-improving medications they need and I believe that solution lies within the legislation I am filing today.

The Access to Critical Medications Act ACMA would codify, for a 5-year period, the current policies in CMS existing ''all or substantially all'' sub-regulatory guidance. I am hopeful that providing this statutory authority will signal to plans that it is no longer an option to cover all available drugs in the six protected classes. It is a legal requirement that must be adhered to in order to participate in Medicare Part D. Accordingly, I would expect that this change will empower CMS to take a more proactive role in ensuring that prescription drug plan sponsors are not placing arbitrary barriers to accessing these critical medications covered by the ''all or substantially all'' policy.

During the 5 year period that the ''all or substantially all'' policy will be effective, the ACMA directs CMS to establish a process through regulation, that would allow for this important policy to be updated and enforced in future years. None of us hold the knowledge of the pharmaceutical and medical developments of tomorrow. In a decade, there could be major breakthroughs in treating any number of debilitating illnesses, which may require the creation of or modification of pharmaceutical classes covered by this important policy. CMS needs to have the authority to update the classes and categories it covers and the process the ACMA creates will provide them the tools to do that.

In order to use those tools, the ACMA defines specific, clinically-based criteria that the Secretary must follow when evaluating whether a drug class should be added or removed from coverage under the policy. This will ensure that there is consistency in the manner by which the policy is evaluated in future years, so that the Secretary is not arbitrarily determining which medications are important enough so that all plans must provide access to them. The ACMA also makes modest changes to the appeals process, to ensure that plans and CMS resolve beneficiary complaints in a timely manner, and that access to medications is guaranteed while the appeals process runs its course.

The existing ''all or substantially all'' policy was a step in the right direction at the time it was created. However, as we approach the third year of Medicare's prescription drug benefit, beneficiaries' actual experience in the program provides overwhelming support that we need a more robust approach to helping vulnerable beneficiaries get the medications they need.

As importantly, CMS must have a regulatory process in place that will enable it to modify the classes covered by the policy in response to changes in medical and pharmaceutical science. I believe the ACMA clearly addresses both those needs, and I hope my colleagues will agree. It is a well thought out policy that strikes a careful balance between flexibility and enforceability. Advocacy groups such as the American Psychiatric Association, the National Alliance for Mental Illness, Mental Health America, the AIDS Institute, the HIV Medicine Association and the Epilepsy Foundation all contributed to the development of ACMA and all now support the finished product. The Senate likely will consider Medicare legislation this fall, and I have already mentioned to Chairman BAUCUS that I would like to see this bill advance as part of that effort.

I ask unanimous consent that the text of therbill and letters of support be printed in the RECORD.

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

S. 1887

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 ''Medicare Access to Critical Medications Act of 2007''.

SEC. 2. FORMULARY REQUIREMENTS WITH RESPECT TO CERTAIN CATEGORIES AND CLASSES OF DRUGS.

(a) REQUIRED INCLUSION OF DRUGS IN CERTAIN CATEGORIES AND CLASSES.—

(1) INITIAL LIST.—Section 1860D–4(b)(3) of the Social Security Act (42 U.S.C. 1395w–104(b)(3)) is amended—

(A) in subparagraph (C)(i), by striking ''The formulary'' and inserting ''Subject to subparagraph (G), the formulary''; and

(B) by inserting after subparagraph (F) the following new subparagraph:

''(G) INITIAL LIST OF REQUIRED DRUGS IN CERTAIN CATEGORIES AND CLASSES.—

''(i) IN GENERAL.—Subject to clause (iv), the formulary must include all or substantially all drugs in the following categories and classes that are available as of April 30 of the year prior to the year which includes the date of enactment of the Medicare Access to Critical Medications Act of 2007:

''(I) Immunosuppressant.

''(II) Antidepressant.

''(III) Antipsychotic.

''(IV) Anticonvulsant.

''(V) Antiretroviral.

''(VI) Antineoplastic.

''(ii) NEWLY APPROVED DRUGS.—

''(I) IN GENERAL.—In the case of a drug in any of the categories and classes described in subclauses (I) through (VI) of clause (i) that becomes available after the April 30 date described in clause (i), the formulary shall include such drug within 30 days of the drug becoming available, except that, in the case of such a drug that becomes available during the period beginning on such April 30 and ending on the date of enactment of the Medicare Access to Critical Medications Act of 2007, the formulary shall include such drug within 30 days of such date of enactment.

''(II) USE OF FORMULARY MANAGEMENT PRACTICES AND POLICIES.—Nothing in this clause shall be construed as preventing the Pharmacy and Therapeutic Committee of a PDP sponsor from advising such sponsor on the clinical appropriateness of utilizing formulary management practices and policies with respect to a newly approved drug that is required to be included on the formulary under subclause (I).

''(iii) UNIQUE DOSAGES AND FORMS.—A PDP sponsor of a prescription drug plan shall include coverage of all unique dosages and forms of drugs required to be included on the formulary pursuant to clause (i) or (ii).

''(iv) SUNSET.—The provisions of this subparagraph shall not apply after December 31 of the year which includes the date that is 5 years after the date of enactment of the Medicare Access to Critical Medications Act of 2007.''

(2) REVIEW OF DRUGS COVERED UNDER THE MEDICARE PART D PRESCRIPTION DRUG PROGRAM.—Section 1860D–4(b)(3) of the Social Security Act (42 U.S.C. 1395w–104(b)(3)), as amended by paragraph (1), is amended—

(A) in subparagraph (C)(i), by striking ''subparagraph (G)'' and inserting ''subparagraphs (G) and (H)''; and

(B) by inserting after subparagraph (G) the following new subparagraph:

''(H) REQUIRED INCLUSION OF DRUGS IN CERTAIN CATEGORIES AND CLASSES.—

''(i) REQUIRED INCLUSION OF DRUGS IN CERTAIN CATEGORIES AND CLASSES.—

''(I) IN GENERAL.—Beginning January 1 of the year after the year which includes the date that is 5 years after the date of enactment of the Medicare Access to Critical Medications Act of 2007, PDP sponsors offering prescription drug plans shall be required to include all unique dosages and forms of all or substantially all drugs in certain categories and classes, including the categories and classes described in subclauses (I) through (VI) of subparagraph (G)(i), on the formulary of such plans within 30 days of the drug becoming available.

''(II) REGULATIONS.—Not later than January 1 of the year after the year which includes the date that is 4 years after the date of enactment of the Medicare Access to Critical Medications Act of 2007, the Secretary shall issue regulations to carry out this clause.

''(ii) PERIODIC REVIEW.—The Secretary shall establish procedures to provide for periodic review of the drugs required to be included on the formulary under clause (i).

''(iii) UPDATING.—

''(I) IN GENERAL.—The Secretary may update the list of drugs required to be included on the formulary under clause (i) if the Secretary determines, in accordance with this clause, that updating such list is appropriate.

''(II) ADDING CATEGORIES OR CLASSES.—In issuing the regulations under clause (i) and updating the list in order to add a drug in a category or class to the list of drugs required to be included on the formulary under such clause, the Secretary shall consider factors that justify requiring coverage of drugs in a certain category or class, including the following:

''(aa) Whether the drugs in a category or class are used to treat a disease or disorder that can cause significant negative clinical outcomes to individuals in a short timeframe.

''(bb) Whether there are special or unique benefits with respect to the majority of drugs in a given category or class.

''(cc) High predicted drug and medical costs for the diseases or disorders treated by the drugs in a given category or class.

''(dd) Whether restricted access to the drugs in the category or class has major clinical consequences for individuals enrolled in a prescription drug plan who have a disease or disorder treated by the drugs in such category or class.

''(ee) The potential for the development of discriminatory formulary policies based on the clinical or functional characteristics of such individuals and the high cost of certain drugs in a category or class.

''(ff) The need for access to multiple drugs within a category or class due to the unique chemical action and pharmacological effects of drugs within the category or class and any variation in clinical response based on differences in such individuals' metabolism, age, gender, ethnicity, comorbidities, drug-resistance, and severity of disease.

''(gg) Any applicable revisions that have been made to widely-accepted clinical practice guidelines endorsed by pertinent medical specialty organizations.

''(III) REMOVAL OF CATEGORIES OR CLASSES.—In updating the list in order to remove a drug in a category or class from the list of drugs required to be included on the formulary under clause (i), the Secretary may remove a drug from such list in the case where the Secretary determines that widely-accepted clinical practice guidelines endorsed by pertinent national medical specialty organizations indicate that, for substantially all drugs in the category or class, restricting access to such drugs is unlikely to result in adverse clinical consequences for individuals with conditions for which the drugs are clinically indicated.''.

(b) LIMITATION OF UTILIZATION MANAGEMENT TOOLS FOR DRUGS IN CERTAIN CATEGORIES AND CLASSES.—Section 1860D–4(c) of the Social Security Act (42 U.S.C. 1395w–104(c)) is amended—

(1) in paragraph (1)(A), by striking ''A cost-effective'' and inserting ''Subject to paragraph (3), a cost-effective''; and

(2) by adding at the end the following new paragraph:

''(3) LIMITATION OF UTILIZATION MANAGEMENT TOOLS FOR DRUGS IN CERTAIN CATEGORIES AND CLASSES.—

''(A) IN GENERAL.—A PDP sponsor of a prescription drug plan may not apply a utilization management tool, such as prior authorization or step therapy, to the following:

''(i) During the period beginning on the date of enactment of this paragraph and ending on December 31 of the year which includes the date that is 5 years after such date of enactment—

''(I) a drug in a category or class described in subsection (b)(3)(G)(i)(V); and

''(II) a drug in a category or class described in subclause (I), (II), (III), (IV), or (VI) of subsection (b)(3)(G)(i) in the case where an enrollee was engaged in a treatment regimen using such drug in the 90-day period prior to the date on which such tool would be applied to the drug with respect to the enrollee under the plan or the PDP sponsor is unable to determine if the enrollee was engaged in such a treatment regimen prior to such date.

''(ii) Beginning January 1 of the year after the year which includes the date that is 5 years after the date of enactment of this paragraph—

''(I) a drug in a category or class described in subsection (b)(3)(G)(i)(V), if such drug is required to be included on the formulary under subsection (b)(3)(H); and

''(II) a drug in any other category or class required to be included on the formulary under subsection (b)(3)(H) in the case where an enrollee was engaged in a treatment regimen using such drug in the 90-day period prior to the date on which such tool would be applied to the drug with respect to the enrollee under the plan or the PDP sponsor is unable to determine if the enrollee was engaged in such a treatment regimen prior to such date

''(B) STATEMENT OF EVIDENCE BASE FOR APPLICATION OF UTILIZATION MANAGEMENT

TOOL.—In the case where a utilization management tool is applied to a drug in a category or class required to be included on a plan formulary under subparagraph (G) or (H) of subsection (b)(3), the PDP sponsor of such plan shall provide a statement of the evidence base substantiating the clinical appropriateness of the application of such tool.''.

(c) RULE OF CONSTRUCTION.—Nothing in the provisions of this section, or the amendments made by this section, shall be construed as prohibiting the Secretary of Health and Human Services from issuing guidance or regulations to establish formulary or utilization management requirements under section 1860D–4 of the Social Security Act (42 U.S.C. 1395w–104) as long as they do not conflict with such provisions and amendments.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contract years beginning on or after January 1, 2008.

SEC. 3. APPEALS REQUIREMENTS FOR CERTAIN CATEGORIES AND CLASSES OF DRUGS.

(a) COVERAGE DETERMINATIONS AND RECONSIDERATION.—Section 1860D–4(g) of the Social Security Act (42 U.S.C. 1395w–104(g)) is amended by adding at the end the following new paragraph:

''(3) REQUEST FOR A DETERMINATION OR RECONSIDERATION FOR THE TREATMENT OF DRUGS IN CERTAIN CATEGORIES AND CLASSES.—

''(A) IN GENERAL.—In the case where an individual enrolled in a prescription drug plan disputes a utilization management requirement, an adverse coverage determination, a reconsideration by a PDP sponsor of a prescription drug plan, or an adverse reconsideration by an Independent Review Entity with respect to a covered part D drug in the categories and classes required to be included on the formulary under subparagraph (G) of subsection (b)(3) or under the regulations issued under subparagraph (H) of such subsection, the PDP sponsor shall continue to cover such prescription drug until the date that is not less that 60 days after the latest of the following has occurred:

''(i) The enrollee has received written notice of an adverse reconsideration by a PDP sponsor.

''(ii) In the case where an enrollee has requested reconsideration by an Independent Review Entity, such Entity has issued an adverse reconsideration.

''(iii) In the case where an appeal of such adverse reconsideration has been filed by the individual, an administrative law judge has decided or dismissed the appeal.

''(B) DEFINITION OF INDEPENDENT REVIEW ENTITY.—In this paragraph, the term 'Independent Review Entity' means the independent, outside entity the Secretary contracts with under section 1852(g)(4), including such an entity that the Secretary contracts with in order to meet the requirements of such section under section 1860D–4(h)(1).''.

(b) APPEALS.—Section 1860D–4(h) of the Social Security Act (42 U.S.C. 1395w–104(h)) is amended—

(1) in paragraph (2), by striking ''A part D'' and inserting ''Subject to paragraph (4), a part D''; and

(2) by adding at the end the following new paragraph:

''(4) TREATMENT OF APPEALS FOR DRUGS IN CERTAIN CATEGORIES AND CLASSES.—

''(A) IN GENERAL.—A part D eligible individual who is enrolled in a prescription drug plan offered by a PDP sponsor may appeal under paragraph (1) a determination by such sponsor not to provide coverage of a covered part D drug in a category or class required to be included on the formulary under subparagraph (G) of subsection (b)(3) or under the regulations issued under subparagraph (H) of such subsection at any time after such determination by requesting a reconsideration by an Independent Review Entity.

''(B) DEFINITION OF INDEPENDENT REVIEW ENTITY.—In this paragraph, the term 'Independent Review Entity' has the meaning given such term in subsection (g)(3)(B).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contract years beginning on or after January 1, 2008.

SEC. 4. DATA REPORTING REQUIREMENTS FOR CERTAIN CATEGORIES AND CLASSES OF DRUGS UNDER THE MEDICARE PART D PRESCRIPTION DRUG PROGRAM.

(a) IN GENERAL.—Section 1860D–4 of the Social Security Act (42 U.S.C. 1395w–104) is amended by adding at the end the following new subsection

''(l) DATA REPORTING FOR CERTAIN CATEGORIES AND CLASSES OF DRUGS.—

''(1) IN GENERAL.—A PDP sponsor offering a prescription drug plan shall disclose to the Secretary (in a manner specified by the Secretary) data at the plan level on the number of—

''(A) favorable and adverse decisions made with respect to exceptions requested to formulary policies—

''(i) during the period beginning on the date of enactment of this subsection and ending on December 31 of the year which includes the date that is 5 years after such date of enactment, for each of the categories and classes of drugs described in subclauses (I) through (VI) of subsection (b)(3)(G)(i); and

''(ii) beginning January 1 of the year after the year which includes the date that is 5 years after such date of enactment, for each of the categories and classes of drugs required to be included on the formulary under the regulations issued under subsection (b)(3)(H);

''(B) favorable and adverse coverage determinations made with respect to each of such categories and classes during the applicable period;

''(C) favorable and adverse reconsiderations made by a PDP sponsor with respect to each of such categories and classes during the applicable period;

''(D) favorable and adverse reconsiderations made by an Independent Review Entity (as defined in subsection (g)(3)(B)) with respect to each of such categories and classes during the applicable period; and

''(E) appeals made to an administrative law judge and the decisions made on such appeals with respect to each of such categories and classes during the applicable period.

''(2) ANNUAL REPORT.—The Secretary shall—

''(A) submit an annual report to Congress containing the data disclosed to the Secretary under paragraph (1); and

''(B) publish such report in the Federal Register.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contract years beginning on or after January 1, 2008.

ACCESS TO CRITICAL MEDICATIONS COALITION,
July 20, 2007.

Hon. GORDON SMITH,
404 Russell Office Building,
Washington, DC.

DEAR SENATOR SMITH: We are writing on behalf of the Access to Critical Medications Coalition to offer our strong support for your Medicare Access to Critical Medications Act. The Coalition represents a diverse group of national and community-based patient, provider and advocacy organizations dedicated to ensuring that Medicare beneficiaries with HIV/AIDS, mental illnesses, epilepsy, cancer, organ failure, and autoimmune diseases have reliable access through Medicare Part D to the prescriptions that they need to stay healthy.

The Medicare Access to Critical Medications Act will strengthen protections for these medically vulnerable populations by codifying the requirement that Medicare Part D plans cover ''all or substantially all'' drugs in the six classes of drugs that are critical to treating HIV/AIDS, mental illnesses, cancer, epilepsy, autoimmune diseases such as Crohn's, and transplant patients. As you may know, coverage of nearly all of the drugs in these categories is standard practice among state Medicaid programs and private insurers because it is more cost effective and better for people with these conditions when clinicians have the flexibility to prescribe the drug or drugs most appropriate to manage the condition according to factors unique to them.

Passage of this bill is important because the current protections for these drug classes offered in Centers for Medicare and Medicaid (CMS) guidance are not guaranteed beyond this year and are being ignored by drug plans with no risk of sanctions. Surveys of HIV and mental health medical providers indicate that Medicare beneficiaries with these conditions have been hospitalized or experienced dangerous treatment interruptions due to challenges with Medicare Part D coverage, including burdensome prior authorization processes. Many of the beneficiaries reporting problems are very low-income and live on Supplemental Security Income (SSI) checks or modest disability payments. Paying out of pocket for drugs denied by Medicare Part D drug plans is not an option for most.

On behalf of Medicare beneficiaries with these life-threatening illnesses, thank you for your leadership in working to ensure access to critical medications through Medicare Part D by requiring drug plans to cover ''all or substantially all'' of the drugs available to treat these serious, but treatable conditions.

AMERICAN PSYCHIATRIC ASSOCIATION,
Arlington, VA, July 24, 2007.

Hon. GORDON SMITH,
U.S. Senate, 404 Russell Senate Office Building,
Washington, DC.

DEAR SENATOR SMITH: I am writing on behalf of the American Psychiatric Association (AP A), the medical specialty representing more than 38,000 psychiatric physicians nationwide, to express our strong support for your Medicare Access to Critical Medications Act of 2007.

This bill will provide crucial protections in the Medicare Part D program for six classes of life-saving medications. Part D drug plans will be required to place substantially all anticancer, HIV/AIDS, and immunosuppressant medications on their formularies, as well as drugs that are important to people with severe mental illnesses—antipsychotics, antidepressants, and anticonvulsants. In addition, when a drug plan and a patient's physician disagree about whether a critical medication is needed, your legislation will require that the medication be covered until the appeals process can be completed.

Unfortunately, data from the first year of the Part D program point to the need for additional protections for patients with serious diseases. In 2006, an American Psychiatric Institute for Research and Education (APIRE) study tracked 1,193 dually-eligible Medicare/Medicaid psychiatric patients and found that 53.4 percent experienced at least one problem with medication access or continuity. Among these patients, 19.8 percent had a subsequent emergency room visit reported, and 11 percent had a hospitalization.

Furthermore, the study found that the most common medication classes with coverage problems included atypical antipsychotics, antidepressants, and anticonvulsants (West, Wilk, Muszynski et al, American Journal of Psychiatry, 164:5 May 2007).

Clearly, Part D patients will receive better care, and the Medicare program as a whole will save money, if access to important medications can be improved. Your legislation will create new statutory protections that will address a number of the most serious barriers.

We greatly appreciate your leadership—and the hard work of your staff Matthew Canedy and Catherine Finley—in addressing this serious problem.

Sincerely,

CAROLYN B. ROBINOWITZ, M.D.,
President.

By Ms. CANTWELL (for herself, Ms. SNOWE, Mr. INOUYE, Mr. STEVENS, Mr. LAUTENBERG, and Mr. LOTT):

S. 1892. A bill to reauthorize the Coast Guard for fiscal year 2008, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. CANTWELL. Mr. President, I rise today to introduce the Coast Guard Authorization Act for the fiscal year 2008 along with Senators SNOWE, INOUYE, STEVENS, LAUTENBERG, and LOTT. This comprehensive legislation will provide the Coast Guard with needed resources to carry out missions critical to our Nation's security, environmental protection, and fisheries enforcement.

The U.S. Coast Guard plays a critical role in keeping our oceans, coasts, and waterways safe, secure, and free from environmental harm. After September 11 and Hurricane Katrina, the Coast Guard has been a source of strength. As marine traffic grows, the number of security threats in our ports increases. Climate change is raising the stakes of another Katrina happening.

The Coast Guard faces many challenges, and those serving in the Coast Guard routinely serve with discipline and courage. From saving lives during natural disasters like Hurricanes Katrina and Rita, to protecting our shores in a post-9/11 world, the Coast Guard has served America well, and continues to serve us every day.

Each year, maritime smugglers transport thousands of aliens to the U.S. with virtual impunity because the existing law does not sufficiently punish or deter such conduct. During fiscal years 2004 and 2005, over 840 mariners made $13.9 million smuggling people into the U.S. illegally. Less than 3 percent of those who were interdicted were referred for prosecution.

This bill gives the Coast Guard the authority it needs to prosecute mariners who intentionally smuggle aliens on board their vessels with a reckless disregard of our laws. It also provides protection for legitimate mariners who encounter stowaways or those who may need medical attention.

Our Nation relies heavily on polar icebreakers to conduct missions in the Arctic and Antarctic. They conduct vital research on the oceans and climate, resupply U.S. outposts in Antarctica, and provide one of our Nation's only platforms for carrying out security and rescue missions in some of the world's most rapidly changing environments.

Currently, the United States' icebreaking capabilities lie with the Coast Guard's three vessels: the *HEALY*; the *Polar Sea*; and the *Polar Star*. But the fleet is aging rapidly and requires extensive maintenance. In fact, the *Polar Star* is currently not even operational because the Coast Guard lacks the resources required to maintain this vessel.

With increased climate change, the role of icebreakers is changing. With an ice-free Arctic summer expected by 2050, more and more international expeditions will be headed to the region to examine newly revealed oil and gas reserves and other natural resources.

Canada, Russia and other countries will begin to compete with America over jurisdiction and, without a strong polar icebreaker fleet, our Nation will suffer a severe disadvantage.

A recent 2007 report by the National Academy of Sciences found that the U.S. needs to maintain polar icebreaking capacity and construct at least two new polar icebreakers. This bill follows those recommendations.

This bill includes many provisions of the Oil Pollution Prevention and Response Act of 2007, which I introduced on June 14, 2007. These provisions are vital for the environmental protection of our Nation's oceans and coasts. For example, this bill would require improved coordination with federally-recognized tribes on oil spill prevention, preparedness, and response. It would also address oil spills resulting from the transfer of oil to or from vessels, spills resulting from human error, and small oil spills that are an all-too-common occurrence in many of our waterways.

For my home State of Washington, it provides a mechanism for year-round funding of the Neah Bay response tug, a key element of the oil spill prevention safety net for Washington State's Olympic Coast. It would also increase oil spill preparedness in the Strait of Juan de Fuca by changing the definition of ''High Volume Port Line'' so as to deliver better incident response throughout Puget Sound.

The Coast Guard is responsible for ensuring our country's security, marine safety and protecting our environment and fisheries. Every day the Coast Guard carries out these missions and does so with limited resources. It is our job to ensure the Coast Guard has the tools it requires to continue getting the job done. This bill will go a long way towards that goal. I urge my colleagues to consider 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. 1892

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 ''Coast Guard Authorization Act for Fiscal Year 2008''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

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

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Sec. 102. Authorized levels of military strength and training.
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TITLE II—ORGANIZATION

Sec. 201. Vice commandant; vice admirals.
Sec. 202. Merchant Mariner Medical Advisory Committee.
Sec. 203. Authority to distribute funds through grants, cooperative agreements, and contracts to maritime authorities and organizations.
Sec. 204. Assistance to foreign governments and maritime authorities.

TITLE III—PERSONNEL

Sec. 301. Emergency leave retention authority.
Sec. 302. Legal assistance for Coast Guard reservists.
Sec. 303. Reimbursement for certain medical-related travel expenses.
Sec. 304. Number and distribution of commissioned officers on the active duty promotion list.
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TITLE IV—ADMINISTRATION

Sec. 401. Cooperative Agreements for Industrial Activities.
Sec. 402. Defining Coast Guard vessels and aircraft.
Sec. 403. Specialized industrial facilities.
Sec. 404. Authority to construct Coast Guard recreational facilities.

TITLE V—SHIPPING AND NAVIGATION

Sec. 501. Technical amendments to chapter 313 of title 46, United States Code.
Sec. 502. Clarification of rulemaking authority.
Sec. 503. Coast Guard to maintain LORAN-C navigation system.
Sec. 504. Nantucket Sound ship channel weather buoy.
Sec. 505. Limitation on maritime liens on fishing permits.
Sec. 506. Vessel rebuild determinations.

TITLE VI—MARITIME LAW ENFORCEMENT

Sec. 601. Maritime law enforcement.

TITLE VII—OIL POLLUTION PREVENTION

Sec. 701. Rulemakings.
Sec. 702. Oil spill response capability.
Sec. 703. Oil transfers from vessels.
Sec. 704. Improvements to reduce human error and near-miss incidents.
Sec. 705. Olympic Coast National Marine Sanctuary.

Sec. 706. Prevention of small oil spills.
Sec. 707. Improved coordination with tribal governments.
Sec. 708. Report on the availability of technology to detect the loss of oil.
Sec. 709. Use of oil spill liability trust fund.
Sec. 710. International efforts on enforcement.
Sec. 711. Grant project for development of cost-effective detection technologies.
Sec. 712. Higher volume port area regulatory definition change.
Sec. 713. Response tugs.
Sec. 714. Tug escorts for laden oil tankers.
Sec. 715. Extension of financial responsibility.
Sec. 716. Vessel traffic risk assessments.
Sec. 717. Oil spill liability trust fund investment amount.
Sec. 718. Liability for use of unsafe single-hull vessels.

TITLE VIII—MARITIME HAZARDOUS CARGO SECURITY

Sec. 801. International committee for the safe and secure transportation of especially hazardous cargo.
Sec. 802. Validation of compliance with ISPFC standards.
Sec. 803. Safety and security assistance for foreign ports.
Sec. 804. Coast Guard port assistance program.
Sec. 805. EHC facility risk-based cost sharing.
Sec. 806. Transportation security incident mitigation plan.
Sec. 807. Incident command system training.
Sec. 808. Pre-positioning interoperable communications equipment at interagency operational centers.
Sec. 809. Definitions.

TITLE IX—MISCELLANEOUS PROVISIONS

Sec. 901. Marine mammals and sea turtles report.
Sec. 902. Umpqua lighthouse land conveyance.
Sec. 903. Lands to be held in trust.
Sec. 904. Data.
Sec. 905. Extension.
Sec. 906. Forward operating facility.
Sec. 907. Enclosed hangar at Air Station Barbers Point, Hawaii.
Sec. 908. Conveyance of decommissioned Coast Guard Cutter STORIS.
Sec. 909. Conveyance of the Presque Isle Light Station Fresnel Lens to Presque Isle Township, Michigan.
Sec. 910. Repeals.
Sec. 911. Report on ship traffic.
Sec. 912. Small vessel exception from definition of fish processing vessel.
Sec. 913. Right of first refusal for Coast Guard property on Jupiter Island, Florida.
Sec. 914. Ship disposal working group.
Sec. 915. Full multi-mission response station in Valdez, Alaska.
Sec. 916. Protection and fair treatment of seafarers.
Sec. 917. Icebreakers.
Sec. 918. Fur Seal Act authorization.
Sec. 919. Study of relocation of Coast Guard Sector Buffalo facilities.
Sec. 920. Inspector General report on Coast Guard dive program.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 2008 as follows:

(1) For the operation and maintenance of the Coast Guard, $5,894,295,000, of which $24,500,000 is authorized to 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.

(2) For the acquisition, construction, renovation, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $998,068,000, of which $20,000,000 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, to remain available until expended; such funds appropriated for personnel compensation and benefits and related costs of acquisition, construction, and improvements shall be available for procurement of services necessary to carry out the Integrated Deepwater Systems program.

(3) 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 Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,184,720,000.

(4) For environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $12,079,000.

(5) For research, development, test, and evaluation programs related to maritime technology, $17,583,000.

(6) For operation and maintenance of the Coast Guard reserve program, $126,883,000.

(7) For the construction of a new Chelsea Street Bridge in Chelsea, Massachusetts, $3,000,000.

SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength of active duty personnel of 45,500 as of September 30, 2008.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 2008, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,500 student years.

(2) For flight training, 165 student years.

(3) For professional training in military and civilian institutions, 350 student years.

(4) For officer acquisition, 1,200 student years.

SEC. 103. WEB-BASED RISK MANAGEMENT DATA SYSTEM.

(a) IN GENERAL.—There are authorized to be appropriated $1,000,000 for each of fiscal years 2008 and 2009 to the Secretary of the department in which the Coast Guard is operating to continue deployment of a World Wide Web-based risk management system to help reduce accidents and fatalities.

(b) IMPLEMENTATION STATUS REPORT.—Within 90 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit a report to the Senate Committee on Commerce, Science, and Transportation on the status of implementation of the system.

TITLE II—ORGANIZATION

SEC. 201. VICE COMMANDANT; VICE ADMIRALS.

(a) VICE COMMANDANT.—The fourth sentence of section 47 of title 14, United States Code, is amended by striking ''vice admiral'' and inserting ''admiral''.

(b) VICE ADMIRALS.—Section 50 of such title is amended to read as follows:

"§ 50. Vice admirals

''(a)(1) The President may designate no more than 4 positions of importance and responsibility that shall be held by officers who—

''(A) while so serving, shall have the grade of vice admiral, with the pay and allowances of that grade; and

''(B) shall perform such duties as the Commandant may prescribe.

''(2) The President may appoint, by and with the advice and consent of the Senate, and reappoint, by and with the advice and consent of the Senate, to any such position an officer of the Coast Guard who is serving on active duty above the grade of captain. The Commandant shall make recommendations for such appointments.

''(b)(1) The appointment and the grade of vice admiral shall be effective on the date the officer assumes that duty and, except as provided in paragraph (2) of this subsection or in section 51(d) of this title, shall terminate on the date the officer is detached from that duty.

''(2) An officer who is appointed to a position designated under subsection (a) shall continue to hold the grade of vice admiral—

''(A) while under orders transferring the officer to another position designated under subsection (a), beginning on the date the officer is detached from that duty and terminating on the date before the day the officer assumes the subsequent duty, but not for more than 60 days;

''(B) while hospitalized, beginning on the day of the hospitalization and ending on the day the officer is discharged from the hospital, but not for more than 180 days; and

''(C) while awaiting retirement, beginning on the date the officer is detached from duty and ending on the day before the officer's retirement, but not for more than 60 days.

''(c)(1) An appointment of an officer under subsection (a) does not vacate the permanent grade held by the officer.

''(2) An officer serving in a grade above rear admiral who holds the permanent grade of rear admiral (lower half) shall be considered for promotion to the permanent grade of rear admiral as if the officer was serving in the officer's permanent grade.

''(d) Whenever a vacancy occurs in a position designated under subsection (a), the Commandant shall inform the President of the qualifications needed by an officer serving in that position or office to carry out effectively the duties and responsibilities of that position or office.''.

(c) REPEAL.—Section 50a of such title is repealed.

(d) CONFORMING AMENDMENTS.—Section 51 of such title is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

''(a) An officer, other than the Commandant, who, while serving in the grade of admiral or vice admiral, is retired for physical disability shall be placed on the retired list with the highest grade in which that officer served.

''(b) An officer, other than the Commandant, who is retired while serving in the grade of admiral or vice admiral, or who, after serving at least 2½ years in the grade of admiral or vice admiral, is retired while serving in a lower grade, may in the discretion of the President, be retired with the highest grade in which that officer served.

''(c) An officer, other than the Commandant, who, after serving less than 2½ years in the grade of admiral or vice admiral, is retired while serving in a lower grade, shall be retired in his permanent grade.''; and

(2) by striking ''Area Commander, or Chief of Staff'' in subsection (d)(2) and inserting ''or Vice Admiral''.

(e) CLERICAL AMENDMENTS.—

(1) The section caption for section 47 of such title is amended to read as follows:

"§ 47. Vice commandant; appointment".

(2) The chapter analysis for chapter 3 of such title is amended—

(A) by striking the item relating to section 47 and inserting the following:

''47. Vice Commandant; appointment'';

(B) by striking the item relating to section 50a; and

(C) by striking the item relating to section 50 and inserting the following:

''50. Vice admirals''.

(f) TECHNICAL CORRECTION.—Section 47 of such title is further amended by striking ''subsection'' in the fifth sentence and inserting ''section''.

SEC. 202. MERCHANT MARINER MEDICAL ADVISORY COMMITTEE.

(a) IN GENERAL.—Chapter 3 of title 14, United States Code, is amended by adding at the end the following new section:

''§ 55. Merchant Mariner Medical Advisory Committee

''(a) ESTABLISHMENT; MEMBERSHIP; STATUS.—

''(1) There is established a Merchant Mariner Medical Advisory Committee.

''(2) The Committee shall consist of 12 members, none of whom shall be a Federal employee—

''(A) 10 of whom shall be health-care professionals with particular expertise, knowledge, or experience regarding the medical examinations of merchant mariners or occupational medicine; and

''(B) 2 of whom shall be professional mariners with knowledge and experience in mariner occupational requirements.

''(3) Members of the Committee shall not be considered Federal employees or otherwise in the service or the employment of the Federal Government, except that members shall be considered special Government employees, as defined in section 202(a) of title 18 and any administrative standards of conduct applicable to the employees of the department in which the Coast Guard is operating.

''(b) APPOINTMENTS; TERMS; VACANCIES; ORGANIZATION.—

''(1) The Secretary shall appoint the members of the Committee, and each member shall serve at the pleasure of the Secretary.

''(2) The members shall be appointed for a term of 3 years, except that, of the members first appointed, 3 members shall be appointed for a term of 2 years and 3 members shall be appointed for a term of 1 year.

''(3) Any member appointed to fill the vacancy prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term.

''(4) The Secretary shall designate 1 member as the Chairman and 1 member as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

''(5) No later than 6 months after the date of enactment of the Coast Guard Authorization Act for Fiscal Year 2008, the Committee shall hold its first meeting.

''(c) FUNCTION.—The Committee shall advise the Secretary on matters relating to—

''(1) medical certification determinations for issuance of merchant mariner credentials;

''(2) medical standards and guidelines for the physical qualifications of operators of commercial vessels;

''(3) medical examiner education; and

''(4) medical research.

''(d) COMPENSATION; REIMBURSEMENT.—Members of the Committee shall serve without compensation, except that, while engaged in the performance of duties away from their homes or regular places of business of the member, the member of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

''(e) STAFF; SERVICES.—The Secretary shall furnish to the Committee such personnel and services as are considered necessary for the conduct of its business.''.

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 of such title is amended by adding at the end the following:

''55. Merchant Mariner Medical Advisory Committee.''.

SEC. 203. AUTHORITY TO DISTRIBUTE FUNDS THROUGH GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS TO MARITIME AUTHORITIES AND ORGANIZATIONS.

Section 149 of title 14, United States Code, is amended by adding at the end the following:

''(c) GRANTS TO INTERNATIONAL MARITIME ORGANIZATIONS.—The Commandant may, after consultation with the Secretary of State, make grants to, or enter into cooperative agreements, contracts, or other agreements with, international maritime organizations for the purpose of acquiring information or data about merchant vessel inspections, security, safety and environmental requirements, classification, and port state or flag state law enforcement or oversight.''.

SEC. 204. ASSISTANCE TO FOREIGN GOVERNMENTS AND MARITIME AUTHORITIES.

Section 149 of title 14, United States Code, is amended by adding at the end the following:

''(d) AUTHORIZED ACTIVITIES.—

''(1) The Commandant may transfer or expend funds from any appropriation available to the Coast Guard for—

''(A) the activities of traveling contact teams, including any transportation expense, translation services expense, or administrative expense that is related to such activities;

''(B) the activities of maritime authority liaison teams of foreign governments making reciprocal visits to Coast Guard units, including any transportation expense, translation services expense, or administrative expense that is related to such activities;

''(C) seminars and conferences involving members of maritime authorities of foreign governments;

''(D) distribution of publications pertinent to engagement with maritime authorities of foreign governments; and

''(E) personnel expenses for Coast Guard civilian and military personnel to the extent that those expenses relate to participation in an activity described in subparagraph (C) or (D).

''(2) An activity may not be conducted under this subsection with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.''.

TITLE III—PERSONNEL

SEC. 301. EMERGENCY LEAVE RETENTION AUTHORITY.

Section 701(f)(2) of title 10, United States Code, is amended by inserting ''or a declaration of a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, 42 U.S.C. 5121 et seq.)'' after ''operation''.

SEC. 302. LEGAL ASSISTANCE FOR COAST GUARD RESERVISTS.

Section 1044(a)(4) of title 10, United States Code, is amended—

(1) by striking ''(as determined by the Secretary of Defense),'' and inserting ''(as determined by the Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, with respect to the Coast Guard when it is not operating as a service of the Navy),''; and

(2) by striking ''prescribed by the Secretary of Defense,'' and inserting ''prescribed by Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, with respect to the Coast Guard when it is not operating as a service of the Navy,''.

SEC. 303. REIMBURSEMENT FOR CERTAIN MEDICAL-RELATED TRAVEL EXPENSES.

Section 1074i(a) of title 10, United States Code, is amended—

(1) by striking ''IN GENERAL.—In'' and inserting ''IN GENERAL.—(1) In''; and

(2) by adding at the end the following:

''(2) In any case in which a covered beneficiary resides on an INCONUS island that lacks public access roads to the mainland and is referred by a primary care physician to a specialty care provider on the mainland who provides services less than 100 miles from the location in which the beneficiary resides, the Secretary shall reimburse the reasonable travel expenses of the covered beneficiary, and, when accompaniment by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary's family who is at least 21 years of age.''.

SEC. 304. NUMBER AND DISTRIBUTION OF COMMISSIONED OFFICERS ON THE ACTIVE DUTY PROMOTION LIST.

(a) IN GENERAL.—Section 42 of title 14, United States Code, is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

''(a) The total number of Coast Guard commissioned officers on the active duty promotion list, excluding warrant officers, shall not exceed 6,700. This total number may be temporarily increased up to 2 percent for no more than the 60 days that follow the commissioning of a Coast Guard Academy class.

''(b) The total number of commissioned officers authorized by this section shall be distributed in grade not to exceed the following percentages:

''(1) 0.375 percent for rear admiral.

''(2) 0.375 percent for rear admiral (lower half).

''(3) 6.0 percent for captain.

''(4) 15.0 percent for commander.

''(5) 22.0 percent for lieutenant commander.

The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign. The Secretary may, as the needs of the Coast Guard require, reduce any of the percentages set forth in paragraphs (1) through (5) and apply that total percentage reduction to any other lower grade or combination of lower grades.

''(c) The Secretary shall, at least once a year, compute the total number of commissioned officers authorized to serve in each grade by applying the grade distribution percentages of this section to the total number of commissioned officers listed on the current active duty promotion list. In making such calculations, any fraction shall be rounded to the nearest whole number. The number of commissioned officers on the active duty promotion list serving with other departments or agencies on a reimbursable basis or excluded under the provisions of section 324(d) of title 49, shall not be counted against the total number of commissioned officers authorized to serve in each grade.'';

(2) by striking subsection (e) and inserting the following:

''(e) The number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy and of the Reserve serving in connection with organizing, administering, recruiting, instructing, or training the reserve components shall be prescribed by the Secretary.''; and

(3) by striking the caption of such section and inserting the following:

"§ 42. Number and distribution of commissioned officers on the active duty promotion list".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 3 of such title is amended by striking the item relating to section 42 and inserting the following:

"42. Number and distribution of commissioned officers on the active duty promotion list".

SEC. 305. RESERVE COMMISSIONED WARRANT OFFICER TO LIEUTENANT PROGRAM.

Section 214(a) of title 14, United States Code, is amended to read as follows:

"(a) The President may appoint temporary commissioned officers—

"(1) in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted members of the Coast Guard, and from licensed officers of the United States merchant marine; and

"(2) in the Coast Guard Reserve in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers of the Coast Guard Reserve.".

SEC. 306. ENHANCED STATUS QUO OFFICER PROMOTION SYSTEM.

(a) Section 253(a) of title 14, United States Code, is amended—

(1) by inserting "and" after "considered,"; and

(2) by striking "consideration, and the number of officers the board may recommend for promotion" and inserting "consideration".

(b) Section 258 of such title is amended—

(1) by inserting "(a)" before "The Secretary"; and

(2) by adding at the end the following:

"(b) In addition to the information provided pursuant to subsection (a), the Secretary may furnish the selection board—

"(1) specific direction relating to the needs of the service for officers having particular skills, including direction relating to the need for a minimum number of officers with particular skills within a specialty; and

"(2) such other guidance that the Secretary believes may be necessary to enable the board to properly perform its functions. Selections made based on the direction and guidance provided under this subsection shall not exceed the maximum percentage of officers who may be selected from below the announced promotion zone at any given selection board convened under section 251 of this title.".

(c) Section 259(a) of such title is amended by striking "board" the second place it appears and inserting "board, giving due consideration to the needs of the service for officers with particular skills so noted in the specific direction furnished pursuant to section 258 of this title,".

(d) Section 260(b) of such title is amended by inserting "to meet the needs of the service (as noted in the specific direction furnished the board under section 258 of this title)" after "qualified for promotion".

SEC. 307. APPOINTMENT OF CIVILIAN COAST GUARD JUDGES.

Section 875 of the Homeland Security Act of 2002 (6 U.S.C. 455) is amended—

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

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

"(c) APPOINTMENT OF JUDGES.—The Secretary may appoint civilian employees of the Department of Homeland Security as appellate military judges, available for assignment to the Coast Guard Court of Criminal Appeals as provided for in section 866(a) of title 10, United States Code.".

SEC. 308. COAST GUARD PARTICIPATION IN THE ARMED FORCES RETIREMENT HOME SYSTEM.

(a) ELIGIBILITY UNDER THE ARMED FORCES RETIREMENT HOME ACT.—Section 1502 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 401) is amended—

(1) by striking "does not include the Coast Guard when it is not operating as a service of the Navy." in paragraph (4) and inserting "has the meaning given such term in section 101(4) of title 10.";

(2) by striking "and" in paragraph (5)(C);

(3) by striking "Affairs." in paragraph (5)(D) and inserting "Affairs; and";

(4) by adding at the end of paragraph (5) the following:

"(E) the Assistant Commandant of the Coast Guard for Human Resources."; and

(5) by adding at the end of paragraph (6) the following:

"(E) The Master Chief Petty Officer of the Coast Guard.".

(b) DEDUCTIONS.—

(1) Section 2772 of title 10, United States Code, is amended—

(A) by striking "of the military department" in subsection (a);

(B) by striking "Armed Forces Retirement Home Board" in subsection (b) and inserting "Chief Operating Officer of the Armed Forces Retirement Home"; and

(C) by striking subsection (c).

(2) Section 1007(i) of title 37, United States Code, is amended—

(A) by striking "Armed Forces Retirement Home Board" in paragraph (3) and inserting "Chief Operating Officer of the Armed Forces Retirement Home"; and

(B) by striking "does not include the Coast Guard when it is not operating as a service of the Navy." in paragraph (4) and inserting "has the meaning given such term in section 101(4) of title 10.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first pay period beginning on or after January 1, 2008.

TITLE IV—ADMINISTRATION

SEC. 401. COOPERATIVE AGREEMENTS FOR INDUSTRIAL ACTIVITIES.

Section 151 of title 14, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "All orders"; and

(2) by adding at the end the following:

"(b) ORDERS AND AGREEMENTS FOR INDUSTRIAL ACTIVITIES.—Under this section, the Coast Guard industrial activities may accept orders and enter into reimbursable agreements with establishments, agencies, and departments of the Department of Defense and the Department of Homeland Security.".

SEC. 402. DEFINING COAST GUARD VESSELS AND AIRCRAFT.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by inserting after section 638 the following new section:

"§ 638a. Coast Guard vessels and aircraft defined

"For the purposes of sections 637 and 638 of this title, the term Coast Guard vessels and aircraft means—

"(1) any vessel or aircraft owned, leased, transferred to, or operated by the Coast Guard and under the command of a Coast Guard member; and

"(2) any other vessel or aircraft under the tactical control of the Coast Guard on which one or more members of the Coast Guard are assigned and conducting Coast Guard missions.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 17 of such title is amended by inserting after the item relating to section 638 the following:

"638a. Coast Guard vessels and aircraft defined.".

SEC. 403. SPECIALIZED INDUSTRIAL FACILITIES.

(a) IN GENERAL.—Section 648 of title 14, United States Code, is amended—

(1) by striking the section caption and inserting the following:

"§ 648. Specialized industrial facilities" ;

(2) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(3) by adding at the end the following:

"(b) PUBLIC-PRIVATE PARTNERSHIPS OR OTHER COOPERATIVE ARRANGEMENTS.—

"(1) IN GENERAL.—For purposes of entering into joint public-private partnerships or other cooperative arrangements for the performance of work to provide supplies or services for government use, the Coast Guard Yard, the Aviation Repair and Supply Center, or other similar Coast Guard industrial establishments may—

"(A) enter into agreements or other arrangements with public or private entities, foreign or domestic;

"(B) pursuant to contracts or other arrangements, receive and retain funds from, or pay funds to, such public or private entities; or

"(C) accept contributions of funds, materials, services, or the use of facilities from such public or private entities, subject to regulations promulgated by the Coast Guard.

"(2) ACCOUNTING FOR FUNDS RECEIVED.—Amounts received under this subsection may be credited to the Coast Guard Yard Revolving Fund or other appropriate Coast Guard account.

"(3) REIMBURSEMENT.—Any partnership, agreement, contract, or arrangement entered into under this section shall require the private entity to reimburse the Coast Guard for such entity's proportional share of the operating and capital costs of maintaining and operating such facility, as determined by the Commandant of the Coast Guard.

"(4) NONINTERFERENCE.—No partnership, agreement, contract, or arrangement entered into under this section may interfere with the performance of any operational or support function of the Coast Guard industrial establishment.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 17 of such title is amended by striking item relating to section 648 and inserting the following:

"648. Specialized industrial facilities".

SEC. 404. AUTHORITY TO CONSTRUCT COAST GUARD RECREATIONAL FACILITIES.

(a) GENERAL AUTHORITY.—Section 681 of title 14, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "housing or military unaccompanied housing" and inserting "housing, military unaccompanied housing, or Coast Guard recreational facilities"; and

(B) by adding at the end the following:

"(3) Coast Guard recreational facilities."; and

(2) by striking "housing or military unaccompanied housing" in subsection (b) and inserting "housing, military unaccompanied housing, or Coast Guard recreational facilities".

(b) DIRECT LOANS.—Section 682 of such title is amended—

(1) by inserting after "military unaccompanied housing" in subsection (a)(1) the following: "or facilities that the Secretary determines are suitable for use as Coast Guard recreational facilities"; and

(2) by inserting after "military unaccompanied housing" in subsection (b)(1) the following: "or facilities that the Secretary determines are suitable for use as Coast Guard recreational facilities".

(c) LEASING OF HOUSING TO BE CONSTRUCTED.—Section 683(a) of such title is amended by striking ''or military unaccompanied housing units'' and inserting ''units, military unaccompanied housing units, or Coast Guard recreational facilities''.

(d) LIMITED PARTNERSHIPS WITH ELIGIBLE ENTITIES.—Section 684 of such title is amended—

(1) by inserting after ''military unaccompanied housing'' in subsection (a) the following: ''or facilities that the Secretary determines are suitable for use as Coast Guard recreational facilities'';

(2) by striking ''construction of housing, means the total amount of the costs included in the basis of the housing'' in subsection (b)(3) and inserting ''construction of housing or facilities, means the total amount of the costs included in the basis of the housing or facilities''; and

(3) by inserting ''or facilities'' in subsection (c) after ''housing units''.

(e) DEPOSIT OF CERTAIN AMOUNTS IN COAST GUARD HOUSING FUND.—Section 687 of such title is amended—

(1) in subsection (b)—

(A) in paragraph (2), by striking ''or unaccompanied housing'' and inserting '', military unaccompanied housing, or Coast Guard recreational facilities''; and

(B) in paragraph (3), by striking ''and military unaccompanied housing'' and inserting '', military unaccompanied housing, and Coast Guard recreational facilities''; and

(2) by striking ''and military unaccompanied housing units'' in subsection (c)(1) and inserting '', military unaccompanied housing units, and Coast Guard recreational facilities''.

(f) REPORTS.—Section 688 of such title is amended—

(1) by inserting after ''housing units'' in paragraph (1) the following: ''or Coast Guard recreational facilities''; and

(2) by striking ''and military unaccompanied housing'' in paragraph (4) and inserting '', military unaccompanied housing, and Coast Guard recreational facilities''.

(g) DEFINITIONS.—Section 680 of such title is amended—

(1) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively;

(2) by inserting before paragraph (2), as redesignated by paragraph (1) of this subsection, the following:

''(1) The term 'Coast Guard recreational facilities' means recreation lodging buildings, recreation housing units, and ancillary supporting facilities constructed, maintained, and used by the Coast Guard to provide rest and recreation amenities for military personnel.''; and

(3) by striking ''housing units and ancillary supporting facilities or the improvement or rehabilitation of existing units'' in paragraph (2), as redesignated by paragraph (1) of this subsection, and inserting ''housing units or Coast Guard recreational facilities and ancillary supporting facilities or the improvement or rehabilitation of existing units or facilities''.

TITLE V—SHIPPING AND NAVIGATION

SEC. 501. TECHNICAL AMENDMENTS TO CHAPTER 313 OF TITLE 46, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 313 of title 46, United States Code, is amended—

(1) by striking ''of Transportation'' in sections 31302, 31306, 31321, 31330, and 31343 each place it appears;

(2) by striking ''and'' after the semicolon in section 31301(5)(F);

(3) by striking ''office.'' in section 31301(6) and inserting ''office; and''; and

(4) by adding at the end of section 31301 the following:

''(7) 'Secretary' means the Secretary of the Department of Homeland Security, unless otherwise noted.''.

(b) SECRETARY AS MORTGAGEE.—Section 31308 of such title is amended by striking ''When the Secretary of Commerce or Transportation is a mortgagee under this chapter, the Secretary'' and inserting ''The Secretary of Commerce or Transportation, as a mortgagee under this chapter,''.

(c) SECRETARY OF TRANSPORTATION.—Section 31329(d) of such title is amended by inserting ''of Transportation'' after ''Secretary''.

(d) MORTGAGEE.—

(1) Section 31330(a)(1) of such title is amended—

(A) by inserting ''or'' after the semicolon in subparagraph (B);

(B) by striking ''Transportation; or'' in subparagraph (C) and inserting ''Transportation.''; and

(C) by striking subparagraph (D).

(2) Section 31330(a)(2) is amended—

(A) by inserting ''or'' after the semicolon in subparagraph (B);

(B) by striking ''faith; or'' in subparagraph (C) and inserting ''faith.''; and

(C) by striking subparagraph (D).

SEC. 502. CLARIFICATION OF RULEMAKING AUTHORITY.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended by adding at the end the following:

''§ 70122. Regulations

''Unless otherwise provided, the Secretary may issue regulations necessary to implement this chapter.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 701 of such title is amended by adding at the end the following new item:

''70122. Regulations''.

SEC. 503. COAST GUARD TO MAINTAIN LORAN-C NAVIGATION SYSTEM.

(a) IN GENERAL.—The Secretary of Transportation shall maintain the LORAN-C navigation system until such time as the Secretary is authorized by statute, explicitly referencing this section, to cease operating the system.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation, in addition to funds authorized under section 101 of this Act for the Coast Guard for operation of the LORAN-C system, for capital expenses related to the LORAN-C infrastructure, $25,000,000 for each of fiscal years 2008 and 2009. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the Department of Transportation such funds as may be necessary to reimburse the Coast Guard for related expenses.

SEC. 504. NANTUCKET SOUND SHIP CHANNEL WEATHER BUOY.

Within 180 days after the date of enactment of this Act, the National Weather Service shall deploy a weather buoy adjacent to the main ship channel of Nantucket Sound.

SEC. 505. LIMITATION ON MARITIME LIENS ON FISHING PERMITS.

(a) IN GENERAL.—Subchapter I of chapter 313 of title 46, United States Code, is amended by adding at the end the following:

''§ 31310. Limitation on maritime liens on fishing permits

''(a) IN GENERAL.—A maritime lien shall not attach to a permit that—

''(1) authorizes use of a vessel to engage in fishing; and

''(2) is issued under State or Federal law.

''(b) LIMITATION ON ENFORCEMENT.—No civil action may be brought to enforce a maritime lien on a permit described in subsection (a).

''(c) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in subsections (a) and (b) shall be construed as imposing any limitation upon the authority of the Secretary of Commerce to modify, suspend, revoke, or sanction any Federal fishery permit issued by the Secretary of Commerce or to bring a civil action to enforce such modification, suspension, revocation, or sanction.''.

(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 31309 the following:

''31310. Limitation on maritime liens on fishing permits.''.

SEC. 506. VESSEL REBUILD DETERMINATIONS.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall provide a report on Coast Guard rebuild determinations under section 67.177 of title 46, Code of Federal Regulations. Specifically, the report shall provide recommendations for—

(1) improving the application of the ''major component test'' under such section;

(2) a review of the application of the steelweight calculation thresholds under such section;

(3) recommendations for improving transparency in the Coast Guard's foreign rebuild determination process; and

(4) recommendations on whether or not there should be limits or cumulative caps on the amount of steel work that can be done to the hull and superstructure of a vessel in foreign shipyards over the life of the vessel.

(b) REPORT DEADLINE.—The Secretary shall provide this report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 90 days after the enactment of this Act.

TITLE VI—MARITIME LAW ENFORCEMENT

SEC. 601. MARITIME LAW ENFORCEMENT.

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

''CHAPTER 707—MARITIME LAW ENFORCEMENT

''Sec.
''70701. Offense
''70702. Attempt or conspiracy
''70703. Affirmative defenses
''70704. Penalties
''70705. Criminal forfeiture
''70706. Civil forfeiture
''70707. Extraterritorial jurisdiction
''70708. Claim of failure to comply with international law; jurisdiction of court
''70709. Federal activities
''70710. Definitions

''§ 70701. Offense

''It shall be unlawful for any person on board a covered vessel to transport or facilitate the transportation, harboring, or concealment of an alien on board such vessel knowing or having reason to believe that the alien is attempting to unlawfully enter the United States.

''§ 70702. Attempt or conspiracy

''Any person on board a covered vessel who attempts or conspires to commit a violation of section 70701 shall be subject to the same penalties as those prescribed for the violation, the commission of which was the object of the attempt or conspiracy.

''§ 70703. Affirmative defenses

''It is an affirmative defense to a prosecution under this section, which the defendant must prove by a preponderance of the evidence, that—

''(1)(A) the alien was on board pursuant to a rescue at sea, or was a stowaway; or

''(B) the entry into the United States was a necessary response to an imminent threat of death or serious bodily injury to the alien;

''(2) the defendant, as soon as reasonably practicable, informed the Coast Guard of the presence of the alien on the vessel and the circumstances of the rescue; and

''(3) the defendant complied with all orders given by law enforcement officials of the United States.

''§ 70704. Penalties

''(a) IN GENERAL.—Any person who commits a violation of this chapter shall be fined or imprisoned, or both, in accordance with subsection (b) and (c) of this section. For purposes of subsection (b), each individual on board a vessel with respect to whom the violation occurs shall be treated as a separate violation.

''(b) FINES.—Any person who commits a violation of this chapter shall be fined not more than $100,000, except that—

''(1) in any case in which the violation causes serious bodily injury to any person, regardless of where the injury occurs, the person shall be fined not more than $500,000; and

''(2) in any case where the violation causes or results in the death of any person regardless of where the death occurs, the person shall be fined not more than $1,000,000, or both.

''(c) IMPRISONMENT.—Any person who commits a violation of this chapter shall be imprisoned for not less than 3 nor more than 20 years, except that—

''(1) in any case in which the violation causes serious bodily injury to any person, regardless of where the injury occurs, the person shall be imprisoned for not less than 7 nor more than 30 years; and

''(2) in any case where the violation causes or results in the death of any person regardless of where the death occurs, the person shall be imprisoned for not less than 10 years nor more than life.

''§ 70705. Criminal forfeiture

''The court, at the time of sentencing a person convicted of an offense under this chapter, shall order forfeited to the United States any vessel used in the offense in the same manner and to the same extent as if it were a vessel used in an offense under section 274 of the Immigration and Nationality Act (8 U.S.C. 1324).

''§ 70706. Civil forfeiture

''A vessel that has been used in the commission of a violation of this chapter shall be seized and subject to forfeiture in the same manner and to the same extent as if it were used in the commission of a violation of section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)).

''§ 70707. Extraterritorial jurisdiction

''There is extraterritorial jurisdiction of an offense under this chapter.

''§ 70708. Claim of failure to comply with international law; jurisdiction of court

''A claim of failure to comply with international law in the enforcement of this chapter may be invoked as a basis for a defense solely by a foreign nation. A failure to comply with international law shall not divest a court of jurisdiction or otherwise constitute a defense to any proceeding under this chapter.

''§ 70709. Federal activities

''Nothing in this chapter applies to otherwise lawful activities carried out by or at the direction of the United States Government.

''§ 70710. Definitions

''In this chapter:

''(1) ALIEN.—The term 'alien' has the meaning given that term in section 70105(f).

''(2) COVERED VESSEL.—The term 'covered vessel' means a vessel of the United States, or a vessel subject to the jurisdiction of the United States, that is less than 300 gross tons (or an alternate tonnage prescribed by the Secretary under section 14104 of this title) as measured under section 14502 of this title.

''(3) SERIOUS BODILY INJURY.—The term 'serious bodily injury' has the meaning given that term in section 1365 of title 18, United States Code.

''(4) UNITED STATES.—The term 'United States' has the meaning given that term in section 2101.

''(5) VESSEL OF THE UNITED STATES.—The term 'vessel of the United States' has the meaning given that term in section 70502.

''(6) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The term 'vessel subject to the jurisdiction of the United States' has the meaning given that term in section 70502.''.

(b) CLERICAL AMENDMENT.—The analysis for such subtitle is amended by inserting after the item relating to chapter 705 the following:

''707. Maritime Law Enforcement .....70701.''.

TITLE VII—OIL POLLUTION PREVENTION

SEC. 701. RULEMAKINGS.

(a) STATUS REPORT.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of all Coast Guard rulemakings required (but for which no final rule has been issued as of the date of enactment of this Act)—

(A) under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.); and

(B) for—

(i) automatic identification systems required under section 70114 of title 46, United States Code; and

(ii) inspection requirements for towing vessels required under section 3306(j) of that title.

(2) INFORMATION REQUIRED.—The Secretary shall include in the report required by paragraph (1)—

(A) a detailed explanation with respect to each such rulemaking as to—

(i) what steps have been completed;

(ii) what areas remain to be addressed; and

(iii) the cause of any delays; and

(B) the date by which a final rule may reasonably be expected to be issued.

(b) FINAL RULES.—The Secretary shall issue a final rule in each pending rulemaking under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) as soon as practicable, but in no event later than 18 months after the date of enactment of this Act.

SEC. 702. OIL SPILL RESPONSE CAPABILITY.

(a) SAFETY STANDARDS FOR TOWING VESSELS.—In promulgating regulations for towing vessels under chapter 33 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating shall—

(1) give priority to completing such regulations for towing operations involving tank vessels; and

(2) consider the possible application of standards that, as of the date of enactment of this Act, apply to self-propelled tank vessels, and any modifications that may be necessary for application to towing vessels due to ship design, safety, and other relevant factors.

(b) REDUCTION OF OIL SPILL RISK IN BUZZARDS BAY.—No later than January 1, 2008, the Secretary of the department in which the Coast Guard is operating shall promulgate a final rule for Buzzards Bay, Massachusetts, pursuant to the notice of proposed rulemaking published on March 29, 2006, (71 Fed. Reg. 15649), after taking into consideration public comments submitted pursuant to that notice, to adopt measures to reduce the risk of oil spills in Buzzards Bay, Massachusetts.

(c) REPORTING.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on the extent to which tank vessels in Buzzards Bay, Massachusetts, are using routes recommended by the Coast Guard.

SEC. 703. OIL TRANSFERS FROM VESSELS.

(a) REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations to reduce the risks of oil spills in operations involving the transfer of oil from or to a tank vessel. The regulations—

(1) shall focus on operations that have the highest risks of discharge, including operations at night and in inclement weather; and

(2) shall consider—

(A) requirements for use of equipment, such as putting booms in place for transfers;

(B) operational procedures such as manning standards, communications protocols, and restrictions on operations in high-risk areas; or

(C) both such requirements and operational procedures.

(b) APPLICATION WITH STATE LAWS.—The regulations promulgated under subsection (a) do not preclude the enforcement of any State law or regulation the requirements of which are at least as stringent as requirements under the regulations (as determined by the Secretary) that—

(1) applies in State waters;

(2) does not conflict with, or interfere with the enforcement of, requirements and operational procedures under the regulations; and

(3) has been enacted or promulgated before the date of enactment of this Act.

SEC. 704. IMPROVEMENTS TO REDUCE HUMAN ERROR AND NEAR-MISS INCIDENTS.

(a) REPORT.—Within 1 year after the date of enactment of this Act, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Environment and Public Works, and the House of Representatives Committee on Transportation and Infrastructure that, using available data—

(1) identifies the types of human errors that, combined, account for over 50 percent of all oil spills involving vessels that have been caused by human error in the past 10 years;

(2) identifies the most frequent types of near-miss oil spill incidents involving vessels such as collisions, groundings, and loss of propulsion in the past 10 years;

(3) describes the extent to which there are gaps in the data with respect to the information required under paragraphs (1) and (2) and explains the reason for those gaps; and

(4) includes recommendations by the Secretary to address the identified types of errors and incidents and to address any such gaps in the data.

(b) MEASURES.—Based on the findings contained in the report required by subsection (a), the Secretary shall take appropriate action, both domestically and at the International Maritime Organization, to reduce the risk of oil spills from human errors.

SEC. 705. OLYMPIC COAST NATIONAL MARINE SANCTUARY.

(a) OLYMPIC COAST NATIONAL MARINE SANCTUARY AREA TO BE AVOIDED.—The Secretary and the Under Secretary of Commerce for Oceans and Atmosphere shall revise the area

to be avoided off the coast of the State of Washington so that restrictions apply to all vessels required to prepare a response plan under section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) (other than fishing or research vessels while engaged in fishing or research within the area to be avoided).

(b) EMERGENCY OIL SPILL DRILL.—

(1) IN GENERAL.—In cooperation with the Secretary, the Under Secretary of Commerce for Oceans and Atmosphere shall conduct a Safe Seas oil spill drill in the Olympic Coast National Marine Sanctuary in fiscal year 2008. The Secretary and the Under Secretary of Commerce for Oceans and Atmosphere jointly shall coordinate with other Federal agencies, State, local, and tribal governmental entities, and other appropriate entities, in conducting this drill.

(2) OTHER REQUIRED DRILLS.—Nothing in this subsection supersedes any Coast Guard requirement for conducting emergency oil spill drills in the Olympic Coast National Marine Sanctuary. The Secretary shall consider conducting regular field exercises, such as National Preparedness for Response Exercise Program (PREP) in other national marine sanctuaries.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Commerce for Oceans and Atmosphere for fiscal year 2008 $700,000 to carry out this subsection.

SEC. 706. PREVENTION OF SMALL OIL SPILLS.

(a) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere, in consultation with other appropriate agencies, shall establish an oil spill prevention and education program for small vessels. The program shall provide for assessment, outreach, and training and voluntary compliance activities to prevent and improve the effective response to oil spills from vessels and facilities not required to prepare a vessel response plan under the Federal Water Pollution Control Act, including recreational vessels, commercial fishing vessels, marinas, and aquaculture facilities. The Under Secretary may provide grants to sea grant colleges and institutes designated under section 207 of the National Sea Grant College Program Act (33 U.S.C. 1126) and to State agencies, tribal governments, and other appropriate entities to carry out—

(1) regional assessments to quantify the source, incidence and volume of small oil spills, focusing initially on regions in the country where, in the past 10 years, the incidence of such spills is estimated to be the highest;

(2) voluntary, incentive-based clean marina programs that encourage marina operators, recreational boaters and small commercial vessel operators to engage in environmentally sound operating and maintenance procedures and best management practices to prevent or reduce pollution from oil spills and other sources;

(3) cooperative oil spill prevention education programs that promote public understanding of the impacts of spilled oil and provide useful information and techniques to minimize pollution including methods to remove oil and reduce oil contamination of bilge water, prevent accidental spills during maintenance and refueling and properly cleanup and dispose of oil and hazardous substances; and

(4) support for programs, including outreach and education to address derelict vessels and the threat of such vessels sinking and discharging oil and other hazardous substances, including outreach and education to involve efforts to the owners of such vessels.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Commerce for Oceans and Atmosphere to carry out this section, $10,000,000 annually for each of fiscal years 2008 through 2012.

SEC. 707. IMPROVED COORDINATION WITH TRIBAL GOVERNMENTS.

(a) IN GENERAL.—Within 6 months after the date of enactment of this Act, the Secretary shall complete the development of a tribal consultation policy, which recognizes and protects to the maximum extent practicable tribal treaty rights and trust assets in order to improve the Coast Guard's consultation and coordination with the tribal governments of federally recognized Indian tribes with respect to oil spill prevention, preparedness, response and natural resource damage assessment.

(b) NATIONAL PLANNING.—The Secretary shall assist tribal governments to participate in the development and capacity to implement the National Contingency Plan and local Area Contingency Plans to the extent they affect tribal lands, cultural and natural resources. The Secretary shall ensure that in regions where oil spills are likely to have an impact on natural or cultural resources owned or utilized by a federally recognized Indian tribe, the Coast Guard will—

(1) ensure that representatives of the tribal government of the potentially affected tribes are included as part of the regional response team cochaired by the Coast Guard and the Environmental Protection Agency to establish policies for responding to oil spills; and

(2) provide training of tribal incident commanders and spill responders.

(c) INCLUSION OF TRIBAL GOVERNMENT.—The Secretary shall ensure that, as soon as practicable after identifying an oil spill that is likely to have an impact on natural or cultural resources owned or utilized by a federally recognized Indian tribe, the Coast Guard will—

(1) ensure that representatives of the tribal government of the affected tribes are included as part of the incident command system established by the Coast Guard to respond to the spill;

(2) share information about the oil spill with the tribal government of the affected tribe; and

(3) to the extent practicable, involve tribal governments in deciding how to respond to such spill.

(d) COOPERATIVE ARRANGEMENTS.—The Coast Guard may enter into memoranda of agreement and associated protocols with Indian tribal governments in order to establish cooperative arrangements for oil pollution prevention, preparedness, and response. Such memoranda may be entered into prior to the development of the tribal consultation and coordination policy to provide Indian tribes grant and contract assistance and may include training for preparedness and response and provisions on coordination in the event of a spill. As part of these memoranda of agreement, the Secretary may carry out demonstration projects to assist tribal governments in building the capacity to protect tribal treaty rights and trust assets from oil spills to the maximum extent possible.

(e) FUNDING FOR TRIBAL PARTICIPATION.—Subject to the availability of appropriations, the Commandant of the Coast Guard shall provide assistance to participating tribal governments in order to facilitate the implementation of cooperative arrangements under subsection (d) and ensure the participation of tribal governments in such arrangements. There are authorized to be appropriated to the Commandant $500,000 for each of fiscal years 2008 through 2012 to be used to carry out this section.

SEC. 708. REPORT ON THE AVAILABILITY OF TECHNOLOGY TO DETECT THE LOSS OF OIL.

Within 1 year after the date of enactment of this Act, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on the availability, feasibility, and potential cost of technology to detect the loss of oil carried as cargo or as fuel on tank and non-tank vessels greater than 400 gross tons.

SEC. 709. USE OF OIL SPILL LIABILITY TRUST FUND.

Section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)) is amended—

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

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

''(B) not more than $15,000,000 in each fiscal year shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred by, and activities related to, response and damage assessment capabilities of the National Oceanic and Atmospheric Administration;''.

SEC. 710. INTERNATIONAL EFFORTS ON ENFORCEMENT.

The Secretary, in consultation with the heads of other appropriate Federal agencies, shall ensure that the Coast Guard pursues stronger enforcement in the International Maritime Organization of agreements related to oil discharges, including joint enforcement operations, training, and stronger compliance mechanisms.

SEC. 711. GRANT PROJECT FOR DEVELOPMENT OF COST-EFFECTIVE DETECTION TECHNOLOGIES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commandant shall establish a grant program for the development of cost-effective technologies, such as infrared, pressure sensors, and remote sensing, for detecting discharges of oil from vessels as well as methods and technologies for improving detection and recovery of submerged and sinking oils.

(b) MATCHING REQUIREMENT.—The Federal share of any project funded under subsection (a) may not exceed 50 percent of the total cost of the project.

(c) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act the Secretary shall provide a report to the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure on the results of the program.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commandant to carry out this section $2,000,000 for each of fiscal years 2008, 2009, and 2010, to remain available until expended.

(e) TRANSFER PROHIBITED.—Administration of the program established under subsection (a) may not be transferred within the Department of Homeland Security or to another department or Federal agency.

SEC. 712. HIGHER VOLUME PORT AREA REGULATORY DEFINITION CHANGE.

(a) IN GENERAL.—Within 30 days after the date of enactment of this Act, notwithstanding subchapter 5 of title 5, United States Code, the Commandant shall modify the definition of the term ''higher volume port area'' in section 155.1020 of the Coast Guard regulations (33 C.F.R. 155.1020) by striking ''Port Angeles, WA'' in paragraph (13) of that section and inserting ''Cape Flattery, WA'' without initiating a rulemaking proceeding.

(b) EMERGENCY RESPONSE PLAN REVIEWS.—Within 5 years after the date of enactment of

this Act, the Coast Guard shall complete its review of any changes to emergency response plans pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) resulting from the modification of the higher volume port area definition required by subsection (a).

SEC. 713. RESPONSE TUGS.

(a) IN GENERAL.—Paragraph (5) of section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended by adding at the end the following:

''(J) RESPONSE TUG.—

''(i) IN GENERAL.—The Secretary shall require the stationing of a year round response tug of a minimum of 70-tons bollard pull in the entry to the Strait of Juan de Fuca at Neah Bay capable of providing rapid assistance and towing capability to disabled vessels during severe weather conditions.

''(ii) SHARED RESOURCES.—The Secretary may authorize compliance with the response tug stationing requirement of clause (i) through joint or shared resources between or among entities to which this subsection applies.

''(iii) EXISTING STATE AUTHORITY NOT AFFECTED.—Nothing in this subparagraph supersedes or interferes with any existing authority of a State with respect to the stationing of rescue tugs in any area under State law or regulations.

''(iv) ADMINISTRATION.—In carrying out this subparagraph, the Secretary—

''(I) shall require the vessel response plan holders to negotiate and adopt a cost-sharing formula and a schedule for carrying out this subparagraph by no later than June 1, 2008;

''(II) shall establish a cost-sharing formula and a schedule for carrying out this subparagraph by no later than July 1, 2008 (without regard to the requirements of chapter 5 of title 5, United States Code) if the vessel response plan holders fail to adopt the cost-sharing formula and schedule required by subclause (I) of this clause by June 1, 2008; and

''(III) shall implement clauses (i) and (ii) of this subparagraph by June 1, 2008, without a rulemaking and without regard to the requirements of chapter 5 of title 5, United States Code.

''(v) LONG TERM TUG CAPABILITIES.—Within 6 months after implementing clauses (i) and (ii), and section 707 of the Coast Guard Authorization Act for Fiscal Year 2008, the Secretary shall execute a contract with the National Academy of Sciences to conduct a study of regional response tug and salvage needs for Washington's Olympic coast. In developing the scope of the study, the National Academy of Sciences shall consult with Federal, State, and Tribal trustees as well as relevant stakeholders. The study—

''(I) shall define the needed capabilities, equipment, and facilities for a response tug in the entry to the Strait of Juan de Fuca at Neah Bay in order to optimize oil spill protection on Washington's Olympic coast, provide rescue towing services, oil spill response, and salvage and fire-fighting capabilities;

'''(II) shall analyze the tug's multi-mission capabilities as well as its ability to utilize cached salvage, oil spill response, and oil storage equipment while responding to a spill or a vessel in distress and make recommendations as to the placement of this equipment;

''(III) shall address scenarios that consider all vessel types and weather conditions and compare current Neah Bay tug capabilities, costs, and benefits with other United States industry funded response tugs, including those currently operating in Alaska's Prince William Sound;

''(IV) shall determine whether the current level of protection afforded by the Neah Bay response tug and associated response equipment is comparable to protection in other locations where response tugs operate, including Prince William Sound, and if it is not comparable, shall make recommendations as to how capabilities, equipment, and facilities should be modified to achieve optimum protection.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 2008 such sums as necessary to carry out section 311(j)(5)(J)(v) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(5)(J)(v)).

SEC. 714. TUG ESCORTS FOR LADEN OIL TANKERS.

Within 1 year after the date of enactment of this Act, the Secretary of State, in consultation with the Commandant, shall enter into negotiations with the Government of Canada to ensure that tugboat escorts are required for all tank ships with a capacity over 40,000 deadweight tons in the Strait of Juan de Fuca, Strait of Georgia, and in Haro Strait. The Commandant shall consult with the State of Washington and affected tribal governments during negotiations with the Government of Canada.

SEC. 715. EXTENSION OF FINANCIAL RESPONSIBILITY.

Section 1016(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2716(a)) is amended—

(1) by striking ''or'' after the semicolon in paragraph (1);

(2) by inserting ''or'' after the semicolon in paragraph (2); and

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

''(3) any tank vessel over 100 gross tons (except a non-self-propelled vessel that does not carry oil as cargo) using any place subject to the jurisdiction of the United States;''.

SEC. 716. VESSEL TRAFFIC RISK ASSESSMENTS.

(a) REQUIREMENT.—The Commandant of the Coast guard, acting through the appropriate Area Committee established under section 311(j)(4) of the Federal Water Pollution Control Act, shall prepare a vessel traffic risk assessment—

(1) for Cook Inlet, Alaska, within 1 year after the date of enactment of this Act; and

(2) for the Aleutian Islands, Alaska, within 2 years after the date of enactment of this Act.

(b) CONTENTS.—Each of the assessments shall describe, for the region covered by the assessment—

(1) the amount and character of present and estimated future shipping traffic in the region; and

(2) the current and projected use and effectiveness in reducing risk, of—

(A) traffic separation schemes and routing measures;

(B) long-range vessel tracking systems developed under section 70115 of title 46, United States Code;

(C) towing, response, or escort tugs;

(D) vessel traffic services;

(E) emergency towing packages on vessels;

(F) increased spill response equipment including equipment appropriate for severe weather and sea conditions;

(G) the Automatic Identification System developed under section 70114 of title 46, United States Code;

(H) particularly sensitive sea areas, areas to be avoided, and other traffic exclusion zones;

(i) aids to navigation; and

(J) vessel response plans.

(c) RECOMMENDATIONS.—

(1) IN GENERAL.—Each of the assessments shall include any appropriate recommendations to enhance the safety and security, or lessen potential adverse environmental impacts, of marine shipping.

(2) CONSULTATION.—Before making any recommendations under paragraph (1) for a region, the Area Committee shall consult with affected local, State, and Federal government agencies, representatives of the fishing industry, Alaska Natives from the region, the conservation community, and the merchant shipping and oil transportation industries.

(d) PROVISION TO CONGRESS.—The Commandant shall provide a copy of each assessment to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commandant $1,800,000 for each of fiscal years 2008 and 2009 to conduct the assessments.

SEC. 717. OIL SPILL LIABILITY TRUST FUND INVESTMENT AMOUNT.

Within 30 days after the date of enactment of this Act, the Secretary of the Treasury shall increase the amount invested in income producing securities under section 5006(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2736(b)) by $12,851,340..

SEC. 718. LIABILITY FOR USE OF UNSAFE SINGLE-HULL VESSELS.

Section 1001(32) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(32)) is amended by striking subparagraph (A) and inserting the following:

''(A) VESSELS.—In the case of a vessel (other than a vessel described in section 3703a(b) of title 46, United States Code)—

''(i) any person owning, operating, or demise chartering the vessel; and

''(ii) the owner of oil being transported in a tank vessel with a single hull after December 31, 2010, if the owner of the oil knew, or should have known, from publicly available information that the vessel had a poor safety or operational record.''.

TITLE VIII—MARITIME HAZARDOUS CARGO SECURITY

SEC. 801. INTERNATIONAL COMMITTEE FOR THE SAFE AND SECURE TRANSPORTATION OF ESPECIALLY HAZARDOUS CARGO.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended by inserting after section 70109 the following:

''§ 70109A. International committee for the safe and secure transportation of especially hazardous cargo

''(a) IN GENERAL.—The Secretary, in consultation with the Secretary of State and other appropriate entities, shall, in a manner consistent with international treaties, conventions, and agreements to which the United States is a party, establish a committee within the International Maritime Organization that includes representatives of United States trading partners that supply tank or break-bulk shipments of especially hazardous cargo to the United States.

''(b) SAFE AND SECURE LOADING, UNLOADING, AND TRANSPORTATION OF ESPECIALLY HAZARDOUS CARGOES.—In carrying out this section, the Secretary, in cooperation with the International Maritime Organization and in consultation with the International Standards Organization and shipping industry stakeholders, shall develop protocols, procedures, standards, and requirements for receiving, handling, loading, unloading, vessel crewing, and transportation of especially hazardous cargo to promote the safe and secure operation of ports, facilities, and vessels that transport especially hazardous cargo to the United States.

''(c) DEADLINES.—The Secretary shall—

''(1) initiate the development of the committee within 180 days after the date of enactment of the Maritime Hazardous Cargo Security Act; and

''(2) endeavor to have the protocols, procedures, standards, and requirements developed by the committee take effect within 3 years after the date of enactment of that Act.

''(d) REPORTS.—The Secretary shall report annually to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security on the development, implementation, and administration of the protocols, procedures, standards, and requirements developed by the committee established under subsection (a).''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by inserting after the item relating the section 70109 the following:

''70109A. International committee for the safe and secure transportation of especially hazardous cargo''.

SEC. 802. VALIDATION OF COMPLIANCE WITH ISPFC STANDARDS.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended by inserting after section 70110 the following:

''70110A. Port safety and security validations

''(a) IN GENERAL.—The Secretary, in consultation with the Secretary of State, shall, in a manner consistent with international treaties, conventions, and agreements to which the United States is a party, develop and implement a voluntary program under which foreign ports and facilities can certify their compliance with applicable International Ship and Port Facility Code standards.

''(b) THIRD-PARTY VALIDATION.—

''(1) IN GENERAL.—In carrying out this section, the Secretary, in cooperation with the International Maritime Organization and the International Standards Organization, shall develop and implement a program under which independent, third-party entities are certified to validate a foreign port's or facility's compliance under the program developed under subsection (a).

''(2) PROGRAM COMPONENTS.—The international program shall include—

''(A) international inspection protocols and procedures;

''(B) minimum validation standards to ensure a port or facility meets the applicable International Ship and Port Facility Code standards;

''(C) recognition for foreign ports or facilities that exceed the minimum standards;

''(D) uniform performance metrics by which inspection validations are to be conducted;

''(E) a process for notifying a port or facility, and its host nation, of areas of concern about the port's or facility's failure to comply with International Ship and Port Facility Code standards;

''(F) provisional or probationary validations;

''(G) conditions under which routine monitoring is to occur if a port or facility receives a provisional or probationary validation;

''(H) a process by which failed validations can be appealed; and

''(I) an appropriate cycle for re-inspection and validation.

''(c) CERTIFICATION OF THIRD PARTY ENTITIES.—The Secretary may not certify a third party entity to validate ports or facilities under subsection (b) unless—

''(1) the entity demonstrates to the satisfaction of the Secretary the ability to perform validations in accordance with the standards, protocols, procedures, and requirements established by the program implemented under subsection (a); and

''(2) the entity has no beneficial interest in or any direct control over the port and facilities being inspected and validated.

''(d) MONITORING—The Secretary shall regularly monitor and audit the operations of each third party entity conducting validations under this section to ensure that it is meeting the minimum standards, operating protocols, procedures, and requirements established by international agreement.

''(e) REVOCATION.—The Secretary shall revoke the certification of any entity determined by the Secretary not to meet the minimum standards, operating protocol, procedures, and requirements established by international agreement for third party entity validations.

''(f) PROTECTION OF SECURITY AND PROPRIETARY INFORMATION.—In carrying out this section, the Secretary shall take appropriate actions to protect from disclosure information that—

''(1) is security sensitive, proprietary, or business sensitive; or

''(2) is otherwise not appropriately in the public domain.

''(g) DEADLINES.—The Secretary shall—

''(1) initiate procedures to carry out this section within 180 days after the date of enactment of the Maritime Hazardous Cargo Security Act; and

''(2) develop standards under subsection (b) for third party validation within 2 years after the date of enactment of that Act.

''(h) REPORTS.—The Secretary shall report annually to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security on activities conducted pursuant to this section.''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by inserting after the item relating to section 70110 the following:

''70110A. Port safety and security validations''.

SEC. 803. SAFETY AND SECURITY ASSISTANCE FOR FOREIGN PORTS.

(a) IN GENERAL.—Section 70110(e)(1) of title 46, United States Code, is amended by striking the second sentence and inserting the following: ''The Secretary shall establish a strategic plan to utilize those assistance programs to assist ports and facilities that are found by the Secretary under subsection (a) not to maintain effective antiterrorism measures in the implementation of port security antiterrorism measures.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 70110 of title 46, United States Code, is amended—

(A) by inserting ''**or facilities**'' after ''**ports**'' in the section heading;

(B) by inserting ''or facility'' after ''port'' each place it appears; and

(C) by striking ''PORTS'' in the heading for subsection (e) and inserting ''PORTS, FACILITIES,''.

(2) The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the item relating to section 70110 and inserting the following:

''70110. Actions and assistance for foreign ports or facilities and United States territories''.

SEC. 804. COAST GUARD PORT ASSISTANCE PROGRAM.

Section 70110 of title 46, United States Code, is amended by adding at the end thereof the following:

''(f) COAST GUARD ASSISTANCE PROGRAM.—

''(1) IN GENERAL.—The Secretary may lend, lease, donate, or otherwise provide equipment, and provide technical training and support, to the owner or operator of a foreign port or facility—

''(A) to assist in bringing the port or facility into compliance with applicable International Ship and Port Facility Code standards;

''(B) to assist the port or facility in meeting standards established under section 70109A of this chapter; and

''(C) to assist the port or facility in exceeding the standards described in subparagraph (A) and (B).

''(2) CONDITIONS.—The Secretary—

''(A) shall provide such assistance based upon an assessment of the risks to the security of the United States and the inability of the owner or operator of the port or facility otherwise to bring the port or facility into compliance with those standards and to maintain compliance with them;

''(B) may not provide such assistance unless the facility or port has been subjected to a comprehensive port security assessment by the Coast Guard or a third party entity certified by the Secretary under section 70110A(b) to validate foreign port or facility compliance with International Ship and Port Facility Code standards; and

''(C) may only lend, lease, or otherwise provide equipment that the Secretary has first determined is not required by the Coast Guard for the performance of its missions.''.

SEC. 805. EHC FACILITY RISK-BASED COST SHARING.

The Commandant shall identify facilities sited or constructed on or adjacent to the navigable waters of the United States that receive, handle, load, or unload especially hazardous cargos that pose a risk greater than an acceptable risk threshold, as determined by the Secretary under a uniform risk assessment methodology. The Secretary may establish a security cost-share plan to assist the Coast Guard in providing security for the transportation of especially hazardous cargo to such facilities.

SEC. 806. TRANSPORTATION SECURITY INCIDENT MITIGATION PLAN.

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

(1) by redesignating subparagraphs (E) through (G) as subparagraphs (F) through (H), respectively; and

(2) by inserting after subparagraph (D) the following:

''(E) establish regional response and recovery protocols to prepare for, respond to, mitigate against, and recover from a transportation security incident consistent with section 202 of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 942) and section 70103(a) of title 46, United States Code;''.

SEC. 807. INCIDENT COMMAND SYSTEM TRAINING.

The Secretary shall ensure that Federal, State, and local personnel responsible for the safety and security of vessels in port carrying especially hazardous cargo have successfully completed training in the Department of Homeland Security's incident command system protocols.

SEC. 808. PRE-POSITIONING INTEROPERABLE COMMUNICATIONS EQUIPMENT AT INTERAGENCY OPERATIONAL CENTERS.

Section 70107A of title 46, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

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

''(e) DEPLOYMENT OF INTEROPERABLE COMMUNICATIONS EQUIPMENT AT INTERAGENCY OPERATIONAL CENTERS.—

''(1) IN GENERAL.—The Secretary shall ensure that interoperable communications

technology is deployed at all interagency operational centers established under subsection (a).

''(2) CONSIDERATIONS.—In carrying out paragraph (1), the Secretary shall consider the continuing technological evolution of communications technologies and devices, with its implicit risk of obsolescence, and shall ensure, to the maximum extent feasible, that a substantial part of the technology deployed involves prenegotiated contracts and other arrangements for rapid deployment of equipment, supplies, and systems rather than the warehousing or storage of equipment and supplies currently available at the time the technology is deployed.

''(3) REQUIREMENTS AND CHARACTERISTICS.—The interoperable communications technology deployed under paragraph (1) shall—

''(A) be capable of re-establishing communications when existing infrastructure is damaged or destroyed in an emergency or a major disaster;

''(B) include appropriate current, widely-used equipment, such as Land Mobile Radio Systems, cellular telephones and satellite equipment, Cells-On-Wheels, Cells-On-Light-Trucks, or other self-contained mobile cell sites that can be towed, backup batteries, generators, fuel, and computers;

''(C) include contracts (including prenegotiated contracts) for rapid delivery of the most current technology available from commercial sources;

''(D) include arrangements for training to ensure that personnel are familiar with the operation of the equipment and devices to be delivered pursuant to such contracts; and

''(E) be utilized as appropriate during live area exercises conducted by the United States Coast Guard.

''(4) ADDITIONAL CHARACTERISTICS.—Portions of the communications technology deployed under paragraph (1) may be virtual and may include items donated on an in-kind contribution basis.

''(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed or interpreted to preclude the use of funds under this section by the Secretary for interim or long-term Internet Protocol-based interoperable solutions, notwithstanding compliance with the Project 25 standard.''.

SEC. 809. DEFINITIONS.

In this title:

(1) COMMANDANT.—The term ''Commandant'' means the Commandant of the Coast Guard.

(2) ESPECIALLY HAZARDOUS CARGO.—The term ''especially hazardous cargo'' means any substance identified by the Secretary of the department in which the Coast Guard is operating as especially hazardous cargo.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the department in which the Coast Guard is operating.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. MARINE MAMMALS AND SEA TURTLES REPORT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary of the department in which the Coast Guard is operating shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on Coast Guard activities with respect to the protection of marine mammals and sea turtles under United States statutes and international agreements.

(b) REQUIRED CONTENT.—The Secretary shall include in the report, at a minimum—

(1) a detailed summary of actions that the Coast Guard has undertaken annually from fiscal year 2000 through fiscal year 2007 with respect to enforcement efforts, and cooperative agreements and activities with other Federal and State agencies, training programs, and other initiatives;

(2) an annual summary for fiscal year 2000 through fiscal year 2007 by Coast Guard district of the level of effort measured by personnel hours and other available data, for enforcement of the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.), the Endangered Species Act (16 U.S.C. 1531 et seq.), and the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.) as well as international agreements that include provisions on sea turtles or marine mammals to which the United States is a party; and

(3) a summary of any new Coast Guard initiatives for this mission area.

SEC. 902. UMPQUA LIGHTHOUSE LAND CONVEYANCE.

(a) CONVEYANCE AUTHORIZED.—

(1) IN GENERAL.—The Commandant of the Coast Guard may convey to Douglas County, Oregon, all right, title, and interest of the United States in and to the Umpqua Lighthouse property, including improvements thereon, for the purpose of permitting the County to use the property as a park.

(2) PROPERTY DESCRIPTION.—

(A) IN GENERAL.—The Umpqua Lighthouse property is the parcel of approximately 14.81 acres of Coast Guard controlled land located in the NW ¼ of sec. 13, T. 22 S., R. 13 W., Willamette Meridian, and identified as Exhibit A on the aerial map entitled ''U.S. Coast Guard Property at Salmon Harbor/Winchester Bay, Oregon'' dated February 22, 2006.

(B) SURVEYS.—The exact acreage and legal description of the real property to be conveyed under subsections (a) and (c) shall be determined by surveys satisfactory to the Commandant. The cost of the surveys shall be borne by the County.

(b) USE OF PROPERTY CONVEYED.—Notwithstanding section 59.3 of title 36, Code of Federal Regulations (or any successor regulation), and the limitations on the use of land provided assistance under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.), the real property to be conveyed under this section may be converted to a use other than a public outdoor recreation use.

(c) PROVISION OF REPLACEMENT FACILITIES.—

(1) IN GENERAL.—As consideration for the conveyance authorized by subsection (a), the County—

(A) may, at its expense design and construct the replacement facilities for the Coast Guard to replace the facilities conveyed under that subsection;

(B) may design and construct the replacement facilities to the specifications of the Commandant; and

(C) may construct the replacement facilities upon a parcel of real property determined by the Commandant to be an appropriate location for the replacement facilities; and

(2) shall convey to the United States all right, title, and interest in and to the replacement facilities and the parcel of real property on which the facilities are located.

(d) MEMORANDUM OF AGREEMENT.—The County and the Commandant may enter into a memorandum of agreement to effectuate the transactions authorized by this section.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Commandant may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Commandant considers appropriate to protect the interests of the United States.

(f) LIMITATION.—Nothing in this section compels the County or the Commandant to execute a memorandum of agreement or deed, except upon such terms and conditions that the County and the Commandant may consider appropriate, in the exercise of their discretion, to protect the interests of the County and the United States.

SEC. 903. TRANSFER OF LANDS TO BE HELD IN TRUST.

(a) IN GENERAL.—As soon as practical but not later than 3 years after the date of enactment of this Act, the Commandant of the Coast Guard shall take such actions as are necessary to transfer administrative jurisdiction over lands, including all structures and buildings on lands, depicted on the maps prepared pursuant to subsection (c) of this section to the Secretary of the Interior to hold in trust for the benefit of the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians.

(b) CONDITIONS OF TRANSFER.—

(1) Prior to the transfer of administrative jurisdiction over the lands, the Coast Guard, in its sole discretion, shall execute actions required to comply with applicable environmental and cultural resources law.

(2) Upon such transfer to the Secretary of the Interior, the lands shall be held in trust by the United States for the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians, Oregon, and shall be part of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw's Reservation.

(c) MAP AND LEGAL DESCRIPTION OF LAND.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Commandant shall file maps entitled ''Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Land Transfer Maps'', which shall depict and provide a legal description of the parcels to be transferred in Coos County, Oregon, totaling approximately 24.0 acres in the areas commonly known as Gregory Point and Chief's Island, with—

(A) the Senate Committee on Commerce, Science, and Transportation;

(B) the House of Representatives Committee on Transportation and Infrastructure; and

(C) the Secretary of the Interior.

(2) FORCE OF LAW.—The maps and legal descriptions filed under paragraph (1) shall have the same force and effect as if included in this Act, except that the Commandant may correct typographical errors in the maps and each legal description.

(3) PUBLIC AVAILABILITY.—Each map and legal description filed under paragraph (1) shall be on file and available for public inspection in the appropriate office of the Department of the Interior.

(d) USE OF COAST GUARD AIDS TO NAVIGATION.—The Coast Guard may retain easements, or other property interests as may be necessary, across the property described in subsection (c) for access to aids to navigation located on the lands so long as such aids may be required by the Coast Guard.

(e) MAINTENANCE OF CAPE ARAGO LIGHT STATION.—

(1) The conveyance of Cape Arago Light Station on Chief's Island by the Coast Guard shall be made on condition that the Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians shall—

(A) use and make reasonable efforts to maintain the Cape Arago Light Station in accordance with the National Historic Preservation Act (16 U.S.C. 470 et seq.), the Secretary of the Interior's Standards for the Treatment of Historic Properties set forth in part 68 of title 36, Code of Federal Regulations, and other applicable laws, and submit any proposed changes to the Cape Arago Light Station for review and approval by the Secretary of the Interior in consultation with the Oregon State Historic Preservation Officer, for consistency with section 800.5(a)(2)(vii) of title 36, Code of Federal Regulations, and the Secretary of the Interior's Standards for Rehabilitation, set forth

in part 67.7 of title 36, Code of Federal Regulations;

(B) make the Cape Arago Light Station available for education, park, recreation, cultural, or historic preservation purposes for the general public at reasonable times and under reasonable conditions;

(C) not sell, convey, assign, exchange, or encumber the Cape Arago Light Station, any part thereof, or any associated historic artifact conveyed in conjunction with the transfer under this section unless such sale, conveyance, assignment, exchange, or encumbrance is approved by Secretary of the Interior;

(D) not conduct any commercial activities at the Cape Arago Light Station, any part thereof, or in connection with any historic artifact conveyed in conjunction with the transfer under this section in any manner, unless such commercial activities are approved by the Secretary of the Interior; and

(E) allow the United States, at any time, to enter the Cape Arago Light Station without notice, for purposes of ensuring compliance with this section, to the extent that it is not possible to provide advance notice.

(2) The Cape Arago Light Station, or any associated historic artifact conveyed in conjunction with the transfer under this section, at the option of the Secretary of the Interior, shall revert to the United States and be placed under the administrative control of the Secretary of the Interior if the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians fail to meet any condition described in paragraph (1).

(f) TRIBAL FISHING RIGHTS.—No fishing right of the Confederated Tribes of the Coos, Lower Umpqua, and Siuslaw Indians in existence on the date of enactment of this Act shall be enlarged, impaired, or otherwise affected by the transfer under this section.

SEC. 904. DATA.

In each of fiscal years 2008 through 2010, there are authorized to be appropriated to the Administrator of the National Oceanic and Atmospheric Administration $7,000,000 to acquire through the use of unmanned aerial vehicles data to improve the management of natural disasters, the safety of marine and aviation transportation, and fisheries enforcement.

SEC. 905. EXTENSION.

Section 607 of the Coast Guard and Maritime Transportation Act of 2006 is amended—

(1) by striking ''2007'' in subsection (h) and inserting ''2012''; and

(2) by striking ''terminate'' and all that follows in subsection (i) and inserting ''terminate on September 30, 2012.''.

SEC. 906. FORWARD OPERATING FACILITY.

Not later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may construct or lease hangar, berthing, and messing facilities in the Aleutian Island–Bering Sea operating area. These facilities shall—

(1) support aircraft maintenance, including exhaust ventilation, heat, engine wash system, head facilities, fuel, ground support services, and electrical power; and

(2) shelter for both current helicopter assets and those projected to be located at Air Station Kodiak, Alaska for up to 20 years.

SEC. 907. ENCLOSED HANGAR AT AIR STATION BARBERS POINT, HAWAII.

Not later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may construct an enclosed hangar at Air Station Barbers Point, Hawaii. The hangar shall—

(1) support aircraft maintenance, including exhaust ventilation, heat, engine wash system, head facilities, fuel, ground support services, and electrical power; and

(2) shelter all current aircraft assets and those projected to be located at Air Station Barbers Point, Hawaii, over the next 20 years.

SEC. 908. CONVEYANCE OF DECOMMISSIONED COAST GUARD CUTTER STORIS.

(a) IN GENERAL.—Upon the scheduled decommissioning of the Coast Guard Cutter STORIS, the Commandant of the Coast Guard shall convey, without consideration, all right, title, and interest of the United States in and to that vessel to the USCG Cutter STORIS Museum and Maritime Education Center, LLC, located in the State of Alaska if the recipient—

(1) agrees—

(A) to use the vessel for purposes of a museum and historical display;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising from the use by the Government under subparagraph (C);

(2) has funds available that will be committed to operate and maintain in good working condition the vessel conveyed, in the form of cash, liquid assets, or a written loan commitment and in an amount of at least $700,000; and

(3) agrees to any other conditions the Commandant considers appropriate.

(b) MAINTENANCE AND DELIVERY OF VESSEL.—

(1) MAINTENANCE.—Before conveyance of the vessel under this section, the Commandant shall make, to the extent practical and subject to other Coast Guard mission requirements, every effort to maintain the integrity of the vessel and its equipment until the time of delivery.

(2) DELIVERY.—If a conveyance is made under this section, the Commandant shall deliver the vessel—

(A) at the place where the vessel is located; and

(B) without cost to the Government.

(3) TREATMENT OF CONVEYANCE.—The conveyance of the vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94–469 (15 U.S.C. 2605(e)).

(c) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient of a conveyance under subsection (a) any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the operability and function of the vessel conveyed under subsection (a) for purposes of a museum and historical display.

SEC. 909. CONVEYANCE OF THE PRESQUE ISLE LIGHT STATION FRESNEL LENS TO PRESQUE ISLE TOWNSHIP, MICHIGAN.

(a) CONVEYANCE OF LENS AUTHORIZED.—

(1) TRANSFER OF POSSESSION.—Notwithstanding any other provision of law, the Commandant of the Coast Guard may transfer to Presque Isle Township, a township in Presque Isle County in the State of Michigan (in this section referred to as the ''Township''), possession of the Historic Fresnel Lens (in this section referred to as the ''Lens'') from the Presque Isle Light Station Lighthouse, Michigan (in this section referred to as the ''Lighthouse'').

(2) CONDITION.—As a condition of the transfer of possession authorized by paragraph (1), the Township shall, not later than one year after the date of transfer, install the Lens in the Lighthouse for the purpose of operating the Lens and Lighthouse as a Class I private aid to navigation pursuant to section 85 of title 14, United States Code, and the applicable regulations under that section.

(3) CONVEYANCE OF LENS.—Upon the certification of the Commandant that the Township has installed the Lens in the Lighthouse and is able to operate the Lens and Lighthouse as a private aid to navigation as required by paragraph (2), the Commandant shall convey to the Township all right, title, and interest of the United States in and to the Lens.

(4) CESSATION OF UNITED STATES OPERATIONS OF AIDS TO NAVIGATION AT LIGHTHOUSE.—Upon the making of the certification described in paragraph (3), all active Federal aids to navigation located at the Lighthouse shall cease to be operated and maintained by the United States.

(b) REVERSION.—

(1) REVERSION FOR FAILURE OF AID TO NAVIGATION.—If the Township does not comply with the condition set forth in subsection (a)(2) within the time specified in that subsection, the Township shall, except as provided in paragraph (2), return the Lens to the Commandant at no cost to the United States and under such conditions as the Commandant may require.

(2) EXCEPTION FOR HISTORICAL PRESERVATION.—Notwithstanding the lack of compliance of the Township as described in paragraph (1), the Township may retain possession of the Lens for installation as an artifact in, at, or near the Lighthouse upon the approval of the Commandant. The Lens shall be retained by the Township under this paragraph under such conditions for the preservation and conservation of the Lens as the Commandant shall specify for purposes of this paragraph. Installation of the Lens under this paragraph shall occur, if at all, not later than two years after the date of the transfer of the Lens to the Township under subsection (a)(1).

(3) REVERSION FOR FAILURE OF HISTORICAL PRESERVATION.—If retention of the Lens by the Township is authorized under paragraph (2) and the Township does not install the Lens in accordance with that paragraph within the time specified in that paragraph, the Township shall return the lens to the Coast Guard at no cost to the United States and under such conditions as the Commandant may require.

(c) CONVEYANCE OF ADDITIONAL PERSONAL PROPERTY.—

(1) TRANSFER AND CONVEYANCE OF PERSONAL PROPERTY.—Notwithstanding any other provision of law, the Commandant may transfer to the Township any additional personal property of the United States related to the Lens that the Commandant considers appropriate for conveyance under this section. If the Commandant conveys the Lens to the Township under subsection (a)(3), the Commandant may convey to the Township any personal property previously transferred to the Township under this subsection.

(2) REVERSION.—If the Lens is returned to the Coast Guard pursuant to subsection (b), the Township shall return to the Coast Guard all personal property transferred or conveyed to the Township under this subsection except to the extent otherwise approved by the Commandant.

(d) CONVEYANCE WITHOUT CONSIDERATION.—The conveyance of the Lens and any personal property under this section shall be without consideration.

(e) DELIVERY OF PROPERTY.—The Commandant shall deliver property conveyed under this section—

(1) at the place where such property is located on the date of the conveyance;

(2) in condition on the date of conveyance; and

(3) without cost to the United States.

(f) MAINTENANCE OF PROPERTY.—As a condition of the conveyance of any property to the Township under this section, the Commandant shall enter into an agreement with the Township under which the Township agrees—

(1) to operate the Lens as a Class I private aid to navigation under section 85 of title 14, United States Code, and application regulations under that section; and

(2) to hold the United States harmless for any claim arising with respect to personal property conveyed under this section.

(g) LIMITATION ON FUTURE CONVEYANCE.—The instruments providing for the conveyance of property under this section shall—

(1) require that any further conveyance of an interest in such property may not be made without the advance approval of the Commandant; and

(2) provide that, if the Commandant determines that an interest in such property was conveyed without such approval—

(A) all right, title, and interest in such property shall revert to the United States, and the United States shall have the right to immediate possession of such property; and

(B) the recipient of such property shall pay the United States for costs incurred by the United States in recovering such property.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Commandant may require such additional terms and conditions in connection with the conveyances authorized by this section as the Commandant considers appropriate to protect the interests of the United States.

SEC. 910. REPEALS.

The following sections are repealed:

(1) Section 689 of title 14, United States Code, and the item relating to such section in the analysis for chapter 18 of such title.

(2) Section 216 of title 14, United States Code, and the item relating to such section in the analysis for chapter 11 of such title.

SEC. 911. REPORT ON SHIP TRAFFIC.

(a) REPORT.—No later than 1 year after the date of enactment of this Act and annually thereafter, the Secretary of the department in which the Coast Guard is operating shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the volume of foreign flag ships entering waters subject to the jurisdiction of the United States. The report may be submitted in classified format if the Secretary deems it to be necessary for national security.

(b) CONTENTS.—The report shall include a breakdown of the number or percentage of such foreign flag ships that—

(1) enter a United States port or place;

(2) do not enter a United States port or place but pass through the territorial sea of the United States; or

(3) do not enter a United States port or place but pass only through the exclusive economic zone of the United States.

(c) DEFINITIONS.—In this section:

(1) EXCLUSIVE ECONOMIC ZONE.—The term ''exclusive economic zone'' means the Exclusive Economic Zone of the United States established by Proclamation Number 5030, dated March 10, 1983 (16 U.S.C. 1453 note).

(2) TERRITORIAL SEA.—The term ''territorial sea'' means the waters of the Territorial Sea of the United States under Presidential Proclamation 5928, dated December 27, 1988 (43 U.S.C. 1331 note).

SEC. 912. SMALL VESSEL EXCEPTION FROM DEFINITION OF FISH PROCESSING VESSEL.

Section 2101(11b) of title 46, United States Code, is amended by striking ''chilling.'' and inserting ''chilling, but does not include a fishing vessel operating in Alaskan waters under a permit or license issued by Alaska that—

(A) fillets only salmon taken by that vessel;

(B) fillets less than 5 metric tons of such salmon during any 7-day period.''.

SEC. 913. RIGHT OF FIRST REFUSAL FOR COAST GUARD PROPERTY ON JUPITER ISLAND, FLORIDA.

(a) RIGHT OF FIRST REFUSAL.—Notwithstanding any other law (other than this section), the Town of Jupiter Island, Florida, shall have the right of first refusal to select and take without consideration fee simple title to real property within the jurisdiction of the Town comprising Parcel #35-38-42-004-000-02590-6 (Bon Air Beach lots 259 and 260 located at 83 North Beach Road) and Parcel #35-38-42-004-000-02610-2 (Bon Air Beach lots 261 to 267), including any improvements thereon that are not authorized or required by another provision of law to be conveyed to another person.

(b) IDENTIFICATION OF PROPERTY.—The Commandant of the Coast Guard may identify, describe, and determine the property referred to in subsection (a) that is subject to the right of the Town under that subsection.

(c) LIMITATION.—The property referred to in subsection (a) may not be conveyed under that subsection until the Commandant of the Coast Guard determines that the property is not needed to carry out Coast Guard operations.

(d) REQUIRED USE.—Any property conveyed under this section shall be used by the Town of Jupiter Island, Florida, solely for conservation of habitat and as protection against damage from wind, tidal, and wave energy.

(e) REVERSION.—Any conveyance of property under this section shall be subject to the condition that all right, title, and interest in the property, at the option of the Commandant of the Coast Guard, shall revert to the United States Government if the property is used for purposes other than conservation.

(f) IMPLEMENTATION.—The Commandant of the Coast Guard shall upon request by the Town—

(1) promptly take those actions necessary to make property identified under subsection (b) and determined by the Commandant under subsection (c) ready for conveyance to the Town; and

(2) convey the property to the Town subject to subsections (d) and (e).

SEC. 914. SHIP DISPOSAL WORKING GROUP.

(a) IN GENERAL.—Within 30 days after the date of enactment of this Act, the Secretary of Transportation shall convene a working group, composed of senior representatives from the Maritime Administration, the Coast Guard, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the United States Navy. The Secretary may request the participation of senior representatives of any other Federal department or agency, as appropriate, and shall consult with appropriate State environmental agencies. The working group shall review and make recommendations on environmental practices for the storage and disposal of obsolete vessels owned or operated by the Federal Government.

(b) SCOPE.—Among the vessels to be considered by the working group are Federally owned or operated vessels that are—

(A) to be scrapped or recycled;

(B) to be used as artificial reefs; or

(C) to be used for the Navy's SINKEX program.

(c) PURPOSE.—The working group shall—

(1) examine current storage and disposal policies, procedures, and practices for obsolete vessels owned or operated by Federal agencies;

(2) examine Federal and State laws and regulations governing such policies, procedures, and practices and any applicable environmental laws; and

(3) within 90 days after the date of enactment of this Act, submit a plan to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Environment and Public Works, and the House of Representatives Committee on Armed Services to improve and harmonize practices for storage and disposal of such vessels, including the interim transportation of such vessels.

(d) CONTENTS OF PLAN.—The working group shall include in the plan submitted under subsection (c)(3)—

(1) a description of existing measures for the storage, disposal, and interim transportation of obsolete vessels owned or operated by Federal agencies in compliance with Federal and State environmental laws in a manner that protects the environment;

(2) a description of Federal and State laws and regulations governing current policies, procedures, and practices for the storage, disposal, and interim transportation of such vessels;

(3) recommendations for environmental best practices that meet or exceed, and harmonize, the requirements of Federal environmental laws and regulations applicable to the storage, disposal, and interim transportation of such vessels;

(4) recommendations for environmental best practices that meet or exceed the requirements of State laws and regulations applicable to the storage, disposal, and interim transportation of such vessels;

(5) procedures for the identification and remediation of any environmental impacts caused by the storage, disposal, and interim transportation of such vessels; and

(6) recommendations for necessary steps, including regulations if appropriate, to ensure that best environmental practices apply to all such vessels.

(e) IMPLEMENTATION OF PLAN.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the head of each Federal department or agency participating in the working group, in consultation with the other Federal departments and agencies participating in the working group, shall take such action as may be necessary, including the promulgation of regulations, under existing authorities to ensure that the implementation of the plan provides for compliance with all Federal and State laws and for the protection of the environment in the storage, interim transportation, and disposal of obsolete vessels owned or operated by Federal agencies.

(2) ARMED SERVICES VESSELS.—The Secretary and the Secretary of Defense, in consultation with the Administrator of the Environmental Protection Agency, shall each ensure that environmental best practices are observed with respect to the storage, disposal, and interim transportation of obsolete vessels owned or operated by the Department of Defense.

(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to supersede, limit, modify, or otherwise affect any other provision of law, including environmental law.

SEC. 915. FULL MULTI-MISSION RESPONSE STATION IN VALDEZ, ALASKA.

Not later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may construct a full multi-mission Coast Guard Response Station in Valdez, Alaska. The Station shall include shore and

maintenance infrastructure facilities to support all current and projected Coast Guard waterborne security forces to be located in Valdez, Alaska, over the next 20 years.

SEC. 916. PROTECTION AND FAIR TREATMENT OF SEAFARERS.

(a) IN GENERAL.—Chapter 5 of title 14, United States Code, is amended by inserting after section 89 the following:

"§ 89a. Protection and fair treatment of seafarers

''(a) AUTHORITY OF THE SECRETARY.—

''(1) IN GENERAL.—The Secretary is authorized—

''(A) to require a bond or surety satisfactory as an alternative to withholding or revoking clearance required under section 60105 of title 46 if, in the opinion of the Secretary, such bond or surety satisfactory is necessary to facilitate an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard, provided that corporate sureties underwriting any such bonds be certified by the Department of the Treasury to write Federal bonds under sections 9304 and 9305 of title 31;

''(B) at the discretion of the Secretary, to pay, in whole or in part, without further appropriation and without fiscal year limitation, from amounts in the Fund, necessary support of—

''(i) any seafarer who enters, remains, or has been paroled into the United States and is involved in an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard; and

''(ii) any seafarer whom the Secretary finds to have been abandoned in the United States; and

''(C) at the sole discretion of the Secretary, to reimburse, in whole or in part, without further appropriation and without fiscal year limitation, from amounts in the Fund, a shipowner, who has filed a bond or surety satisfactory pursuant to subparagraph (A) of this paragraph and provided necessary support of a seafarer who has been paroled into the United States to facilitate an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard, for costs of necessary support, when the Secretary deems reimbursement necessary to avoid serious injustice.

''(2) APPLICATION.—The authority to require a bond or a surety satisfactory or to request the withholding or revocation of the clearance required under section 60105 of title 46 is applicable to any investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard.

''(3) LIMITATIONS.—Nothing in this section shall be construed—

''(A) to create a right, benefit, or entitlement to necessary support; or

''(B) to compel the Secretary to pay, or reimburse the cost of, necessary support.

''(b) FUND.—

''(1) IN GENERAL.—There is established in the Treasury a special fund known as the 'Support of Seafarers Fund'.

''(2) AVAILABILITY.—The amounts covered into the Fund shall be available to the Secretary, without further appropriation and without fiscal year limitation—

''(A) to pay necessary support, pursuant to subsection (a)(1)(B) of this section; and

''(B) to reimburse a shipowner for necessary support, pursuant to subsection (a)(1)(C) of this section.

''(3) RECEIPTS.—Notwithstanding any other provision of law, the Fund shall be authorized to receive—

''(A) amounts reimbursed or recovered pursuant to subsection (c) of this section;

''(B) amounts appropriated to the Fund pursuant to subsection (f) of this section; and

''(C) appropriations available to the Secretary for transfer.

''(4) LIMITATION ON CERTAIN CREDITS.—The Fund may receive credits pursuant to paragraph (3)(A) of this subsection only when the unobligated balance of the Fund is less than $5,000,000.

''(5) REPORT REQUIRED.—

''(A) Except as provided in subparagraph (B) of this paragraph, the Secretary shall not obligate any amount in the Fund in a given fiscal year unless the Secretary has submitted to Congress, concurrent with the President's budget submission for that fiscal year, a report that describes—

''(i) the amounts credited to the Fund, pursuant to paragraph (3) of this section, for the preceding fiscal year;

''(ii) a detailed description of the activities for which amounts were charged; and

''(iii) the projected level of expenditures from the Fund for the coming fiscal year, based on—

''(I) on-going activities; and

''(II) new cases, derived from historic data.

''(B) The limitation in subparagraph (A) of this paragraph shall not apply to obligations during the first fiscal year during which amounts are credited to the Fund.

''(6) FUND MANAGER.—The Secretary shall designate a Fund manager, who shall—

''(A) ensure the visibility and accountability of transactions utilizing the Fund;

''(B) prepare the report required pursuant to paragraph (5) of this subsection; and

''(C) monitor the unobligated balance of the Fund and provide notice to the Secretary and the Attorney General whenever the unobligated balance of the Fund is less than $5,000,000.

''(c) REIMBURSEMENTS—

''(1) RECOVERY.—Any shipowner—

''(A)(i) who, during the course of an investigation, reporting, documentation, or adjudication of any matter that the Coast Guard referred to a United States Attorney or the Attorney General, fails to provide necessary support of a seafarer who has been paroled into the United States to facilitate the investigation, reporting, documentation, or adjudication, and

''(ii) against whom a criminal penalty is subsequently imposed, or

''(B) who, under any circumstance, abandons a seafarer in the United States, as determined by the Secretary,

shall reimburse the Fund an amount equal to the total amount paid from the Fund for necessary support of the seafarer, plus a surcharge of 25 per cent of such total amount.

''(2) ENFORCEMENT.—If a shipowner fails to reimburse the Fund as required under paragraph (1) of this subsection, the Secretary may—

''(A) proceed in rem against any vessel of the shipowner in the Federal district court for the district in which such vessel is found; and

''(B) withhold or revoke the clearance, required by section 60105 of title 46, of any vessel of the shipowner wherever such vessel is found.

''(3) CLEARANCE.—Whenever clearance is withheld or revoked pursuant to paragraph (2)(B) of this subsection, clearance may be granted if the shipowner reimburses the Fund the amount required under paragraph (1) of this subsection.

''(d) DEFINITIONS.—In this section:

''(1) ABANDONS; ABANDONED.—The term 'abandons' or 'abandoned' means a shipowner's unilateral severance of ties with a seafarer or the shipowner's failure to provide necessary support of a seafarer;

''(2) BOND OR SURETY SATISFACTORY.—The term 'bond or surety satisfactory' means a negotiated instrument, the terms of which may, at the discretion of the Secretary, include provisions that require the shipowner to—

''(A) provide necessary support of a seafarer who has or may have information pertinent to an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard;

''(B) facilitate an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard;

''(C) stipulate to certain incontrovertible facts, including, but not limited to, the ownership or operation of the vessel, or the authenticity of documents and things from the vessel;

''(D) facilitate service of correspondence and legal papers;

''(E) enter an appearance in Federal district court;

''(F) comply with directions regarding payment of funds;

''(G) name an agent in the United States for service of process;

''(H) make stipulations as to the authenticity of certain documents in Federal district court;

''(I) provide assurances that no discriminatory or retaliatory measures will be taken against a seafarer involved in an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of any treaty, law, or regulation by the Coast Guard;

''(J) provide financial security in the form of cash, bond, or other means acceptable to the Secretary; and

''(K) provide for any other appropriate measures as the Secretary deems necessary to ensure the Government is not prejudiced by granting the clearance required by section 60105 of title 46.

''(3) FUND.—The term 'Fund' means the Support of Seafarers Fund, established by subsection (b);

''(4) NECESSARY SUPPORT.—The term 'necessary support' means normal wages, lodging, subsistence, clothing, medical care (including hospitalization), repatriation, and any other expense the Secretary deems appropriate;

''(5) SEAFARER.—The term 'seafarer' means an alien crewman who is employed or engaged in any capacity on board a vessel subject to the jurisdiction of the United States;

''(6) SHIPOWNER.—The term 'shipowner' means the individual or entity that owns, has an ownership interest in, or operates a vessel subject to the jurisdiction of the United States;

''(7) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The term 'vessel subject to the jurisdiction of the United States' has the same meaning it has in section 70502(c) of title 46, except that it excludes a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce.

''(e) REGULATIONS.—The Secretary is authorized to promulgate regulations to implement this subsection.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the Fund $1,500,000 for each of fiscal years 2009, 2010, and 2011.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 5 of such title is amended by inserting after the item relating to section 89 the following:

''89a. Protection and fair treatment of seafarers''.

SEC. 917. ICEBREAKERS.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall acquire or construct 2 polar icebreakers for operation by the Coast Guard in addition to its existing fleet of polar icebreakers.

(b) NECESSARY MEASURES.—The Secretary shall take all necessary measures, including the provision of necessary operation and maintenance funding, to ensure that—

(1) the Coast Guard maintains, at a minimum, its current vessel capacity for carrying out ice breaking in the Arctic and Antarctic, Great Lakes, and New England regions; and

(2) any such vessels that are not fully operational are brought up to, and maintained at full operational capability.

(c) REIMBURSEMENT.—Nothing in this section shall preclude the Secretary from seeking reimbursement for operation and maintenance costs of such polar icebreakers from other Federal agencies and entities, including foreign countries, that benefit from the use of the icebreakers.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 2008 to the Secretary of the department in which the Coast Guard is operating such sums as may be necessary to acquire the icebreakers authorized by subsection (a), as well as maintaining and operating the icebreaker fleet as authorized in subsection (b).

SEC. 918. FUR SEAL ACT AUTHORIZATION.

Section 206(c)(1) of the Fur Seal Act of 1966 (16 U.S.C. 1166(c)(1)) is amended by striking ''and 2007'' and inserting ''2007, 2008, and 2009''.

SEC. 919. STUDY OF RELOCATION OF COAST GUARD SECTOR BUFFALO FACILITIES.

(a) PURPOSES.—The purposes of this section are—

(1) to authorize a project study to evaluate the feasibility of consolidating and relocating Coast Guard facilities at Coast Guard Sector Buffalo within the study area;

(2) to obtain a preliminary plan for the design, engineering, and construction for the consolidation of Coast Guard facilities at Sector Buffalo; and

(3) to distinguish what Federal lands, if any, shall be identified as excess after the consolidation.

(b) DEFINITIONS.—In this section:

(1) COMMANDANT.—The term ''Commandant'' means the Commandant of the Coast Guard.

(2) SECTOR BUFFALO.—The term ''Sector Buffalo'' means Coast Guard Sector Buffalo of the Ninth Coast Guard District.

(3) STUDY AREA.—The term ''study area'' means the area consisting of approximately 31 acres of real property and any improvements thereon that are commonly identified as Coast Guard Sector Buffalo, located at 1 Fuhrmann Boulevard, Buffalo, New York, and under the administrative control of the Coast Guard.

(c) STUDY.—

(1) IN GENERAL.—Within 12 months after the date on which funds are first made available to carry out this section, the Commandant shall conduct a project proposal report of the study area and shall submit such report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) REQUIREMENTS.—The project proposal report shall—

(A) evaluate the most cost-effective method for providing shore facilities to meet the operational requirements of Sector Buffalo;

(B) determine the feasibility of consolidating and relocating shore facilities on a portion of the existing site, while—

(i) meeting the operational requirements of Sector Buffalo; and

(ii) allowing the expansion of operational requirements of Sector Buffalo; and

(C) contain a preliminary plan for the design, engineering, and construction of the proposed project, including—

(i) the estimated cost of the design, engineering, and construction of the proposed project;

(ii) an anticipated timeline of the proposed project; and

(iii) a description of what Federal lands, if any, shall be considered excess to Coast Guard needs.

(d) LIMITATION.—Nothing in this section shall affect the current administration and management of the study area.

SEC. 920. INSPECTOR GENERAL REPORT ON COAST GUARD DIVE PROGRAM.

(a) INSPECTOR GENERAL REPORT.—Within 1 year after the date of enactment of this Act, the Inspector General of the Department of Homeland Security shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the circumstances surrounding the accidental death of Coast Guard crew members on a training dive while serving aboard the Coast Guard icebreaker HEALY on August 17, 2006. The Inspector General shall include in the report—

(1) a description of programmatic changes made by the Coast Guard in its dive program in response to the accident;

(2) an evaluation of whether those changes are effective and are sufficient to prevent similar accidents; and

(3) recommendations for further improvement in the safety of the dive program.

(b) HILL-DUQUE COAST GUARD DIVE PROGRAM REPORT.—Within 6 months after the date of enactment of this Act, the Inspector General shall submit an interim report to the Committees describing the progress made in preparing the report required by subsection (a).

Ms. SNOWE. Mr. President, as Ranking Member on the Coast Guard's oversight subcommittee, I am pleased today to co-sponsor the Coast Guard Authorization Act for fiscal year 2008.

The Coast Guard serves as the guardian of our maritime homeland security and provides many critical services for our nation. Last year alone, the Coast Guard responded to over 28,000 calls for assistance, and saved nearly 5,300 lives. These brave men and women risk their lives to defend our borders from drugs, illegal immigrants, acts of terror, and other national security threats. In 2004, the Coast Guard seized 287,000 pounds of cocaine, including over 20 tons in a single interdiction action, the largest drug bust ever recorded. They also stopped nearly 8,000 illegal migrants from reacting our shores. In addition they conducted 6,100 boardings to protect our vital fisheries stocks and they responded to 4,400 pollution incidents.

In today's post-9/11 world, the men and women of the Coast Guard have been working harder than ever securing the nation's coastline, waterways, and ports. This rapid escalation of the Coast Guard's homeland security mission catalogue continues today. While our new reality requires the Coast Guard to maintain a robust homeland security posture, these new priorities must not diminish the Coast Guard's focus on its traditional missions such as marine safety, search and rescue, aids to navigation, fisheries law enforcement, and marine environmental protection.

The bill we introduce today would authorize funding at $8.3 billion for fiscal year 2008. This authorization will continue to allow the Coast Guard to perform non-homeland security missions such as search and rescue, fisheries enforcement, and marine environmental protection, as well as fund the necessary missions related to ports, waterways, and coastal security. It also includes funding to allow the service to continue replacing its rapidly aging assets so it can increase efficiency of its actions and reap the benefits of advances of modern technology and engineering.

The Coast Guard's rapid operational escalation has taken a significant toll on the ships, boats, and aircraft that the Coast Guard uses on a daily basis, putting additional strain on vessels that already collectively comprise the world's third oldest navel fleet. The Coast Guard is now 5 years into the acquisition phase of a program designed to recapitalize its aging infrastructure the Integrated Deepwater Program. In recent months, we have heard a litany of bad news regarding Deepwater, from the decommissioning of eight 123-foot patrol boats following a failed effort to extend them, to reports that Deepwater's flagship, the National Security Cutter, will not meet the specifications required by the Coast Guard. The service has taken numerous steps to rectify contractual shortcomings that have led to many of these problems, but much work remains to be done before the Coast Guard can regain the confidence of its overseers and the American public. This bill authorizes nearly $1 billion for Coast Guard acquisitions programs, a large sum to be sure. But Senator CANTWELL and I, and the rest of the Coast Guard's oversight subcommittee will closely monitor developments with the program to ensure that the mistakes of Deepwater's past are not carried over into its future.

This bill also includes a provision to increase the Coast Guard's ability to prosecute those engaged in illegal alien smuggling in the maritime environment. Under current law and practice, individuals have to be seriously injured or die in a maritime migrant smuggling event before the smugglers are faced with meaningful legal penalties. This allows organized groups of experienced smugglers to operate with near impunity, facilitating the entry of

thousands of illegal immigrants annually. The Maritime Alien Smuggling Law Enforcement Act, contained within this bill would close this serious loophole at the frontline of our homeland security efforts.

The bill also contains provisions vital to navigation security, including a requirement that the Coast Guard continue to operate the LORAN–C navigation system. Though advances in Global Positioning System technology have allowed our mariners to receive accurate, timely positioning data, many seafarers, particularly in the northern latitudes where GPS signals are less strong, still rely on LORAN signals as a back-up to their more modern systems, or in some cases, as a primary navigation aid.

The service men and women of the Coast Guard do yeoman's work in support of our homeland security and to ensure the safety of the maritime domain, and this bill also contains provisions to help them in numerous ways. Provisions ensure the Government is providing adequate access to medical care for those stationed on remote islands; grants Coast Guard servicemen and women access to the armed forces retirement homes; and authorizes funding for additional facilities to improve their quality of life.

In sum, this bill contains provisions too numerous to mention individually that support the Coast Guard's missions and enhance its ability to safeguard our homeland, our environment, and our maritime operations. I thank Senator CANTWELL and the rest of my fellow co-sponsors for all their hard work on this bill, and I ask my colleagues in this body to join me in expressing support for the valiant men and women of the Coast Guard and this bill that will facilitate execution of their appointed missions.

By Mr. BAUCUS:

S. 1893. An original bill to amend title XXI of the Social Security Act to reauthorize the State Children's Health Insurance Program, and for other purposes; from the Committee on Finance; placed on the calendar.

Mr. BAUCUS. Mr. President, I ask unanimous consent the following material regarding today's introduction of S. 1893, the Children's Health Insurance Program Reauthorization Act of 2007, be included in the RECORD, July 26, 2007 letter from the Congressional Budget Office; and Technical Summary of the Children's Health Insurance Program Reauthorization Act of 2007.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 26, 2007.

Hon. MAX BAUCUS,
Chairman Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office (CBO) and the Joint Committee on Taxation (JCT) have prepared the attached cost estimate for the Children's Health Insurance Program Reauthorization Act of 2007, based on the legislative language (ERN07632) that was provided by the Committee on Finance on July 26, 2007.

CBO estimates that enacting this legislation would increase federal direct spending by $35.2 billion over the 2008–2012 period and by $71.0 billion over the 2008–2017 period. CBO and JCT estimate that net revenues would increase under the bill by $36.1 billion over the next five years and $72.8 billion over the 10-year period. A portion of that increase would be in off-budget revenues: $0.8 billion for the 2008–2012 period and $1.1 billion over the 2008–2017 period. On balance, the spending and revenue changes would reduce federal on-budget deficits by $0.1 billion through 2012 and $0.8 billion for the 2008–2017 period. The two attached tables provide estimates of year-by-year changes and a summary of the estimated change in enrollment of children under the State Children's Health Insurance Program (SCHIP) and Medicaid.

Projected spending would exceed estimated on-budget revenue increases beginning in fiscal year 2015. Pursuant to section 203 of S. Con. Res. 21, the Concurrent Resolution on the Budget for Fiscal Year 2008, CBO estimates that the changes in direct spending and revenues would cause an increase in the on-budget deficit greater than $5 billion in at least one of the 10-year periods between 2018 and 2057.

CBO has reviewed the non-tax provisions of the bill—titles I through VI, excluding section 411, and title VII—for mandates and determined that they contain no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would affect the way states administer SCHIP and Medicaid, but because of the flexibility in those programs, the new requirements would not be intergovernmental mandates as UMRA defines that term. In general, state, local, and tribal governments would benefit from the continuation of existing SCHIP grants, the creation of new grant programs, and broader flexibility and options in some programs.

According to JCT, the tax provisions of the bill contain no intergovernmental mandates as defined in UMRA. JCT has determined that the tax provisions of the bill contain a private-sector mandate, as defined in UMRA, by increasing the excise tax rate on cigarettes and other tobacco products. The costs of that mandate would be similar to the estimated budget effects of the provision (as shown in the attached table), and thus would significantly exceed the threshold established in UMRA for private-sector mandates in each year (the threshold is $131 million in 2007, and is adjusted annually for inflation).

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Eric Rollins and Jeanne De Sa.

Sincerely,

PETER R. ORSZAG,
Director.

CBO'S ESTIMATE OF THE EFFECTS ON DIRECT SPENDING AND REVENUES OF THE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

[Based on the legislative language ERN07632, provided by the Senate Committee on Finance on July 26, 2007]

Figures are outlays, by fiscal year, in billions of dollars. Costs or savings of less than $50 million are shown with an asterisk. Components may not sum to totals because of rounding.

Section	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2008–12	2008–17
CHANGES IN DIRECT SPENDING												
SCHIP outlays from the funding provided in sections 101, 103, 104, and 105 of the bill:												
Benefits and administration costs	2.2	3.8	5.5	6.5	7.4	−0.4	−1.8	−1.8	−1.7	−1.6	25.4	18.1
Incentive payments	0	0.4	0.6	0.8	0.9	1.0	1.1	1.2	1.2	1.3	2.7	8.4
Subtotal	2.2	4.1	6.1	7.2	8.4	0.6	−0.7	−0.6	−0.4	−0.3	28.1	26.5
Medicaid outlays due to interactions with the SCHIP outlays shown above	−0.3	0.3	1.2	1.6	1.8	4.5	6.0	7.1	7.7	8.4	4.7	38.4
Other changes in direct spending that are not included with the SCHIP and Medicaid totals above:												
104 Additional administrative funding for territories	*	*	*	*	*	*	*	*	*	*	0.1	0.1
105 Funding for improved reporting of Medicaid enrollment	*	*	0	0	0	0	0	0	0	0	*	*
108 Contingency fund	0	0.1	0.1	0.1	0.1	0.2	0.2	0.2	0.2	0.2	0.3	1.1
201 Grants for outreach and enrollment	*	*	*	*	0.1	*	*	*	*	*	0.2	0.4
203 Express Lane demonstration project	*	*	*	*	*	0	0	0	0	0	*	*
301 Revise requirement to document citizenship	0	0.3	0.3	0.4	0.4	0.4	0.4	0.5	0.5	0.6	1.4	3.7
501 Development of quality measures for child health	*	0.1	0.1	0.1	0.1	*	*	*	*	*	0.3	0.4
604 Additional funding for Current Population Survey	*	*	*	*	*	*	*	*	*	*	0.1	0.1
608 Dental health grants	*	0.1	0.1	0.1	*	0	0	0	0	0	0.2	0.2
609 Transition grants for payment of FQHC / RHC services	*	*	0	0	0	0	0	0	0	0	*	*
Subtotal	0.1	0.5	0.6	0.6	0.6	0.7	0.7	0.7	0.8	0.8	2.4	6.1
Total changes in direct spending	2.1	5.0	7.9	9.4	10.8	5.8	6.0	7.2	8.0	8.9	35.2	71.0
CHANGES IN REVENUES												
On-budget revenues:												
701 Increased taxes on tobacco products	6.2	7.6	7.4	7.3	7.3	7.2	7.1	7.1	7.0	6.9	35.7	71.1
703 Changed timing of corporate estimated tax payments	0	0	0	0	−0.9	−0.9	0	0	0	0	−0.9	0
Effect of SCHIP provisions on on-budget revenues	*	0.1	0.1	0.1	0.1	0.1	*	*	*	*	0.5	0.7
Subtotal	6.2	7.7	7.5	7.4	6.5	8.2	7.2	7.1	7.0	7.0	35.3	71.7
Off-budget revenues (due to SCHIP provisions)	0.1	0.2	0.2	0.2	0.2	0.1	*	*	*	0.1	0.8	1.1
Total changes in revenues	6.3	7.8	7.7	7.6	6.7	8.3	7.2	7.1	7.1	7.0	36.1	72.8
Net budgetary effect of legislation:												
Direct spending and on-budget revenues	−4.2	−2.7	0.4	2.0	4.3	−2.4	−1.2	0.1	1.0	1.9	−0.1	−0.8
Direct spending and all revenues	−4.3	−2.8	0.2	1.3	4.1	−2.5	−1.2	*	0.9	1.8	−0.9	−1.8
Memorandum:												
SCHIP outlays under CBO's baseline	5.4	5.4	5.5	5.5	5.6	5.5	5.3	5.3	5.2	5.1	27.4	53.8
Additional SCHIP outlays under proposal	2.3	4.3	6.2	7.4	8.5	0.7	−0.6	−0.5	−0.3	−0.2	28.6	27.9
Total SCHIP outlays under proposal	7.7	9.7	11.7	12.9	14.1	6.2	4.7	4.8	4.9	5.0	56.1	81.7

CBO's ESTIMATE OF CHANGES IN SCHIP AND MEDICAID ENROLLMENT OF CHILDREN UNDER THE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

(Based on the legislative language ERN07632, provided by the Senate Committee on Finance on July 26, 2007)

All figures are average monthly enrollment, in millions of individuals. Components may not sum to totals because of rounding.

	SCHIP [a]				Medicaid [b]				SCHIP/Medicaid total		
	Enrollees moved to SCHIP	Reduction in the uninsured	Reduction in private coverage	Total	Enrollees moved to SCHIP	Reduction in the uninsured	Reduction in private coverage	Total	Reduction in the uninsured	Reduction in private coverage	Total
Fiscal Year 2012:											
CBO's baseline projections	.....	.....	.....	3.3	.....	.....	.....	25.0	.....	.....	28.3
Effect of providing funding to maintain current SCHIP programs	0.6	0.8	0.5	1.9	−0.6	n.a.	n.a.	−0.6	0.8	0.5	1.3
Effect of additional SCHIP funding and other provisions:											
Additional enrollment within existing eligibility groups [c,d]	n.a.	0.9	0.6	1.5	n.a.	1.7	0.4	2.2	2.7	1.0	3.7
Expansion of SCHIP eligibility to new populations	n.a.	0.6	0.6	1.1	n.a.	n.a.	n.a.	n.a.	0.6	0.6	1.1
Subtotal	n.a.	1.5	1.2	2.6	n.a.	1.7	0.4	2.2	3.2	1.6	4.8
Total proposed changes	0.6	2.2	1.7	4.5	−0.6	1.7	0.4	1.5	4.0	2.1	6.1
Estimated enrollment under proposal	.....	.....	.....	7.9	.....	.....	.....	26.5	.....	.....	34.4

Notes:
[a] The figures in this table include the program's adult enrollees, who account for less than 10 percent of total SCHIP enrollment.
[b] The figures in this table do not include children who receive Medicaid because they are disabled.
[c] For simplicity of display, the Medicaid figures in this line include the additional children enrolled as a side effect of expansions of SCHIP eligibility.
[d] The Medicaid figures and SCHIP/Medicaid totals in this line include about 100,000 adults who would gain eligibility under section 301 of the bill.
n.a. = not applicable

TECHNICAL SUMMARY OF THE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2007

SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECURITY ACT; REFERENCES; TABLE OF CONTENTS

Current Law

No provision.

Explanation of Provision

This act may be cited as the ''Children's Health Insurance Program (CHIP) Reauthorization Act of 2007.'' Unless otherwise noted, this act amends, or repeals provisions of the Social Security Act. When this act references: ''CHIP'' it is referring to the State Children's Health Insurance Program established under Title XXI; ''MEDICAID'' it is referring to the program for medical assistance established under title XIX; ''Secretary'' it is referring to the Secretary of Health and Human Services.

Title I—Financing of CHIP

SECTION 101. EXTENSION OF CHIP

Current Law

Title XXI of the Social Security Act specifies the following national appropriation amounts in §2104(a) from FY 1998 to FY2007 for SCHIP:

$4,295,000,000 in FY1998;
$4,275,000,000 in FY 1999;
$4,275,000,000 in FY2000;
$4,275,000,000 in FY 2001;
$3,150,000,000 in FY 2002;
$3,150,000,000 in FY2003;
$3,150,000,000 in FY2004;
$4,050,000,000 in FY2005;
$4,050,000,000 in FY2006; and
$5,000,000,000 in FY2007.

These amounts are alloted to states, including the District of Columbia, except for (1) 0.25% of the total annual amount is alloted to the territories and commonwealths (hereafter referred to simply as ''the territories''), and (2) from FY1998 to FY2002, $60 million was set aside annually for special diabetes grants (Public Health Service Act §330B and §330C), which are now funded by direct appropriations. the territories are also alloted the following appropriation amounts in §2104(c)(4)(B):

$32,000,000 in FY1999;
$34,200,000 in FY2000;
$34,200,000 in FY2001;
$25,200,000 in FY2002;
$25,200,000 in FY2003;
$25,200,000 in FY2004;
$32,400,000 in FY2005;
$32,400,000 in FY2006; and
$40,000,000 in FY2007.

Explanation of Provision

The following national appropriation amounts are specified for CHIP in §2104(a):

$9,125,000,000 in FY 2008;
$10,675,000,000 in FY2009;
$11,850,000,000 in FY 2010;
$13,750,000,000 in FY 2001; and
$3,500,000,000 in FY2012.

SECTION 102. ALLOTMENTS FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA

Current Law

The annual SCHIP appropriation available to states, including the District of Columbia, is the amount of the total appropriation remaining after amounts set aside for the territories and, for FY1998 to FY2002, the special diabetes grants. Each state's share, or percentage, of the available appropriation is determined by a formula using the state's ''number of children,'' as adjusted for geographic variation in health costs and subject to certain floors and a ceiling.

Beginning with the FY2001 SCHIP allotment, the ''number of children'' is equal to (1) 50 percent of the number of children in the state who are low income (with ''low income'' defined as having family income below 200% of the federal poverty threshold), plus (2) 50 percent of the number of *uninsured* low-income children in the state. The source of data is the average of the number of such children, as reported and defined in the three most recent Annual Social and Economic (ASEC) Supplements (formerly known as the March supplements) to the Census Bureau's Current Population Survey (CPS) before the beginning of the calendar year in which the applicable fiscal year begins. For example, in determining the FY2007 allotments, the three most recent supplements available before January 1, 2006, were used. Thus, states' FY2007 allotments were based on the ''number of children'' using data that covered calendar years 2002, 2003 and 2004.

The adjustment for geographic variations in health costs is 85% of each state's variation from the national average in its average wages in the health services industry. The source of data is the average wages from mandatory reports filed quarterly by every employer on their unemployment insurance contributions and provided to the Department of Labor's Bureau of Labor Statistics (BLS). A three-year average of these data is also required in the statute.

Each state's ''number of children,'' as adjusted for geographic variation in health costs, is calculated as a percentage of the national total. This is the state's preliminary proportion of the available SCHIP appropriation, against which the floors and ceiling are compared.

Since the beginning of SCHIP, no state's share of the available appropriation could result in an allotment of less than $2 million. No state has ever been affected by this floor. Beginning with the FY2000 allotment, two additional floors also applied: (1) no state's share could be less than 90% of last year's share, and (2) no state's share could be less than 70% of its FY1999 share. (Each state's FY1999 share was identical to its FY1998 share, per P.L. 105–277.)

A ceiling has also applied beginning with the FY2000 allotment: No state's share can exceed 145% of its FY1999 share.

Once the floors and ceiling are applied to affected states to produce their adjusted proportion, the other states' shares are adjusted proportionally to use exactly 100% of the available appropriation. Each state's adjusted proportion multiplied by the appropriation available to states for a fiscal year results in each state's federal SCHIP allotment for that fiscal year.

Explanation of Provision

The annual CHIP funds available to states, including the District of Columbia—that is, the available national allotment—is the amount of the total appropriation remaining after amounts allotted to the territories.

For FY2008, a state's allotment is calculated as 110% of the greatest of the following four amounts: (1) the state's FY2007 federal CHIP spending multiplied by the annual adjustment; (2) the state's FY2007 federal CHIP allotment multiplied by the annual adjustment; (3) for states that were determined in FY2007 to have exhausted their own federal CHIP allotments (and therefore designated a shortfall state for FY2007), the state's FY2007 projected spending as of November 2006 (or as of May 2006, for a state whose May 2006 projection was $95 million to $96 million higher than its November 2006 projection) multiplied by the annual adjustment; and (4) the state's FY2008 federal CHIP projected spending as of August 2007 and certified by the state to the Secretary not later than September 30, 2007.

The annual adjustment for health care cost growth and child population growth is the product of (1) 1 plus the percentage increase (if any) in the projected per capita spending in the National Health Expenditures for the fiscal year over the prior fiscal year, and (2) 1.01 plus the percentage increase in the child population (under age 19) in each state as of July 1 of the fiscal year over the prior fiscal year's, based on the most timely and accurate published estimates from the Census Bureau.

For FY2009 to FY2012, a state's allotment is calculated as 110% of its projected spending for that year, as submitted to CMS no later than August 31 of the preceding fiscal year.

For FY2008, if the state allotments as calculated exceed the available national allotment, the allotments are reduced proportionally. For FY2009 to FY2012, if the state allotments as calculated exceed the available national allotment, then the available national allotment is distributed to each state according to its percentage calculated as the sum of the following four factors:

Each state's projected federal CHIP expenditures for that fiscal year (as certified by the state to the Secretary no later than the August 31 of the preceding fiscal year), calculated as a percentage of the national total, multiplied by 75%;

Each state's number of low-income children (based on the most timely and accurate published estimates from the Census Bureau), calculated as a percentage of the national total, multiplied by 12½%;

Each state's projected federal CHIP expenditures for the preceding fiscal year (as certified by the state to the Secretary in November of the fiscal year), calculated as a percentage of the national total, multiplied by 7½%; and

Each state's actual federal CHIP expenditures for the second preceding fiscal year, as determined by the Secretary, calculated as a percentage of the national total, multiplied by 5%.

If a state's projected CHIP expenditures for FY2009 to FY2012 are at least 10% more than the last year's allotment (excluding any reduction in states' allotments due to insufficient available national allotment) then, unless the state received approval in the prior year of a state plan amendment or waiver to expand CHIP coverage or the state received a payment from the CHIP Contingency Fund, the state must submit to the Secretary by August 31 before the fiscal year information relating to the factors that contributed to the need for the increase in the state's allotment, as well as any other information that the Secretary may require for the state to demonstrate the need for the increase in the state's allotment. The Secretary shall notify the state in writing within 60 days after receipt of the information that (1) the projected expenditures are approved or disapproved (and if disapproved, the reasons for disapproval); or (2) specified additional information is needed. If the Secretary disapproved the projected expenditures or determined additional information is needed, the Secretary shall provide the state with a reasonable opportunity to submit additional information to demonstrate the need for the increase in the State's allotment for the fiscal year. If a determination has not determined by September 30 whether the state has demonstrated the need for the increase in its allotment, the Secretary shall provide the state with a provisional allotment for the fiscal year equal to 110% of last year's allotment (excluding any reduction in states' allotments due to insufficient available national allotment). Once the Secretary makes a determination, the Secretary may adjust the state's allotment (and the allotments of other states) accordingly, but not later than November 30 of the fiscal year.

For FY2008 allotment factors based on CHIP expenditures, the Secretary of Health and Human Services (HHS) shall use the most recent FY2007 expenditure data available to the Secretary before the start of FY2008. The Secretary may adjust the FY2008 allotments based on the actual expenditure data reported to CMS no later than November 30, 2007; the Secretary may not make adjustments after December 31, 2007.

For purposes of determining a state's allotment, the state's projected expenditures shall include payments projected using §2105(g) (discussed in Section 110) and for certain CHIP-enrolled parents and childless adults (discussed in Section 105).

SECTION 103. ONE-TIME APPROPRIATION FOR FY2012

Current Law

No provision.

Explanation of Provision

In FY 2012, a one-time appropriation of $12,500,000,000 shall be made to the Secretary of Health and Human Services to add to the funds already provided under section 2104(a) for that year only. Such funds shall be distributed by the Secretary in a manner consistent with and under the same terms and conditions of section 102 of this Act.

SECTION 104. IMPROVING FUNDING FOR THE TERRITORIES UNDER CHIP AND MEDICAID

Current Law

The territories were to receive 0.25 percent of the total appropriations provided in §2104(a). Later legislation added specific appropriations for the territories in FY1999 to FY2007:

$32,000,000 in FY 1999;
$34,200,000 in FY 2000;
$34,200,000 in FY 2001;
$25,200,000 in FY 2002;
$25,200,000 in FY 2003;
$25,200,000 in FY 2004;
$32,400,000 in FY 2005;
$32,400,000 in FY 2006; and
$40,000,000 in FY 2007.

For FY 1999, the $32 million represented approximately 0.75 percent of the total appropriations in §2104(a). For FY2000 to FY2007, the additional appropriation equaled 0.8 percent of the total appropriations in §2104(a). Combined with the 0.25 percent available through the original enacting legislation, the territories were allotted 1.05% of the total appropriations in §2104(a) from FY2000 to FY2007.

The amounts set aside for the territories were distributed according to the following percentages provided in statute: Puerto Rico, 91.6 percent; Guam, 3.5 percent; the Virgin Islands, 2.6 percent; American Samoa, 1.2 percent; and the Northern Mariana Islands, 1.1 percent.

Medicaid (and SCHIP) programs in the territories are subject to spending caps specified in statute. The federal Medicaid matching rate, which determines the share if Medicaid expenditures paid for by the federal government, is statutorily set at 50 percent of the territories. Therefore, the federal government pays 50% of the cost of Medicaid items and services in the territories up to the spending caps. For the 50 states and DC, certain administrative functions have a higher federal match. For example, startup expenses for specified computer systems are matched at 90%, and there is a 100% match for the implementation and operation of immigration status verification systems.

Explanation of Provision

From the national CHIP appropriation, the allotments to the territories are calculated as follows. For FY2008, each territory's allotment is its highest annual federal CHIP spending between FY1998 and FY2007, plus the annual adjustment for health care cost growth and national child population growth. FY2007 spending will be determined by the Secretary based on the most timely and accurate published estimates of the Census Bureau. For FY2009 through FY2012, each territory's allotment is the prior year's allotment, plus the annual adjustment for health care cost growth and national child population growth.

For FY2008 and each fiscal year thereafter, federal matching payments for specified data reporting systems (i.e., the design, development, and operations of claims processing systems and citizenship documentation data systems in each of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa would be subject to the 90% federal match rate for the startup expenses associated with such systems and the 75% federal match rate for the operation of such systems without regard to the specified spending caps.

The provision would require the Government Accountability Office (GAO) to submit a report to the appropriate committees of Congress not later than September 30, 2009, with regard to the territories' eligible Medicaid and CHIP populations, their historical and projected spending and the ability of capped funding streams to address such needs, the extent to which the federal poverty level is used for determining Medicaid and CHIP eligibility in the territories, and the extent to which the territories participate in data collection and reporting with regard to Medicaid and CHIP and specifically the extent to which they participate in the Current Population Survey versus the American Community Survey, which are federal surveys that estimate the number of low-income children in the states. The report is also to provide recommendations for improving Medicaid and CHIP funding to the territories.

SECTION 105. INCENTIVE BONUSES FOR STATES

Current Law

No provision.

Explanation of Provision

Incentive Pool

A CHIP Incentive Bonuses Pool is established in the U.S. Treasury. The Incentive Pool receives deposits from an initial appropriation in FY2008 of $3 billion, along with transfers from six different potential sources, with the currently available but not immediately required funds invested in interest-bearing U.S. securities that provide additional income into the Incentive Pool. The six sources for deposits are as follows:

On December 1, 2007, the amount by which states' FY2006 and FY2007 allotments not expended by September 30, 2007, exceed 50% of the federal share of the FY2008 allotment, as determined by the Secretary by not later than October 1, 2007;

On each December 1 from 2008 to 2012, any of the annual CHIP appropriation not used by the states;

On October 1 of fiscal years 2009 to 2012, the amount by which the unspent funds from the prior year's allotment exceeds the applicable percentage of that allotment. The applicable percentage is 20% for FY2009, and 10% for FY2010, FY2011, and FY2012;

Any original allotment amounts not expended by the end of their second year of availability;

On October 1, 2009, any amounts set aside for transition off of CHIP coverage for childless adults that are not expended by September 30, 2009; and

On October 1 of FY2009 through FY2012, any amounts in the CHIP Contingency Fund in excess of the fund's aggregate cap, as well as any Contingency Fund payments provided to a state that are unspent at the end of the fiscal year following the one in which the funds were provided.

Funds from the Incentive Pool are payable in FY2008 to FY2012 to states that have increased their Medicaid and CHIP enrollment among low-income children above a defined baseline, with associated payments as follows (reduced proportionally if necessary). (For purposes of Incentive Pool policies, a ''child'' enrolled in Medicaid means an individual under age 19—or age 20 or 21, if a state has so elected under its Medicaid plan; and ''low-income children'' means children in

families with incomes at 200% of federal poverty or below.) Beginning in FY2009, a state may receive a payment from the Incentive Pool if its average monthly enrollment of low-income children in CHIP and Medicaid for the coverage period (which is defined as the last two quarters of the preceding fiscal year and the first two quarters of the fiscal year, except that for FY2009 it is based only on the first two quarters of FY2009) exceeds the baseline monthly average.

For FY2009, the baseline monthly average is each state's average monthly enrollment in the first two quarters of FY2007 enrollment (as determined over a 6–month period on the basis of the most recent information reported through the Medicaid Statistical Information System (MSIS) multiplied by the sum of 1.02 and the percentage increase in the population of low-income children in the state from FY2007 to FY2009, as determined by the Secretary based on the most recent published estimates from the Census Bureau before the beginning of FY2009. For FY2010 onward, the baseline monthly average is the prior year's baseline monthly average multiplied by the sum of 1.01 and the percentage increase in the population of low-income children in the state over the preceding fiscal year, as determined by the Secretary based on the most recent published estimates from the Census Bureau before the beginning of the fiscal year.

A state eligible for a bonus shall receive in the last quarter of the fiscal year the following amount, depending on the ''excess'' of the state's enrollment above the baseline monthly average: (i) If such excess with respect to the number of individuals who are enrolled in the State plan under title XIX does not exceed 2 percent, the product of $75 and the number of such individuals included in such excess; (ii) if such excess with respect to the number of individuals who are enrolled in the State plan under title XIX exceeds 2 percent, but does not exceed 5 percent, the product of $300 and the number of such individuals included in such excess; and (iii) if such excess with respect to the number of individuals who are enrolled in the State plan under title XIX exceeds 5 percent, the product of $625 and the number of such individuals included in such excess. For FY2010 onward, these dollar amounts are to be increased by the percentage increase (if any) in the projected per capita spending in the National Health Expenditures for the calendar year beginning on January 1 of the coverage period over that of the preceding coverage period.

Payments from the Incentive Pool shall be used for any purpose that the State determines is likely to reduce the percentage of low-income children in the State without health insurance.

Redistribution of FY2005 Allotments

An appropriation of $5,000,000 is provided to the Secretary for FY2008 for improving the timeliness of MSIS and to provide guidance to states with respect to any new reporting requirements related to such improvements. Amounts appropriated are available until expended. The resulting improvements are to be designed and implemented so that beginning no later than October 1, 2008, Medicaid and CHIP enrollment data are collected and analyzed by the Secretary within six months of submission.

FY2005 original CHIP allotments unspent at the end of FY2007 are to be redistributed on a proportional basis to states that were projected at any point in FY2007 to exhaust their federal CHIP allotments.

SECTION 106. PHASE-OUT OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS UNDER CHIP, CONDITIONS FOR COVERAGE OF PARENTS

Current Law

Section 1115 of the Social Security Act gives the Secretary of HHS broad authority to modify virtually all aspects of the Medicaid and SCHIP programs. Under Section 1115, the Secretary may waive requirements in Section 1902 (usually, freedom of choice of provider, comparability, and statewideness). For SCHIP, no specific sections or requirements are cited as ''waive-able.'' SCHIP statute simply states that Section 1115, pertaining to research and demonstration projects, applies to SCHIP. States may obtain waivers that allow them to provide services to individuals not traditionally eligible for SCHIP, or limit benefit packages for certain groups as long as the Secretary determines that these programs further the goals of SCHIP.

Approved SCHIP Section 1115 waivers are deemed to be part of a state's SCHIP state plan for purposes of federal reimbursement. Costs associated with waiver programs are subject to each state's enhanced-FMAP. Under SCHIP Section 1115 waivers, states must meet an ''allotment neutrality test'' where combined federal expenditures for the state's regular SCHIP program and for the state's SCHIP demonstration program are capped at the state's individual SCHIP allotment. This policy limits federal spending to the capped allotment levels.

Under current law, including 1115 waiver authority, states cover pregnant women, parents of Medicaid and SCHIP eligible children and childless adults in their SCHIP programs.

The Deficit Reduction Act of 2005 prohibited the approval of new demonstration programs that allow federal SCHIP funds to be used to provide coverage to nonpregnant childless adults, but allowed for the continuation and renewal of such existing Medicaid or SCHIP waiver projects affecting federal SCHIP funds that were approved under the Section 1115 waiver authority before February 8, 2006.

Explanation of Provision

Childless Adults

The provision would prohibit the approval or renewal of Section 1115 demonstration waivers that allow federal CHIP funds to be used to provide coverage to nonpregnant childless adults (hereafter referred to as applicable existing waivers) on or after the date of enactment of this Act. Beginning on or after October 1, 2008, rules regarding the period to which an applicable existing waiver would apply, individuals eligible for coverage under such waivers, and the amount of federal payment available for such coverage would be subject to the following requirements: (1) no federal CHIP funds would be available for coverage of nonpregnant childless adults under an applicable existing waiver after September 30, 2008, (2) State-requested extensions of applicable existing waivers that would otherwise expire before October 1, 2008, would be granted by the Secretary but only through September 30, 2008, and (3) coverage to a nonpregnant childless adult under applicable existing waivers provided during FY2008 will be reimbursed at the CHIP enhanced FMAP rate.

States with applicable existing waivers (that are otherwise terminated under this provision) would be permitted to extend coverage, through FY2009, to individual nonpregnant childless adults who received coverage under the applicable existing waiver at any time during FY2008 (regardless of whether the individual lost coverage at any time during FY2008 and was later provided benefit coverage under the waiver in that fiscal year) subject to the following restrictions: (1) for each such State, the Secretary would be required to set aside an amount as part of a separate allotment equal to the federal share of the State's projected FY2008 expenditures (as certified by the state and submitted to the Secretary by August 31, 2008) for providing coverage under the waiver to such individuals in FY2008 increased by the annual adjustment for per capita health care growth (described in Section 102 of this bill), (2) the Secretary may adjust the set aside amount based on State-reported FY2008 expenditure data (reported on CMS Form 64 or CMS Form 21 not later than November 30, 2008), but in no case shall the Secretary adjust such amount after December 31, 2008, and (3) the Secretary would pay an amount equal to the federal Medicaid matching rate for expenditures related to such coverage (provided during FY2009) up to the set-aside spending cap.

States with existing CHIP waivers to extend coverage to nonpregnant childless adults (that are otherwise terminated under this provision) would be permitted to submit a request to CMS (not later than June 30, 2009) for a Medicaid nonpregnant childless adult waiver. For such states, the Secretary would be required to make a decision to deny or approve such application within 90 days of the date of submission. For such states, if no CMS decision to approve or deny such request has been made as of September 30, 2009, the provision would allow such application to be deemed approved.

States with applicable existing waivers that request a Medicaid nonpregnant childless adult waiver under this provision would be required to meet the following ''budget neutrality'' requirements. For fiscal year 2010, allowable waiver expenditures for such populations would not be permitted to exceed the total amount payments made to the State (as specified above) for FY2009, increased by the percentage increase (if any) in the projected per capita spending in the National Health Expenditures for fiscal year 2010 over fiscal year 2009). In the case of any succeeding fiscal year, allowable waiver expenditures for such populations would not be permitted to exceed each such State's set aside amount (described above) for the preceding fiscal year, increased by the percentage increase (if any) in the projected per capita spending in the National Health Expenditures for such fiscal year over the prior fiscal year.

Parents

The provision would also prohibit the approval of additional Section 1115 demonstration waivers that allow federal CHIP funds to be used to provide coverage to parent(s) of a targeted low-income child(ren) (hereafter referred to as applicable existing CHIP parent coverage waiver) on or after the date of enactment of this Act. Beginning on or after October 1, 2009, rules regarding the period to which an applicable existing CHIP parent coverage waiver extends coverage to eligible populations, and the amount of federal payment available for coverage to such populations under the waiver would be subject to the following requirements: (1) State-requested extensions of applicable existing CHIP-financed Section 1115 parent coverage waivers that would otherwise expire before October 1, 2009, would be granted by the Secretary but only through September 30, 2009, and (2) the CHIP enhanced FMAP rate would apply for such coverage to such eligible populations during FY2008 and FY2009.

States with existing CHIP waivers to extend coverage to parent(s) of targeted low-income child(ren) would be permitted to continue such assistance during each of fiscal

years 2010, 2011, and 2012 subject to the following requirements: (1) for each such State and for each such fiscal year, the Secretary would be required to set aside an amount as part of a separate allotment equal to the federal share of 110% of the State's projected expenditures (as certified by the state and submitted to the Secretary by August 31 of the preceding fiscal year) for providing waiver coverage to such individuals enrolled in the waiver in the applicable fiscal year, and (2) the Secretary would pay the State from the set aside amount (specified above) for each such fiscal year an amount equal to the applicable percentage for expenditures in the quarter to provide coverage as specified under the waiver to parent(s) of targeted low-income child(ren).

In fiscal year 2010 only, costs associated with such parent coverage would be subject to each such state's CHIP enhanced FMAP for States that meet one of the outreach or coverage benchmarks (listed below) in FY2009, or each such state's Medicaid FMAP rate for all other states. The provision would prohibit federal matching payments for the payment of services beyond the set-aside spending cap.

For fiscal year 2011 or 2012, costs associated with such parent coverage would be subject to: (1) each such state's Reduced Enhanced Matching Assistance Percentage (REMAP) (i.e., a percentage which would be equal to the sum of (a) each such state's FMAP percentage and (b) the number of percentage points equal to one-half of the difference between each such state's FMAP rate and each such state's enhanced FMAP rate) if the state meets one of the coverage benchmarks (listed below) for FY2010 or FY2011 (as applicable), or (2) each such state's FMAP rate if the state failed to meet any of the coverage benchmarks (listed below) for the applicable fiscal year. The provision would prohibit federal matching payments for the payment of services beyond the setaside spending cap.

FY2010 outreach and coverage benchmarks include: (1) the state implemented a significant child outreach campaign including (a) the state was awarded an outreach and enrollment grant (under Section 201 of this bill) for fiscal year 2009, (b) the state implemented 1 or more process measures for that fiscal year, or (c) the state has submitted a specific plan for outreach for such fiscal year, (2) the state ranks in the lowest 1/3 of the States in terms of the State's percentage of low-income children without health insurance based on timely and accurate published estimates of the Bureau of the Census, or (3) the State qualified for a payment from the Incentive Fund for the most recent coverage period.

FY2011 and 2012 coverage benchmarks include: (1) the state ranks in the lowest ⅓ of the States in terms of the State's percentage of low-income children without health insurance based on timely and accurate published estimates of the Bureau of the Census, and (2) the State qualified for a payment from the Incentive Fund for the most recent coverage period.

A rule of construction clarifies that states are not prohibited from submitting applications for 1115 waivers to provide medical assistance to a parent of a targeted low-income child.

The General Accountability Office would be required to conduct a study to determine if the coverage of a parent, caretaker relative, or legal guardian of a targeted low-income child increases the enrollment of or quality of care for children, and if such parents, relatives, and legal guardians are more likely to enroll their children in CHIP or Medicaid. Results of the study (and report recommended changes) would be reported to appropriate committees of Congress 2 years after the date of enactment.

SECTION 107. STATE OPTION TO COVER LOW-INCOME PREGNANT WOMEN UNDER CHIP THROUGH A STATE PLAN AMENDMENT

Current Law

Under SCHIP, states can cover pregnant women ages 19 and older in one of two ways: (1) via a special waiver of program rules (through Section 1115 authority), or (2) by providing coverage as permitted through regulation. In the latter case, coverage includes prenatal and delivery services only.

In general, SCHIP allows states to cover targeted low-income children with family income that is above applicable Medicaid eligibility levels in a given state. States can set the upper income level up to 200% FPL, or if the applicable Medicaid income level was at or above 200% FPL before SCHIP, the upper income limit may be raised an additional 50 percentage points above that level. Other SCHIP eligibility restrictions include (1) the child must be uninsured, (2) the child must be otherwise ineligible for regular Medicaid, and (3) the child cannot be an inmate of a public institution or a patient in an institution for mental disease, or eligible for coverage under a state employee health plan. States may provide SCHIP coverage to children who are covered under a health insurance program that has been in operation since before July 1, 1997 and that is offered by a state that receives no federal funds for this program. States may use enrollment restrictions such as capping total program enrollment, creating waiting lists, and instituting a minimum period of no insurance (e.g., 6 months) before being eligible.

Under regular Medicaid, states must provide coverage for pregnant women with income up to 133% FPL, and at state option, may extend such coverage to pregnant women with income up to 185% FPL. States must also provide coverage to first-time pregnant women with income that meets former cash assistance program rules (which were generally well below 100% FPL). The period of coverage for these mandatory and optional pregnant women is during pregnancy through the end of the month in which the 60 days postpartum period ends. In addition, waiver authority may be used to cover pregnant women at even higher income levels and for extended periods of time (e.g., 18 or 24 months postpartum).

Under regular Medicaid, states may temporarily enroll pregnant women whose family income appears to be below Medicaid income standards for up to 2 months until a final formal determination of eligibility is made. Entities that may qualify to make such presumptive eligibility determinations for pregnant women include Medicaid providers that are outpatient hospital departments, rural health clinics and certain other clinics, and other entities including certain primary care health centers and rural health care programs funded under Sections 330 and 330A of the Public Health Service Act, grantees under the Maternal and Child Health Block Grant Program, entities receiving funds under the Health Services for Urban Indians program, and entities that participate in WIC, the Commodity Supplemental Food Program, a state perinatal program (as designated by the state), or in the Indian Health Service or a health program or facility operated by tribes or tribal organizations under the Indian Self Determination Act.

Mandatory Medicaid eligibility applies to children under age 6 in families with income at or below 133% FPL. In addition, states may cover newborns under age 1 up to 185% FPL under Medicaid. Children born to Medicaid-eligible pregnant women must be deemed to be eligible for Medicaid from the date of birth up to age 1 so long as the child is a member of the mother's household, and the mother remains eligible for Medicaid (or would remain eligible if pregnant). During this period of deemed eligibility for the newborn, for claiming and payment purposes, the Medicaid identification (ID) number of the mother must also be used for the newborn, unless the state issues a separate ID number for the child during this period. In general, newborns may also be enrolled in SCHIP if they meet the applicable financial standards in a given state, which build on top of Medicaid's rules.

For families with income below 150% FPL, premiums cannot exceed nominal amounts specified in Medicaid regulations, and service-related cost-sharing is limited to nominal Medicaid amounts for the subgroup under 100% FPL and slightly higher amounts in SCHIP regulations for the subgroup with income between 100–150% FPL.

For families with income above 150% FPL, premiums and cost-sharing may be imposed in any amount as long as such costs for higher-income children are not less than the costs for lower-income children. Total premiums and cost-sharing incurred by all SCHIP children cannot exceed 5% of annual family income.

Other cost-sharing protections also apply. Applicable premium and cost-sharing amounts cannot favor children from families with higher income over children in families with lower income. No cost-sharing may be applied to preventive services.

Explanation of Provision

The provision would allow states to provide optional coverage under CHIP to pregnant women, through a state plan amendment, if certain conditions are met, including (1) the state has established an income eligibility level of at least 185% FPL for mandatory, welfare-related qualified pregnant women and optional poverty-related pregnant women under Medicaid, (2) the state does not apply an effective income level under the state plan amendment for pregnant women that is lower than the effective income level (expressed as a percent of poverty and accounting for applicable income disregards) for mandatory, welfare-related qualified pregnant women and optional poverty-related pregnant women under Medicaid on the date of enactment of this provision to be eligible for Medicaid as pregnant women, (3) the state does not provide coverage for pregnant women with higher family income without covering such pregnant women with a lower family income, (4) the state provides pregnancy-related assistance (defined below) for targeted low-income pregnant women in the same manner, and subject to the same requirements, as the state provides child health assistance for targeted low-income children under the state CHIP plan, and in addition to providing child health assistance for such women, (5) the state does not apply any exclusion of benefits for pregnancy-related assistance based on any pre-existing condition or any waiting period (including waiting periods to ensure that CHIP does not substitute for private insurance coverage), and (6) the state must provide the same cost-sharing protections to pregnant women as applied to CHIP children, and all cost-sharing incurred by targeted low-income pregnant women under CHIP would be capped at 5% of annual family income.

States that elect this new optional coverage for pregnant women under CHIP and that meet all the above conditions associated with this option, may also elect to provide presumptive eligibility for pregnant women, as defined in the Medicaid statute, to targeted low-income pregnant women under CHIP.

Pregnancy-related assistance would include all the services covered as child health assistance under the state's CHIP program, and includes medical assistance that would be provided to a pregnant woman under Medicaid, during pregnancy through the end of the month in which the 60 day postpartum period ends. The upper income limit for coverage of targeted low-income pregnant women under CHIP could be up to the level for coverage of targeted low-income children in the state. As with targeted low-income children under CHIP, the new group of targeted low-income pregnant women must be determined eligible, be uninsured, and must not be an inmate of a public institution or a patient in an institution for mental disease or eligible for coverage under a state employee health benefit plan. Also as with targeted low-income children, pregnant women may include those covered under a health insurance program that has been in operation since before July 1, 1997 and that is offered by a state that receives no federal funds for this program.

The provision would also deem children born to the new group of targeted low-income pregnant women under CHIP to be eligible for Medicaid or CHIP, as applicable.

Such newborns would be covered from birth to age 1. During this period of eligibility, the mother's identification number must also be used for filing claims for the newborn, unless the state issues a separate identification number for that newborn.

The provision would also address States that provide assistance through other options. The option to provide assistance in accordance with the preceding subsections of this section shall not limit any other option for a State to provide (A) child health assistance through the application of sections 457.10, 457.350(b)(2), 457.622(c)(5), and 457.626(a)(3) of title 42, Code of Federal Regulations, or (B) pregnancy-related services through the application of any other waiver authority (as in effect on June 1, 2007).

Any State that provides child health assistance under any authority described in paragraph (1) may continue to provide such assistance, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of the pregnancy) ends, in the same manner as assistance and postpartum services would be provided if provided under the State plan under title XIX, but only if the mother would otherwise satisfy the eligibility requirements that apply under the State child health plan (other than with respect to age) during such period.

A rule of construction clarifies that nothing in this subsection shall be construed to (A) infer the congressional intent regarding the legality or illegality of the content of sections of title 42, Code of Federal Regulations, specified in paragraph (l)(A), or (B) modify the authority to provide pregnancy-related services under a waiver specified in paragraph (l)(B).

For the new group of targeted low-income pregnant women, additional conforming amendments would prohibit cost-sharing for pregnancy-related services and waiting periods prior to enrollment or for the purpose of preventing crowd-out of private health insurance.

SECTION 108. CHIP CONTINGENCY FUND

Current Law

No provision.

Explanation of Provision

A CHIP Contingency Fund is established in the U.S. Treasury. The Contingency Fund receives deposits through a separate appropriation. For FY2009, the appropriation to the Fund is equal to 12.5% of the available national allotment for CHIP. For FY2010 through FY2012, the appropriation is such sums as are necessary for making payments to eligible states for the fiscal year, as long as the annual payments do not exceed 12.5% of that fiscal year's available national allotment for CHIP. Balances that are not immediately required for payments from the Fund are to be invested in U.S. securities that provide addition income to the Fund, as long as the annual payments do not cause the Fund to exceed 12.5% of the available national allotment for CHIP. Amounts in excess of the 12.5% limit shall be deposited into the Incentive Pool. For purposes of the CHIP Contingency Fund, amounts set aside for block grant payments for transitional coverage of childless adults shall not count as part of the available national allotment.

Payments from the Fund are to be used only to eliminate any eligible state's shortfall (that is, the amount by which a state's available federal CHIP allotments are not adequate to cover the state's federal CHIP expenditures, on the basis of the most recent data available to the Secretary or requested from the state by the Secretary).

The Secretary shall separately compute the shortfalls attributable to children and pregnant women, to childless adults, and to parents of low-income children. No payment from the Contingency Fund shall be made for nonpregnant childless adults. Any payments for shortfalls attributable to parents shall be made from the Fund at the relevant matching rate. Contingency funds are not transferable among allotments.

Eligible states, which cannot be a territory, for a month in FY2009 to FY2012 are those that meet any of the following criteria:

The state's available federal CHIP allotments are at least 95% but less than 100% of its projected federal CHIP expenditures for the fiscal year (i.e., less than 5% shortfall in federal funds), without regard to any payments provided from the Incentive Fund; or

The state's available federal CHIP allotments are less than 95% of its projected federal CHIP expenditures for the fiscal year (i.e., more than 5% shortfall in federal funds) and that such shortfall is attributable to one or more of the following: (1) One or more parishes or counties has been declared a major disaster and the President has determined individual and public assistance has been warranted from the federal government pursuant to the Stafford Act, or a public health emergency was declared by the Secretary pursuant to the Public Health Service Act; (2) the state unemployment rate is at least 5.5% during any 13 consecutive week period during the fiscal year and such rate is at least 120% of the state unemployment rate for the same period as averaged over the last three fiscal years; (3) the state experienced a recent event that resulted in an increase in the percentage of low-income children in the state without health insurance (as determined on the basis of the most timely and accurate published estimates from the Census Bureau) that was outside the control of the state and warrants granting the state access to the Fund, as determined by the Secretary.

The Secretary shall make monthly payments from the Fund to all states determined eligible for a month. If the sum of the payments from the Fund exceeds the amount available, the Secretary shall reduce each payment proportionally.

If a state was determined to be eligible in a given fiscal year, that does not make the state eligible in the following fiscal year. In the case of an event that occurred after July 1 of the fiscal year that resulted in the declaration of a Stafford Act or public health emergency that increased the number of uninsured low-income children as described above, any related Contingency Fund payment shall remain available until the end of the following fiscal year.

The Secretary shall provide annual reports to Congress on the Contingency Fund, the payments from it, and the events that caused states to apply for payment.

SECTION 109. 2-YEAR AVAILABILITY OF ALLOTMENTS; EXPENDITURES COUNTED AGAINST OLDEST ALLOTMENTS

Current Law

SCHIP allotments (currently through FY2007) are available for three years. Allotments unspent after three years are available for reallocation. For example, the FY2004 allotment was available through the end of FY2006; any remaining balances at the end of FY2006 were redistributed to other states.

Explanation of Provision

CHIP allotments through FY2006 are available for three years. CHIP allotments made for FY2007 through FY2012 are available for two years.

Payments to states from the Incentive Pool are available until expended by the state. Payments for a month from the Contingency Fund are available through the end of the fiscal year, except in the case of an event that occurred after July 1 of the fiscal year that resulted in the declaration of a Stafford Act or public health emergency that increased the number of uninsured low-income children.

States' federal CHIP expenditures on or after October 1, 2007, shall be counted first against the Contingency Funds from the earliest available month in the earliest fiscal year, then against the earliest available allotments.

A State may elect, but is not required, to count CHIP expenditures against any incentive bonuses paid to the State.

Expenditures for coverage of nonpregnant childless adults in FY2009 and of parents of targeted low-income children in FY2010 through FY2012 shall be counted only against the amount set aside for such coverage

SECTION 110. LIMITATION ON MATCHING RATE FOR STATES THAT PROPOSE TO COVER CHILDREN WITH EFFECTIVE FAMILY INCOME THAT EXCEEDS 300 PERCENT OF THE POVERTY LINE

Current Law

The federal medical assistance percentage (FMAP) is the rate at which states are reimbursed for most Medicaid service expenditures. It is based on a formula that provides higher reimbursement to states with lower per capita incomes relative to the national average (and vice versa); it has a statutory minimum of 50% and maximum of 83%. There are statutory exceptions to the FMAP formula for the District of Columbia (since FY1998) and Alaska (for FY1998–FY2007). In addition, the territories have FMAPs set at 50% and are subject to federal spending caps.

The enhanced FMAP (E–FMAP) for SCHIP equals a state's Medicaid FMAP increased by the number of percentage points that is equal to 30% multiplied by the number of percentage points by which the FMAP is less than 100%. For example, in states with an FMAP of 60%, the E–FMAP equals the FMAP increased by 12 percentage points (60% + [30% multiplied by 40 percentage points] = 72%). The E–FMAP has a statutory minimum of 65% and maximum of 85%.

Explanation of Provision

For child health assistance or health benefits coverage furnished in any fiscal year inning with FY2008 to a targeted low-income child whose effective family income would exceed 300% of the federal poverty line but for the application of a general exclusion of

a block of income that is not determined by type of expense or type of income, states would be reimbursed using the FMAP instead of the E-FMAP for services provided to that child. An exception would be provided for states that, on the date of enactment of the Children's Health Insurance Program (CHIP) Reauthorization Act of 2007 has an approved State plan amendment or waiver or has enacted a State law to submit a State plan amendment to provide child health assistance or health benefits under their state child health plan or its waiver of such plan to children above 300% of the poverty line.

SECTION 111. OPTION FOR QUALIFYING STATES TO RECEIVE THE ENHANCED PORTION OF THE CHIP MATCHING RATE FOR MEDICAID COVERAGE OF CERTAIN CHILDREN CURRENT LAW

Current Law

Section 2105(g) of the Social Security Act permits qualifying states to apply federal SCHIP funds toward the coverage of certain children already enrolled in regular Medicaid (that is, not SCHIP-funded expansions of Medicaid). Specifically, these federal SCHIP funds are used to pay the difference between SCHIP's enhanced Federal Medical Assistance Percentage (FMAP) and the Medicaid FMAP that the state is already receiving for these children. Funds under this provision may only be claimed for expenditures occurring after August 15, 2003.

Qualifying states are limited in the amount they can claim for this purpose to the lesser of the following two amounts: (1) 20% of the state's original SCHIP allotment amounts (if available) from FY1998, FY1999, FY2000, FY2001, FY2004, FY2005, FY2006, and FY2007 (hence the ''terms ''20% allowance'' and ''20% spending''); and (2) the state's available balances of those allotments. If there is no balance, states may not claim Section 2105(g) spending.

The statutory definitions for qualifying states capture most of those that had expanded their upper-income eligibility levels for children in their Medicaid programs to 185% of the federal poverty level or higher prior to the enactment of SCHIP. Based on statutory definitions, 11 states were determined to be qualifying states: Connecticut, Hawaii, Maryland, Minnesota, New Hampshire, New Mexico, Rhode Island, Tennessee, Vermont, Washington and Wisconsin.

SCHIP spending under §2105(g) can be used by qualifying states only for Medicaid enrollees (excluding those covered by an SCHIP-funded expansion of Medicaid) who are under age 19 and whose family income exceeds 150% of poverty, to pay the difference between the SCHIP enhanced FMAP and the regular Medicaid FMAP.

Explanation of Provision

Qualifying states under §2105(g) may also use available balances from their CHIP allotments from FY2008 to FY2012 to pay the difference between the regular Medicaid FMAP and the CHIP enhanced FMAP for Medicaid enrollees under age 19 (or age 20 or 21, if the state has so elected in its Medicaid plan) whose family income exceeds 133% of poverty.

TITLE II—A OUTREACH AND ENROLLMENT

SECTION 201. GRANTS FOR OUTREACH AND ENROLLMENT

Current Law

The federal and state governments share in the costs of both Medicaid and SCHIP, based on formulas defining the federal contribution in federal law. States are responsible for the non-federal share, using state tax revenues, for example, but can also use local government funds to comprise a portion of the non-federal share. Generally, the non-federal share of costs under Medicaid and SCHIP cannot be comprised of other federal funds.

Under Medicaid, there are no caps on administrative expenses that may be claimed for federal matching dollars. Title XXI specifies that federal SCHIP funds can be used for SCHIP health insurance coverage, called child health assistance, which meets certain requirements. Apart from these benefit payments; SCHIP payments for four other specific health care activities can be made, including: (1) other child health assistance for targeted low-income children; (2) health services initiatives to improve the health of SCHIP children and other low-income children; (3) outreach activities; and (4) other reasonable administrative costs. For a given fiscal year, payments for other specific health care activities cannot exceed 10% of the total amount of expenditures for SCHIP benefits and other specific health care activities combined.

Explanation of Provision

The provision would establish a new grant program under CHIP to finance outreach and enrollment efforts that increase participation of eligible children in both Medicaid and CHIP. For the purpose of awarding grants, the provision would appropriate $100 million for fiscal years 2008 through 2012. These amounts would be in addition to amounts appropriated for CHIP allotments to states (as per Section 2104 of the CHIP statute) and would not be subject to restrictions on expenditures for outreach activities under current law.

For each fiscal year, the provision would require that ten percent of the funds appropriated for this new grant would be set aside to finance a national enrollment campaign (described below), and an additional 10 percent would be set-side to be used by the Secretary to award grants to Indian Health Service providers and Urban Indian Organizations that receive funds under title V of the Indian Health Care Improvement Act for outreach to, and enrollment of, children who are Indians.

The provision would require the Secretary to develop and implement a national enrollment campaign to improve the enrollment of under-served child populations in Medicaid and CHIP. Such a campaign may include: (1) the establishment of partnerships with the Secretary of Education and the Secretary of Agriculture to develop national campaigns to link the eligibility and enrollment systems for the programs each Secretary administers that often serve the same children, (2) the integration of information about Medicaid and CHIP in public health awareness campaigns administered by the Secretary, (3) increased financial and technical support for enrollment hotlines maintained by the Secretary to ensure that all states participate in such hotlines, (4) the establishment of joint public awareness outreach initiatives with the Secretary of Education and the Secretary of Labor regarding the importance of health insurance to building strong communities and the economy, (5) the development of special outreach materials for Native Americans or for individuals with limited English proficiency, and (6) such other outreach initiatives as the Secretary determines would increase public awareness of Medicaid and CHIP.

In awarding grants, the Secretary would be required to give priority to entities that propose to target geographic areas with high rates of eligible but not enrolled children who reside in rural areas, or racial and ethnic minorities and health disparity populations, including proposals that address cultural and linguistic barriers to enrollment, and which submit the most demonstrable evidence that (1) the entity includes members with access to, and credibility with, ethnic or low-income populations in the targeted communities, and (2) the entity has the ability to address barriers to enrollment (e.g., lack of awareness of eligibility, stigma concerns, punitive fears associated with receipt of benefits) as well as other cultural barriers to applying for and receiving coverage under CHIP or Medicaid.

To receive grant funds, eligible entities would be required to submit an application to the Secretary in such form and manner, and containing such information as the Secretary chooses. As noted above, such applications must include evidence that the entity (a) includes members with access to, and credibility with, ethnic or low-income populations in the targeted communities, and (b) has the ability to address barriers to enrollment (e.g., lack of awareness of eligibility, stigma concerns, punitive fears associated with receipt of benefits) as well as other cultural barriers to applying for and receiving CHIP or Medicaid benefits. The applicable must also include specific quality or outcome performance measures to evaluate the effectiveness of activities funded by the grant. In addition, the applicable must contain an assurance that the entity will (1) conduct an assessment of the effectiveness of such activities against the performance measures, (2) cooperate with the collection and reporting of enrollment data and other information in order for the Secretary to conduct such assessment, and (3) in the case of an entity that is not a state, provide the state with enrollment data and other information necessary for the state to make projections of eligible children and pregnant women. The Secretary would be required to make publicly available the enrollment data and information collected and reported by grantees, and would also be required to submit an annual report to Congress on the funded outreach and enrollment activities conducted under the new grant.

Seven types of entities would be eligible to receive grants, including (1) a state with an approved CHIP plan, (2) a local government, (3) an Indian tribe or tribal consortium, a tribal organization, an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act, or an Indian Health Service provider, (4) a federal health safety net organization, (5) a national, local, or community-based public or nonprofit organization, including organizations that use community health workers or community-based doula programs, (6) a faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with requirements of section 1955 of the Public Health Service Act relating to a grant award to non-governmental entities, or (7) an elementary or secondary school.

Federal health safety net organizations include a number of different types of entities, including for example: (1) federally qualified health centers, (2) hospitals that receive disproportionate share hospital (DSH) payments, (3) entities described in Section 340B(a)(4) of the Public Health Service Act (e.g., certain family planning projects, certain grantees providing early intervention services for HIV disease, certain comprehensive hemophilia diagnostic treatment centers, and certain Native Hawaiian health centers), and (4) any other entity or consortium that serves children under a federally-funded program, including the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), Head Start programs, school lunch programs, and elementary or secondary schools.

The provision defines ''community health worker'' as an individual who promotes health or nutrition within the community in which the individual resides by (1) serving as a liaison between communities and health

care agencies, (2) providing guidance and social assistance to residents, (3) enhancing residents' ability to effectively communicate with health care providers, (4) providing culturally and linguistically appropriate health or nutrition education, (5) advocating for individual and community health or nutrition needs, and (6) providing referral and follow-up services.

In the case of a State that is awarded an Outreach and Enrollment grant, the State would be required to meet a maintenance of effort requirement with regard to the state share of funds spent on outreach and enrollment activities under the CHIP state plan. For such states, the funds spent on outreach and enrollment under the state plan for a fiscal year would not permitted to be less than the State share of funds spent in the fiscal year preceding the first fiscal year for which the grant is awarded.

The provision would add translation and interpretation services to the specific health care activities that can be reimbursed under CHIP. Translation or interpretation services in connection with the enrollment and use of services under CHIP by individuals for whom English is not their primary language (as found by the Secretary for the proper and efficient administration of the state plan) would be matched at either 75% or the sum of the enhanced FMAP for the state plus five percentage points, whichever is higher.

In addition, the 10% limit on payments for other specific health care activities in current CHIP statute would not apply to expenditures for outreach and enrollment activities funded under this section.

SECTION 202. INCREASED OUTREACH AND ENROLLMENT OF INDIANS

(a) Agreements with States for Medicaid and CHIP Outreach on or Near Reservations to Increase the Enrollment of Indians in Those Programs

Current Law

No provision in the Social Security Act.

Section 404(a) of the IHCIA requires the Secretary to make grants or enter into contracts with Tribal Organizations for establishing and administering programs on or near federal Indian reservations and trust areas and in or near Alaska Native villages. The purpose of the programs is to assist individual Indians to enroll in Medicare, apply for Medicaid and pay monthly premiums for coverage due to financial need of such individuals. Section 404(b) of the IHCIA directs the Secretary, through the IHS, to set conditions for any grant or contract. The conditions include, but are not limited to: (1) determining the Indian population that is, or could be, served by Medicare and Medicaid; (2) assisting individual Indians to become familiar with and use benefits; (3) providing transportation to Indians to the appropriate offices to enroll or apply for medical assistance; and (4) developing and implementing both an income schedule to determine premium payment levels for coverage of needy individuals and methods to improve Indian participation in Medicare and Medicaid. Section 404(c) of the IHCIA authorizes the Secretary, acting through the IHS, to enter into agreements with tribes, Tribal Organizations, and Urban Indian Organizations to receive and process applications for medical assistance under Medicaid and benefits under Medicare at facilities administered by the IHS, or by a tribe, Tribal Organization or Urban Indian Organization under the Indian Self-Determination Act.

Explanation of Provision

The provision would amend Section 1139 of the Social Security Act (replacing the current Section 1139 provision dealing with an expired National Commission on Children).

The provision would encourage states to take steps to provide for enrollment of Indians residing on or near a reservation in Medicaid and CHIP. The steps could include outreach efforts such as: outstationing of eligibility workers; entering into agreements with the IHS, Indian Tribes (ITs), Tribal Organizations (TOs), and Urban Indian Organizations (UIOs) to provide outreach; education regarding eligibility, benefits, and enrollment; and translation services. The provision would not affect the arrangements between states and Indian Tribes, Tribal Organizations, and Urban Indian Organizations to conduct administrative activities under Medicaid and CHIP.

The provision would require the Secretary, acting through CMS, to take such steps as necessary to facilitate cooperation with and agreements between states, and the IHS, ITs, TOs, or UIOs relating to the provision of benefits to Indians under Medicaid and CHIP.

The provision would specify that the following terms have the meanings given to these terms in Section 4 of the Indian Health Care Improvement Act: Indian, Indian Tribe, Indian Health Program, Tribal Organization, and Urban Indian Organization.

(b) Nonapplication of 10 Percent Limit On Outreach and Certain Other Expenditures

Current Law

Title XXI of the Social Security Act provides states with annual federal SCHIP allotments based on a formula set in law. State SCHIP payments are matched by the federal government at an enhanced rate that builds on the base rate applicable to Medicaid. The SCHIP statute also specifies that federal SCHIP funds can be used for SCHIP health insurance coverage, called child health assistance that meets certain requirements. States may also provide benefits to SCHIP children, called targeted low-income children, through enrollment in Medicaid. Apart from these benefit payments, SCHIP payments for four other specific health care activities can be made, including: (1) other child health assistance for targeted low-income children; (2) health services initiatives to improve the health of targeted low-income children and other low-income children; (3) outreach activities; and (4) other reasonable administrative costs. For a given fiscal year, SCHIP statute specifies that payments for these four other specific health care activities cannot exceed 10% of the total amount of expenditures for benefits (excluding payments for services rendered during periods of presumptive eligibility under Medicaid) and other specific health care activities combined.

Explanation of Provision

The provision would exclude from the 10% cap on CHIP payments for the four other specific health care activities described above: (1) expenditures for outreach activities to families of Indian children likely to be eligible for CHIP or Medicaid, or under related waivers, and (2) related informing and enrollment assistance activities for Indian children under such programs, expansions, or waivers, including such activities conducted under grants, contracts, or agreements entered into under Section 1139 of this Act.

SECTION 203. OPTION FOR STATES TO RELY ON FINDINGS BY AN EXPRESS LANE AGENCY TO DETERMINE COMPONENTS OF A CHILD'S ELIGIBILITY FOR MEDICAID OR CHIP

Current Law

Medicaid law and regulations contain requirements regarding determinations of eligibility and applications for assistance. Generally, the Medicaid agency must determine the eligibility of each applicant no more than 90 days from the date of application for disability-based applications and 45 days for all other applications. The agency must assure that eligibility for care and services under the plan is determined in a manner consistent with the best interests of the recipients.

In limited circumstances outside agencies are permitted to determine eligibility for Medicaid. For example, when a joint TANF-Medicaid application is used the state TANF agency may make the Medicaid eligibility determination, or the Secretary may enter into an agreement with a given state to allow the Social Security Administration (SSA) to determine Medicaid eligibility of aged, blind, or disabled individuals in that state.

Applicants must attest to the accuracy of the information submitted on their Medicaid applications, and sign application forms under penalty of perjury. Each state must have an income and eligibility verification system under which (1) applicants for Medicaid and several other specified government programs must furnish their Social Security numbers to the state as a condition for eligibility, and (2) wage information from various specified government agencies is used to verify eligibility and to determine the amount of available benefits. Subsequent to initial application, states must request information from other federal and state agencies, to verify applicants' income, resources, citizenship status, and validity of Social Security number (e.g., income from the Social Security Administration (SSA), unearned income from the Internal Revenue Service (IRS), unemployment information from the appropriate state agency, qualified aliens must present documentation of their immigration status, which states must then verify with the Immigration and Naturalization Service, and the state must verify the SSN with the Social Security Administration). States must also establish a Medicaid eligibility quality control (MEQC) program designed to reduce erroneous expenditures by monitoring eligibility determinations. State Medicaid overpayments made on behalf of individuals due to an error in determining eligibility may not exceed 3% of the State's total Medicaid expenditures in a given fiscal year. Erroneous excess payments that exceed the 3% error rate will not be matched with Federal Medicaid funds.

With regard to criteria for State Personnel Administration and Offices, current law requires each state plan to establish and maintain methods of personnel administration in accordance with the Administration of the Standards for a Merit System of Personnel Administration, 5 CFR Part 900, Subpart F. States must assure compliance with the standards by local jurisdictions; assure that the U.S. Civil Service Commission has reviewed and determined the adequacy of state laws, regulations, and policies; obtain statements of acceptance of the standards by local agencies; submit materials to show compliance with these standards when requested by HHS; and have in effect an affirmative action plan, which includes specific action steps and timetables, to assure equal employment opportunity.

SCHIP defines a targeted low-income child as one who is under the age of 19 years with no health insurance, and who would not have been eligible for Medicaid under the rules in effect in the state on March 31, 1997. Federal law requires that eligibility for Medicaid and SCHIP be coordinated when states implement separate SCHIP programs. In these circumstances, applications for SCHIP coverage must first be screened for Medicaid eligibility.

Under Medicaid presumptive eligibility rules, states are allowed to temporarily enroll children whose family income appears to be below Medicaid income standards for up

to 2 months until a final formal determination of eligibility is made. Entities qualified to make presumptive eligibility determinations for children include Medicaid providers, agencies that determine eligibility for Head Start, subsidized child care, or the Special Supplemental Food Program for Women, Infants and Children (WIC). BIPA 2000 added several entities to the list of those qualified to make Medicaid presumptive eligibility determinations. These include agencies that determine eligibility for Medicaid or the State Children's Health Insurance Program (SCHIP); certain elementary and secondary schools; state or tribal child support enforcement agencies; certain organizations providing food and shelter to the homeless; entities involved in enrollment under Medicaid, TANF, SCHIP, or that determine eligibility for federally funded housing assistance; or any other entity deemed by a state, as approved by the Secretary of HHS. These Medicaid presumptive eligibility rules for children also apply to SCHIP.

Explanation of Provision

The provision would create a three year demonstration program that would allow up to 10 states to use Express Lane at Medicaid and SCHIP enrollment and renewal. The demonstration would provide $44 million for systems upgrades and implementation (not coverage costs) and $5 million for an independent evaluation of the demonstration at the end of three years and a report on the demonstration's effectiveness to Congress. The report would be due one year after completion of the demonstration.

The Demonstration would allow states the option to rely on a finding made by an Express Lane Agency within the preceding 12 months to determine whether a child under age 19 (or at state option age 20, or 21) has met one or more of the eligibility requirements (e.g., income, assets or resources, citizenship, or other criteria) necessary to determine an individual's initial eligibility, eligibility redetermination, or renewal of eligibility for medical assistance under Medicaid (including the waiver of requirements of this title).

If a finding from an Express Lane agency results in a child not being found eligible for Medicaid or CHIP, the State would be required to determine Medicaid or CHIP eligibility using its regular procedures. The provision does not relieve states of their obligation to determine eligibility for medical assistance under Medicaid, or prohibit state options intended to increase enrollment of eligible children under Medicaid or CHIP. In addition, the provision requires states to inform the families (especially those whose children are enrolled in CHIP) that they may qualify for lower premium payments or more comprehensive health coverage under Medicaid if the family's income were directly evaluated for an eligibility determination by the State Medicaid agency, and at the family's option they can seek a regular Medicaid eligibility determination.

The provision would allow States to rely on an Express Lane Agency finding that a child is a qualified alien as long as the Agency complies with guidance and regulatory procedures issued by the Secretary of Homeland Security for eligibility determinations of qualified aliens, and verifications of immigration status (that meet the requirements of Section 301 of this bill).

States that opt to use an Express Lane Agency to determine eligibility for Medicaid or CHIP may meet the CHIP screen and enroll requirements by using any of the following requirements: (1) establishing a threshold percentage of the Federal poverty level that is 30 percentage points (or such other higher number of percentage points) as the state determines reflects the income methodologies of the program administered by the Express Lane Agency and the Medicaid State plan, (2) providing that the child satisfies all income requirements for Medicaid eligibility, or (3) providing that such child has a family income that exceeds the Medicaid income eligibility threshold that serves as the lower income eligibility threshold for CHIP.

The provision would allow states to provide for presumptive eligibility under CHIP for a child who, based on an eligibility determination of an income finding from an Express Lane agency, would qualify for child health assistance under CHIP. During the period of presumptive eligibility, the State may determine the child's eligibility for CHIP based on telephone contact with family members, access to data available in electronic or paper format, or other means that minimize to the maximum extent feasible the burden on the family.

A State may initiate a Medicaid eligibility determination (and determine program eligibility) without a program application based on data obtained from sources other than the child (or the child's family), but such child can only be automatically enrolled in Medicaid (or CHIP) if the family affirmatively consented to being enrolled through affirmation and signature on an Express Lane agency application. The provision requires the State to have procedures in place to inform the individual of the services that will be covered, appropriate methods for using such services, premium or other cost sharing charges (if any) that apply, medical support obligations created by the enrollment (if applicable), and the actions the individual must take to maintain enrollment and renew coverage. For children who consent to enrollment in the State plan, the provision would allow the State to waive signature requirements on behalf of such child.

States that participate in the Express Lane Eligibility Demonstration would not be required to direct a child (or a child's family) to submit information or documentation previously submitted by the child or family to an Express Lane agency that the State relies on for its Medicaid eligibility determination. A participating state may rely on information from an Express Lane agency when evaluating a child's eligibility for Medicaid or SCHIP without a separate, independent confirmation of the information at the time of enrollment.

An Express Lane agency must be a public agency determined by the State agency to be capable of making the determinations described in the provisions of this section and is identified in the state plan under this title or Title XXI. Express Lane Agencies would include: (1) a public agency that determines eligibility for assistance under a State program funded under part A of title IV, a program funded under Part D of title IV, a State child health plan under title XXI, the Food Stamp Act of 1977, the Head Start Act, the Richard B. Russell National School Lunch Act, the Child Nutrition Act of 1966, or the Child Care and Development Block Grant, the Steward B. McKinney Homeless Assistance Act, the United States Housing Act of 1937, the Native American Housing Assistance and Self-Determination Act of 1996, (2) a state specified governmental agency that has fiscal liability or legal responsibility for the accuracy of the eligibility determination findings, and (3) a public agency that is subject to an interagency agreement limiting the disclosure and use of such information for eligibility determination purposes.

Programs run through Title XX (SSBG) are not eligible Express Lane agencies. Private for-profit organizations are not eligible Express Lane agencies. Current law applies regarding the ability of Medicaid to contract with non-profit and for-profit agencies to administer the Medicaid application process with clarifying language that nothing in this demonstration exempts states from the merit-based system for Medicaid employees. A rule of construction would also clarify that states may not use the Express Lane option as a means of avoiding current merit-based employment requirements for Medicaid determinations.

In addition, the provision would require such agencies to notify the child's family (1) of the information that will be disclosed under this provision, (2) that the information will be used solely for the purposes of determining eligibility under Medicaid and CHIP, (3) that the family may elect not to have the information disclosed for such purposes. The Express Lane agency must also enter into or be subject to an interagency agreement to limit the disclosure and use of such information.

As part of the demonstration, signatures under penalty of perjury would not be required on a Medicaid application form attesting to any element of the application for which eligibility is based on information received from a source other than an applicant. The provision would provide that any signature requirement for a Medicaid application may be satisfied through an electronic signature.

States participating in the Demonstration will have to code which children are enrolled in Medicaid or CHIP by way of Express Lane for the duration of the demonstration. States must take a statistically valid sample, approved by CMS, of the children enrolled via Express Lane annually for full Medicaid eligibility review to determine eligibility error rate. States submit the error rate to CMS and if the error rate exceeds 3% either of the first two years, the state must show CMS what corrective actions are in place to improve upon their error rate and will be required to reimburse erroneous excess payments that exceed the allowable error rate of 3%. However, CMS does not have the authority to apply the error rate derived from the Express Lane sample to the entire Express Lane or Medicaid child population, or to take other punitive action against a state based on the error rate. States that participate in the Express Lane demonstration will continue to be subject to existing requirements under Medicaid requiring states to reimburse erroneous excess payments that exceed the allowable error rate of 3% consistent with 1903(u).

SECTION 204. AUTHORIZATION OF CERTAIN INFORMATION DISCLOSURE TO SIMPLIFY HEALTH COVERAGE DETERMINATIONS

Current Law

Each state must have an income and eligibility verification system under which (1) applicants for Medicaid and several other specified government programs must furnish their Social Security numbers to the state as a condition for eligibility, and (2) wage information from various specified government agencies is used to verify eligibility and to determine the amount of available benefits. Subsequent to initial application, states must request information from other federal and state agencies, to verify applicants' income, resources, citizenship status, and validity of Social Security number (e.g., income from the Social Security Administration (SSA), unearned income from the Internal Revenue Service (IRS), unemployment information from the appropriate state agency, qualified aliens must present documentation of their immigration status, which states must then verify with the Immigration and Naturalization Service, and the state must verify the SSN with the Social

Security Administration). States must also establish a Medicaid eligibility quality control (MEQC) program designed to reduce erroneous expenditures by monitoring eligibility determinations.

Explanation of Provision

The provision would authorize federal or State agencies or private entities with potential data sources relevant for the determination of eligibility under Medicaid (e.g., eligibility files, vital records about births, etc.) to share such information with the Medicaid agency if: (1) the child (or such child's parent, guardian, or caretaker relative) has provided advanced consent to disclosure, and has not objected to disclosure, (2) such data are used solely for the purpose of identifying, enrolling, and verifying potential eligibility for Medicaid medical assistance, and (3) an interagency agreement prevents the unauthorized use, disclosure, or modification of such data, and otherwise meets federal standards for safeguarding privacy and data security, and requires the State agency to use such data for the purposes of child enrollment in Medicaid. The provision would impose criminal penalties for persons who engage in unauthorized activities with such data.

For purposes of the Express Lane Demonstration only, the provision would also authorize the Medicaid and CHIP programs to receive data directly relevant to eligibility determinations and determining the correct amount of benefits under such program from (1) the National New Hires Database, (2) the National Income Data collected by the Commissioner of Social Security, or (3) data about enrollment in insurance that may help to facilitate outreach and enrollment under Medicaid, CHIP and certain other programs.

Title III—Removal of Barriers to Enrollment

SECTION 301. VERIFICATION OF DECLARATION OF CITIZENSHIP OR NATIONALITY FOR PURPOSES OF ELIGIBILITY FOR MEDICAID AND CHIP

Current Law

To be eligible for the full range of benefits offered under Medicaid, an individual must be a citizen or national of the United States or a qualified alien. Nonqualified aliens can only receive limited emergency Medicaid benefits. Noncitizens who apply for full Medicaid benefits have been required since 1986 to present documentation that indicates a ''satisfactory immigration status.''

Due to recent changes in federal law, citizens and nationals also must present documentation that proves citizenship and documents personal identity in order for states to receive federal Medicaid reimbursement for services provided to them. This citizenship documentation requirement was included in the Deficit Reduction Act of 2005 (DRA, P.L. 109–171) and modified by the Tax Relief and Health Care Act of 2006 (P.L. 109–432). Before the DRA, states could accept self-declaration of citizenship for Medicaid, although some chose to require additional supporting evidence.

The citizenship documentation requirement is outlined under Section 1903(x) of the Social Security Act and applies to Medicaid eligibility determinations and redeterminations made on or after July 1, 2006. The law specifies documents that are acceptable for this purpose and exempts certain groups from the requirement, including people who receive Medicare benefits, Social Security benefits on the basis of a disability, Supplemental Security Income benefits, child welfare assistance under Title IV–B of the Social Security Act, or adoption or foster care assistance under Title IV–E of the Social Security Act. An interim final rule on the requirement was issued in July 2006, and a final rule was issued in July 2007.

The citizenship documentation requirement does not apply to SCHIP. However, some states use the same enrollment procedures for all Medicaid and SCHIP applicants. As a result, it is possible that some SCHIP enrollees would be asked to present evidence of citizenship.

Explanation of Provision

As part of its Medicaid state plan and with respect to individuals declaring to be U.S. citizens or nationals for purposes of establishing Medicaid eligibility, a state would be required to provide that it satisfies existing Medicaid citizenship documentation rules under Section 1903(x) or new rules under Section 1902(dd). The Secretary would not be allowed to waive this requirement.

Under a new Section 1902(dd), a state could meet its Medicaid state plan requirement for citizenship documentation by: (1) submitting the name and Social Security number (SSN) of an individual to the Commissioner of Social Security as part of a plan established under specified rules and (2) in the case of an individual whose name or SSN is invalid, providing the individual with an opportunity to cure the invalid determination with the Social Security Administration, followed by 90 days to present evidence of citizenship as defined in Section 1903(x) and disenrolling the individual within 30 days after the end of the 90-day period if evidence is not provided.

A state opting for name and SSN validation would be required to establish a program under which it submits each month to the Commissioner of Social Security for verification of the name and SSN of each individual enrolled in Medicaid that month who has attained the age of 1 before the date of the enrollment. In establishing its program, a state could enter into an agreement with the Commissioner to provide for the electronic submission and verification of name and SSN before an individual is enrolled in Medicaid.

At such times and in such form as the Secretary may specify, states would be required to provide information on the percentage of invalid names and SSNs submitted each month. If the average monthly percentage for any fiscal year is greater than 7%, the state shall develop and adopt a corrective plan and pay the Secretary an amount equal to total Medicaid payments for the fiscal year for individuals who provided invalid information multiplied by the ratio of the number of individuals with invalid information in excess of the 7% limited divided by the total number of individuals with invalid information. The Secretary could waive, in certain limited cases, all or part of such payment if a state is unable to reach the allowable error rate despite a good faith effort by the state. This provision shall not apply to a State for a fiscal year, if there is an agreement with the Commissioner to provide for the electronic submission and verification of name and SSN before an individual is enrolled in Medicaid, as of the close of the fiscal year.

States would receive 90% reimbursement for costs attributable to the design, development, or installation of such mechanized verification and information retrieval systems as the Secretary determines are necessary to implement name and SSN validation, and 75% for the operation of such systems.

The provision would also clarify requirements under the existing Section 1903(x). It would add ''a document issued by a federally-recognized Indian tribe evidencing membership or enrollment in, or affiliation with, such tribe'' to the list of documents that provide satisfactory documentary evidence of citizenship or nationality, except for tribes located within states having an international border whose membership includes noncitizens, who would only be allowed to use such documents until the Secretary of HHS issues regulations authorizing the presentation of other evidence. It would require states to provide citizens with the same reasonable opportunity to present evidence that is provided under Section 1137(d)(4)(A) to noncitizens who must present evidence of satisfactory immigration status. Groups that are exempt from the Section 1903(x) citizenship documentation requirement would remain the same as under current law, except for the inclusion of a permanent exemption for children who are deemed eligible for Medicaid coverage by virtue of being born to a mother on Medicaid. The provision would clarify that deemed eligibility applies to children born to noncitizen women on emergency Medicaid, and would require separate identification numbers for children born to these women.

In order to receive reimbursement for an individual who has, or is, declared to be a U.S. citizen or national for purposes of establishing CHIP eligibility, a state would be required to meet the Medicaid state plan requirement for citizenship documentation described above. The 90% and 75% reimbursement for name and SSN validation would be available under SCHIP, and would not count towards a state's CHIP administrative expenditures cap.

Except for technical amendments made by the provision and the application of citizenship documentation to CHIP, which would be effective upon enactment, the provision would be effective as if included in the Deficit Reduction Act of 2005. States would be allowed to provide retroactive eligibility for certain individuals who had been determined ineligible under previous citizenship documentation rules.

SECTION 302. REDUCING ADMINISTRATIVE BARRIERS TO ENROLLMENT

Current Law

During the implementation of SCHIP states instituted a variety of enrollment facilitation and outreach strategies to bring eligible children into Medicaid and SCHIP. As a result, substantial progress was made at the state level to simplify the application and enrollment processes to find, enroll, and maintain eligibility among those eligible for the program.

Explanation of Provision

The provision would require the State plan to describe the procedures used to reduce the administrative barriers to the enrollment of children and pregnant women in Medicaid and CHIP, and to ensure that such procedures are revised as often as the State determines is appropriate to reduce newly identified barriers to enrollment. States would be deemed to comply with the above-listed requirement if (1) the State's application and renewal forms, and information verification processes are the same under Medicaid and CHIP for establishing and renewing eligibility for children and pregnant women, and (2) the state does not require a face-to-face interview during the application process.

Title IV—Elmination of Barriers to Providing Premium Assistance

Subtitle A—Additional State Option for Providing Premium Assistance

SECTION 401. ADDITIONAL STATE OPTION FOR PROVIDING PREMIUM ASSISTANCE

Current Law

Under Medicaid, a provision in the Omnibus Budget Reconciliation Act (OBRA) of 1990 created the health insurance premium payment (HIPP) program. The original HIPP provision required state Medicaid programs to pay a Medicaid beneficiary's share of costs

for group (employer-based) health coverage for any Medicaid enrollee for whom employer-based coverage is available when that coverage is both comprehensive and cost effective for the state. An individual's enrollment in an employer plan is considered cost effective if paying the premiums, deductibles, coinsurance and other cost-sharing obligations of the employer plan is less expensive than the state's expected cost of directly providing Medicaid-covered services. Under the original provision, states were also required to purchase employer-based health insurance for non-Medicaid eligible family members if such family coverage was necessary for Medicaid-eligible individual to receive coverage, and as long as it was still cost-effective. States were also to provide coverage for those Medicaid covered services that are not included in the private plans. In August 1997, as part of the Balanced Budget Act, Congress amended the mandatory nature of the HIPP provision. Today, states can opt to use Medicaid funds to pay for premiums and other cost-sharing for Medicaid beneficiaries when coverage is available, comprehensive, and cost-effective.

Under SCHIP, the Secretary has the authority to approve funding for the purchase of ''family coverage'' if it is cost effective relative to the amount paid to cover only the targeted low-income children and does not substitute for coverage under group health plans that would otherwise be provided to the children. While the term ''family coverage'' is not specifically defined in the statute, it has been interpreted to refer to either coverage for the entire family under an SCHIP program or under an employer-sponsored health insurance plan. In addition, states using SCHIP funds for employer-based plan premiums must ensure that SCHIP minimum benefits are provided and SCHIP cost-sharing ceilings are met.

Because of these requirements, implementation of premium assistance programs under Medicaid and SCHIP are not widespread. States cited difficulty in identifying potential enrollees, determining whether the subsidy would be cost-effective, and obtaining necessary information (e.g., information about the availability of employer-sponsored plans, covered benefits, available contributions, and the remaining costs) as some of the barriers to the implementation of such programs.

In August 2001, the Bush Administration introduced the Health Insurance Flexibility and Accountability (HIFA) Initiative under the Section 1115 waiver authority. Under HIFA, states were to direct unspent SCHIP funds to extend coverage to uninsured populations with annual income less than 200% FPL and to use Medicaid and SCHIP funds to pay premium costs for waiver enrollees who have access to Employer Sponsored Insurance (ESI). This resulted in an increased emphasis on states' use of the Section 1115 waiver authority to offer premium assistance for employer-based health coverage in lieu of full Medicaid and/or SCHIP coverage. ESI programs approved under the Section 1115 waiver authority are not subject to the same current law constraints required under Medicaid's HIPP program or SCHIP's family coverage variance option (i.e., the comprehensiveness and cost-effectiveness tests).

Explanation of Provision

The provision would allow states to offer a premium assistance subsidy for qualified employer sponsored coverage to all targeted low-income children who are eligible for child health assistance and have access to such coverage. Qualified employer sponsored coverage would be defined as a group health plan or health insurance coverage offered through an employer that (1) qualifies as credible health coverage as a group health plan under the Public Health Service Act, (2) for which the employer contributes at least 40 percent toward the cost of the premium, and (3) is non-discriminatory in a manner similar to section 105(h) of the Internal Revenue Code but would not allow employers to exclude workers who had less than 3 years of service. Qualified employer-sponsored insurance would not include (1) benefits provided under a health flexible spending arrangement, (2) a high deductible health plan purchased in conjunction with a health savings account as defined in the Internal Revenue Code of 1986.

The provision would establish a new cost effectiveness test for ESI programs. A group health plan or health insurance coverage offered through an employer would be considered qualified employer sponsored coverage if the state establishes that (1) the cost of such coverage is less than the expenditures that the State would have made to enroll the child or the family (as applicable) in CHIP, or (2) the State establishes that the aggregate amount of State expenditures for the purchase of all such coverage for targeted low-income children under CHIP (including administrative expenses) does not exceed the aggregate amount of expenditures that the State would have made for providing coverage under the CHIP state plan for all such children.

Premium assistance subsidies would be considered child health assistance for the purpose of making federal matching payments under the CHIP program, and the state would be considered a secondary payor for any items or services provided under ESI coverage. The provision defines premium assistance subsidies as an amount equal to the difference between the employee contribution for the employee only, and the employee contribution for the employee and CHIP-eligible child, less applicable premium cost sharing imposed under title XXI (including the employee contribution toward the 5 percent total annual aggregate cost-sharing limit under CHIP). States would be permitted to provide a premium assistance subsidy as reimbursement for out-of-pocket expenses directly to an employee, or directly to the employer. At the employer's option, the provision permits the employer to notify the State that it elects to opt out of being directly paid a premium assistance subsidy on behalf of an employee. In the event of such notification, the employer would be required to withhold the total amount of the employee contribution required for enrollment of the employee (and the child) in the ESI coverage and then the State would then pay the premium subsidy directly to the employee.

States would be required to provide supplemental coverage for each targeted low income child enrolled in the ESI plan consisting of items or services that are not covered, or are only partially covered, and cost-sharing protections consistent with the requirements of CHIP. States would be permitted to directly pay out-of-pocket expenditures for cost-sharing imposed under the qualified ESI coverage and collect all (or any) portion for cost-sharing imposed on the family.

Waiting periods (to prevent crowd-out of private coverage with public coverage) imposed under the CHIP state plan would also apply to premium assistance coverage. Parents would be permitted to disenroll their child(ren) from ESI coverage and enroll them in CHIP coverage effective on the first day of any month for which the child is eligible for such coverage.

States that provide ESI coverage to parents of targeted low-income children, would be permitted to offer a premium assistance subsidy to eligible parents in the same manner as that State offers such subsidy to eligible child(ren). The amount of the premium subsidy would be increased to take into account the cost of enrollment of the parent in the ESI coverage, or at state option, the cost of the enrollment of the child's family (if the states determines that it is cost-effective).

Each state has the option to establish an employer/family premium assistance purchasing pool for employers with less than 250 employees who have at least one CHIP-eligible employee (pregnant woman) or child.

The state, or a state designated entity, will identify and offer access to not less than two privately delivered health products that meet the CHIP benefits benchmark.

States that provide ESI coverage to parents of targeted low-income children, would be permitted to offer a premium assistance subsidy to eligible parents in the same manner as that State offers such subsidy to eligible child(ren). The amount of the premium subsidy would be increased to take into account the cost of enrollment of the parent in the ESI coverage, or at state option, the cost of the enrollment of the child's family (if the states determines that it is cost-effective).

This provision would not limit the state's authority to offer premium assistance under the Medicaid HIPP program, a section 1115 demonstration waiver, or any other authority in effect prior to the enactment of this Act. States would be required to inform parents about the availability of premium assistance subsidies for CHIP eligible children in qualified employer-sponsored insurance, how the family would elect such subsides during the application process and ensure that parents are fully informed of the choices for receiving child health assistance under the CHIP or through the receipt of a premium assistance subsidy.

The provision would also allow States to provide premium assistance subsidies for enrollment of targeted low-income children in coverage under a group health plan or health insurance coverage offered through an employer if it is determined that such coverage is actuarially equivalent to CHIP benchmark benefits coverage, or CHIP benchmark-equivalent coverage. Plans that meet the CHIP benefit coverage requirements would not be required to provide supplemental coverage for benefits and cost-sharing protections as required under CHIP. Such provisions would be applied to Medicaid-eligible children and to the parents of Medicaid-eligible children in the same manner as they are applied to CHIP.

Finally, the provision would require the General Accountability Office to submit a report to the appropriate committees of Congress on cost and coverage issues relating to any State premium assistance programs for which federal matching payments are made under Medicaid, CHIP, or the Section 1115 waiver authority. Such report will be due to Congress no later than January 1, 2009.

SECTION 402. OUTREACH, EDUCATION, AND ENROLLMENT ASSISTANCE

Current Law

SCHIP states plans are required to include a description of the procedures in place to provide outreach to children eligible for SCHIP child health assistance, or other public or private health programs to (1) inform these families of the availability of SCHIP coverage, and (2) to assist them in enrolling such children in SCHIP. In addition, states are required to provide a description of the state's efforts to ensure coordination between SCHIP and other public and private health coverage.

There is a limit on federal spending for SCHIP administrative expenses, which include activities such as data collection and

reporting, as well as outreach and education. For federal matching purposes, a 10% cap applies to state administrative expenses. This cap is tied to the dollar amount that a state draws down from its annual allotment to cover benefits under SCHIP, as opposed to 10% of a state's total annual allotment. In other words, no more than 10% of the federal funds that a state draws down for SCHIP benefit expenditures can be used for administrative expenses.

Explanation of Provision

The provision would require states to include a description of the procedures in place to provide outreach, education, and enrollment assistance for families of children likely to be eligible for premium assistance subsidies under CHIP or a waiver approved under Section 1115. For employers likely to provide qualified employer-sponsored coverage, the state is required to include the specific resources the State intends to apply to educate employers about the availability of premium assistance subsidies under the CHIP state plan. Expenditures for such outreach activities would not be subject to the 10 percent limit on spending for administrative costs associated with the CHIP program.

Subtitle B—Coordinating Premium Assistance With Private Coverage

SECTION 411. SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF TERMINATION OF MEDICAID OR CHIP COVERAGE OR ELIGIBILITY FOR ASSISTANCE IN PURCHASE OF EMPLOYMENT-BASED COVERAGE

Current Law

Under the Internal Revenue Code, a group health plan is required to provide special enrollment opportunities to qualified individuals. Special enrollment refers to the opportunity given to qualified individuals to enroll in a health plan without having to wait until a late enrollment opportunity or open season. Such individuals must have lost eligibility for other group coverage, or lost employer contributions towards health coverage, or added a dependent due to marriage, birth, adoption, or placement for adoption. In addition, the individual must meet the health plan's substantive eligibility requirements, such as being a full-time worker or satisfying a waiting period. Health plans must give qualified individuals at least 30 days after the qualifying event (e.g., loss of eligibility) to make a request for special enrollment.

The same special enrollment opportunities apply to group health plans and health insurance issuers offering group health insurance under the Employee Retirement Income Security Act.

The Employee Retirement Income Security Act specifies the persons who may bring civil action to enforce the provisions under this statute. Such persons include a plan participant or beneficiary, a fiduciary, the Secretary of Labor, and a State. Current law allows the Secretary to assess a maximum financial penalty.against a plan administrator or employer for certain violations, including failure to meet the existing notice requirement.

Explanation of Provision

The provision would require (under the Internal Revenue Code) a group health plan to permit an eligible but not enrolled employee (or dependent(s) of such an employee) to enroll for coverage under the group health plan if either of the following conditions are met: (1) the employee or dependent(s) is/are covered under Medicaid or CHIP, and coverage of the employee or dependent(s) is terminated as a result of loss of eligibility and the employee requests coverage under the group health plan not later than 60 days after the date of coverage termination, or (2) the employee or dependent(s) becomes eligible for assistance, with respect to coverage under the group health plan under Medicaid or CHIP (including under any waiver or demonstration project), if the employee requests coverage under the group health plan no later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

Each employer that maintains a group health plan in a State that provides premium assistance under Medicaid or CHIP would be required to provide each employee a written notice of the potential opportunities for premium assistance available in the State under Medicaid and CHIP. For compliance purposes, the employer may use any State-specific model notice issued by the Secretary of Labor or the Secretary of Health and Human Services in accordance with the model notice requirements established under this section of the bill.

The plan administer of the group health plan would be required to disclose to the State, upon request, information about the benefits available under the group health plan so as to permit the State to make a determination concerning cost-effectiveness, and in order for the State to provide supplemental benefits if required.

The provision includes conforming amendments. A group health plan and a health insurance issuer offering group health insurance (under the Employee Retirement Income Security Act) would be required to permit an eligible but not enrolled employee (or dependent(s) of such an employee) to enroll for coverage under the group health plan if either of the following conditions are met: (1) the employee or dependent(s) is/are covered under Medicaid or CHIP, and coverage of the employee or dependent(s) is terminated as a result of loss of eligibility and the employee requests coverage under the group health plan not later than 60 days after the date of coverage termination, or (2) the employee or dependent(s) becomes eligible for assistance, with respect to coverage under the group health plan under Medicaid or CHIP (including under any waiver or demonstration project), if the employee requests coverage under the group health plan not later than 60 days after the date the employee or dependent is determined to be eligible for such assistance.

Each employer that maintains a group health plan in a State that provides premium assistance under Medicaid or CHIP would be required to provide each employee a written notice of the potential opportunities for premium assistance available in the State under Medicaid and CHIP. Not later than 1 year after the date of enactment, the Secretary of Labor and the Secretary of Health and Human Services (HHS), in consultation with State Medicaid Directors and State CHIP Directors, would be required to develop model notices to enable employers to comply with notice requirements in a timely manner. Model notices would include information regarding how an employee would contact the State for information regarding premium assistance and how to apply for such assistance.

The plan administer of the group health plan would be required to disclose to the State, upon request, information about the benefits available under the group health plan so as to permit the State to make a determination concerning cost-effectiveness, and in order for the State to provide supplemental benefits if required.

The HHS Secretary and the Labor Secretary would be required to jointly establish a Medicaid, CHIP, and Employer-Sponsored Coverage Coordination Working Group not later than 60 days after the date of enactment. The purpose of the Working Group would be to develop the model coverage coordination disclosure form, and to identify the impediments to effective coordination of coverage available to families. The purpose of the disclosure form would be to allow the State to determine the availability and cost-effectiveness of coverage, and allow for coordination of coverage for enrollees of such plans. The forms will include (1) information that will allow for the determination of an employee's eligibility for coverage under the group health plan, (2) the name and contact information of the plan administrator of the group health plan, (3) benefits offered under the plan, (4) premiums and cost-sharing under the plan, and (5) any other information relevant to coverage under the plan.

The Working Group would consist of no more than 30 members and be composed of representatives from the Department of Labor, the Department of Health and Human Services, State directors of Medicaid and CHIP programs, employers (including owners of small businesses and their trade or industry representatives and certified human resource and payroll professionals), plan administrations and plan sponsors of group health plans, and children and other beneficiaries of Medicaid and CHIP. Members would be required to serve without compensation. The Department of Health and Human Services and the Department of Labor would be required to jointly provide appropriate administrative support to the Working Group, including technical assistance. The Working Group would be required to submit the model coverage coordination disclosure form, along with a report containing recommendations for appropriate measures to address impediments to effective coordination of coverage between Medicaid, CHIP and group health plans, to the Labor Secretary and the HHS Secretary no later than 18 months after the date of enactment. The Secretaries shall jointly submit a report regarding the Working Group report recommendations to each chamber of the Congress no later than 2 months after receipt of the report from the Working Group. The Working Group shall terminate 30 days after the issuance of its report.

The Labor Secretary and the HHS Secretary would be required to develop the initial model notices, and the Labor Secretary would provide such notices to employers no later than 1 year after the date of enactment. Each employer would be required to provide initial annual notices to its employees beginning the first year after the date on which the model notices are first issued. The model coverage coordination disclosure form would also apply to requests made by States beginning the first year after the date on which the model notices are first issued.

The provision would amend current law by allowing the Labor Secretary to assess a civil penalty (up to $100 a day) against an employer for failure to meet the new notice requirement established under this section of the bill. Each violation with respect to any employee would be treated as a separate violation. The Labor Secretary would also be allowed to assess a civil penalty (up to $100 a day) against a plan administrator for failure to comply with the new disclosure requirement established under this section of the bill. Each violation with respect to any participant or beneficiary would be treated as a separate violation.

Title V—Strengthening Quality of Care and Health Outcomes of Children

SECTION 501. CHILD HEALTH QUALITY IMPROVEMENT ACTIVITIES FOR CHILDREN ENROLLED IN MEDICAID OR CHIP

Current Law

The Centers for Medicare and Medicaid Services (CMS) and the Agency for

Healthcare Research and Quality (AHRQ) are both actively involved in funding and implementing an array of quality improvement initiatives, though only AHRQ has engaged in activities specific to children.

In November 2002, CMS started the Quality Initiative (QI), a multi-faceted effort to improve health care quality. This program includes the Nursing Home Quality Initiative, the Home Health Quality Initiative, the National Voluntary Hospital Quality Reporting Initiative, and the Physician Focused Quality Initiative. The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) included provisions for hospitals to report data on quality indicators. In addition, the MMA included a variety of provisions designed to promote quality care, such as demonstrations that focus on improving the treatment of chronic illnesses and on identifying effective approaches for rewarding superlative performance. In 2005, quality reporting was expanded for inpatient hospital services and extended to home health. The development of plans for value-based purchasing in hospitals and home health settings was also required. In 2006, quality reporting was extended to hospital outpatient services and ambulatory service centers. Additionally, the 2007 Physician Quality Reporting Initiative (PQRI) implemented a voluntary quality reporting system for physicians and other eligible professionals with incentive payments for covered professional services tied to the reporting of claims data.

None of the CMS QI programs to date have focused on children. Rather, most have focused on the general population, adults with chronic conditions, or the frail elderly.

AHRQ has made quality improvement for children a priority in recent years. In part, this is because of the high costs incurred by children on Medicaid/SCHIP.

Many AHRQ projects to implement and evaluate improved health care strategies for the care of children are underway. These include:

1. Pediatric Quality Indicators that includes a set of measures that can be used with hospital inpatient discharge data to detect patient safety events and potentially avoidable hospitalizations.

2. The Consumer Assessment of Healthcare Providers and Systems (CAHPS) program is a public-private initiative to develop standardized surveys of patients' experiences with ambulatory and facility-level care. Medicaid uses CAHPS to measure quality of care for children with special health care needs.

3. AHRQ's Child Health Care Quality Toolbox lists tips and tools for evaluating health care quality for children. It is available to providers and consumers at www.ahrq.gov/chtoolbx/index.htm.

Other AHRQ-supported initiatives to improve the quality and safety of health care for children and adolescents, focusing on health care IT, and the development of pediatric electronic medical records, among other quality improvement activities.

Explanation of Provision

(a) Development of Child Health Quality Measures For Children Enrolled in Medicaid or CHIP.

The provision would add a new section to the Social Security Act defining child health quality improvement activities for children enrolled in Medicaid and CHIP. Not later than January 1, 2009, the Secretary would be required to identify and publish for general comment an initial recommended core set of child health quality measures for use by states with respect to Medicaid and CHIP, health insurance issuers and managed care entities that enter into contracts under Medicaid and CHIP, and providers under those two programs.

With consultation with specific groups (identified below), the Secretary must identify existing quality of care measures for children that are in use under public and privately sponsored health care coverage arrangements, or that are part of reporting systems that measure both the presence and duration of health insurance coverage over time. Based on such measures, the Secretary published an initial core set of child health quality measures that includes, but is not limited to, the following: (1) duration of insurance coverage over a 12-month period, (2) availability of a full range of preventive services, treatments, and services for acute conditions, including services to promote healthy birth and prevent and treat premature birth, and treatments to correct or ameliorate the effects of chronic physical and mental conditions, (3) availability of care in a range of ambulatory and inpatient settings, and (4) measures that, taken together, can be used to estimate the overall national quality of health care for children and to perform comparative analyses of pediatric health care quality and racial, ethnic, and socioeconomic disparities in child health and health care for children.

Not later than 2 years after the enactment of the Children's Health Insurance Program Reauthorization Act of 2007, the Secretary, in consultation with the states, must develop a standardized format for reporting information and procedures and approaches that encourage states to use the initial core measurement set to voluntarily report information regarding quality of pediatric care under Medicaid and CHIP.

In addition, the Secretary must disseminate information to states regarding best practices with respect to measuring and reporting quality of care for children, and must facilitate adoption of such best practices. In developing these best practices approaches, the Secretary must give particular attention to state measurement techniques that ensure timeliness and accuracy of provider reporting, encourage provider reporting compliance and encourage successful quality improvement strategies, and improve efficiency in data collection using health information technology.

Not later than January 1, 2010, and every 3 years thereafter, the Secretary must report to Congress on (1) the status of the Secretary's efforts to improve quality related to the duration and stability of health insurance coverage for children under Medicaid and CHIP, (2) the quality of children's health care under those programs, including preventive health services, health care for acute conditions, chronic health care, and health services to ameliorate the effects of physical and mental conditions, as well as to aid in growth and development of children, and (3) quality of children's health care, including clinical quality, health care safety, family experience with health care, health care in the most integrated setting, and elimination of racial, ethnic, and socioeconomic disparities in health and health care. In these reports to Congress, the Secretary must also describe the status of voluntary reporting by states under Medicaid and CHIP utilizing the initial core set of quality measures, and provide any recommendations for legislative changes needed to improve quality of care provided to Medicaid and CHIP children, including recommendations for quality reporting by states. The Secretary must also provide technical assistance to states to assist them in adopting and utilizing core child health quality measures for their Medicaid and CHIP programs.

The provision defines ''core set'' to mean a group of valid, reliable and evidence-based quality measures for children that provide information regarding the quality of health coverage and health care for children, address the needs of children throughout the developmental age span, and that allow purchasers, families, and health care providers to understand the quality of care in relation to the preventive needs of children, treatments aimed at managing and resolving acute conditions, and diagnostic and treatment services to correct or ameliorate physical, mental or developmental conditions that could become chronic if left untreated or poorly treated.

(b) Advancing and Improving Pediatric Quality Measures.

The provision would also require the Secretary to establish a pediatric quality measures program not later than January 1, 2010. The purpose of this program would be to (1) improve and strengthen the initial core child health care quality measures, (2) expand on existing pediatric quality measures used by both public and private purchasers and advance the development of new and emerging measures, and (3) increase the portfolio of evidence-based, consensus pediatric quality measures available to public and private purchases of children's health care services, providers and consumers.

At a minimum, the pediatric quality measures developed under this program must be (1) evidence-based and where appropriate, risk-adjusted, (2) designed to identify and eliminate racial and ethnic disparities in child health and the provision of health care, (3) designed to ensure that the data required for such measures is collected and reported in a standard format that permits comparisons at the state, plan and provider level, (4) periodically adjusted, and (5) responsive to child health needs, services and stability of coverage.

In identifying gaps in existing pediatric quality measures and establishing priorities for the development and use of such measures, the Secretary must consult with a variety of entities, including (1) states, (2) institutional and non-institutional providers that specialize in the care and treatment of children, particularly those with special needs, (3) dental professionals, including pediatric dental professionals, (4) primary care providers for children and families living in medically under-served areas, or who are members of population subgroups at heightened risk for poor health outcomes, (5) national organizations representing consumers and purchasers of children's health care, (6) national organizations and individuals with expertise in pediatric health quality measurement, and (7) voluntary consensus standard setting organizations and other organizations involved in the advancement of evidence-based measures of health care.

In addition, the Secretary must award grants and contracts for the development, testing, and validation of new, emerging, and innovative evidence-based measures for children's health care services across the domains of quality identified above, and must also award grants and contracts for the (1) development of consensus on evidence-based measures for children's health care services, (2) dissemination of such measures to public and private purchasers of health care for children, and (3) updating of such measures as necessary.

Beginning no later than January 1, 2012 and annually thereafter, the Secretary must publish recommended changes to the core measures described above that must reflect the testing, validation, and consensus process for the development of pediatric quality measures also described above.

The term ''pediatric quality measure'' means a measurement of clinical care that is capable of being examined through the collection and analysis of relevant information, that is developed in order to assess one or

more aspects of pediatric health care quality in various institutional and ambulatory health care settings, including the structure of the clinical care system, the process of care, the outcome of care, or patient experiences in care.

(c) Annual State Reports Regarding State-Specific Quality of Care Measures Applied Under Medicaid or CHIP.

Each state with an approved state plan for Medicaid or CHIP must report annually to the Secretary the following: (1) state-specific child health quality measures, including measures of duration and stability of insurance coverage; quality with respect to preventive services and care for acute and chronic conditions as well as services to ameliorate the effects of physical and mental conditions, and to aid in growth and development; clinical quality, health care safety, family experience with health care, care delivered in the most integrated setting, and elimination of racial, ethnic and socioeconomic disparities in health care; and other measures in the initial core quality measurement set identified above, and (2) state-specific information on the quality of care provided to children under Medicaid and CHIP, including information collected through external quality reviews of Medicaid managed care organizations (under Section 1932) and Medicaid benchmark plans (under Section 1937), and CHIP benchmark plans (under Section 2103). Not later than September 30, 2009, and annually thereafter, the Secretary must collect, analyze and make publicly available the information reported by states as described above.

(d) Demonstration Projects for Improving the Quality of Children's Health Care and the Use of Health Information Technology.

During FY2008 through FY2012, the Secretary must award not more than 10 grants to states and child health providers to conduct demonstration projects to evaluate promising ideas for improving the quality of children's health care furnished under Medicaid and CHIP. Such projects would include efforts designed to: (1) experiment with and evaluate new measures of the quality of children's health care (including testing the validity and suitability for reporting of such measures), (2) promote the use of health information technology in care delivery for children, (3) evaluate provider-based models that improve the delivery of services to children, including care management for children with chronic conditions and the use of evidence-based approaches to improve the effectiveness, safety and efficiency of health care for children, or (4) demonstrate the impact of the model electronic health record format for children on improving pediatric health, including the effects of chronic childhood health conditions, and pediatric health care quality as well as reducing health care costs.

In awarding these grants, the Secretary must ensure that (1) only one demonstration project funded by such a grant shall be conducted in a state, and (2) such demonstration projects must be conducted evenly between states with large urban areas and states with large rural areas. Grants may be conducted on a multi-state basis, as needed.

Of the total amount appropriated for this new grant program for a fiscal year (described below), $20 million must be used to carry out these activities.

(e) Demonstration Projects for Reducing Childhood Obesity

Current Law

Greater awareness of the obesity crisis and its long-term social and economic implications has encouraged policy makers to fund an array of programs aimed at promoting physical activity and appropriate nutrition. While many of these have been state-based efforts, the federal government has actively funded obesity research as well as health promotion campaigns and public health surveillance systems.

Title III of the Public Health Service Act (42 USC) obliges the Secretary of Health and Human Services to ''conduct . . . encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, and demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments''. In carrying out these responsibilities, the Secretary is authorized to make grants-in-aid to universities, hospitals, laboratories, other public or private institutions, and to individuals for research projects.

The National Academy of Sciences (NAS) recently noted that the fundamental problem plaguing national programs seeking to address the obesity crisis is that these efforts ''remain fragmented and small-scale''. Moreover, obesity prevention programs remain largely uncoordinated. Although many federal agencies are involved in overseeing different types of obesity-related programs, including the Centers for Disease Control and Prevention (CDC), the Department of Agriculture, the National Institutes of Health, and Department of Health and Human Services, NAS concluded that the lack of a dedicated funding stream for obesity prevention and inadequate coordination between federal agencies has led to inefficient uses of resources or unnecessary redundancies in programmatic efforts.

Another problem is that many federal funding streams available to support healthy lifestyles among children have been very narrowly focused on small target populations or they have only addressed obesity indirectly. Examples of the former include efforts which have exclusively targeted low-income families (usually, Medicaid recipients); by contrast, health education courses aimed at American Indians with Type 2 diabetes exemplify the types of federally-funded efforts which have indirectly served as obesity prevention programs but which have reached very limited numbers of individuals in the aggregate.

Explanation of Provision

The Secretary, in consultation with the Administrator of the Centers for Medicare a Medicaid Services, shall conduct a demonstration project to develop a comprehensive and systematic model for reducing childhood obesity by awarding grants to eligible entities to carry out such a project. The model will (1) identify behavioral risk factors for obesity among children; (2) identify needed clinical preventive and screening benefits among those children identified as target individuals on the basis of such risk factors; (3) provide ongoing support to such target individuals and their families to reduce risk factors and promote the appropriate use of preventive and screening benefits; and (4) be designed to improve health outcomes, satisfaction, quality of life, and appropriate use of items and services for which medical assistance is available under CHIP and Medicaid.

Eligible entities include a city, county, or Indian tribe; a local or tribal educational agency; an accredited university, college, or community college; a federally-qualified health center; a local health department; a health care provider; a community-based organization; or any other entity determined appropriate by the Secretary, including a consortium or partnership.

An eligible entity awarded a grant under this provision shall use the funds to (1) carry out community-based activities related to reducing childhood obesity, (2) carry out age-appropriate school-based activities that are designed to reduce childhood obesity, (3) carry out educational, counseling, promotional, and training activities through the local health care delivery systems, and (4) provide, through qualified health professionals, training and supervision for community health workers to engage in educational efforts related to obesity.

Not later than 3 years after the Secretary implements the demonstration project under this subsection, the Secretary shall submit to Congress a report that describes the project, evaluates the effectiveness and cost effectiveness of the project, evaluates beneficiary satisfaction under the project, and includes any other information the Secretary deems appropriate. $25 million is authorized for this purpose.

(f) Development of Model Electronic Health Record Format for Children Enrolled in Medicaid or CHIP.

Not later than January 1, 2009, the Secretary must establish a program to encourage the development and dissemination of a model electronic health record format for children enrolled under state plans for Medicaid or CHIP. Such an electronic health record would be (1) subject to state laws, accessible to parents, caregivers and other consumers for the sole purpose of demonstrating compliance with school or leisure activity requirements, (2) designed to allow interoperable exchanges that conform with federal and state privacy and security requirements, (3) structured in a manner that permits parents and caregivers to view and understand the extent to which the care their children receive is clinically appropriate and of high quality, and (4) capable of being incorporated into, and otherwise compatible with, other standards developed for electronic health records. Of the total amount appropriated for this new grant program for a fiscal year, $5 million must be used to carry out these activities.

(g) Study of Pediatric Health and Health Care Quality Measures.

Not later than July 1, 2009, the Institute of Medicine must study and report to Congress on the extent and quality of efforts to measure child health status and the quality of health care for children across the age span and in relation to preventive care, treatments for acute conditions, and treatments to ameliorate or correct physical, mental, and developmental conditions in children. In conducting this study, the IOM must: (1) consider all the major national population-based reporting systems sponsored by the federal government, including reporting requirements under federal grant programs and national population surveys and estimates conducted directly by the federal government, (2) identify the information regarding child health and health care quality that each system is designed to capture and generate, the study and reporting periods covered by each system, and the extent to which the information is made widely available through publication, (3) identify gaps in knowledge related to children's health status, health disparities among subgroups of children, the effects of social conditions on children's health status and use and effectiveness of health care, and the relationship between child health status and family income, family stability and preservation, and children's school readiness and educational achievement and attainment, and (4) make recommendations regarding improving and strengthening the timeliness, quality, and public transparency and accessibility of information about child health and health care

quality. Of the total amount appropriated for this new grant program, up to $1 million must be used to carry out these activities.

(h) Rule of Construction.

No evidence-based quality measure developed, published, or used as a basis of measurement or reporting under this section may be used to establish an irrebuttable presumption regarding either the medical necessity of care or the maximum permissible coverage for any individual child who is eligible for and receiving assistance under Medicaid or CHIP.

(i) Appropriations.

An appropriation of $45 million for FY2008 through FY2012 would be made for the purpose of carrying out the provisions of this section. Such funds would remain available until expended.

The provision would also use the federal medical assistance percentage (FMAP) applicable to a given state to determine the federal share of costs incurred by states for the development or modification of existing claims processing and retrieval systems as is necessary for the efficient collection and reporting on child health measures.

SECTION 502. IMPROVED INFORMATION REGARDING ACCESS TO OVERAGE UNDER CHIP

Current Law

Under SCHIP, states must assess the operation of the SCHIP state plan in each fiscal Year, including the progress made in reducing the number of uncovered low-income children. They must also report to the Secretary of HHS, by January 1 following the end of the fiscal year, the results of that assessment.

Federal regulations stipulate that each annual report include the following additional information: (1) progress in meeting strategic objectives and performance goals identified in the state SCHIP plan, (2) effectiveness of policies to discourage the institution of public coverage for private coverage, (3) identification of successes and barriers in state plan design and implementation, and the approaches the state is considering to overcome these barriers, (4) progress in addressing any specific issues (such as outreach) that the state plan proposed to periodically monitor and assess, (5) an updated 3–year budget, including any changes in the sources of non-federal share of state pan expenditures, (6) identification of total state expenditures for family coverage and total number of children and adults, respectively, provided family coverage during the preceding fiscal year, and (7) current income standards and methodologies for its SCHIP Medicaid expansion program, separate SCHIP program, and its regular Medicaid program, as appropriate.

Explanation of Provision

(a) Inclusion of Process and Access Measures in Annual State Reports.

The provision would require each state to include the following information in its annual CHIP report to the Secretary of HHS: (1) eligibility criteria, enrollment, and retention data (including information on continuity of coverage or duration of benefits), (2) data regarding the extent to which the state uses process measures with respect to determining the eligibility of children, including measures such as 12–months of continuous eligibility, self-declaration of income for applications or renewals, or presumptive eligibility, (3) data regarding denials of eligibility and redeterminations of eligibility, (4) data regarding access to primary and specialty services, access to networks of care, and care coordination provided under the state CHIP plan, using quality of care and consumer satisfaction measures included in the Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey, (5) if the state provides child health assistance in the form of premium assistance for the purchase of coverage under a group health plan, data regarding the provision of such assistance, including the extent to which employer-sponsored health insurance coverage is available for children eligible for CHIP, the range of the monthly amount of such assistance provided on behalf or a child or family, the number of children or families provided such assistance on a monthly basis, the income of the children or families provided such assistance, the benefits and cost-sharing protection provided under the state CHIP plan to supplement the coverage purchased with such premium assistance, the effective strategies the state engages in to reduce any administrative barriers to the provision of such assistance, and, the effects, if any, of the provision of such assistance on preventing the coverage under CHIP from substituting for coverage provided under employer-sponsored health insurance offered in the state, and (6) to the extent applicable, a description of any state activities that are designed to reduce the number of uncovered children in the state, including through a state health insurance connector program or support for innovative private health coverage initiatives.

(b) GAG Study and Report on Access to Primary and Specialty Services.

The provision would require GAO to conduct a study of children's access to primary and specialty services under Medicaid and CHIP, including (1) the extent to which providers are willing to treat children eligible for such programs, (2) information on such children's access to networks of care, (3) geographic availability of primary and specialty services under such programs, (4) the extent to which care coordination is provided for children's care under Medicaid and CHIP, and (5) as appropriate, information on the degree of availability of services for children under such programs.

In addition, not later than 2 years after the date of enactment of this Act, GAO must submit a report to the appropriate committees of Congress on this study that includes recommendations for such federal and state legislative and administrative changes as GAO determines are necessary to address any barriers to access to children's care under Medicaid and CHIP that may exist.

SECTION 503. APPLICATION OF CERTAIN MANAGED CARE QUALITY SAFEGUARDS TO CHIP

Current Law

A number of sections of the Social Security Act apply to states under title XXI (SCHIP) in the same manner as they apply to a state under title XIX (Medicaid). These include:

Section 1902(a)(4)(C) (relating to conflict of interest standards).

Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

Section 1903(w) (relating to limitations on provider taxes and donations).

Section 1920A (relating to presumptive eligibility for children).

Explanation of Provision

The provision would add the same requirements for CHIP managed care entities as currently exist under Medicaid. Specifically, the provision would add reference to Medicaid's statutory requirements on: the process for plan enrollment, termination, and change of enrollment; the type of information provided to enrollees and potential enrollees on providers, covered services, enrollee rights, and other forms of information; beneficiary protections; quality assurance standards; protections against fraud and abuse; and sanctions against managed care plans for noncompliance.

Title VI—Miscellaneous

SECTION 601. TECHNICAL CORRECTION REGARDING CURRENT STATE AUTHORITY UNDER MEDICAID

Current Law

States may provide SCHIP through an expansion of their Medicaid programs. Expenditures for such populations of targeted low-income children are matched at the enhanced FMAP rate and are paid out of SCHIP allotments.

Explanation of Provision

With respect to expenditures for Medicaid for fiscal years 2007 and 2008 only, a state may elect (1) to cover optional poverty-related children and, may apply less restrictive income methodologies to such individuals (via authority in Section 1902(r) or through Section 1931 (b)(2)(C)), for which the regular Medicaid FMAP, rather than the enhanced FMAP applicable to CHIP, would be used to determine the federal share of such expenditures, or (2) to receive the regular Medicaid FMAP, rather than the enhanced CHIP FMAP, for CHIP children under an expansion of the state's Medicaid program. This provision would be repealed as of October 1, 2008 (i.e., the beginning of fiscal year 2009). States electing these options would be ''held harmless'' for related expenditures in FY2007 and FY2008, once this repeal takes effect.

SECTION 602. PAYMENT ERROR RATE MEASUREMENT (''PERM'')

Current Law

P.L. 107–300 requires the heads of Federal agencies annually to review programs they oversee that are susceptible to significant erroneous payments, and to estimate the amount of improper payments, to report those estimates to Congress, and to submit a report on actions the agency is taking to reduce erroneous expenditures.

The Center for Medicare and Medicaid Services (CMS), the federal agency within HHS that administers the Medicaid and SCHIP programs, issued an interim final rule with comment period on August 28, 2006, regarding Payment Error Rate Measurement (PERM) for the Medicaid and SCHIP programs. This rule was effective on October 1, 2006. In addition to P.L. 107–300, this regulation points to Sections 1102, 1902(a)(6) and 2107(b)(1) of the Social Security Act which contains the Secretary's general rulemaking authority and obligation of the states to provide information, as the Secretary may require, to monitor program performance. Section 1902(a)(27)(B) also requires states to require providers to furnish State Medicaid Agencies and the Secretary with information regarding payments claimed by Medicaid providers for furnishing Medicaid services. Payment error rates will be calculated for fee-for-service (FFS) claims, managed care claims and for eligibility determinations. The preamble to this regulation notes that CMS will hire Federal contractors to review Medicaid and SCHIP FFS and managed care claims and to calculate the state-specific and national error rates for both programs. States will calculate the state-specific eligibility error rates. Based on those rates, the Federal contractor will calculate the national eligibility error rate for each program. CMS plans to sample a subset of states each year rather than measure every state every year.

With respect to Medicaid and SCHIP eligibility reviews under PERM, states selected for review in a given year must conduct reviews of a statistically valid random sample of beneficiary claims to determine if improper payments were made based on errors in the state agency's eligibility determinations. States must have a CMS-approved sampling plan. In addition to reporting error

rates, states must also submit a corrective action plan based on its error rate analysis, and must return overpayments of federal funds.

Medicaid Eligibility Quality Control (MEQC) is operated by State Medicaid agencies to monitor and improve the administration of its Medicaid program. The traditional MEQC program is based on State reviews of Medicaid beneficiaries identified through a statistically reliable statewide sample of cases selected from the eligibility files. These reviews are conducted to determine whether the sampled cases meet applicable Title XIX eligibility requirements and to determine if a State has made erroneous excess payments in its program. ''Erroneous excess payments for medical assistance'' reflect: a) payments made on behalf of ineligible individuals and families, and b) overpayments on behalf of eligible individuals and families by reason of error in determining the amount of expenditures for medical care required of an individual or family as a condition of eligibility.

The SCHIP statute specifies that federal SCHIP funds can be used for SCHIP health insurance coverage, called child health assistance that meets certain requirements. States may also provide benefits to SCHIP children, called targeted low-income children, through enrollment in Medicaid. Apart from these benefit payments, SCHIP payments for four other specific health care activities can be made, including: (1) other child health assistance for targeted low-income children; (2) health services initiatives to improve the health of targeted low-income children and other low-income children; (3) outreach activities; and (4) other reasonable administrative costs. For a given fiscal year, SCHIP statute specifies that payments for these four other specific health care activities cannot exceed 10% of the total amount of expenditures for benefits (excluding payments for services rendered during periods of presumptive eligibility under Medicaid) and other specific health care activities combined.

Explanation of Provision

The provision would apply a federal matching rate of 90 percent to expenditures related to administration of PERM requirements applicable to CHIP.

The provision would also exclude from the 10% cap on CHIP administrative costs all expenditures related to the administration of PERM requirements applicable to CHIP in accordance with P.L. 107–300, existing regulations, and any related or successor guidance or regulations.

In addition, the Secretary must not calculate or publish any national or state-specific error rate based on the application of PERM requirements to CHIP until after the date that is 6 months after the date on which a final rule implementing such requirements (described below) is in effect for all states. Any calculation of a national error rate or a state specific error rate after such a final rule is in effect for all states may only be inclusive of errors, as defined in such final rule or in guidance issued within a reasonable time frame after the effective date for such final rule that includes detailed guidance for the specific methodology for error determinations.

The final rule implementing the PERM requirements must include: (1) clearly defined criteria for errors for both states and providers, (2) a clearly defined process for appealing error determinations by review contractors, and (3) clearly defined responsibilities and deadlines for states in implementing any corrective action plans.

After the final PERM rule is in effect for all states, a state for which the PERM requirements were first in effect under an interim final rule for FY2007 may elect to accept any payment error rate determined in whole or in part for the state on the basis of data for that fiscal year or may elect to not have an payment error rate determined on the basis of such data and, instead, must be treated as if FY2010 were the first year for which the PERM requirements apply to the state.

If the final PERM rule is not in effect for all states by July 1, 2008, a state for which the PERM requirements were first in effect under an interim final rule for FY2008 may elect to accept any payment error rate determined in whole or in part for the state on the basis of data for that fiscal year, or may elect to not have any payment error rate determined on the basis of such data and, instead, must be treated as if FY2011 were the first fiscal year for which the PERM requirements apply to the state.

In addition, the provision would require the Secretary to review the Medicaid Eligibility Quality Control (MEQC) requirements with the PERM requirements and coordinate consistent implementation of both sets of requirements, while reducing redundancies. A state may elect, for purposes of determining the erroneous excess payments for medical assistance ratio applicable to the state under MEQC, to substitute data resulting from the application of PERM requirements after the final PERM rule is in effect for all states for the data used for the MEQC requirements.

The Secretary must also establish state-specific sample sizes for application of the PERM requirements with respect to CHIP for FY2009 and thereafter, on the basis of information as the Secretary determines is appropriate. In establishing such sample sizes, the Secretary must, to the greatest extent possible (1) minimize the administrative cost burden on states under Medicaid and CHIP, and (2) maintain state flexibility to manage these programs.

SECTION 603. ELIMINATION OF COUNTING MEDICAID CHILD PRESUMPTIVE ELIGIBILITY COSTS AGAINST TITLE XXI ALLOTMENT

Current Law

Under Medicaid presumptive eligibility rules, states are allowed to temporarily enroll (for up to 2 months) children whose family income appears to be below applicable Medicaid income standards, until a formal determination of eligibility is made. Payments on behalf of Medicaid children during periods of presumptive eligibility are matched at the regular Medicaid FMAP, but are paid out of state SCHIP allotments.

Explanation of Provision

The provision would strike the language in existing CHIP statute that sets the federal share of costs incurred during periods of presumptive eligibility for children at the Medicaid FMAP rate, and also strikes the language that allows payment out of CHIP allotments for Medicaid benefits received by Medicaid children during periods of presumptive eligibility.

SECTION 604. IMPROVING DATA COLLECTION

Current Law

As discussed in Section 102, the percentage of the SCHIP appropriation that is allotted to individual states is based primarily on state-level estimates of (1) the number of low-income children and (2) the number of uninsured low-income children, based on a three-year average of the Annual Social and Economic (ASEC) Supplements (formerly known as the March supplements) to the Census Bureau's Current Population Survey (CPS). Based on these CPS estimates, some states' share of the available national allotment in the second year of SCHIP (FY1999) was going to differ markedly from the prior year's (e.g., a share of the available national allotment in FY1999 that would have been approximately 40% lower or higher than in FY1998). As a result, legislation was enacted to base the FY1999 SCHIP allotments on the states' share of the available national allotment as calculated for FY1998.

Separate legislation was also enacted to add two new floors and a ceiling to ensure that a state's share of the available national allotment did not change by more than certain amounts, as compared to the state's prior-year share and the state's FY1998/FY1999 share.

Another piece of legislation was also enacted that required appropriate adjustments to the CPS (1) to produce statistically reliable annual state data on the number of low-income children who do not have health insurance coverage, so that real changes in the uninsurance rates of children can reasonably be detected; (2) to produce data that categorizes such children by family income, age, and race or ethnicity; and (3) where appropriate, to expand the sample size used in the state sampling units, to expand the number of sampling units in a state, and to include an appropriate verification element. For this purpose, $10 million was appropriated annually, beginning in FY2000. Because of this legislation, the number of sampled households in the ASEC CPS increased by about 50% (34,500 households). Even with the sample expansion, the margins of error of the state-level estimates of the number of low-income children, and particularly the estimates of low-income children without health insurance, can be relatively high, especially in smaller states.

Explanation of Provision

Besides the $10 million provided annually for the CPS since FY2000, an additional $10 million (for a total of $20 million additionally) is appropriated. In addition to the current-law requirements of the additional appropriation, for data collection beginning in FY2008, in appropriate consultation with the HHS Secretary, the Secretary of Commerce shall do the following:

Make appropriate adjustments to the CPS to develop more accurate state-specific estimates of the number of children enrolled in CHIP or Medicaid;

Make appropriate adjustments to the CPS to improve the survey estimates used to compile the state-specific and national number of low-income children without health insurance for purposes of determining annual CHIP allotments, and for making payments to states from the CHIP Incentive Pool, the CHIP Contingency Fund, and, to the extent applicable to a State, from the block grant set aside for CHIP payments on behalf of parents in FY2010 through FY2012;

Include health insurance survey information in the American Community Survey (ACS) related to children;

Assess whether ACS estimates, once such survey data are first available, produce more reliable estimates than the CPS for CHIP allotments and payments;

On the basis of that assessment, recommend to the HHS Secretary whether ACS estimates should be used in lieu of, or in some combination with, CPS estimates for CHIP purposes; and

Continue making the adjustments to expansion of the sample size used in State sampling units, the number of sampling units in a State, and using an appropriate verification element.

If the Commerce Secretary recommends to the HHS Secretary that ACS estimates should be used instead of, or in combination with, CPS estimates for CHIP purposes, the HHS Secretary may provide a transition period for using ACS estimates, provided that

the transition is implemented in a way that avoids adverse impacts on states.

SECTION 605. DEFICIT REDUCTION ACT TECHNICAL CORRECTION

State Flexibility in Benefit Packages.

Current Law

Under the Early and Periodic, Screening, Diagnostic and Treatment (EPSDT) benefit under Medicaid, most children under age 21 receive comprehensive basic screening services (i.e., well-child visits including age-appropriate immunizations) as well as dental, vision and hearing services. In addition, EPSDT guarantees access to all federally coverable services necessary to treat a problem or condition among eligible individuals.

Under Medicaid, categorically needy (CN) eligibility groups include families with children, the elderly, certain individuals with disabilities, and certain other pregnant women and children who meet applicable financial eligibility standards. Some CN eligibility groups must be covered while others are optional. Medically needy (MN) groups include the same types of individuals, but different, typically higher financial standards apply. All MN eligibility groups are optional.

The Deficit Reduction Act of 2005 (DRA; P.L. 109–171) gave states the option to provide Medicaid to state-specified groups through enrollment in benchmark and benchmark-equivalent coverage which is nearly identical to plans available under SCHIP (described above). For any child under age 19 in one of the major mandatory and optional CN eligibility groups (defined in Section 1902(a)(10)(A)), wrap-around benefits to the DRA benchmark and benchmark-equivalent coverage includes EPSDT (described above). In traditional Medicaid, EPSDT is available to individuals under age 21 in CN groups, and may be offered to individuals under 21 in MN groups.

DRA identifies a number of groups as exempt from mandatory enrollment in benchmark or benchmark equivalent plans. One such exempted group is children in foster care receiving child welfare services under Part B of title IV of the Social Security Act and children receiving foster care or adoption assistance under Part E of such title.

Explanation of Provision

The provision would require that EPSDT be covered for any individual under age 21 who is eligible for Medicaid through the state plan under one of the major mandatory and optional CN groups and is enrolled in benchmark or benchmark-equivalent plans authorized under DRA. The provision would also give states flexibility in providing coverage of EPSDT services through the issuer of benchmark or benchmark-equivalent coverage or otherwise.

The provision would also make a correction to the reference to children in foster care receiving child welfare services.

Finally, not later than 30 days after the date the Secretary approves a state plan amendment to provide benchmark or benchmark-equivalent coverage under Medicaid, the Secretary must publish in the Federal Register and on the internet website of CMS, a list of the provisions in Title XIX that the Secretary has determined do not apply in order to enable the state to carry out such a state plan amendment and the reason for each such determination.

The amendments made by this provision would become effective as if included in Section 6044(a) of the DRA (i.e., March 31, 2006).

SECTION 606. ELIMINATION OF CONFUSING PROGRAM REFERENCES

Current Law

P.L. 106–113 directed the Secretary of HHS or any other Federal officer or employee, with respect to references to the program under Title XXI of the Social Security Act, in any publication or official communication to use the term ''SCHIP'' instead of ''CHIP'' and to use the term ''State children's health insurance program'' instead of ''children's health insurance program.''

Explanation of Provision

The provision would repeal the section in P.L 106–113 providing the program references to ''SCHIP'' and ''State children's health insurance program'' for official publication and communication purposes.

SECTION 607. MENTAL HEALTH PARITY IN CHIP PLANS

Current Law

In 1996, Congress passed the Mental Health Parity Act (MHPA) that established new federal standards for mental health coverage offered by group health plans, most of which are employment-based. Under provisions included in the 1997 Balanced Budget Act (P.L. 105–33), Medicaid managed care plans and SCHIP programs must comply with the requirements of MHPA.

Medicaid expansions under SCHIP follow Medicaid rules. Thus, when such expansions provide for enrollment in Medicaid managed care plans, the MHPA applies. Separate state programs under SCHIP follow SCHIP rules that have broader application than the Medicaid rules. In separate state SCHIP programs, to the extent that a health insurance issuer offers group health insurance coverage, which can include, but is not limited to managed care, the MHPA applies.

Under MHPA, Medicaid and SCHIP plans may define what constitutes mental health benefits (if any). The MHPA prohibits group plans from imposing annual and lifetime dollar limits on mental health coverage that are more restrictive than those applicable to medical and surgical coverage. Full parity is not required, that is, group plans may still impose more restrictive treatment limits (e.g., with respect to total number of outpatient visits or inpatient days) or cost-sharing requirements on mental health coverage compared to their medical and surgical services.

Under Medicaid managed care, state Medicaid agencies contract with managed care organizations (MCOs) to provide a specified set of benefits to enrolled beneficiaries. These MCOs may be paid under a variety of arrangements, but are frequently reimbursed on the basis of a pre-determined monthly fee (called a capitation rate) for each enrolled beneficiary. The contracted benefits may include all, some, or none of the mandatory and optional mental health services covered under the state Medicaid plan. When Medicaid managed care plans do not include all covered mental health benefits, these additional services are sometimes ''carved out'' to a separate, specialized behavioral health managed care entity (usually subject to its own prepaid capitation rates), or may be provided in the fee-for-service setting, in which Medicaid providers are paid directly by the state Medicaid agency for each covered service delivered to a Medicaid beneficiary. All prepaid Medicaid managed care contracts that cover medical/surgical benefits and mental health benefits must comply with the MHPA without exemptions. The MHPA does not apply to fee-for-service arrangements because state Medicaid agencies do not meet the definition of a group health plan.

With respect to covered benefits, separate SCHIP programs tend to look more like private insurance models than like Medicaid. That is, these programs are more likely to cover traditional benefits (e.g., inpatient hospital services, physician services) that would be found in employer-based health insurance plans than certain service categories that are largely unique to Medicaid (e.g., EPSDT, residential treatment facilities, intermediate care facilities for the mentally retarded or ICF/MRs, and institutions for mental disease or IMDs). Most separate SCHIP programs also provide services through managed care plans, although this situation varies by state. Again, all or some covered mental health services may be included in MCO contracts, or carved out to specialized behavioral health managed care plans, or may be provided on a fee-for-service basis.

Under CHIP, states may provide coverage under their Medicaid programs (MXP), create a new separate SCHIP program (SSP), or both. Under SSPs, states may elect any of three benefit options: (1) a benchmark plan, (2) a benchmark-equivalent plan, or (3) any other plan that the Secretary of HHS deems would provide appropriate coverage for the target population (called Secretary-approved benefit plans). Benchmark plans include (1) the standard Blue Cross/Blue Shield preferred provider option under FEHBP, (2) the coverage generally available to state employees, and (3) the coverage offered by the largest commercial HMO in the state.

Benchmark-equivalent plans must cover basic benefits (i.e., inpatient and outpatient hospital services, physician services, lab/x-ray, and well-child care including immunizations), and must include at least 75% of the actuarial value of coverage under the selected benchmark plan for specific additional benefits (i.e., prescription drugs, mental health services, vision care and hearing services).

Explanation of Provision

This section prohibits discriminatory limits on mental health care in separate CHIP plans by directing that any financial requirements or treatment limitations that apply to mental health or substance abuse services must be no more restrictive than the financial requirements or treatment limits that apply to other medical services. It also eliminates a current law provision that authorizes states to reduce the mental health coverage provided to 75 percent of the coverage provided in CHIP benchmark plans.

SECTION 608. DENTAL HEALTH GRANTS

Current Law

Under SCHIP, states may provide coverage under their Medicaid programs (MXP), create a new separate SCHIP program (SSP), or both. Under SSPs, states may elect any of three benefit options: (1) a benchmark plan, (2) a benchmark-equivalent plan, or (3) any other plan that the Secretary of HHS deems would provide appropriate coverage for the target population (called Secretary-approved benefit plans). Benchmark plans include (1) the standard Blue Cross/Blue Shield preferred provider option under FEHBP, (2) the coverage generally available to state employees, and (3) the coverage offered by the largest commercial HMO in the state.

Benchmark-equivalent plans must cover basic benefits (i.e., inpatient and outpatient hospital services, physician services, lab/x-ray, and well-child care including immunizations), and must include at least 75% of the actuarial value of coverage under the selected benchmark plan for specific additional benefits (i.e., prescription drugs, mental health services, vision care and hearing services).

SCHIP regulations specify that, regardless of the type of SCHIP health benefits coverage, states must provide coverage of well-baby and well-child care (as defined by the state), age-appropriate immunizations based on recommendations of the Advisory Committee on Immunization Practices (ACIP), and emergency services.

Explanation of Provision

This section provides up to $200 million in federal grants for states to improve the availability of dental services and strengthen dental coverage for children covered under CHIP. States that receive grants would be required to maintain prior levels of spending for dental services provided under CHIP.

SECTION 609. APPLICATION OF PROSPECTIVE PAYMENT SYSTEM FOR SERVICES PROVIDED BY FEDERALLY-QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS

Current Law

Under current Medicaid law, federally-qualified health centers (FQHCs) and rural health clinics (RHCs) are paid based on a prospective payment system. Beginning in FY2001, per visit payments were based on 100% of average costs during 1999 and 2000 adjusted for changes in the scope of services furnished. (Special rules applied to entities first established after 2000). For subsequent years, the per visit payment for all FQHCs and RHCs equals the amounts for the preceding fiscal year increased by the percentage increase in the Medicare Economic Index applicable to primary care services, and adjusted for any changes in the scope of services furnished during that fiscal year. In managed care contracts, states are required to make supplemental payments to the facility equal to the difference between the contracted amount and the cost-based amounts.

Explanation of Provision

This section would establish a prospective payment system in CHIP for FQHCs and RHCs similar to the payment system established by the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) applicable under Medicaid law. States that operate separate or combination CHIP programs would be required to reimburse FQHCs and RHCs based on the Medicaid Prospective Payment System, starting in FY 09. A one-time appropriation of $5 million will be made available to the Secretary of HHS to be provided to affected states to enable them to transition to the new payment system on the affected states. The Secretary would be required to monitor the impact of the application of the payment system on states and report to Congress within two years of implementation on any effect on access to benefits, provider payment rates, or scope of benefits offered by affected states.

Title VII—Revenue Provisions

Title VIII—Effective Date

SECTION 801. EFFECTIVE DATE

Current Law

No provision.

Explanation of Provision

The effective date of this bill except with respect to section 301 would be October 1, 2007, whether or not final regulations to carry out provisions in the bill have been promulgated by that date. In the case of both current state CHIP and Medicaid plans, if the Secretary of HHS determines that a state must pass new state legislation to implement the requirements of this bill, the state's existing CHIP and/or Medicaid plans, if applicable, would not be considered to be out of compliance solely on the basis of its failure to meet such requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the state legislature that begins after the date of enactment of this bill. In the case of a state that has a 2-year legislative session, each year of such session must be considered to be a separate regular session of the state legislature. With respect to section 301, the effective date will be October 1, 2008.

By Mr. REID (for Mr. DODD (for himself, Mr. NELSON of Nebraska, Mr. KENNEDY, Mr. REED, and Mr. LIEBERMAN)):

S. 1894. A bill to amend the Family and Medical Leave Act of 1993 to provide family and medical leave to primary caregivers of servicemembers with combat-related injuries; to the Committee on Health, Education, Labor, and Pensions.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. DODD. Mr. President, I rise today to introduce the Support for Injured Servicemembers Act of 2007. This bill will implement one of the key recommendations of the President's Commission on Care for America's Returning Wounded Warriors. First of all, I commend former Senator Bob Dole, former Secretary of Health and Human Services Donna Shalala, and the distinguished members of the Commission for their thoughtfulness and thorough work on this critically important matter.

More than 20 years ago, I began the effort to bring job protection to hard-working Americans so they wouldn't have to choose between the family they love and the job they need. This effort, after more than seven years, three presidents, and two vetoes, eventually led to the enactment of the Family Medical Leave Act, FMLA, which provides 12 weeks of unpaid leave for eligible employees to care for a newborn or adopted child, their own serious illness or that of a loved one. Since its passage, I have worked to expand this act to cover more workers and to provide for wage replacement, so that more employees can afford to take leave when necessary.

Mr. President, it is essential that we do everything possible to support our troops and to allow their loved ones to be with them as they recover from a combat-related injury or illness. That is why we must expand and improve leave benefits to those caring for our injured or ill servicemembers. The bill I introduce today provides up to 6 months of FMLA leave for primary caregivers of servicemembers who suffer from a combat-related injury or illness. FMLA currently provides for 3 months of unpaid leave to a spouse, parent or child acting as a caregiver for a person with a serious illness. However, some of those injured in service to our country rely on other family members or friends to care for them as they recover. This legislation allows these other primary caregivers, such as siblings, cousins, friends or significant others to take leave from their employment when our returning heroes need them most.

Our troops are giving their all on the battlefield. The very least our Government owes them is its total support for their family and medical needs. While FMLA has provided critical support to more than 50 million American families, I will not rest until we are able to modernize this statute to cover our wounded warriors. Plain and simple, the loved ones of these brave men and women should be allowed to care for them without the fear of losing their job.

I am pleased that I am joined today by Senators BEN NELSON, KENNEDY, REED and LIEBERMAN in introducing the Support for Injured Servicemembers Act of 2007 and ask for the support of all my colleagues for this critically important effort to care for our returning wounded warriors and their loved 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. 1894

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 ''Support for Injured Servicemembers Act of 2007''.

SEC. 2. SERVICEMEMBER FAMILY LEAVE.

(a) DEFINITIONS.—Section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611) is amended by adding at the end the following:

''(14) COMBAT-RELATED INJURY.—The term 'combat-related injury' means an injury or illness that was incurred (as determined under criteria prescribed by the Secretary of Defense)—

''(A) as a direct result of armed conflict;

''(B) while an individual was engaged in hazardous service;

''(C) in the performance of duty under conditions simulating war; or

''(D) through an instrumentality of war.

''(15) SERVICEMEMBER.—The term 'servicemember' means a member of the Armed Forces.''.

(b) ENTITLEMENT TO LEAVE.—Section 102(a) of such Act (29 U.S.C. 2612(a)) is amended by adding at the end the following:

''(3) SERVICEMEMBER FAMILY LEAVE.—Subject to section 103, an eligible employee who is the primary caregiver for a servicemember with a combat-related injury shall be entitled to a total of 26 workweeks of leave during any 12-month period to care for the servicemember.

''(4) COMBINED LEAVE TOTAL.—An eligible employee shall be entitled to a combined total of 26 workweeks of leave under paragraphs (1) and (3).''.

(c) REQUIREMENTS RELATING TO LEAVE.—

(1) SCHEDULE.—Section 102(b) of such Act (29 U.S.C. 2612(b)) is amended—

(A) in paragraph (1), by inserting after the second sentence the following: ''Subject to paragraph (2), leave under subsection (a)(3) may be taken intermittently or on a reduced leave schedule''; and

(B) in paragraph (2), by inserting ''or subsection (a)(3)'' after ''subsection (a)(1)''.

(2) SUBSTITUTION OF PAID LEAVE.—Section 102(d) of such Act (29 U.S.C. 2612(d)) is amended—

(A) in paragraph (1)—

(i) by inserting ''(or 26 workweeks in the case of leave provided under subsection (a)(3))'' after ''12 workweeks'' the first place it appears; and

(ii) by inserting ''(or 26 workweeks, as appropriate)'' after ''12 workweeks'' the second place it appears; and

(B) in paragraph (2)(B), by adding at the end the following: ''An eligible employee

may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, family leave, or medical or sick leave of the employee for leave provided under subsection (a)(3) for any part of the 26-week period of such leave under such subsection.''.

(3) NOTICE.—Section 102(e) of such Act (29 U.S.C. 2612(e)) is amended by adding at the end the following:

''(3) NOTICE FOR SERVICEMEMBER FAMILY LEAVE.—In any case in which an employee seeks leave under subsection (a)(3), the employee shall provide such notice as is practicable.''.

(4) CERTIFICATION.—Section 103 of such Act (29 U.S.C. 2613) is amended by adding at the end the following:

''(f) CERTIFICATION FOR SERVICEMEMBER FAMILY LEAVE.—An employer may require that a request for leave under section 102(a)(3) be supported by a certification issued at such time and in such manner as the Secretary may by regulation prescribe.''.

(5) FAILURE TO RETURN.—Section 104(c) of such Act (29 U.S.C. 2614(c)) is amended—

(A) in paragraph (2)(B)(i), by inserting ''or section 102(a)(3)'' before the semicolon; and

(B) in paragraph (3)(A)—

(i) in clause (i), by striking ''or'' at the end;

(ii) in clause (ii), by striking the period and inserting ''; or''; and

(iii) by adding at the end the following:

''(iii) a certification issued by the health care provider of the person for whom the employee is the primary caregiver, in the case of an employee unable to return to work because of a condition specified in section 102(a)(3).''.

(6) ENFORCEMENT.—Section 107 of such Act (29 U.S.C. 2617) is amended, in subsection (a)(1)(A)(i)(II), by inserting ''(or 26 weeks, in a case involving leave under section 102(a)(3))'' after ''12 weeks''.

(7) INSTRUCTIONAL EMPLOYEES.—Section 108 of such Act (29 U.S.C. 2618) is amended, in subsections (c)(1), (d)(2), and (d)(3), by inserting ''or section 102(a)(3)'' after ''section 102(a)(1)''.

SEC. 3. SERVICEMEMBER FAMILY LEAVE FOR CIVIL SERVICE EMPLOYEES.

(a) DEFINITIONS.—Section 6381 of title 5, United States Code, is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(7) the term 'combat-related injury' means an injury or illness that was incurred (as determined under criteria prescribed by the Secretary of Defense)—

''(A) as a direct result of armed conflict;

''(B) while an individual was engaged in hazardous service;

''(C) in the performance of duty under conditions simulating war; or

''(D) through an instrumentality of war; and

''(8) the term 'servicemember' means a member of the Armed Forces.''.

(b) ENTITLEMENT TO LEAVE.—Section 6382(a) of such title is amended by adding at the end the following:

''(3) Subject to section 6383, an employee who is the primary caregiver for a servicemember with a combat-related injury shall be entitled to a total of 26 administrative workweeks of leave during any 12-month period to care for the servicemember.

''(4) An employee shall be entitled to a combined total of 26 administrative workweeks of leave under paragraphs (1) and (3).''.

(c) REQUIREMENTS RELATING TO LEAVE.—

(1) SCHEDULE.—Section 6382(b) of such title is amended—

(A) in paragraph (1), by inserting after the second sentence the following: ''Subject to paragraph (2), leave under subsection (a)(3) may be taken intermittently or on a reduced leave schedule.''; and

(B) in paragraph (2), by inserting ''or subsection (a)(3)'' after ''subsection (a)(1)''.

(2) SUBSTITUTION OF PAID LEAVE.—Section 6382(d) of such title is amended by adding at the end the following: ''An employee may elect to substitute for leave under subsection (a)(3) any of the employee's accrued or accumulated annual or sick leave under subchapter I for any part of the 26-week period of leave under such subsection.''.

(3) NOTICE.—Section 6382(e) of such title is amended by adding at the end the following:

''(3) In any case in which an employee seeks leave under subsection (a)(3), the employee shall provide such notice as is practicable.''.

(4) CERTIFICATION.—Section 6383 of such title is amended by adding at the end the following:

''(f) An employing agency may require that a request for leave under section 6382(a)(3) be supported by a certification issued at such time and in such manner as the Office of Personnel Management may by regulation prescribe.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 281—CONGRATULATING CAL RIPKEN JR. FOR HIS INDUCTION INTO THE BASEBALL HALL OF FAME, FOR AN OUTSTANDING CAREER AS AN ATHLETE, AND FOR HIS CONTRIBUTIONS TO BASEBALL AND TO HIS COMMUNITY

Ms. MIKULSKI (for herself, Mr. CARDIN, and Mr. SCHUMER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 281

Whereas Cal Ripken, Jr. was born and raised in Maryland;

Whereas Cal Ripken, Jr. was elected to the Baseball Hall of Fame on January 9, 2007, his first year of eligibility, for his outstanding accomplishments during his 21-year career in Major League Baseball;

Whereas Cal Ripken, Jr. will be inducted into the Baseball Hall of Fame on July 29, 2007, along with fellow baseball legend Tony Gwynn;

Whereas Cal Ripken, Jr. was nearly unanimously elected to the Baseball Hall of Fame with the highest number of votes ever received for a regular position player;

Whereas Cal Ripken, Jr. is widely considered the ''Iron Man'' of baseball, having earned this moniker by playing in 2,632 consecutive games, a feat unmatched in professional sports;

Whereas Cal Ripken, Jr. was the American League Rookie of the Year in 1982;

Whereas Cal Ripken, Jr. had 3,184 career hits and 431 home runs and received 8 Silver Slugger Awards for his superior offensive play;

Whereas Cal Ripken, Jr. is first among the all-time Baltimore Orioles career leaders in total games played, consecutive games played, at bats, hits, runs, runs batted in, extra base hits, doubles, home runs, total bases, walks, strikeouts, assists, and double plays;

Whereas Cal Ripken, Jr. is first among all Major League Baseball players in the number of consecutive games played and the number of double plays by a shortstop;

Whereas Cal Ripken, Jr. is the all-time leader in Major League Baseball All-Star fan balloting, has made the most Major League Baseball All-Star Game appearances at shortstop, and has made the most consecutive Major League Baseball All-Star Game starts;

Whereas Cal Ripken, Jr. has not only proven to be a great hitter but a great defensive player, winning 2 Gold Glove awards;

Whereas Cal Ripken, Jr. was selected to play on 19 All-Star teams throughout his career and was twice voted All-Star Game Most Valuable Player;

Whereas Cal Ripken, Jr. helped the Baltimore Orioles win the World Series in 1983;

Whereas, in an era when money dominated the game of baseball, Cal Ripken, Jr. chose to play in Baltimore for the Baltimore Orioles when it was believed that he could have earned more money with another team in another city;

Whereas Cal Ripken, Jr. is an example of good sportsmanship who has always conducted himself with dignity;

Whereas Cal Ripken, Jr. is a role model for young people and for all the people of the United States;

Whereas Cal Ripken, Jr., along with his family and the Ripkin Baseball organization, is a philanthropist dedicated to the Cal Ripken Sr. Foundation, which gives underprivileged children the opportunity to attend baseball camps around the country;

Whereas Cal Ripken, Jr. operates baseball camps and designs baseball fields for youth, college, and professional teams;

Whereas Cal Ripken, Jr. gives speeches about his time in baseball and some of the lessons he has learned;

Whereas, in 1992, Cal Ripken, Jr. was awarded Major League Baseball's Roberto Clemente Man of the Year Award and the Lou Gehrig Memorial Award for his community involvement; and

Whereas Cal Ripken, Jr. has been selected for the Major League Baseball All-Century Team: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates Cal Ripken, Jr. for his election to the Baseball Hall of Fame;

(2) honors Cal Ripkin, Jr. for an outstanding career as an athlete; and

(3) thanks Cal Ripkin, Jr. for his contributions to baseball and to his community.

SENATE RESOLUTION 282—SUPPORTING THE GOALS AND IDEALS OF A NATIONAL POLYCYSTIC KIDNEY DISEASE AWARENESS WEEK TO RAISE PUBLIC AWARENESS AND UNDERSTANDING OF POLYCYSTIC KIDNEY DISEASE AND TO FOSTER UNDERSTANDING OF THE IMPACT POLYCYSTIC KIDNEY DISEASE HAS ON PATIENTS AND FUTURE GENERATIONS OF THEIR FAMILIES

Mr. KOHL (for himself, Mr. HATCH, submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 282

Whereas polycystic kidney disease (known as ''PKD'') is 1 of the most prevalent life-threatening genetic diseases in the United States, is a severe, dominantly inherited disease that has a devastating impact, in both human and economic terms, on people of all ages, and affects equally people of all races, sexes, nationalities, geographic locations, and income levels;

Whereas, based on prevalence estimates by the National Institutes of Health, it is estimated that about 600,000 patients in the United States have a genetic inheritance from 1 or both parents for polycystic kidney disease, and that countless additional friends, loved ones, spouses, and caregivers must shoulder the physical, emotional, and financial burdens that polycystic kidney disease causes;

Whereas polycystic kidney disease, for which there is no treatment or cure, is the leading genetic cause of kidney failure in the United States and the 4th leading cause overall;

Whereas the vast majority of polycystic kidney disease patients reach kidney failure at an average age of 53, causing a severe strain on dialysis and kidney transplantation resources and on the delivery of health care in the United States, as the largest segment of the population of the United States, the ''baby boomers'', continues to age;

Whereas end stage renal disease is one of the fastest growing components of the Medicare budget, and polycystic kidney disease contributes to that cost by an estimated $2,000,000,000 annually for dialysis, kidney transplantation, and related therapies;

Whereas polycystic kidney disease is a systemic disease that causes damage to the kidney and the cardiovascular, endocrine, hepatic, and gastrointestinal organ systems and instills in patients a fear of an unknown future with a life-threatening genetic disease and apprehension over possible genetic discrimination;

Whereas the severity of the symptoms of polycystic kidney disease and the limited public awareness of the disease cause many patients to live in denial and forego regular visits to their physicians or to avoid following good health management which would help avoid more severe complications when kidney failure occurs;

Whereas people who have chronic, life-threatening diseases like polycystic kidney disease have a predisposition to depression and its resultant consequences due to their anxiety over pain, suffering, and premature death;

Whereas the Senate and taxpayers of the United States desire to see treatments and cures for disease and would like to see results from investments in research conducted by the National Institutes of Health (NIH) and from such initiatives as the NIH Roadmap to the Future;

Whereas polycystic kidney disease is a verifiable example of how collaboration, technological innovation, scientific momentum, and public-private partnerships can generate therapeutic interventions that directly benefit polycystic kidney disease sufferers, save billions of Federal dollars under Medicare, Medicaid, and other programs for dialysis, kidney transplants, immunosuppressant drugs, and related therapies, and make available several thousand openings on the kidney transplant waiting list;

Whereas improvements in diagnostic technology and the expansion of scientific knowledge about polycystic kidney disease have led to the discovery of the 3 primary genes that cause polycystic kidney disease and the 3 primary protein products of the genes and to the understanding of cell structures and signaling pathways that cause cyst growth that has produced multiple polycystic kidney disease clinical drug trials;

Whereas there are thousands of volunteers nationwide who are dedicated to expanding essential research, fostering public awareness and understanding of polycystic kidney disease, educating polycystic kidney disease patients and their families about the disease to improve their treatment and care, providing appropriate moral support, and encouraging people to become organ donors; and

Whereas these volunteers engage in an annual national awareness event held during the 3rd week of September, and such a week would be an appropriate time to recognize National Polycystic Kidney Disease Awareness Week: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of September 9-16, 2007, as ''National Polycystic Kidney Disease Awareness Week'';

(2) supports the goals and ideals of a national week to raise public awareness and understanding of polycystic kidney disease (known as ''PKD'');

(3) recognizes the need for additional research into a cure for polycystic kidney disease; and

(4) encourages the people of the United States and interested groups to support National Polycystic Kidney Disease Awareness Week through appropriate ceremonies and activities, to promote public awareness of polycystic kidney disease and to foster understanding of the impact of the disease on patients and their families.

Mr. KOHL. Mr. President, I rise today along with Senator Hatch to introduce a resolution to increase awareness of Polycystic Kidney Disease, PKD, a common and life threatening genetic illness.

Over 600,000 people have been diagnosed with PKD nationwide including 10,000 people in my home State of Wisconsin. There is no treatment or cure for PKD. Families and friends struggle to fight this disease and provide unwavering support to their loved ones suffering from PKD.

But there is hope. The PKD Foundation has led the fight for increased research and patient education. Recent studies have led to the discovery of the genes that cause PKD as well as promising clinical drug trials for treatment. More needs to be done and the Government wants to help.

In order to increase public awareness of this fatal disease, I propose that September 9 through 16 be designated as ''National Polycystic Kidney Disease Awareness Week.'' This week coincides with the annual walk for PKD which takes place every September. In Wisconsin, residents gather across the State to take part in this very special walk.

Increasing awareness will help all those affected by this terrible disease. I hope my colleagues will support this important resolution.

Mr. HATCH. Mr. President, I am pleased to introduce today, along with my colleague from Wisconsin, Senator Herb Kohl, a resolution to designate the week of September 9–16, 2007, as ''National Polycystic Kidney Disease Awareness Week''.

This resolution acknowledges the dangers of Polycystic Kidney Disease, also called PKD, which affects over 600,000 Americans. That is more than three times the population of Salt Lake City.

PKD is the most common, life-threatening genetic disease in the U.S. There is no cure, and it is one of the four leading causes of kidney failure, also called end-stage renal disease; diabetes being number one.

Polycystic kidney disease is characterized by the growth of numerous fluid-filled cysts in the kidney, which slowly reduce the kidney function and can eventually lead to kidney failure. When PKD causes kidneys to fail, the patient requires dialysis or kidney transplantation. About one-half of people with the major type of PKD progress to kidney failure.

PKD is especially personal to me because so many Utahns suffer from this disease. The PKD Foundation claims that approximately 5,000 individuals in Utah live with PKD, and that the incidence of end-stage renal disease in Utah is three times that of the national average. To cure PKD would result in billions of dollars in savings to the military, Medicare, Medicaid, and the Veterans Administration for dialysis, transplantation and related treatments.

Due to the illusiveness of PKD, many people are simply unaware of the nature of this disease. A National Polycystic Kidney Disease Awareness Week will help spread the word about the deadliness of PKD and vast numbers of, not only Utahns, but all Americans affected by this disease. With education comes the ability to know how to help people. Let us make it possible for everyone to know about PKD, so that more people can join the effort in making PKD a disease of the past.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2477. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.

SA 2478. Mr. AKAKA submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2479. Mr. SANDERS (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2480. Mr. GRAHAM (for himself, Mr. PRYOR, Mr. GREGG, Mr. MCCAIN, Mr. MARTINEZ, Mr. KYL, Mr. SUNUNU, Mr. CORNYN, Mrs. HUTCHISON, Mr. SPECTER, Mr. COLEMAN, Mrs. LINCOLN, Mr. BYRD, Mr. SALAZAR, Mr. WEBB, Mr. BAUCUS, Ms. LANDRIEU, Mrs. MCCASKILL, Mr. ALEXANDER, Mrs. DOLE, Mr. DOMENICI, Mr. VITTER, Mr. SESSIONS, Mr. COBURN, Mrs. FEINSTEIN, Mr. BUNNING, Mr. CORKER, Mr. HATCH, Mr. CHAMBLISS, Mr. WARNER, and Mr. INHOFE) proposed an amendment to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2481. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2482. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself

and Mr. COCHRAN) to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2483. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2484. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2485. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2486. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2487. Mrs. CLINTON (for herself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2488. Mr. VITTER (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2489. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2448 submitted by Mr. SCHUMER (for himself and Mrs. HUTCHISON) to the amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2490. Mr. MENENDEZ (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2491. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2492. Mr. SANDERS (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2493. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2494. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2495. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2496. Mr. COCHRAN (for himself and Mr. BYRD) proposed an amendment to amendment SA 2488 submitted by Mr. VITTER (for himself and Ms. STABENOW) to the amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2497. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2498. Mr. SANDERS (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2499. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2500. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2501. Ms. CANTWELL (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2502. Mr. PRYOR (for himself, Mr. CRAIG, Mr. SCHUMER, Mr. CHAMBLISS, Mr. ROBERTS, and Mr. HAGEL) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2503. Mr. MARTINEZ (for himself, Mr. KYL, and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2504. Mr. LEVIN (for himself, Mr. TESTER, Ms. STABENOW, and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2505. Mr. DORGAN (for himself, Mr. CONRAD, and Mr. BYRD) proposed an amendment to amendment SA 2468 proposed by Ms. LANDRIEU to the amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2506. Mr. NELSON, of Nebraska (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2507. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2508. Mr. LIEBERMAN (for himself, Ms. COLLINS, and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2509. Mrs. MCCASKILL (for herself, Mr. OBAMA, Mr. PRYOR, Ms. LANDRIEU, Mr. LIEBERMAN, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2510. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2511. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2512. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2513. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2514. Ms. CANTWELL (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2515. Mrs. FEINSTEIN (for herself, Mr. MARTINEZ, Mrs. BOXER, and Mr. NELSON, of Florida) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2516. Mr. SALAZAR (for himself, Mr. MENENDEZ, Mr. MARTINEZ, and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2517. Mr. GRASSLEY (for himself, Mr. THUNE, Mr. VITTER, Mr. COBURN, Mr. CRAPO, Mr. HAGEL, and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2518. Mr. KYL (for himself and Mr. MARTINEZ) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2519. Mr. OBAMA (for himself, Mr. COBURN, Mr. CASEY, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2520. Mrs. DOLE submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2521. Mr. ROBERTS (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2522. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2523. Mr. KERRY (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 2638, supra; which was ordered to lie on the table.

SA 2524. Mr. COLEMAN (for himself, Mr. ALLARD, Ms. KLOBUCHAR, and Mr. SALAZAR) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2525. Ms. LANDRIEU proposed an amendment to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2526. Ms. COLLINS (for herself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

SA 2527. Mrs. MURRAY (for Ms. LANDRIEU) proposed an amendment to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, supra.

TEXT OF AMENDMENTS

SA 2477. Mr. KERRY (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 40, line 15, after ''Security'' insert ''and an analysis of the Department's policy of ranking States, cities, and other grantees by tiered groups,''.

SA 2478. Mr. AKAKA submitted an amendment intended to be proposed to

amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, add the following:

SEC. 536. REPORT ON THE PERFORMANCE ACCOUNTABILITY AND STANDARDS SYSTEM OF THE TRANSPORTATION SECURITY ADMINISTRATION.

Not later than March 1, 2008, the Transportation Security Administration shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives on the implementation of the Performance Accountability and Standards System, including—

(1) the number of employees who achieved each level of performance;

(2) a comparison between managers and non-managers relating to performance and pay increases;

(3) the type and amount of all pay increases that have taken effect for each level of performance; and

(4) the attrition of employees covered by the Performance Accountability and Standards System.

SA 2479. Mr. SANDERS (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, add the following:

SEC. 536. PROHIBITION ON USE FUNDS FOR RULEMAKING RELATED TO PETITIONS FOR ALIENS.

None of the funds made available in this Act may be used by the Secretary of Homeland Security or any delegate of the Secretary to issue any rule or regulation which implements the Notice of Proposed Rulemaking related to Petitions for Aliens To Perform Temporary Nonagricultural Services or Labor (H–2B) set out beginning on 70 Federal Register 3984 (January 27, 2005), or any amendments reaching results similar to such proposed rulemaking.

SA 2480. Mr. GRAHAM (for himself, Mr. PRYOR, Mr. GREGG, Mr. MCCAIN, Mr. MARTINEZ, Mr. KYL, Mr. SUNUNU, Mr. CORNYN, Mrs. HUTCHISON, Mr. SPECTER, Mr. COLEMAN, Mrs. LINCOLN, Mr. BYRD, Mr. SALAZAR, Mr. WEBB, Mr. BAUCUS, Ms. LANDRIEU, Mrs. MCCASKILL, Mr. ALEXANDER, Mrs. DOLE, Mr. DOMENICI, Mr. VITTER, Mr. SESSIONS, Mr. COBURN, Mrs. FEINSTEIN, Mr. BUNNING, Mr. CORKER, Mr. HATCH, Mr. CHAMBLISS, Mr. WARNER, and Mr. INHOFE) proposed an amendment to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows;

At the end, add the following:

DIVISION B—BORDER SECURITY

TITLE X—BORDER SECURITY REQUIREMENTS

SEC. 1001. SHORT TITLE.

This division may be cited as the ''Border Security First Act of 2007''.

SEC. 1002. BORDER SECURITY REQUIREMENTS.

(a) REQUIREMENTS.—Not later than 2 years after the date of the enactment of this Act, the President shall ensure that the following are carried out:

(1) OPERATIONAL CONTROL OF THE INTERNATIONAL BORDER WITH MEXICO.—The Secretary of Homeland Security shall establish and demonstrate operational control of 100 percent of the international land border between the United States and Mexico, including the ability to monitor such border through available methods and technology.

(2) STAFF ENHANCEMENTS FOR BORDER PATROL.—The United States Customs and Border Protection Border Patrol shall hire, train, and report for duty 23,000 full-time agents.

(3) STRONG BORDER BARRIERS.—The United States Customs and Border Protection Border Patrol shall—

(A) install along the international land border between the United States and Mexico at least—

(i) 300 miles of vehicle barriers;

(ii) 700 linear miles of fencing as required by the Secure Fence Act of 2006 (Public Law 109–367), as amended by this Act; and

(iii) 105 ground-based radar and camera towers; and

(B) deploy for use along the international land border between the United States and Mexico 4 unmanned aerial vehicles, and the supporting systems for such vehicles.

(4) CATCH AND RETURN.—The Secretary of Homeland Security shall detain all removable aliens apprehended crossing the international land border between the United States and Mexico in violation of Federal or State law, except as specifically mandated by Federal or State law or humanitarian circumstances, and United States Immigration and Customs Enforcement shall have the resources to maintain this practice, including the resources necessary to detain up to 45,000 aliens per day on an annual basis.

(b) PRESIDENTIAL PROGRESS REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until the requirements under subsection (a) are met, the President shall submit a report to Congress detailing the progress made in funding, meeting, or otherwise satisfying each of the requirements described under paragraphs (1) through (4) of subsection (a), including detailing any contractual agreements reached to carry out such measures.

(2) PROGRESS NOT SUFFICIENT.—If the President determines that sufficient progress is not being made, the President shall include in the report required under paragraph (1) specific funding recommendations, authorization needed, or other actions that are or should be undertaken by the Secretary of Homeland Security.

SEC. 1003. APPROPRIATIONS FOR BORDER SECURITY.

There is hereby appropriated $3,000,000,000 to satisfy the requirements set out in section 1002(a) and, if any amount remains after satisfying such requirements, to achieve and maintain operational control over the international land and maritime borders of the United States, for employment eligibility verification improvements for increased removal and detention of visa overstays, criminal aliens, aliens who have illegally reentered the United States, and for reimbursement of State and local section 287(g) expenses. These amounts are designated as an emergency requirement pursuant to section 204 of S. Con. Res. 21 (110th Congress).

SA 2481. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, insert the following:

SEC. 536. None of the funds appropriated or otherwise made available by this Act may be obligated or expended by the Secretary of Homeland Security to remove offenses from the list of criminal offenses disqualifying individuals from receiving a Transportation Worker Identification Credential under section 1572.103 of title 49, Code of Federal Regulations.

SA 2482. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, after line 24, insert the following:

SEC. _____. AMENDMENT TO TITLE 31.

(a) IN GENERAL.—Chapter 13 of title 31, United States Code, is amended by inserting after section 1310 the following new section:

''§ 1311. Continuing appropriations

''(a)(1) If any regular appropriation bill for a fiscal year (or, if applicable, for each fiscal year in a biennium) does not become law before the beginning of such fiscal year or a joint resolution making continuing appropriations is not in effect, there are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, such sums as may be necessary to continue any project or activity for which funds were provided in the preceding fiscal year—

''(A) in the corresponding regular appropriation Act for such preceding fiscal year; or

''(B) if the corresponding regular appropriation bill for such preceding fiscal year did not become law, then in a joint resolution making continuing appropriations for such preceding fiscal year.

''(2) Appropriations and funds made available, and authority granted, for a project or activity for any fiscal year pursuant to this section shall be at a rate of operations not in excess of the lower of—

''(A) the rate of operations provided for in the regular appropriation Act providing for such project or activity for the preceding fiscal year;

''(B) in the absence of such an Act, the rate of operations provided for such project or activity pursuant to a joint resolution making continuing appropriations for such preceding fiscal year;

''(C) the rate of operations provided for in the regular appropriation bill as passed by the House of Representatives or the Senate for the fiscal year in question, except that the lower of these two versions shall be ignored for any project or activity for which

there is a budget request if no funding is provided for that project or activity in either version; or

''(D) the annualized rate of operations provided for in the most recently enacted joint resolution making continuing appropriations for part of that fiscal year or any funding levels established under the provisions of this Act.

''(3) Appropriations and funds made available, and authority granted, for any fiscal year pursuant to this section for a project or activity shall be available for the period beginning with the first day of a lapse in appropriations and ending with the earlier of—

''(A) the date on which the applicable regular appropriation bill for such fiscal year becomes law (whether or not such law provides for such project or activity) or a continuing resolution making appropriations becomes law, as the case may be; or

''(B) the last day of such fiscal year.

''(b) An appropriation or funds made available, or authority granted, for a project or activity for any fiscal year pursuant to this section shall be subject to the terms and conditions imposed with respect to the appropriation made or funds made available for the preceding fiscal year, or authority granted for such project or activity under current law.

''(c) Appropriations and funds made available, and authority granted, for any project or activity for any fiscal year pursuant to this section shall cover all obligations or expenditures incurred for such project or activity during the portion of such fiscal year for which this section applies to such project or activity.

''(d) Expenditures made for a project or activity for any fiscal year pursuant to this section shall be charged to the applicable appropriation, fund, or authorization whenever a regular appropriation bill or a joint resolution making continuing appropriations until the end of a fiscal year providing for such project or activity for such period becomes law.

''(e) This section shall not apply to a project or activity during a fiscal year if any other provision of law (other than an authorization of appropriations)—

''(1) makes an appropriation, makes funds available, or grants authority for such project or activity to continue for such period; or

''(2) specifically provides that no appropriation shall be made, no funds shall be made available, or no authority shall be granted for such project or activity to continue for such period.

''(f) For purposes of this section, the term 'regular appropriation bill' means any annual appropriation bill making appropriations, otherwise making funds available, or granting authority, for any of the following categories of projects and activities:

''(1) Agriculture, Rural Development, Food and Drug Administration, and Related Agencies.

''(2) Commerce, Justice, Science, and Related Agencies.

''(3) Defense.

''(4) Energy and Water Development.

''(5) Financial Services and General Government.

''(6) Homeland Security.

''(7) Interior, Environment, and Related Agencies.

''(8) Labor, Health and Human Services, Education, and Related Agencies.

''(9) Legislative Branch.

''(10) Military Construction, Veterans' Affairs, and Related Agencies.

''(11) State, Foreign Operations, and Related Programs.

''(12) Transportation, Housing and Urban Development, and Related Agencies.''.

(b) CLERICAL AMENDMENT.—The analysis of chapter 13 of title 31, United States Code, is amended by inserting after the item relating to section 1310 the following new item:

''1311. Continuing appropriations''.

SA 2483. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, add the following:

SEC. 536. PROHIBITION OF RESTRICTION ON USE OF AMOUNTS.

(a) IN GENERAL.—Subject to subsection (c), and notwithstanding any other provision of law, the Administrator of the Federal Emergency Management Agency shall not prohibit the use by the State of Louisiana under the Road Home Program of that State of any amounts described in subsection (e), based upon the existence or extent of any requirement or condition under that program that—

(1) limits the amount made available to an eligible homeowner who does not agree to remain an owner and occupant of a home in Louisiana; or

(2) waives the applicability of any limitation described in paragraph (1) for eligible homeowners who are elderly or senior citizens.

(b) PROCEDURES.—The Administrator of the Federal Emergency Management Agency shall identify and implement mechanisms to simplify the expedited distribution of amounts described in subsection (e), including—

(1) creating a programmatic cost-benefit analysis to provide a means of conducting cost-benefit analysis by project type and geographic factors rather than on a structure-by-structure basis; and

(2) developing a streamlined environmental review process to significantly speed the approval of project applications.

(c) WAIVER.—

(1) IN GENERAL.—Except as provided in paragraph (2), in using amounts described in subsection (e), the President shall waive the requirements of section 206.434(c) and 206.438(d) of title 44, Code of Federal Regulations (or any corresponding similar regulation or ruling), or specify alternative requirements, upon a request by the State of Louisiana that such waiver is required to facilitate the timely use of funds or a guarantee provided under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

(2) EXCEPTION.—The President may not waive any requirement relating to fair housing, nondiscrimination, labor standards, or, except as provided in subsection (b), the environment under paragraph (1).

(d) SAVINGS PROVISION.—Except as provided in subsections (a), (b), and (c), section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) shall apply to amounts described in subsection (e) that are used by the State of Louisiana under the Road Home Program of that State.

(e) COVERED AMOUNTS.—The amounts described in this subsection are any amounts provided to the State of Louisiana because of Hurricane Katrina of 2005 or Hurricane Rita of 2005 under the hazard mitigation grant program of the Federal Emergency Management Agency under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

SA 2484. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, add the following:

SEC. 536. ACCOUNTABILITY IN GRANT AND CONTRACT ADMINISTRATION.

The Department of Homeland Security, through the Federal Emergency Management Agency, shall—

(1) consider implementation, through fair and open competition, of management, tracking and accountability systems to assist in managing grant allocations, distribution, expenditures, and asset tracking; and

(2) consider any efficiencies created through cooperative purchasing agreements.

SA 2485. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 33, strike line 25 and all that follows through page 34, line 4, and insert the following: ''Affairs, $117,400,000; of which $20,817,000 is for salaries and expenses; of which $2,400,000 is for the implementation of Homeland Security Presidential Directive/HSPD-9 (relating to the defense of United States Agriculture and Food) and for other food defense activities; and of which $94,183,000 is for biosurveillance, biowatch, chemical response, and related activities for the Department of Homeland Security, to remain available until September 30, 2009: *Provided*, That amounts appropriated under the subheading 'Automation Modernization' under the heading 'U.S. Immigration and Customs Enforcement' be reduced by $2,400,000: *Provided further*, That''.

SA 2486. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 30, line 17, before the period insert the following: ''*Provided*, That $10,043,000 shall be for the Office of Bombing Prevention and not more than $26,100,000 shall be for the Next Generation Network''.

SA 2487. Mrs. CLINTON (for herself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, after line 24, insert the following:

SEC. 536. The Administrator of the Transportation Security Administration shall prohibit any butane lighters from being taken

into an airport sterile area or onboard an aircraft until the Administrator provides to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, a report identifying all anticipated security benefits and any possible vulnerabilities associated with allowing butane lighters into airport sterile areas and onboard commercial aircraft, including supporting analysis justifying the conclusions reached. The Comptroller General of the United States shall report on its assessment of the report submitted by the Transportation Security Administration within 180 days of the date the report is submitted. The Administrator shall not take action to allow butane lighters into an airport sterile area or onboard commercial aircraft until at least 60 days after the Comptroller General submits the Comptroller General's assessment of the Transportation Security Administration report.

SA 2488. Mr. VITTER (for himself and Ms. STABENOW) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, add the following:

SEC. 536. None of the funds made available in this Act for U.S. Customs and Border Protection or any agency or office within the Department of Homeland Security may be used to prevent an individual from importing a prescription drug from Canada if—

(1) such individual—

(A) is not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(g))); and

(B) only imports a personal-use quantity of such drug that does not exceed a 90-day supply; and

(2) such drug—

(A) complies with sections 501, 502, and 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, and 355); and

(B) is not—

(i) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); or

(ii) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262).

SA 2489. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 2448 submitted by Mr. SCHUMER (for himself and Mrs. HUTCHISON) to the amendment 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, after line 13 of the amendment, insert the following:

SEC. 537. FEE FOR RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.

Section 106(d) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note), as amended by section 536, is further amended by adding at the end the following:

''(5) FEE FOR RECAPTURE OF UNUSED EMPLOYMENT-BASED IMMIGRANT VISAS.—

''(A) IN GENERAL.—The Secretary of Homeland Security shall impose a fee upon each petitioning employer who uses a visa recaptured from fiscal years 1996 and 1997 under this subsection to provide employment for an alien as a professional nurse, provided that—

''(i) such fee shall be in the amount of $1,500 for each such alien nurse (but not for dependents accompanying or following to join who are not professional nurses); and

''(ii) no fee shall be imposed for the use of such visas if the employer demonstrates to the Secretary that—

''(I) the employer is a health care facility that is located in a county or parish that received individual and public assistance pursuant to Major Disaster Declaration number 1603 or 1607; or

''(II) the employer is a health care facility that has been designated as a Health Professional Shortage Area facility by the Secretary of Health and Human Services as defined in section 332 of the Public Health Service Act (42 U.S.C. 254e).

''(B) FEE COLLECTION.—A fee imposed by the Secretary of Homeland Security pursuant to this paragraph shall be collected by the Secretary as a condition of approval of an application for adjustment of status by the beneficiary of a petition or by the Secretary of State as a condition of issuance of a visa to such beneficiary.''.

SEC. 538. DOMESTIC NURSING ENHANCEMENT ACCOUNT.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following:

''(w) DOMESTIC NURSING ENHANCEMENT ACCOUNT.—

''(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account which shall be known as the 'Domestic Nursing Enhancement Account.' Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under section 106(d)(5) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note). Nothing in this subsection shall prohibit the depositing of other moneys into the account established under this section.

''(2) USE OF FUNDS.—Amounts collected under section 106(d)(5) of the American Competitiveness in the Twenty-first Century Act of 2000 (Public Law 106–313; 8 U.S.C. 1153 note), and deposited into the account established under paragraph (1) shall be used by the Secretary of Health and Human Services to carry out section 832 of the Public Health Service Act. Such amounts shall be available for obligation only to the extent, and in the amount, provided in advance in appropriations Acts. Such amounts are authorized to remain available until expended.''.

SEC. 539. CAPITATION GRANTS TO INCREASE THE NUMBER OF NURSING FACULTY AND STUDENTS.

Part D of title VIII of the Public Health Service Act (42 U.S.C. 296p et seq.) is amended by adding at the end the following:

''SEC. 832. CAPITATION GRANTS.

''(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Health Resources and Services Administration, shall award a grant each fiscal year in an amount determined in accordance with subsection (c) to each eligible school of nursing that submits an application in accordance with this section.

''(b) PURPOSE.—A funding agreement for a grant under this section is that the eligible school of nursing involved will expend the grant to increase the number of nursing faculty and students at the school, including by hiring new faculty, retaining current faculty, purchasing educational equipment and audiovisual laboratories, enhancing clinical laboratories, repairing and expanding infrastructure, or recruiting students.

''(c) GRANT COMPUTATION.—

''(1) AMOUNT PER STUDENT.—Subject to paragraph (2), the amount of a grant to an eligible school of nursing under this section for a fiscal year shall be the total of the following:

''(A) $1,800 for each full-time or part-time student who is enrolled at the school in a graduate program in nursing that—

''(i) leads to a masters degree, a doctoral degree, or an equivalent degree; and

''(ii) prepares individuals to serve as faculty through additional course work in education and ensuring competency in an advanced practice area.

''(B) $1,405 for each full-time or part-time student who—

''(i) is enrolled at the school in a program in nursing leading to a bachelor of science degree, a bachelor of nursing degree, a graduate degree in nursing if such program does not meet the requirements of subparagraph (A), or an equivalent degree; and

''(ii) has not more than 3 years of academic credits remaining in the program.

''(C) $966 for each full-time or part-time student who is enrolled at the school in a program in nursing leading to an associate degree in nursing or an equivalent degree.

''(2) LIMITATION.—In calculating the amount of a grant to a school under paragraph (1), the Secretary may not make a payment with respect to a particular student—

''(A) for more than 2 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a master's degree or an equivalent degree;

''(B) for more than 4 fiscal years in the case of a student described in paragraph (1)(A) who is enrolled in a graduate program in nursing leading to a doctoral degree or an equivalent degree;

''(C) for more than 3 fiscal years in the case of a student described in paragraph (1)(B); or

''(D) for more than 2 fiscal years in the case of a student described in paragraph (1)(C).

''(d) ELIGIBILITY.—In this section, the term 'eligible school of nursing' means a school of nursing that—

''(1) is accredited by a nursing accrediting agency recognized by the Secretary of Education;

''(2) has a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent for each of the 3 academic years preceding submission of the grant application; and

''(3) has a graduation rate (based on the number of students in a class who graduate relative to, for a baccalaureate program, the number of students who were enrolled in the class at the beginning of junior year or, for an associate degree program, the number of students who were enrolled in the class at the end of the first year) of not less than 80 percent for each of the 3 academic years preceding submission of the grant application.

''(e) REQUIREMENTS.—The Secretary may award a grant under this section to an eligible school of nursing only if the school gives assurances satisfactory to the Secretary that, for each academic year for which the grant is awarded, the school will comply with the following:

''(1) The school will maintain a passage rate on the National Council Licensure Examination for Registered Nurses of not less than 80 percent.

''(2) The school will maintain a graduation rate (as described in subsection (d)(3)) of not less than 80 percent.

''(3)(A) Subject to subparagraphs (B) and (C), the first-year enrollment of full-time nursing students in the school will exceed such enrollment for the preceding academic year by 5 percent or 5 students, whichever is greater.

''(B) Subparagraph (A) shall not apply to the first academic year for which a school receives a grant under this section.

''(C) With respect to any academic year, the Secretary may waive application of subparagraph (A) if—

''(i) the physical facilities at the school involved limit the school from enrolling additional students; or

''(ii) the school has increased enrollment in the school (as described in subparagraph (A)) for each of the 2 preceding academic years.

''(4) Not later than 1 year after receiving a grant under this section, the school will formulate and implement a plan to accomplish at least 2 of the following:

''(A) Establishing or significantly expanding an accelerated baccalaureate degree nursing program designed to graduate new nurses in 12 to 18 months.

''(B) Establishing cooperative intradisciplinary education among schools of nursing with a view toward shared use of technological resources, including information technology.

''(C) Establishing cooperative interdisciplinary training between schools of nursing and schools of allied health, medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, public health, or veterinary medicine, including training for the use of the interdisciplinary team approach to the delivery of health services.

''(D) Integrating core competencies on evidence-based practice, quality improvements, and patient-centered care.

''(E) Increasing admissions, enrollment, and retention of qualified individuals who are financially disadvantaged.

''(F) Increasing enrollment of minority and diverse student populations.

''(G) Increasing enrollment of new graduate baccalaureate nursing students in graduate programs that educate nurse faculty members.

''(H) Developing post-baccalaureate residency programs to prepare nurses for practice in specialty areas where nursing shortages are most severe.

''(I) Increasing integration of geriatric content into the core curriculum.

''(J) Partnering with economically disadvantaged communities to provide nursing education.

''(K) Expanding the ability of nurse managed health centers to provide clinical education training sites to nursing students.

''(5) The school will submit an annual report to the Secretary that includes updated information on the school with respect to student enrollment, student retention, graduation rates, passage rates on the National Council Licensure Examination for Registered Nurses, the number of graduates employed as nursing faculty or nursing care providers within 12 months of graduation, and the number of students who are accepted into graduate programs for further nursing education.

''(6) The school will allow the Secretary to make on-site inspections, and will comply with the Secretary's requests for information, to determine the extent to which the school is complying with the requirements of this section.

''(f) REPORTS TO CONGRESS.—The Secretary shall evaluate the results of grants under this section and submit to Congress—

''(1) not later than 18 months after the date of the enactment of this section, an interim report on such results; and

''(2) not later than September 30, 2010, a final report on such results.

''(g) APPLICATION.—An eligible school of nursing seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may require.

''(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amounts in the Domestic Nursing Enhancement Account, established under section 286(w) of the Immigration and Nationality Act, there are authorized to be appropriated such sums as may be necessary to carry out this section.''.

SEC. 540. GLOBAL HEALTH CARE COOPERATION.

(a) IN GENERAL.—Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) is amended by inserting after section 317 the following:

''SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING HEALTH CARE IN DEVELOPING COUNTRIES.

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Homeland Security shall allow an eligible alien and the spouse or child of such alien to reside in a candidate country during the period that the eligible alien is working as a physician or other health care worker in a candidate country. During such period the eligible alien and such spouse or child shall be considered—

''(1) to be physically present and residing in the United States for purposes of naturalization under section 316(a); and

''(2) to meet the continuous residency requirements under section 316(b).

''(b) DEFINITIONS.—In this section:

''(1) CANDIDATE COUNTRY.—The term 'candidate country' means a country that the Secretary of State determines to be—

''(A) eligible for assistance from the International Development Association, in which the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for the applicable fiscal year, as defined by the International Bank for Reconstruction and Development;

''(B) classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and having an income greater than the historical ceiling for International Development Association eligibility for the applicable fiscal year; or

''(C) qualified to be a candidate country due to special circumstances, including natural disasters or public health emergencies.

''(2) ELIGIBLE ALIEN.—The term 'eligible alien' means an alien who—

''(A) has been lawfully admitted to the United States for permanent residence; and

''(B) is a physician or other healthcare worker.

''(c) CONSULTATION.—The Secretary of Homeland Security shall consult with the Secretary of State in carrying out this section.

''(d) PUBLICATION.—The Secretary of State shall publish—

''(1) a list of candidate countries not later than 6 months after the date of the enactment of this section, and annually thereafter; and

''(2) an amendment to the list described in paragraph (1) at the time any country qualifies as a candidate country due to special circumstances under subsection (b)(1)(C).''.

(b) RULEMAKING.—

(1) REQUIREMENT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall promulgate regulations to carry out the amendments made by this section.

(2) CONTENT.—The regulations promulgated pursuant to paragraph (1) shall—

(A) permit an eligible alien (as defined in section 317A of the Immigration and Nationality Act, as added by subsection (a)) and the spouse or child of the eligible alien to reside in a foreign country to work as a physician or other healthcare worker as described in subsection (a) of such section 317A for not less than a 12-month period and not more than a 24-month period, and shall permit the Secretary to extend such period for an additional period not to exceed 12 months, if the Secretary determines that such country has a continuing need for such a physician or other healthcare worker;

(B) provide for the issuance of documents by the Secretary to such eligible alien, and such spouse or child, if appropriate, to demonstrate that such eligible alien, and such spouse or child, if appropriate, is authorized to reside in such country under such section 317A; and

(C) provide for an expedited process through which the Secretary shall review applications for such an eligible alien to reside in a foreign country pursuant to subsection (a) of such section 317A if the Secretary of State determines a country is a candidate country pursuant to subsection (b)(1)(C) of such section 317A.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 101(a)(13)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(C)(ii)) is amended by adding at the end the following: ''except in the case of an eligible alien, or the spouse or child of such alien, who is authorized to be absent from the United States under section 317A,''.

(2) DOCUMENTARY REQUIREMENTS.—Section 211(b) of such Act (8 U.S.C. 1181(b)) is amended by inserting '', including an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''101(a)(27)(A),''.

(3) INELIGIBLE ALIENS.—Section 212(a)(7)(A)(i)(I) of such Act (8 U.S.C. 1182(a)(7)(A)(i)(I)) is amended by inserting ''other than an eligible alien authorized to reside in a foreign country under section 317A and the spouse or child of such eligible alien, if appropriate,'' after ''Act,''.

(4) NATURALIZATION.—Section 319(b) of such Act (8 U.S.C. 1430(b)) is amended by inserting ''an eligible alien who is residing or has resided in a foreign country under section 317A'' before ''and (C)''.

(5) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 317 the following:

''Sec. 317A. Temporary absence of aliens providing health care in developing countries''.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to United States Citizenship and Immigration Services such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 541. ATTESTATION BY HEALTH CARE WORKERS.

(a) ATTESTATION REQUIREMENT.—Section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)) is amended by adding at the end the following:

''(E) HEALTH CARE WORKERS WITH OTHER OBLIGATIONS.—

''(i) IN GENERAL.—An alien who seeks to enter the United States for the purpose of

performing labor as a physician or other health care worker is inadmissible unless the alien submits to the Secretary of Homeland Security or the Secretary of State, as appropriate, an attestation that the alien is not seeking to enter the United States for such purpose during any period in which the alien has an outstanding obligation to the government of the alien's country of origin or the alien's country of residence.

''(ii) OBLIGATION DEFINED.—In this subparagraph, the term 'obligation' means an obligation incurred as part of a valid, voluntary individual agreement in which the alien received financial assistance to defray the costs of education or training to qualify as a physician or other health care worker in consideration for a commitment to work as a physician or other health care worker in the alien's country of origin or the alien's country of residence.

''(iii) WAIVER.—The Secretary of Homeland Security may waive a finding of inadmissibility under clause (i) if the Secretary determines that—

''(I) the obligation was incurred by coercion or other improper means;

''(II) the alien and the government of the country to which the alien has an outstanding obligation have reached a valid, voluntary agreement, pursuant to which the alien's obligation has been deemed satisfied, or the alien has shown to the satisfaction of the Secretary that the alien has been unable to reach such an agreement because of coercion or other improper means; or

''(III) the obligation should not be enforced due to other extraordinary circumstances, including undue hardship that would be suffered by the alien in the absence of a waiver.''.

(b) EFFECTIVE DATE; APPLICATION.—

(1) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(2) APPLICATION BY THE SECRETARY.—Not later than the effective date described in paragraph (1), the Secretary shall begin to carry out subparagraph (E) of section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)), including the requirement for the attestation and the granting of a waiver described in clause (iii) of such subparagraph (E), regardless of whether regulations to implement such subparagraph have been promulgated.

SA 2490. Mr. MENENDEZ (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, add the following:

SEC. 536. REPORT ON URBAN AREA SECURITY INITIATIVE.

Not later than 180 days after the date of enactment of this Act, the Government Accountability Office shall submit a report to the appropriate congressional committees which describes the criteria and factors the Department of Homeland Security uses to determine the regional boundaries for Urban Area Security Initiative regions, including a determination if the Department is meeting its goal to implement a regional approach with respect to Urban Area Security Initiative regions, and provides recommendations for how the Department can better facilitate a regional approach for Urban Area Security Initiative regions.

SA 2491. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. APPLICATION FOR TRANSPORT WORKER IDENTIFICATION CREDENTIAL.

(a) IN GENERAL.—The Secretary shall allow an employer to use Homeport, a website maintained by the Coast Guard, to conduct an initial screening for interim work authority for employment aboard a vessel under section 104(c) of the SAFE Port Act (46 U.S.C. 70105 note).

(b) TIME LIMITATION.—The Secretary shall allow an applicant who has passed an initial screening for interim work authority to be employed aboard a vessel for up to 180 days before requiring the employee to apply for a Transportation Worker Identification Credential.

(c) LIMITATION ON USE OF FUNDS.—No funds appropriated under this Act may be used to require an employee to apply for a Transportation Worker Identification Credential before the Secretary makes available on Homeport the security screening for interim work authority for employment aboard a vessel required under section 104(c) of the SAFE Port Act (46 U.S.C. 70105 note).

SA 2492. Mr. SANDERS (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, after line 24, add the following:

SEC. 536. PROHIBITION ON USE FUNDS FOR RULEMAKING RELATED TO PETITIONS FOR ALIENS.

None of the funds made available in this Act may be used by the Secretary of Homeland Security or any delegate of the Secretary to issue any rule or regulation which implements the Notice of Proposed Rulemaking related to Petitions for Aliens To Perform Temporary Nonagricultural Services or Labor (H-2B) set out beginning on 70 Federal Register 3984 (January 27, 2005), or any amendments reaching results similar to such proposed rulemaking.

SA 2493. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 11, strike ''$100,000,000'' and insert ''$98,000,000''.

On page 45, between lines 23 and 24, insert the following:

GRANTS FOR COMMUNITY WILDFIRE PREPAREDNESS AND EDUCATION

For necessary expense for programs administered Assistant Administrator for the United States Fire Administration to educate communities about the dangers of wildfires and provide information and resources to assist community preparedness for wildfires, $2,000,000: *Provided*, That such programs shall be targeted to provide education to communities growing into the wildland urban interface and in areas at risk for wildfire: *Provided further*, That such programs shall be administered as part of the larger mission of the United States Fire Administration within the Federal Emergency Management Agency to reduce life and economic losses due to fire and related emergencies, through leadership, advocacy, coordination, and support.

SA 2494. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, add the following:

SEC. 536. PROHIBITION OF RESTRICTION ON USE OF AMOUNTS.

(a) IN GENERAL.—Subject to subsection (c), and notwithstanding any other provision of law, the Administrator of the Federal Emergency Management Agency shall not prohibit the use by the State of Louisiana under the Road Home Program of that State of any amounts described in subsection (e), based upon the existence or extent of any requirement or condition under that program that—

(1) limits the amount made available to an eligible homeowner who does not agree to remain an owner and occupant of a home in Louisiana; or

(2) waives the applicability of any limitation described in paragraph (1) for eligible homeowners who are elderly or senior citizens.

(b) PROCEDURES.—The Administrator of the Federal Emergency Management Agency shall identify and implement mechanisms to simplify the expedited distribution of amounts described in subsection (e), including—

(1) creating a programmatic cost-benefit analysis to provide a means of conducting cost-benefit analysis by project type and geographic factors rather than on a structure-by-structure basis; and

(2) developing a streamlined environmental review process to significantly speed the approval of project applications.

(c) WAIVER.—

(1) IN GENERAL.—Except as provided in paragraph (2), in using amounts described in subsection (e), the President shall waive the requirements of section 206.434(c) and section 206.438(d) of title 44, Code of Federal Regulations (or any corresponding similar regulation or ruling), or specify alternative requirements, upon a request by the State of Louisiana that such waiver is required to facilitate the timely use of funds or a guarantee provided under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

(2) EXCEPTION.—The President may not waive any requirement relating to fair housing, nondiscrimination, labor standards, or, except as provided in subsection (b), the environment under paragraph (1).

(d) SAVINGS PROVISION.—Except as provided in subsections (a), (b), and (c), section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) shall apply to amounts described in subsection (e) that are used by the State of Louisiana under the Road Home Program of that State.

(e) COVERED AMOUNTS.—The amounts described in this subsection is $1,170,000,000 provided to the State of Louisiana because of

Hurricane Katrina of 2005 or Hurricane Rita of 2005 under the hazard mitigation grant program of the Federal Emergency Management Agency under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c).

SA 2495. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF SENATE ON IMMIGRATION.

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

(1) On June 28th, 2007, the Senate, by a vote of 46 to 53, rejected a motion to invoke cloture on a bill to provide for comprehensive immigration reform.

(2) Illegal immigration remains the top domestic issue in the United States.

(3) The people of the United States continue to feel the effects of a failed immigration system on a daily basis, and they have not forgotten that Congress and the President have a duty to address the issue of illegal immigration and the security of the international borders of the United States.

(4) People from across the United States have shared with members of the Senate their wide ranging and passionate opinions on how best to reform the immigration system.

(5) There is no consensus on an approach to comprehensive immigration reform that does not first secure the international borders of the United States.

(6) There is unanimity that the Federal Government has a responsibility to, and immediately should, secure the international borders of the United States.

(7) Border security is an integral part of national security.

(8) The greatest obstacle the Federal Government faces with respect to the people of the United States is a lack of trust that the Federal Government will secure the international borders of the United States.

(9) This lack of trust is rooted in the past failures of the Federal Government to uphold and enforce immigration laws and the failure of the Federal Government to secure the international borders of the United States.

(10) Failure to uphold and enforce immigration laws has eroded respect for those laws and eliminated the faith of the people of the United States in the ability of their elected officials to responsibly administer immigration programs.

(11) It is necessary to regain the trust of the people of the United States in the competency of the Federal Government to enforce immigration laws and manage the immigration system.

(12) Securing the borders of the United States would serve as a starting point to begin to address other issues surrounding immigration reform on which there is not consensus.

(13) Congress has not fully funded some interior and border security activities that it has authorized.

(14) The President of the United States can initiate emergency spending by designating certain spending as ''emergency spending'' in a request to the Congress.

(15) The lack of security on the international borders of the United States rises to the level of an emergency.

(16) The Border Patrol are apprehending some, but not all, individuals from countries that the Secretary of State has determined have repeatedly provided support for acts of international terrorism who cross or attempt to cross illegally into the United States.

(17) The Federal Bureau of Investigation is investigating a human smuggling ring that has been bringing Iraqis and other Middle Eastern individuals across the international borders of the United States.

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

(1) the Federal Government should work to regain the trust of the people of the United States in its ability of the Federal Government to secure the international borders of the United States;

(2) in order to restore the credibility of the Federal Government on this critical issue, the Federal Government should prove its ability to enforce immigration laws by taking actions such as securing the border, stopping the flow of illegal immigrants and drugs into the United States, and creating a tamper-proof biometric identification card for foreign workers; and

(3) the President should request emergency spending that fully funds—

(A) existing interior and border security authorizations that have not been funded by Congress; and

(B) the border and interior security initiatives contained in the bill to provide for comprehensive immigration reform and for other purposes (S. 1639) introduced in the Senate on June 18, 2007.

SA 2496. Mr COCHRAN (for himself and Mr. BYRD) proposed an amendment to amendment SA 2488 submitted by Mr. VITTER (for himself and Ms. STABENOW) to the amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes, as follows:

In lieu of the matter proposed to be inserted, insert the following:

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).

SA 2497. Mr. BYRD submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, insert the following:

SEC. ____. None of the funds made available in this Act may be used to destroy or put out to pasture any horse or other equine belonging to the Federal Government that has become unfit for service, unless the trainer or handler is first given the option to take possession of the equine through an adoption program that has safeguards against slaughter and inhumane treatment.

SA 2498. Mr. SANDERS (for himself and Mr. FEINGOLD) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, add the following:

SEC. 536. PROHIBITION ON USE FUNDS FOR RULEMAKING RELATED TO PETITIONS FOR ALIENS.

None of the funds made available in this Act may be used by the Secretary of Homeland Security or any delegate of the Secretary to issue any rule or regulation which implements the Notice of Proposed Rulemaking related to Petitions for Aliens To Perform Temporary Nonagricultural Services or Labor (H–2B) set out beginning on 70 Federal Register 3984 (January 27, 2005).

SA 2499. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, insert the following:

SEC. 536. (a) The amount appropriated by title II for necessary expenses for the U.S. Customs and Border Protection for enforcement of laws relating to border security, immigration, customs, and agricultural inspections under the heading ''SALARIES AND EXPENSES'' is increased by $30,000,000 to procure commercially available technology in order to expand and improve the risk-based approach of the Department of Homeland Security to target and inspect cargo containers under the Secure Freight Initiative and the Global Trade Exchange.

(b) The amount appropriated by title IV under the heading ''SYSTEMS ACQUISITION'' is reduced by $30,000,000.

SA 2500. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. ENSURING THE SAFETY OF AGRICULTURAL IMPORTS.

(a) FINDINGS.—Congress makes the following findings:

(1) The Food and Drug Administration, as part of its responsibility to ensure the safety of agricultural and other imports, maintains a presence at 91 of the 320 points of entry into the United States.

(2) United States Customs and Border Protection personnel are responsible for monitoring imports and alerting the Food and Drug Administration to suspicious material entering the United States at the remaining 229 points of entry.

(b) REPORT.—The Commissioner of United States Customs and Border Protection shall submit a report to Congress that describes the training of United States Customs and Border Protection personnel to effectively assist the Food and Drug Administration in monitoring our Nation's food supply.

SA 2501. Ms. CANTWELL (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

On page 22, beginning in line 15, strike ''*Provided*,'' and insert ''*Provided*,'' That no funds shall be available for procurements related to the acquisition of additional major assets as part of the Integrated Deepwater Systems program not already under contract until an Alternatives Analysis has been completed by an independent qualified third party: Provided further, That no funds contained in this Act shall be available for procurement of the third National Security Cutter until an Alternatives Analysis has been completed by an independent qualified third party: *Provided further*'',.

SA 2502. Mr. PRYOR (for himself, Mr. CRAIG, Mr. SCHUMER, Mr. CHAMBLISS, Mr. ROBERTS, and Mr. HAGEL) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 30, line 14, strike ''by title II'' and all that follows through ''2009.'' on line 17 and insert the following ''by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) or subtitle J of title VIII of the Homeland Security Act of 2002, as added by this Act, $527,099,000, of which $497,099,000 shall remain available until September 30, 2009, and of which, $2,000,000 shall be to carry out subtitle J of title VIII of the Homeland Security Act of 2002, as added by this Act.''.

On page 69, after line 24, add the following:

SEC. 536. SECURE HANDLING OF AMMONIUM NITRATE.

(a) IN GENERAL.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by adding at the end the following:

"Subtitle J—Secure Handling of Ammonium Nitrate

"SEC. 899A. DEFINITIONS.

''In this subtitle:

''(1) AMMONIUM NITRATE.—The term 'ammonium nitrate' means—

''(A) solid ammonium nitrate that is chiefly the ammonium salt of nitric acid and contains not less than 33 percent nitrogen by weight; and

''(B) any mixture containing a percentage of ammonium nitrate that is equal to or greater than the percentage determined by the Secretary under section 899B(b).

''(2) AMMONIUM NITRATE FACILITY.—The term 'ammonium nitrate facility' means any entity that produces, sells or otherwise transfers ownership of, or provides application services for ammonium nitrate.

''(3) AMMONIUM NITRATE PURCHASER.—The term 'ammonium nitrate purchaser' means any person who buys and takes possession of ammonium nitrate from an ammonium nitrate facility.

"SEC. 899B. REGULATION OF THE SALE AND TRANSFER OF AMMONIUM NITRATE.

''(a) IN GENERAL.—The Secretary shall regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility in accordance with this subtitle to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.

''(b) AMMONIUM NITRATE MIXTURES.—Not later than 90 days after the date of the enactment of this subtitle, the Secretary, in consultation with the heads of appropriate Federal departments and agencies (including the Secretary of Agriculture), shall, after notice and an opportunity for comment, establish a threshold percentage for ammonium nitrate in a substance.

''(c) REGISTRATION OF OWNERS OF AMMONIUM NITRATE FACILITIES.—

''(1) REGISTRATION.—The Secretary shall establish a process by which any person that—

''(A) owns an ammonium nitrate facility is required to register with the Department; and

''(B) registers under subparagraph (A) is issued a registration number for purposes of this subtitle.

''(2) REGISTRATION INFORMATION.—Any person applying to register under paragraph (1) shall submit to the Secretary—

''(A) the name, address, and telephone number of each ammonium nitrate facility owned by that person;

''(B) the name of the person designated by that person as the point of contact for each such facility, for purposes of this subtitle; and

''(C) such other information as the Secretary may determine is appropriate.

''(d) REGISTRATION OF AMMONIUM NITRATE PURCHASERS.—

''(1) REGISTRATION.—The Secretary shall establish a process by which any person that—

''(A) intends to be an ammonium nitrate purchaser is required to register with the Department; and

''(B) registers under subparagraph (A) is issued a registration number for purposes of this subtitle.

''(2) REGISTRATION INFORMATION.—Any person applying to register under paragraph (1) as an ammonium nitrate purchaser shall submit to the Secretary—

''(A) the name, address, and telephone number of the applicant; and

''(B) the intended use of ammonium nitrate to be purchased by the applicant.

''(e) RECORDS.—

''(1) MAINTENANCE OF RECORDS.—The owner of an ammonium nitrate facility shall—

''(A) maintain a record of each sale or transfer of ammonium nitrate, during the two-year period beginning on the date of that sale or transfer; and

''(B) include in such record the information described in paragraph (2).

''(2) SPECIFIC INFORMATION REQUIRED.—For each sale or transfer of ammonium nitrate, the owner of an ammonium nitrate facility shall—

''(A) record the name, address, telephone number, and registration number issued under subsection (c) or (d) of each person that takes possession of ammonium nitrate, in a manner prescribed by the Secretary;

''(B) if applicable, record the name, address, and telephone number of each individual who takes possession of the ammonium nitrate on behalf of the person described in subparagraph (A), at the point of sale;

''(C) record the date and quantity of ammonium nitrate sold or transferred; and

''(D) verify the identity of the persons described in subparagraphs (A) and (B), as applicable, in accordance with a procedure established by the Secretary.

''(3) PROTECTION OF INFORMATION.—In maintaining records in accordance with paragraph (1), the owner of an ammonium nitrate facility shall take reasonable actions to ensure the protection of the information included in such records.

''(f) EXEMPTION FOR EXPLOSIVE PURPOSES.—The Secretary may exempt from this subtitle a person producing, selling, or purchasing ammonium nitrate exclusively for use in the production of an explosive under a license issued under chapter 40 of title 18, United States Code.

''(g) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Agriculture, States, and appropriate private sector entities, to ensure that the access of agricultural producers to ammonium nitrate is not unduly burdened.

''(h) DATA CONFIDENTIALITY.—

''(1) IN GENERAL.—Notwithstanding section 552 of title 5, United States Code, or the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 272), and except as provided in paragraph (2), the Secretary may not disclose to any person any information obtained under this subtitle.

''(2) EXCEPTION.—The Secretary may disclose any information obtained by the Secretary under this subtitle to—

''(A) an officer or employee of the United States, or a person that has entered into a contract with the United States, who has a need to know the information to perform the duties of the officer, employee, or person; or

''(B) to a State agency under section 899D, under appropriate arrangements to ensure the protection of the information.

''(i) REGISTRATION PROCEDURES AND CHECK OF TERRORIST SCREENING DATABASE.—

''(1) REGISTRATION PROCEDURES.—

''(A) GENERALLY.—The Secretary shall establish procedures to efficiently receive applications for registration numbers under this subtitle, conduct the checks required under paragraph (2), and promptly issue or deny a registration number.

''(B) INITIAL SIX-MONTH REGISTRATION PERIOD.—The Secretary shall take steps to maximize the number of registration applications that are submitted and processed during the six-month period described in section 899F(e).

''(2) CHECK OF TERRORIST SCREENING DATABASE.—

''(A) CHECK REQUIRED.—The Secretary shall conduct a check of appropriate identifying information of any person seeking to register with the Department under subsection (c) or (d) against identifying information that appears in the terrorist screening database of the Department.

''(B) AUTHORITY TO DENY REGISTRATION NUMBER.—If the identifying information of a person seeking to register with the Department under subsection (c) or (d) appears in the terrorist screening database of the Department, the Secretary may deny issuance of a registration number under this subtitle.

''(3) EXPEDITED REVIEW OF APPLICATIONS.—

''(A) IN GENERAL.—Following the six-month period described in section 899F(e), the Secretary shall, to the extent practicable, issue or deny registration numbers under this subtitle not later than 72 hours after the time the Secretary receives a complete registration application, unless the Secretary determines, in the interest of national security, that additional time is necessary to review an application.

''(B) NOTICE OF APPLICATION STATUS.—In all cases, the Secretary shall notify a person seeking to register with the Department under subsection (c) or (d) of the status of the application of that person not later than 72 hours after the time the Secretary receives a complete registration application.

''(4) EXPEDITED APPEALS PROCESS.—

''(A) REQUIREMENT.—

''(i) APPEALS PROCESS.—The Secretary shall establish an expedited appeals process

for persons denied a registration number under this subtitle.

''(ii) TIME PERIOD FOR RESOLUTION.—The Secretary shall, to the extent practicable, resolve appeals not later than 72 hours after receiving a complete request for appeal unless the Secretary determines, in the interest of national security, that additional time is necessary to resolve an appeal.

''(B) CONSULTATION.—The Secretary, in developing the appeals process under subparagraph (A), shall consult with appropriate stakeholders.

''(C) GUIDANCE.—The Secretary shall provide guidance regarding the procedures and information required for an appeal under subparagraph (A) to any person denied a registration number under this subtitle.

''(5) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—

''(A) IN GENERAL.—Any information constituting grounds for denial of a registration number under this section shall be maintained confidentially by the Secretary and may be used only for making determinations under this section.

''(B) SHARING OF INFORMATION.—Notwithstanding any other provision of this subtitle, the Secretary may share any such information with Federal, State, local, and tribal law enforcement agencies, as appropriate.

''(6) REGISTRATION INFORMATION.—

''(A) AUTHORITY TO REQUIRE INFORMATION.—The Secretary may require a person applying for a registration number under this subtitle to submit such information as may be necessary to carry out the requirements of this section.

''(B) REQUIREMENT TO UPDATE INFORMATION.—The Secretary may require persons issued a registration under this subtitle to update registration information submitted to the Secretary under this subtitle, as appropriate.

''(7) RE-CHECKS AGAINST TERRORIST SCREENING DATABASE.—

''(A) RE-CHECKS.—The Secretary shall, as appropriate, recheck persons provided a registration number pursuant to this subtitle against the terrorist screening database of the Department, and may revoke such registration number if the Secretary determines such person may pose a threat to national security.

''(B) NOTICE OF REVOCATION.—The Secretary shall, as appropriate, provide prior notice to a person whose registration number is revoked under this section and such person shall have an opportunity to appeal, as provided in paragraph (4).

''SEC. 899C. INSPECTION AND AUDITING OF RECORDS.

''The Secretary shall establish a process for the periodic inspection and auditing of the records maintained by owners of ammonium nitrate facilities for the purpose of monitoring compliance with this subtitle or for the purpose of deterring or preventing the misappropriation or use of ammonium nitrate in an act of terrorism.

''SEC. 899D. ADMINISTRATIVE PROVISIONS.

''(a) COOPERATIVE AGREEMENTS.—The Secretary—

''(1) may enter into a cooperative agreement with the Secretary of Agriculture, or the head of any State department of agriculture or its designee involved in agricultural regulation, in consultation with the State agency responsible for homeland security, to carry out the provisions of this subtitle; and

''(2) wherever possible, shall seek to cooperate with State agencies or their designees that oversee ammonium nitrate facility operations when seeking cooperative agreements to implement the registration and enforcement provisions of this subtitle.

''(b) DELEGATION.—

''(1) AUTHORITY.—The Secretary may delegate to a State the authority to assist the Secretary in the administration and enforcement of this subtitle.

''(2) DELEGATION REQUIRED.—At the request of a Governor of a State, the Secretary shall delegate to that State the authority to carry out functions under sections 899B and 899C, if the Secretary determines that the State is capable of satisfactorily carrying out such functions.

''(3) FUNDING.—Subject to the availability of appropriations, if the Secretary delegates functions to a State under this subsection, the Secretary shall provide to that State sufficient funds to carry out the delegated functions.

''(c) PROVISION OF GUIDANCE AND NOTIFICATION MATERIALS TO AMMONIUM NITRATE FACILITIES.—

''(1) GUIDANCE.—The Secretary shall make available to each owner of an ammonium nitrate facility registered under section 899B(c)(1) guidance on—

''(A) the identification of suspicious ammonium nitrate purchases or transfers or attempted purchases or transfers;

''(B) the appropriate course of action to be taken by the ammonium nitrate facility owner with respect to such a purchase or transfer or attempted purchase or transfer, including—

''(i) exercising the right of the owner of the ammonium nitrate facility to decline sale of ammonium nitrate; and

''(ii) notifying appropriate law enforcement entities; and

''(C) additional subjects determined appropriate by to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.

''(2) USE OF MATERIALS AND PROGRAMS.—In providing guidance under this subsection, the Secretary shall, to the extent practicable, leverage any relevant materials and programs.

''(3) NOTIFICATION MATERIALS.—

''(A) IN GENERAL.—The Secretary shall make available materials suitable for posting at locations where ammonium nitrate is sold.

''(B) DESIGN OF MATERIALS.—Materials made available under subparagraph (A) shall be designed to notify prospective ammonium nitrate purchasers of—

''(i) the record-keeping requirements under section 899B; and

''(ii) the penalties for violating such requirements.

''SEC. 899E. THEFT REPORTING REQUIREMENT.

''Any person who is required to comply with section 899B(e) who has knowledge of the theft or unexplained loss of ammonium nitrate shall report such theft or loss to the appropriate Federal law enforcement authorities not later than 1 calendar day of the date on which the person becomes aware of such theft or loss. Upon receipt of such report, the relevant Federal authorities shall inform State, local, and tribal law enforcement entities, as appropriate.

''SEC. 899F. PROHIBITIONS AND PENALTY.

''(a) PROHIBITIONS.—

''(1) TAKING POSSESSION.—No person shall take possession of ammonium nitrate from an ammonium nitrate facility unless such person is registered under subsection (c) or (d) of section 899B, or is an agent of a person registered under subsection (c) or (d) of that section.

''(2) TRANSFERRING POSSESSION.—An owner of an ammonium nitrate facility shall not transfer possession of ammonium nitrate from the ammonium nitrate facility to any person who is not registered under subsection (c) or (d) of section 899B, or is not an agent of a person registered under subsection (c) or (d) of that section.

''(3) OTHER PROHIBITIONS.—No person shall—

''(A) buy and take possession of ammonium nitrate without a registration number required under subsection (c) or (d) of section 899B;

''(B) own or operate an ammonium nitrate facility without a registration number required under section 899B(c); or

''(C) fail to comply with any requirement or violate any other prohibition under this subtitle.

''(b) CIVIL PENALTY.—A person that violates this subtitle may be assessed a civil penalty by the Secretary of not more than $50,000 per violation.

''(c) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section, the Secretary shall consider—

''(1) the nature and circumstances of the violation;

''(2) with respect to the person who commits the violation, any history of prior violations, the ability to pay the penalty, and any effect the penalty is likely to have on the ability of such person to do business; and

''(3) any other matter that the Secretary determines that justice requires.

''(d) NOTICE AND OPPORTUNITY FOR A HEARING.—No civil penalty may be assessed under this subtitle unless the person liable for the penalty has been given notice and an opportunity for a hearing on the violation for which the penalty is to be assessed in the county, parish, or incorporated city of residence of that person.

''(e) DELAY IN APPLICATION OF PROHIBITION.—Paragraphs (1) and (2) of subsection (a) shall apply on and after the date that is 6 months after the date that the Secretary issues of a final rule implementing this subtitle.

''SEC. 899G. PROTECTION FROM CIVIL LIABILITY.

''(a) IN GENERAL.—Notwithstanding any other provision of law, an owner of an ammonium nitrate facility that in good faith refuses to sell or transfer ammonium nitrate to any person, or that in good faith discloses to the Department or to appropriate law enforcement authorities an actual or attempted purchase or transfer of ammonium nitrate, based upon a reasonable belief that the person seeking purchase or transfer of ammonium nitrate may use the ammonium nitrate to create an explosive device to be employed in an act of terrorism (as defined in section 3077 of title 18, United States Code), or to use ammonium nitrate for any other unlawful purpose, shall not be liable in any civil action relating to that refusal to sell ammonium nitrate or that disclosure.

''(b) REASONABLE BELIEF.—A reasonable belief that a person may use ammonium nitrate to create an explosive device to be employed in an act of terrorism under subsection (a) may not solely be based on the race, sex, national origin, creed, religion, status as a veteran, or status as a member of the Armed Forces of the United States of that person.

''SEC. 899H. PREEMPTION OF OTHER LAWS.

''(a) OTHER FEDERAL REGULATIONS.—Except as provided in section 899G, nothing in this subtitle affects any regulation issued by any agency other than an agency of the Department.

''(b) STATE LAW.—Subject to section 899G, this subtitle preempts the laws of any State to the extent that such laws are inconsistent with this subtitle, except that this subtitle shall not preempt any State law that provides additional protection against the acquisition of ammonium nitrate by terrorists or the use of ammonium nitrate in explosives in acts of terrorism or for other illicit purposes, as determined by the Secretary.

"SEC. 899I. DEADLINES FOR REGULATIONS.

''The Secretary—

''(1) shall issue a proposed rule implementing this subtitle not later than 6 months after the date of the enactment of this subtitle; and

''(2) issue a final rule implementing this subtitle not later than 1 year after such date of enactment.

"SEC. 899J. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Secretary—

''(1) $2,000,000 for fiscal year 2008; and

''(2) $10,750,000 for each of fiscal years 2009 through 2012.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 899 the following:

''Subtitle J—Secure Handling of Ammonium Nitrate

''Sec. 899A. Definitions.
''Sec. 899B. Regulation of the sale and transfer of ammonium nitrate.
''Sec. 899C. Inspection and auditing of records.
''Sec. 899D. Administrative provisions.
''Sec. 899E. Theft reporting requirement.
''Sec. 899F. Prohibitions and penalty.
''Sec. 899G. Protection from civil liability.
''Sec. 899H. Preemption of other laws.
''Sec. 899I. Deadlines for regulations.
''Sec. 899J. Authorization of appropriations.''.

SA 2503. Mr. MARTINEZ (for himself, Mr. KYL, and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, add the following:

SEC. 536. (a) USE OF BIOMETRIC SOCIAL SECURITY CARDS TO ESTABLISH EMPLOYMENT AUTHORIZATION AND IDENTITY.—Section 274A(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)(B)) is amended—

(1) in clause (ii)(III), by striking ''use.'' and inserting ''use; or''; and

(2) by adding at the end the following:

''(iii) social security card (other than a card that specifies on its face that the card is not valid for establishing employment authorization in the United States) that bears a photograph and meets the standards established under section 536(c) of the Department of Homeland Security Appropriations Act, 2008, upon the recommendation of the Secretary of Homeland Security, in consultation with the Commissioner of Social Security, pursuant to section 536(e)(1) of such Act.''.

(b) ACCESS TO SOCIAL SECURITY CARD INFORMATION.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended by adding at the end the following:

''(I) As part of the employment eligibility verification system established under section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), the Commissioner of Social Security shall provide to the Secretary of Homeland Security access to any photograph, other feature, or information included in the social security card.''.

(c) FRAUD-RESISTANT, TAMPER-RESISTANT, AND WEAR-RESISTANT SOCIAL SECURITY CARDS.—

(1) ISSUANCE.—Not later than first day of the second fiscal year in which amounts are appropriated pursuant to the authorization of appropriations in subsection (f), the Commissioner of Social Security shall begin to administer and issue fraud-resistant, tamper-resistant, and wear-resistant social security cards displaying a photograph.

(2) INTERIM.—Not later than the first day of the seventh fiscal year in which amounts are appropriated pursuant to the authorization of appropriations in subsection (f), the Commissioner of Social Security shall issue only fraud-resistant, tamper-resistant, and wear-resistant social security cards displaying a photograph.

(3) COMPLETION.—Not later than the first day of the tenth fiscal year in which amounts are appropriated pursuant to the authorization of appropriations in subsection (f), all social security cards that are not fraud-resistant, tamper-resistant, and wear-resistant shall be invalid for establishing employment authorization for any individual 16 years of age or older.

(4) EXEMPTION.—Nothing in this section shall require an individual under the age of 16 years to be issued or to present for any purpose a social security card described in this subsection. Nothing in this section shall prohibit the Commissioner of Social Security from issuing a social security card not meeting the requirements of this subsection to an individual under the age of 16 years who otherwise meets the eligibility requirements for a social security card.

(d) DUTIES OF THE SOCIAL SECURITY ADMINISTRATION.—The Commissioner of Social Security—

(1) shall issue a social security card to an individual at the time of the issuance of a social security account number to such individual, which card shall—

(A) contain such security and identification features as determined by the Secretary of Homeland Security, in consultation with the Commissioner; and

(B) be fraud-resistant, tamper-resistant, and wear-resistant;

(2) shall, in consultation with the Secretary of Homeland Security, issue regulations specifying such particular security and identification features, renewal requirements (including updated photographs), and standards for the social security card as necessary to be acceptable for purposes of establishing identity and employment authorization under the immigration laws of the United States; and

(3) may not issue a replacement social security card to any individual unless the Commissioner determines that the purpose for requiring the issuance of the replacement document is legitimate.

(e) REPORTING REQUIREMENTS.—

(1) REPORT ON THE USE OF IDENTIFICATION DOCUMENTS.—Not later than the first day of the tenth fiscal year in which amounts are appropriated pursuant to the authorization of appropriations in subsection (f), the Secretary of Homeland Security shall submit to Congress a report recommending which documents, if any, among those described in section 274A(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)(1)(B)), should continue to be used to establish identity and employment authorization in the United States.

(2) REPORT ON IMPLEMENTATION.—Not later than 12 months after the date on which the Commissioner begins to administer and issue fraud-resistant, tamper-resistant, and wear-resistant cards under subsection (c)(1) of this section, and annually thereafter, the Commissioner shall submit to Congress a report on the implementation of this section. The report shall include analyses of the amounts needed to be appropriated to implement this section, and of any measures taken to protect the privacy of individuals who hold social security cards described in this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section and the amendments made by this section.

SA 2504. Mr. LEVIN (for himself, Mr. TESTER, Ms. STABENOW, and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF CONGRESS.

It is the sense of Congress that sufficient funds should be appropriated to allow the Secretary to increase the number of personnel of United States Customs and Border Protection protecting the northern border by 1,517 officers and 788 agents, as authorized by—

(1) section 402 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56);

(2) section 331 of the Trade Act of 2002 (Public Law 107–210); and

(3) section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458).

SA 2505. Mr. DORGAN (for himself, Mr. CONRAD, and Mr. BYRD) proposed an amendment to amendment SA 2468 proposed by Ms. LANDRIEU to the amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

At the end of the amendment, add the following:

SEC. 536. (a) ENHANCED REWARD FOR CAPTURE OF OSAMA BIN LADEN.—Section 36(e)(1) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(e)(1)) is amended by adding at the end the following new sentence: ''The Secretary shall authorize a reward of $50,000,000 for the capture or killing, or information leading to the capture or death, of Osama bin Laden.''.

(b) STATUS OF EFFORTS TO BRING OSAMA BIN LADEN AND OTHER LEADERS OF AL QAEDA TO JUSTICE.—

(1) REPORTS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of State and the Secretary of Defense shall, in coordination with the Director of National Intelligence, jointly submit to Congress a report on the progress made in bringing Osama bin Laden and other leaders of al Qaeda to justice.

(2) ELEMENTS.—Each report under paragraph (1) shall include, current as of the date of such report, the following:

(A) An assessment of the likely current location of terrorist leaders, including Osama bin Laden, Ayman al-Zawahiri, and other key leaders of al Qaeda.

(B) A description of ongoing efforts to bring to justice such terrorist leaders, particularly those who have been directly implicated in attacks in the United States and its embassies.

(C) An assessment of whether the government of each country assessed as a likely location of top leaders of al Qaeda has fully cooperated in efforts to bring those leaders to justice.

(D) A description of diplomatic efforts currently being made to improve the cooperation of the governments described in subparagraph (C).

(E) A description of the current status of the top leadership of al Qaeda and the strategy for locating them and bringing them to justice.

(F) An assessment of whether al Qaeda remains the terrorist organization that poses the greatest threat to United States interests, including the greatest threat to the territorial United States.

(3) FORM OF REPORT.—Each report submitted to Congress under paragraph (1) shall be submitted in a classified form, and shall be accompanied by a report in unclassified form that redacts the classified information in the report.

SA 2506. Mr. NELSON of Nebraska (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

On page 35, line 24, strike ''to be allocated'' and all that follows through ''3714)'' on line 26 and insert the following: ''of which, each State shall be allocated not less than 0.75 percent of the total amount appropriated in this paragraph, except that the Virgin Islands, America Samoa, Guam, and the Northern Mariana Islands each shall be allocated not less than 0.25 percent of the total amount appropriated in this paragraph''.

SA 2507. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, between after line 24, add the following:

SEC. 536. (a) STUDY ON IMPLEMENTATION OF VOLUNTARY PROVISION OF EMERGENCY SERVICES PROGRAM.—(1) Not later than 180 days after the date of the enactment of this Act, the Administrator of the Transportation Security Administration shall conduct a study on the implementation of the voluntary provision of emergency services program established pursuant to section 44944(a) of title 49, United States Code (referred to in this section as the ''program'').

(2) As part of the study required by paragraph (1), the Administrator shall assess the following:

(A) Whether training protocols established by air carriers and foreign air carriers include training pertinent to the program and whether such training is effective for purposes of the program.

(B) Whether employees of air carriers and foreign air carriers responsible for implementing the program are familiar with the provisions of the program.

(C) The degree to which the program has been implemented in airports.

(D) Whether a helpline or other similar mechanism of assistance provided by an air carrier, foreign air carrier, or the Transportation Security Administration should be established to provide assistance to employees of air carriers and foreign air carriers who are uncertain of the procedures of the program.

(3) In making the assessment required by paragraph (2)(C), the Administrator may make use of unannounced interviews or other reasonable and effective methods to test employees of air carriers and foreign air carriers responsible for registering law enforcement officers, firefighters, and emergency medical technicians as part of the program.

(4)(A) Not later than 60 days after the completion of the study required by paragraph (1), the Administrator shall submit to Congress a report on the findings of such study.

(B) The Administrator shall make such report available to the public by Internet web site or other appropriate method.

(b) PUBLICATION OF REPORT PREVIOUSLY SUBMITTED.—The Administrator shall make available to the public on the Internet web site of the Transportation Security Administration or the Department of Homeland Security the report required by section 554(b) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295).

(c) MECHANISM FOR REPORTING PROBLEMS.—The Administrator shall develop a mechanism on the Internet web site of the Transportation Security Administration or the Department of Homeland Security by which first responders may report problems with or barriers to volunteering in the program. Such mechanism shall also provide information on how to submit comments related to volunteering in the program.

(d) AIR CARRIER AND FOREIGN AIR CARRIER DEFINED.—In this section, the terms ''air carrier'' and ''foreign air carrier'' have the meaning given such terms in section 40102 of title 49, United States Code.

SA 2508. Mr. LIEBERMAN (for herself, Ms. COLLINS, and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 35, line 15, strike ''costs.'' and insert the following: ''costs: *Provided further,* That of the total amount made available under this heading, $1,000,000 shall be to develop a web-based version of the National Fire Incident Reporting System that will ensure that fire-related data can be submitted and accessed by fire departments in real time.''.

On page 5, line 3, strike ''expenses.'' and insert the following: ''expenses: *Provided,* That the Director of Operations Coordination shall encourage rotating State and local fire service representation at the National Operations Center.''.

SA 2509. Mrs. MCCASKILL (for herself, Mr. OBAMA, Mr. PRYOR, Ms. LANDRIEU, Mr. LIEBERMAN, and Mr. KERRY) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 5, line 20, before the period, insert the following: '': *Provided,* That the Inspector General shall investigate decisions made regarding, and the policy of the Federal Emergency Management Agency relating to, formaldehyde in trailers in the Gulf Coast region, the process used by the Federal Emergency Management Agency for collecting, reporting, and responding to health and safety concerns of occupants of housing supplied by the Federal Emergency Management Agency (including such housing supplied through a third party), and whether the Federal Emergency Management Agency adequately addressed public health and safety issues of households to which the Federal Emergency Management Agency provides disaster housing (including whether the Federal Emergency Management Agency adequately notified recipients of such housing, as appropriate, of potential health and safety concerns and whether the institutional culture of the Federal Emergency Management Agency properly prioritizes health and safety concerns of recipients of assistance from the Federal Emergency Management Agency), and submit a report to Congress relating to that investigation, including any recommendations''.

On page 35, line 15, before the period, insert the following: '': *Provided further,* That not later than 30 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall, as appropriate, update training practices for all customer service employees, employees in the Office of General Counsel, and other appropriate employees of the Federal Emergency Management Agency relating to addressing health concerns of recipients of assistance from the Federal Emergency Management Agency''.

On page 40, line 24, before the period, insert the following: '': *Provided further,* That not later than 15 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report detailing the actions taken as of that date, and any actions the Administrator will take, regarding the response of the Federal Emergency Management Agency to concerns over formaldehyde exposure, which shall include a description of any disciplinary or other personnel actions taken, a detailed policy for responding to any reports of potential health hazards posed by any materials provided by the Federal Emergency Management Agency (including housing, food, water, or other materials), and a description of any additional resources needed to implement such policy: *Provided further,* That the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall design a program to scientifically test a representative sample of travel trailers and mobile homes provided by the Federal Emergency Management Agency, and surplus travel trailers and mobile homes to be sold or transferred by the Federal government on or after the date of enactment of this Act, for formaldehyde and, not later than 15 days after the date of enactment of this Act, submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding the program designed, including a description of the design of the testing program and the quantity of and conditions under which trailers and mobile homes shall be tested and the justification for such design of the testing: *Provided*

further, That in order to protect the health and safety of disaster victims, the testing program designed under the previous proviso shall provide for initial short-term testing, and longer-term testing, as required: *Provided further*, That not later than 45 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall, at a minimum, complete the initial short-term testing described in the previous proviso: *Provided further*, That, to the extent feasible, the Administrator of the Federal Emergency Management Agency shall use a qualified contractor residing or doing business primarily in the Gulf Coast Area to carry out the testing program designed under this heading: *Provided further*, That, not later than 30 days after the date that the Administrator of the Federal Emergency Management Agency completes the short-term testing under this heading, the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report describing the results of the testing, analyzing such results, providing an assessment of whether there are any health risks associated with the results and the nature of any such health risks, and detailing the plans of the Administrator of the Federal Emergency Management Agency to act on the results of the testing, including any need to relocate individuals living in the trailers or mobile homes provided by the Federal Emergency Management Agency or otherwise assist individuals affected by the results, plans for the sale or transfer of any trailers or mobile homes (which shall be made in coordination with the Administrator of General Services), and plans to conduct further testing: *Provided further*, That after completing longer-term testing under this heading, the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report describing the results of the testing, analyzing such results, providing an assessment of whether any health risks are associated with the results and the nature of any such health risks, incorporating any additional relevant information from the shorter-term testing completed under this heading, and detailing the plans and recommendations of the Administrator of the Federal Emergency Management Agency to act on the results of the testing.

SA 2510. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. IMPROVEMENTS TO THE EMPLOYMENT ELIGIBILITY VERIFICATION BASIC PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of Homeland Security shall improve the basic pilot program described in section 403(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) to—

(1) respond to inquiries made by participating employers through the Internet to help confirm an individual's identity and determine whether the individual is authorized to be employed in the United States;

(2) maximize the reliability and ease of use of the basic pilot program by employers, while insulating and protecting the privacy and security of the underlying information;

(3) respond accurately to all inquiries made by employers on whether individuals are authorized to be employed in the United States;

(4) maintain appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information; and

(5) allow for auditing the use of the system to detect fraud and identify theft, and to preserve the security of the information collected through the basic pilot program, including—

(A) the development and use of algorithms to detect potential identity theft, such as multiple uses of the same identifying information or documents;

(B) the development and use of algorithms to detect misuse of the system by employers and employees; and

(C) the development of capabilities to detect anomalies in the use of the basic pilot program that may indicate potential fraud or misuse of the program.

(b) COORDINATION WITH STATE GOVERNMENTS.—If use of an employer verification system is mandated by State or local law, the Secretary of Homeland Security, in consultation with appropriate State and local officials, shall—

(1) ensure that State and local programs have sufficient access to the Federal Government's Employment Eligibility Verification System and ensure that such system has sufficient capacity to—

(A) register employers in States with employer verification requirements;

(B) respond to inquiries by employers; and

(C) enter into memoranda of understanding with States to ensure responses to subparagraphs (A) and (B); and

(2) develop policies and procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the basic pilot program, including appropriate privacy and security training for State employees.

(c) RESPONSIBILITIES OF THE SOCIAL SECURITY ADMINISTRATION.—In order to prevent identity theft, protect employees, and reduce the burden on employers, the Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall—

(1) review the Social Security Administration databases and information technology to identify any deficiencies and discrepancies related to name, birth date, citizenship status, or death records of the social security accounts and social security account holders that are likely to contribute to fraudulent use of documents, identity theft, or affect the proper functioning of the basic pilot program;

(2) work to correct any errors identified under paragraph (1); and

(3) work to ensure that a system for identifying and promptly correcting such deficiencies and discrepancies is adopted to ensure the accuracy of the Social Security Administration's databases.

(d) RULEMAKING.—The Secretary is authorized, with notice to the public provided in the Federal Register, to issue regulations concerning operational and technical aspects of the basic pilot program and the efficiency, accuracy, and security of such program.

(e) FUNDING.—Of the amounts appropriated for border security under section 1003, $60,000,000 shall be used to carry out this section, including the expansion and base operations of the Employment Eligibility Verification Basic Pilot Program.

SA 2511. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.—. OPERATION JUMP START.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, DEFENSE-WIDE ACTIVITIES.—The amount authorized to be appropriated for operation and maintenance for Defense-wide activities is hereby increased by $400,000,000 for the Department of Defense.

(b) AVAILABILITY OF AMOUNT.—

(1) IN GENERAL.—Of the amount authorized to be appropriated for operation and maintenance for Defense-wide activities, as increased by subsection (a), $400,000,000 shall be available for Operation Jump Start in order to maintain a significant durational force of National Guard on the southern land border of the United States to assist the United States Border Patrol in gaining operational control of that border.

(2) SUPPLEMENT NOT SUPPLANT.—The amount available under paragraph (1) for the purpose specified in that paragraph is in addition to any other amounts available in this Act for that purpose.

SA 2512. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

On page 16, line 17, insert ''*Provided further*, That of the total amount provided under this heading, at least $236,843,596 shall be used to increase, to the maximum extent possible, the number of detention beds available to accommodate aliens detained by the United States Border Patrol, and in acquiring such detention beds, the Secretary of Homeland Security shall consider the use of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note).''.

SA 2513. Mr. LIEBERMAN submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, insert the following:

SEC. 536. NATIONAL STRATEGY ON CLOSED CIRCUIT TELEVISION SYSTEMS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall—

(1) develop a national strategy for the effective and appropriate use of closed circuit television to prevent and respond to acts of terrorism, which shall include—

(A) an assessment of how closed circuit television and other public surveillance systems can be used most effectively as part of an overall terrorism preparedness, prevention, and response program, and its appropriate role in such a program;

(B) a comprehensive examination of the advantages and limitations of closed circuit television and, as appropriate, other public surveillance technologies;

(C) best practices on camera use and data storage;

(D) plans for coordination between the Federal Government and State and local governments, and the private sector—

(i) in the development and use of closed circuit television systems; and

(ii) for Federal assistance and support for State and local utilization of such systems;

(E) plans for pilot programs or other means of determining the real-world efficacy and limitations of closed circuit television systems;

(F) an assessment of privacy and civil liberties concerns raised by use of closed circuit television and other public surveillance systems, and guidelines to address such concerns; and

(G) an assessment of whether and how closed circuit television systems and other public surveillance systems are effectively utilized by other democratic countries in combating terrorism; and

(2) provide to the Committees on Homeland Security and Governmental Affairs, Appropriations, and the Judiciary of the Senate and the Committees on Homeland Security, Appropriations, and the Judiciary of the House of Representatives a report that includes—

(A) the strategy required under paragraph (1);

(B) the status and findings of any pilot program involving closed circuit televisions or other public surveillance systems conducted by, in coordination with, or with the assistance of the Department of Homeland Security up to the time of the report; and

(C) the annual amount of funds used by the Department of Homeland Security, either directly by the Department or through grants to State, local, or tribal governments, to support closed circuit television and the public surveillance systems of the Department, since fiscal year 2004.

(b) CONSULTATION.—In preparing the strategy and report required under subsection (a), the Secretary of Homeland Security shall consult with the Attorney General, the Chief Privacy Officer of the Department of Homeland Security, and the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security.

SA 2514. Ms. CANTWELL (for herself and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 2638 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 22, beginning in line 17, strike ''*Provided,*'' and insert ''*Provided,* That no funds shall be available for procurements related to the acquisition of additional major assets as part of the Integrated Deepwater Systems program not already under contract until an Alternatives Analysis has been completed by an independent qualified third party: *Provided further,* That no funds contained in this Act shall be available for procurement of the third National Security Cutter until an Alternatives Analysis has been completed by an independent qualified third party: *Provided further,*''.

SA 2515. Mrs. FEINSTEIN (for herself, Mr. MARTINEZ, Mrs. BOXER, and Mr. NELSON of Florida) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, after line 24, insert the following:

SEC. 536. None of the funds made available to the U.S. Customs and Border Protection may be expended or obligated to compensate personnel in the position of Agricultural Specialist to perform work that is not related to agricultural inspection, agricultural pest interception, or other duties germane to the mission of agricultural inspection.

SA 2516. Mr. SALAZAR (for himself, Mr. MENENDEZ, Mr. MARTINEZ, and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

SECTION 1. BORDER SECURITY REQUIREMENTS FOR LAND AND MARITIME BORDERS OF THE UNITED STATES.

(a) OPERATIONAL CONTROL OF THE UNITED STATES BORDERS.—Notwithstanding any provision in this Act, the President shall ensure that operational control of all international land and maritime borders is achieved.

(b) ACHIEVING OPERATIONAL CONTROL.—The Secretary of Homeland Security shall establish and demonstrate operational control of 100 percent of the international land and maritime borders of the United States, including the ability to monitor such borders through available methods and technology.

(1) STAFF ENHANCEMENTS FOR BORDER PATROL.—The United States Customs and Border Protection Border Patrol may hire, train, and report for duty additional full-time agents. These additional agents shall be deployed along all international borders.

(2) STRONG BORDER BARRIERS.—The United States Customs and Border Protection Border Patrol may:

(A) Install along all international borders of the United States vehicle barriers;

(B) Install along all international borders of the United States ground-based radar and cameras; and

(C) Deploy for use along all international borders of the United States unmanned aerial vehicles, and the supporting systems for such vehicles;

(c) PRESIDENTIAL PROGRESS REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the President shall submit a report to Congress detailing the progress made in funding, meeting or otherwise satisfying each of the requirements described under paragraphs (1) and (2).

(2) PROGRESS NOT SUFFICIENT.—If the President determines that sufficient progress is not being made, the President shall include in the report required under paragraph (1) specific funding recommendations, authorization needed, or other actions that are or should be undertaken by the Secretary of Homeland Security.

SEC. 2. APPROPRIATIONS FOR SECURING LAND AND MARITIME BORDERS OF THE UNITED STATES.

Any funds appropriated under this Act shall be used to ensure operational control is achieved for all international land and maritime borders of the United States.

SA 2517. Mr. GRASSLEY (for himself, Mr. THUNE, Mr. VITTER, Mr. COBURN, Mr. CRAPO, Mr, HAGEL, and Mr. WYDEN) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

On page 54, line 24, after ''House of Representatives'' insert ''and any Member of Congress representing any affected State or district''.

SA 2518. Mr. KYL (for himself, Mr. MARTINEZ) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. IMPROVEMENTS TO THE EMPLOYMENT ELIGIBILITY VERIFICATION BASIC PILOT PROGRAM.

Of the amounts appropriated for border security and employment verification improvements under section 1003, $60,000,000 shall be made available to—

(1) ensure that State and local programs have sufficient access to, and are sufficiently coordinated with, the Federal Government's Employment Eligibility Verification System;

(2) ensure that such system has sufficient capacity to—

(A) register employers in States with employer verification requirements;

(B) respond to inquiries by employers; and

(C) enter into memoranda of understanding with States to ensure responses to subparagraphs (A) and (B); and

(3) develop policies and procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the basic pilot program, including appropriate privacy and security training for State employees.

SA 2519. Mr. OBAMA (for himself, Mr. COBURN, Mr. CASEY, and Mr. DURBIN) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, insert the following:

SEC. 536. None of the funds appropriated or otherwise made available by this Act may be

used to enter into a contract in an amount greater than 5 million or to award a grant in excess of such amount unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that the contractor or grantee has no unpaid Federal tax assessments, that the contractor or grantee has entered into an installment agreement or offer in compromise that has been accepted by the IRS to resolve any unpaid Federal tax assessments, or, in the case of unpaid Federal tax assessments other than for income, estate, and gift taxes, that the liability for the unpaid assessments is the subject of a non frivolous administrative or judicial appeal. For purposes of the preceding sentence, the certification requirement of part 52.209-5 of the Federal Acquisition Regulation shall also include a requirement for a certification by a prospective contractor of whether, within the three-year period preceding the offer for the contract, the prospective contractor—

(1) has or has not been convicted of or had a civil judgment or other judicial determination rendered against the contractor for violating any tax law or failing to pay any tax;

(2) has or has not been notified of any delinquent taxes for which the liability remains unsatisfied; or

(3) has or has not received a notice of a tax lien filed against the contractor for which the liability remains unsatisfied or for which the lien has not been released.

SA 2520. Mrs. DOLE submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, after line 24, add the following:

SEC. 536. DISASTER RELIEF FUND.

Notwithstanding any other provision of this Act, funds appropriated under this Act for the Disaster Relief Fund may only be used for programs and activities authorized by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122 et seq.).

SA 2521. Mr. ROBERTS (for himself and Ms. BROWNBACK) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) In this section:

(1) The term ''covered funds'' means funds provided under section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) to a State that submits an application under that section not earlier than May 4, 2007, for a national emergency grant to address the effects of the May 4, 2007, Greensburg, Kansas tornado.

(2) The term ''professional municipal services'' means services that are necessary to facilitate the recovery of Greensburg, Kansas from that tornado, and necessary to plan for or provide basic management and administrative services, which may include—

(A) the overall coordination of disaster recovery and humanitarian efforts, oversight, and enforcement of building code compliance, and coordination of health and safety response units; or

(B) the delivery of humanitarian assistance to individuals affected by that tornado.

(b) Covered funds may be used to provide temporary public sector employment and services authorized under section 173 of such Act to individuals affected by such tornado, including individuals who were unemployed on the date of the tornado, or who are without employment history, in addition to individuals who are eligible for disaster relief employment under section 173(d)(2) of such Act.

(c) Covered funds may be used to provide professional municipal services for a period of not more than 24 months, by hiring or contracting with individuals or organizations (including individuals employed by contractors) that the State involved determines are necessary to provide professional municipal services.

(d) Covered funds expended under this section may be spent on costs incurred not earlier than May 4, 2007.

SA 2522. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. 536. NATIONAL TRANSPORTATION SECURITY CENTER OF EXCELLENCE.

If the Secretary of Homeland Security establishes a National Transportation Security Center of Excellence to conduct research and education activities, and to develop or provide professional security training, including the training of transportation employees and transportation professionals, the Mineta Transportation Institute at San Jose State University shall be included as a member institution of such Center.

SA 2523. Mr. KERRY (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. EXPEDITED ADJUDICATION OF EMPLOYER PETITIONS FOR ALIENS WITH EXTRAORDINARY ARTISTIC ABILITY.

(a) SHORT TITLE.—This section may be cited as the ''Arts Require Timely Service Act'' or the ''ARTS Act''.

(b) AMENDMENT.—Section 214(c) of the Immigration and Nationality Act (8 U.S.C. 1184(c)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(2) in paragraph (6)(D)—

(A) by striking ''(D) Any person'' and inserting the following:

''(D)(i) Except as provided under clause (ii), any person''; and

(B) by adding at the end the following:

''(ii) The Secretary of Homeland Security shall adjudicate each petition for an alien who has extraordinary ability in the arts (as described in section 101(a)(15)(O)(i)), an alien accompanying such an alien (as described in clauses (ii) and (iii) of section 101(a)(15)(O)), or an alien described in section 101(a)(15)(P) not later than 30 days after—

''(I) the date on which the petitioner submits the petition with a written advisory opinion, letter of no objection, or request for a waiver; or

''(II) the date on which the 15-day period described in clause (i) has expired, if the petitioner has had an appropriate opportunity to supply rebuttal evidence.

''(iii) If a petition described in clause (ii) is not adjudicated before the end of the 30-day period described in clause (ii) and the petitioner is a qualified nonprofit organization or an individual or entity petitioning primarily on behalf of a qualified nonprofit organization, the Secretary of Homeland Security shall provide the petitioner with the premium-processing services referred to in section 286(u), without a fee.''.

SA 2524. Mr. COLEMAN (for himself and Mr. ALLARD, Ms. KLOBUCHAR, and Mr. SALAZAR) submitted an amendment intended to be proposed to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

At the end of the bill, insert the following:

SEC. ____. Of amounts appropriated under section 1003, $100,000,000, with $50,000,000 each to the Cities of Denver, Colorado, and St. Paul, Minnesota, shall be available for State and local law enforcement entities for security and related costs, including overtime, associated with the Democratic National Conventional and Republican National Convention in 2008. Amounts provided by this section are designated as an emergency requirement pursuant to section 204 of S. Con. Res. 21 (110th Congress).

SA 2525. Ms. LANDRIEU proposed an amendment to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, add the following:

SEC. 536. EVACUATION AND SHELTERING.

(a) REGIONAL EVACUATION AND SHELTERING PLANS.—

(1) IN GENERAL.—Not later than 360 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency, in coordination with the heads of appropriate Federal agencies with responsibilities under the National Response Plan or any successor plan, States, local governments, and appropriate nongovernmental organizations, shall develop and submit to Congress, regional evacuation and sheltering plans that—

(A) are nationally coordinated;

(B) incorporate all appropriate modes of transportation, including interstate rail, commercial rail, commercial air, military air, and commercial bus;

(C) clearly define the roles and responsibilities of Federal, State, and local governments in the evacuation plan; and

(D) identify regional and national shelters capable of housing evacuees and victims of an emergency or major disaster in any part of the United States.

(2) IMPLEMENTATION.—After developing the plans described in paragraph (1), the Administrator of the Federal Emergency Management Agency and the head of any Federal

agency with responsibilities under those plans shall take necessary measures to be able to implement those plans, including conducting exercises under such plans as appropriate.

(b) NATIONAL SHELTERING DATABASE.—The Administrator of the Federal Emergency Management Agency, in coordination with States, local governments, and appropriate nongovernmental entities, shall develop a national database inventorying available shelters, that can be shared with States and local governments.

(c) COST-BENEFIT ANALYSIS.—

(1) IN GENERAL.—The Administrator of the Federal Emergency Management Agency, in consultation with the heads of appropriate Federal agencies with responsibilities under the National Response Plan or any successor plan, shall conduct an analysis comparing the costs, benefits, and health and safety concerns of evacuating individuals with special needs during an emergency or major disaster, as compared to the costs, benefits, and safety concerns of sheltering such people in the area they are located when that emergency or major disaster occurs.

(2) CONSIDERATIONS.—In conducting the analysis under paragraph (1), the Administrator of the Federal Emergency Management Agency shall consider—

(A) areas with populations of not less than 20,000 individual needing medical assistance or lacking the ability to self evacuate;

(B) areas that do not have an all hazards resistance shelter; and

(C) the health and safety of individuals with special needs.

(3) TECHNICAL ASSISTANCE.—The Administrator of the Federal Emergency Management Agency shall, as appropriate, provide technical assistance to States and local governments in developing and exercising evacuation and sheltering plans, which identify and use regional shelters, manpower, logistics, physical facilities, and modes of transportation to be used to evacuate and shelter large groups of people.

(d) DEFINITIONS.—In this section, the terms ''emergency'' and ''major disaster'' have the meanings given those terms in section 102 of ther Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

SA 2526. Ms. COLLINS (for herself and Mr. GRASSLEY) submitted an amendment intended to be proposed to amendment SA 2338 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

At the appropriate place, insert:

Of the funds provided under this Act or any other Act to United States Citizenship and Immigration Services, not less than $1,000,000 shall be provided for a benefits fraud assessment of the H–1B Visa Program.

SA 2527. Mrs. MURRAY (for Ms. LANDRIEU) proposed an amendment to amendment SA 2383 proposed by Mr. BYRD (for himself and Mr. COCHRAN) to the bill H.R. 2638, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes; as follows:

On page 69, after line 24, add the following:

SEC. 536. IN-LIEU CONTRIBUTION.

The Administrator of the Federal Emergency Management Agency shall authorize a large in-lieu contribution under section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(1)) to the Peebles School in Iberia Parish, Louisiana for damages relating to Hurricane Katrina of 2005 or Hurricane Rita of 2005, notwithstanding section 406(c)(1)(C) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(1)(C)).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a hearing during the session of the Senate on Thursday, July 26, 2007, at 10 a.m., in room 253 of the Russell Senate Office Building. The purpose of this hearing is to explore U.S. readiness for and the consumer impact of the nationwide transition from analog television broadcasting to digital television broadcasting.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday, July 26, 2007 at 10 a.m., in room 406 of the Dirksen Senate Office Building in order to conduct a hearing entitled, ''Examining the Case for the California Waiver: An Update from EPA.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a hearing during the session of the Senate on Thursday, July 26, 2007, at 2:30 p.m., in room 253 of the Russell Senate Office Building. The hearing will focus on proposed efforts to improve the safety of the Nation's railroads through targeting highway-rail grade crossing safety, reducing employee hours of service and fatigue, and developing and using new rail safety technology.

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

COMMITTEE ON FINANCE

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Finance meet during the session of the Senate on Thursday, July 26, 2007, at 3 p.m., in room 215 of the Dirksen Senate Office Building, to consider S. 1607, the ''Currency Exchange Rate Oversight Reform Act of 2007,'' with a substitute amendment, and to consider favorably reporting pending nominees who have responded to all written questions and been cleared by both sides.

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

COMMITTEE ON FOREIGN RELATIONS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 26, 2007, at 9:30 a.m. to hold a hearing on Extraordinary Rendition.

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

COMMITTEE ON FOREIGN RELATIONS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 26, 2007, at 2:30 p.m. to hold a hearing on the United Nations Human Rights Council.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Thursday, July 26, 2007 at 9:30 a.m. in SR–325. We will be considering the following:

Agenda

1. S. 625, Family Smoking Prevention and Tobacco Control Act
2. S. 1183, Christopher and Dana Reeve Paralysis Act
3. S. 579, Breast Cancer and Environmental Research Act of 2007
4. S. 898, Alzheimer's Breakthrough Act of 2007
5. S. 1858, Newborn Screening Saves Lives Act of 2007
6. The following nominations:

Diane Auer Jones, of Maryland, to be Assistant Secretary for Postsecondary Education, Department of Education

David C. Geary, of Missouri, to be a Member of the Board of Directors of the National Board for Education Sciences

Miguel Campaneria, of Puerto Rico, to be a Member of the National Council on the Arts

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

COMMITTEE ON INDIAN AFFAIRS

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet Thursday, July 26, 2007, at 9:30 a.m. in room 485 of the Russell Senate Office Building to conduct a hearing on the nomination of Charles W. Grim to be Director of the Indian Health Service.

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

COMMITTEE ON THE JUDICIARY

Mrs. MURRAY. Mr. President I ask uanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate in order to conduct a markup on Thursday, July 26, 2007, at 10 a.m. in SD–226.

Agenda

I. Bills: S.——, School Safety and Law Enforcement Improvements Act

(Chairman's mark); S. 1060, Recidivism Reduction & Second Chance Act of 2007 (Biden, Specter, Brownback, Leahy, Kennedy, Schumer, Whitehouse, Durbin); S. 453, Deceptive Practices and Voter Intimidation Prevention Act of 2007 (Obama, Schumer, Leahy, Cardin, Feingold, Feinstein, Kennedy, Whitehouse); and S. 1692, A bill to grant a Federal Charter to Korean War Veterans Association (Cardin, Isakson, Kennedy).

II. Nomination: Rosa Emilia Rodriguez-Velez to be United States Attorney for the District of Puerto Rico.

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

SELECT COMMITTEE ON INTELLIGENCE

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on July 26, 2007 at 2:30 p.m. to hold a closed hearing.

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

SUBCOMMITTEE ON WATER AND POWER

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Thursday, July 26, 2007 at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills: S. 300, to authorize appropriations for the Bureau of Reclamation to carry out the Lower Colorado River Multi-Species Conservation Program in the States of Arizona, California, and Nevada, and for other purposes; S. 1258, to amend the Reclamation Safety of Dams Act of 1978 to authorize improvements for the security of dams and other facilities; S. 1477, to authorize the Secretary of the Interior to carry out the Jackson Gulch rehabilitation project in the State of Colorado; S. 1522, to amend the Bonneville Power Administration portions of the Fisheries Restoration and Irrigation Mitigation Act of 2000 to authorize appropriations for fiscal years 2008 through 2014, and for other purposes; and H.R. 1025, 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.

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

PRIVILEGES OF THE FLOOR

Mrs. MURRAY. Mr. President, I ask unanimous consent that Jeffrey Watters, a fellow in Senator CANTWELL's office, be given floor privileges for the duration of the consideration of this bill.

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

ORDERS FOR MONDAY, JULY 30, 2007

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 2 p.m., Monday, July 30; that on Monday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that there then be a period of morning business until 3 p.m. with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees; that at 3 p.m., the Senate resume consideration of the motion to proceed to H.R. 976, and that the time until 5:30 p.m. be equally divided and controlled between the Chair and ranking member of the Finance Committee or their designees; that at 5:30 p.m., without further intervening action or debate, the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to H.R. 976.

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

ADJOURNMENT UNTIL MONDAY, JULY 30, 2007, at 2 P.M.

Mr. LIEBERMAN. Mr. President, if there is no further business this morning, I wish everyone within hearing a good morning and ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 12:29 a.m., adjourned until Monday, July 30, 2007, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate July 26, 2007:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

BENJAMIN ERIC SASSE, OF NEBRASKA, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES, VICE MICHAEL O'GRADY, RESIGNED.

DEPARTMENT OF STATE

BARRY LEON WELLS, OF OHIO, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE GAMBIA.

MARK M. BOULWARE, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF MAURITANIA.