United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, SECOND SESSION

Vol. 152 WASHINGTON, WEDNESDAY, SEPTEMBER 6, 2006 No. 108

Senate

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

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

Let us pray.

Infinite Spirit, draw near to us today. Forgive us if we have been blind to needs of our world. Take us down the road of humility so that we will be patient with those who don't agree with us.

Guide Your Senators with Your wisdom. Let Your purposes shape their minds and Your holiness direct their decisions. Remind them often that they serve You and that Your standard for success is faithfulness.

Help them pursue mercy as well as justice as You provide them with greater insight into Your will. Show them what is right and then give them the courage to do it.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will have 30 minutes of morning business. Following that period, we will return to the Defense appropriations bill. We have three amendments pending on the bill at this time. We hope to lock in a vote in relation to the Feinstein amendment regarding cluster munitions. I understand that 12 noon is the best time for that vote. Therefore, Senators can expect a vote prior to the policy luncheons. We will recess for the policy meetings today from 12:30 to 2:15.

I remind everyone we will finish the bill this evening or Thursday, if necessary. If Senators have amendments, they should have already contacted the managers. In order to finish at the earliest time, we will be voting throughout the day and as late as necessary to ensure completion of that bill.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

SCHEDULE

Mr. REID. While the distinguished majority leader is on the floor, I just finished our leadership meeting. As I indicated to the leader last night somewhat late, we will be in a position right after the caucus to indicate to floor staff what amendments will be offered on this bill so we can finish it tomorrow. I indicated to the majority leader what we intend to do after the caucus today is completed, and I have floor staff lining up how much time will be taken on that amendment so we can finish that this afternoon or this evening, certainly. We are going to finish this bill. We have had to eliminate a number of amendments. We have squeezed those so we have a reasonable number. They are not completely squeezed out yet. They will be.

As I told the distinguished Presiding Officer yesterday, and the majority leader, we will finish the bill tomorrow.

Mr. FRIST. Mr. President, I very much appreciate the comments of the Democratic leader. This is a bill we started before our recess. We agreed we would finish today, although because of extenuating circumstances we will go to tomorrow. It is a very important bill. It is important in support of our troops, in support of our efforts on the war on terror. It is a bill we will finish tomorrow.

ORDER OF PROCEDURE

I ask unanimous consent the Senate proceed to a vote in relation to the Feinstein amendment No. 4882 at 12 noon today with no second-degree amendments in order prior to the vote; further, that the time from 11:15 to noon be equally divided in the usual form.

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

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

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

The legislative clerk called the roll.

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

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

MORNING BUSINESS

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

Mr. KYL. I ask unanimous consent to speak for 15 minutes.

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

STATEMENT OF PRESIDENT BUSH

Mr. KYL. Mr. President, the remarks President Bush delivered yesterday

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

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about the war against the radical Islamist terrorists was a historic speech, the clearest statement to date of the nature of the struggle we face.

Probably there were two factors that entered the President's decision to give the remarks today: First, the fact that we will soon, next Monday, have the fifth anniversary of the heinous attack of September 11 on the United States of America; second, because of the increasing calls by partisans to abandon part of the conflict—namely, the Iraq front—in this war.

It was important for the President to define who the enemy is and to make it clear that the enemy is not terrorism. People in the media have called this the war on terrorism. We could have just as easily called the war in the Pacific and World War II the war on kamikaze terrorism, as kamikaze is a suicide tactic by evil people. The war, then, was against Nazism, Fascism, the imperial Japanese, and later communism. It was not against a tactic.

The same thing is true today. It was important for the President to define the nature of the enemy we face in order to be able to adequately confront that enemy. The President made a comparison with a couple of the enemies in World War II. He talked about Adolph Hitler and the fact he was not taken seriously at first. At first, Adolph Hitler was a crazy paper hanger. Then he was greatly underestimated. Eventually, there were those who thought he could be appeased because the world did not want to fight again, with World War I so fresh in everyone's mind. But he did have to be confronted.

And the same later with respect to communism. At first it was Uncle Joe Stalin who helped us win World War II. But it became clear, after the Berlin blockade and his explosion of an H bomb, that communism was a clear and present danger for the United States. Eventually, America understood, and the cold war confronted communism, eventually succeeding in defeating that threat.

There is a big difference between the Soviets of the Communist era and the radical Islamists. One difference is that the Soviets could be deterred. Radical Islamists are not going to be deterred. There is a particular reason why. The Soviets were rational about life itself. Radical Islamists seek to bend us to their will, to kill us or to die trying. Either way, in their view, they win.

I ask my colleagues: What did Steve Centanni and Olaf Wiig have to do before they were released in Gaza just a couple of weeks ago? They had to bend to the will of Allah. They had to convert to Islam before they were released. This is the goal of these radical Islamists, as the President explained—to either bend the rest of the world to their will, to kill us or to die trying.

We will only win this war if we take the threat seriously. The sooner we commit to victory, the fewer our losses will be. The best strategy is to take the fight to the enemy. The worst strategy is to leave in the middle of a battle, for example, in Iraq. It would be difficult, if not impossible, to win the war if we abdicate the battle. What ally in the war will stand with us if we decide that the fight is too tough? How would that help us influence the mullahs who rule in Iran?

I will read from parts of the President's speech to illustrate the clarity with which he described the nature of our enemy, the nature of this conflict, and the absolute necessity that we confront it strongly now in order to save future generations from the scourge of this continuing conflict.

The President said:

> Five years after our nation was attacked, the terrorist danger remains. We're a nation at war.

And he said:

> . . . we've also learned a great deal about the enemy we face . . .

We know what the terrorists intend to do because they've told us—and we need to take their words seriously.

And he proceeded to describe, in the terrorists' own words, what they believe, what they hope to accomplish, and how they intend to accomplish it.

Listen to these words of the President:

> The terrorists who attacked us on September 11, 2001, are men without conscience—but they're not madmen. They kill in the name of a clear and focused ideology, a set of beliefs that are evil, but not insane. These al Qaeda terrorists and those who share their ideology are violent Sunni extremists. They're driven by a radical and perverted vision of Islam that rejects tolerance, crushes all dissent, and justifies the murder of innocent men, women, and children in the pursuit of political power. They hope to establish a violent political Utopia across the Middle East, which they call a ''caliphate,'' where all the world would be ruled according to their hateful ideology. Osama bin Laden has called the 9/11 attacks—in his words—''a great step toward the unity of Muslims and establishing the righteous caliphate.''

The President went on to describe that this caliphate would be a totalitarian Islamic empire, and using the words of the terrorist Zawahiri, al-Qaida second in command, declaring that al-Qaida intends to impose its rule ''in every land that was a home for Islam, from Spain to Iraq.'' And he went on to say:

> The whole world is an open field for us.

The President also described what such a world would look like, referring to the situation in Afghanistan before its liberation as exemplifying the rule of these kinds of terrorists: Under the Taliban and al-Qaida, Afghanistan was a nightmare, a land where women were imprisoned in their homes, girls could not go to school, religious police roamed the streets, and women were publicly whipped. In fact, summary executions were held in Kabul's soccer stadium in front of cheering mobs. And Afghanistan was turned into a launching pad for the horrific attacks against America and other parts of the civilized world.

The President said:

> The goal of these Sunni extremists is to remake the entire Muslim world in their radical image. In pursuit of their imperial aims, these extremists say there can be no compromise or dialogue with those they call ''infidels''. . . .
>
> These radicals have declared their uncompromising hostility to freedom.

And the President said:

> It is foolish to think that you can negotiate with them.

The President also quoted from some of the al-Qaida documents that illustrate the precise nature of this threat. One is the al-Qaida charter that was secured by coalition forces searching a terrorist safe house. The charter states:

> There will be continuing enmity until everyone believes in Allah. We will not meet the enemy halfway. There will be no room for dialogue with them.

The President also noted that the goal of al-Qaida is to cause Americans to tire of the conflict, ''hoping that the American people will grow tired of casualties and give up the fight.''

The President said:

> And they are targeting America's financial centers and economic infrastructure at home, hoping to terrorize us and cause our economy to collapse.

He quoted the words of Osama bin Laden, who calls this his ''bleed-until-bankruptcy plan,'' and noted that Osama bin Laden was very impressed with the relatively small investment he had to make to cause such a large amount of damage to the United States and to our economy.

The President also noted the enemy has a propaganda strategy. Osama bin Laden says al-Qaida intends to ''launch,'' in his words, ''a media campaign to create a wedge between the American people and their government.''

I would submit that the evidence of that campaign is there for all to see.

The President said:

> Bin Laden and his allies are absolutely convinced they can succeed in forcing America to retreat and causing our economic collapse. They believe our nation is weak and decadent, and lacking in patience and resolve.

The President also said that ''they've made clear that the most important front in their struggle against America is Iraq—the nation bin Laden has declared the 'capital of the caliphate.'

The President said:

> Hear the words of bin Laden: ''I now address the whole Islamic nation. Listen and understand. The most serious issue today for the whole world is this Third World War that is raging in Iraq.'' He calls it ''a war of destiny between infidelity and Islam.'' He says, ''The whole world is watching this war,'' and that it will end in ''victory and glory, or misery and humiliation.''

The President noted:

> For al Qaeda, Iraq is not a distraction from their war on America—it is the central battlefield where the outcome of this struggle will be decided.

The President said:

> Bin Laden and his terrorist allies have made their intentions as clear as Lenin and

Hitler before them. The question is: Will we listen? Will we pay attention to what these evil men say?

And then the President noted that there is a second group of these radical Islamists who, combined with the first, represent the axis of evil that we face in this war, the threat posed by Shia extremists.

The President said:

The Shia strain of Islamic radicalism is just as dangerous, and just as hostile to America, and just as determined to establish its brand of hegemony across the broader Middle East. And the Shia extremists have achieved something that al Qaeda has so far failed to do: In 1979, they took control of a major power, the nation of Iran, subjecting its proud people to a regime of tyranny, and using that nation's resources to fund the spread of terror and pursue their radical agenda.

Then the President went on to describe the clear aims of the Iranian regime: wanting to drive America out of the region, to destroy Israel, and to dominate the broader Middle East. Among the ways in which they intend to achieve their goals is by the creation and supporting of terrorist groups such as Hezbollah.

The President said:

Just as we must take the words of the Sunni extremists seriously, we must take the words of the Shia extremists seriously.

He went on to quote the Hezbollah leader, the terrorist Nasrallah, and also the President of Iran, President Mahmud Ahmadi-Nejad, who declared in a speech that some people ask, and I am quoting, ''whether a world without the United States and Zionism can be achieved. I say that this goal is achievable.''

Everyone is aware of Ahmadi-Nejad's threats to wipe Israel off the face of the Earth.

He said:

If you do not abandon the path of falsehood, your doomed destiny will be annihilation.

He delivered this message to the American people. And I am quoting:

If you would like to have good relations with the Iranian nation in the future, bow down before the greatness of the Iranian nation and surrender. If you don't accept to do this, the Iranian nation will force you to surrender and bow down.

The language is always: Bow down. Surrender to their radical, perverted view of Islam.

And now the Iranian regime is pursuing nuclear weapons. Imagine if this nation acquires nuclear weapons, a nation that sponsors terrorism around the world, is the chief sponsor of terrorism, according to the U.S. State Department. And were they to provide nuclear weaponry to terrorists, the result is unthinkable.

What the President concluded was:

The Shia and Sunni extremists represent different faces of the same threat. They draw inspiration from different sources, but both seek to impose a dark vision of violent Islamic radicalism across the Middle East.

The President said:

And armed with nuclear weapons, they would blackmail the free world, and spread their ideologies of hate, and raise a mortal threat to the American people. If we allow them to do this, if we retreat from Iraq, if we don't uphold our duty to support those who are desirous to live in liberty, 50 years from now history will look back on our time with unforgiving clarity, and demand to know why we did not act.

The President then went on to reiterate the five basic elements of the strategy he has discussed before. He pointed out that the enemy is a flexible and agile enemy that adapts and changes its ways of dealing with us, and that we have to do the same, and pointed out how we are doing that.

In fact, the President said:

During the last five years we've learned a lot about this enemy. We've learned that they're cunning and sophisticated. We've witnessed their ability to change their methods and their tactics with deadly speed—even as their murderous obsessions remain unchanging.

He also noted—and I think this is important—that one of the things they have accomplished over the last several years is the slaughtering of huge numbers of innocent Muslim men and women around the world. And you have but to look at the daily casualty count in Iraq, where it is primarily violence on other Muslims in Iraq that represents this terrible news we wake up to every morning.

The President said, as he has said before:

The road ahead is going to be difficult, and it will require more sacrifice. Yet we can have confidence in the outcome, because we've seen freedom conquer tyranny and terror before.

I would say that we have a choice to make. We can understand the nature of this conflict and its seriousness and the required sacrifice now or we can come to that realization after we have suffered far too many more casualties and far too much loss in blood and treasure. Eventually the world will join us in this struggle and we will succeed. But the question is, How many have to die? How much loss has to occur before the world wakes to the nature of this threat?

I harken back to the days just before World War II as a good lesson in history to remind us that we need to take the words of these evildoers to heart. They just may mean what they say. History has proven that to be the case in the past, and recent history leaves no doubt that this is what they mean today.

Next Monday, we will stand on the Capitol steps at 6 o'clock, as we did exactly 5 years before, to demonstrate to the American people that the attacks on America will not deter us from our business or our commitment to protect the American people. When we do that, we need to mean what we say. Our ability to make good on that commitment will depend, first and foremost, on our understanding of the nature of this threat and our ability and willingness to confront it.

The President concluded his remarks with these statements. He said:

This time, we're confronting them—

Meaning the enemy—

before they gain the capacity to inflict unspeakable damage on the world, and we're confronting their hateful ideology before it . . . takes root.

That is the point I was making, that we have a choice today to take this fight to the enemy and win rather than waiting until more damage has been inflicted upon us to understand and appreciate the nature of the threat.

The President concluded by saying:

This is the great ideological struggle of the 21st century—and it is the calling of our generation. All civilized nations are bound together in this struggle between moderation and extremism.

Mr. President, this is the challenge which confronts us. It confronts us as leaders of this country, and it requires of us the discussion, honestly and forthrightly, of the serious nature of this struggle. It will not be won by papering over differences. It will not be won by deciding that the fight is too difficult and that there are places where this struggle is occurring where we just cannot prevail. We cannot send a message to our enemies, let alone to our allies, that we are not up to the struggle, wherever it may break out.

The way to win this struggle is to win it. And that is the point the President was making in his remarks yesterday.

Mr. President, I urge my colleagues to review the President's remarks. I ask unanimous consent that the full text of the speech he made yesterday be printed in the RECORD.

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

PRESIDENT DISCUSSES GLOBAL WAR ON TERROR

THE PRESIDENT: Thank you all very much. (Applause.) Thank you all. Please be seated. General Hendrix, thank you for the invitation to be here. Thanks for the kind introduction. I'm honored to stand with the men and women of the Military Officers Association of America. I appreciate the Board of Directors who are here, and the leaders who have given me this platform from which to speak. I'm proud to be here with active members of the United States military. Thank you for your service. I'm proud to be your Commander-in-Chief. (Applause.)

I am pleased also to stand with members of the diplomatic corps, including many representing nations that have been attacked by al Qaeda and its terrorist allies since September the 11th, 2001. (Applause.) Your presence here reminds us that we're engaged in a global war against an enemy that threatens all civilized nations. And today the civilized world stands together to defend our freedom; we stand together to defeat the terrorists; and were working to secure the peace for generations to come.

I appreciate my Attorney General joining us today, Al Gonzales. Thank you for being here. (Applause.) The Secretary of Homeland Security, Michael Chertoff, is with us. (Applause.) Three members of the United States Senate—I might say, three important members of the United States Senate—Senate President Pro Tem Ted Stevens of Alaska. Thank you for joining us, Senator. (Applause.) Chairman of the Appropriations Committee, Senator Thad Cochran of Mississippi. (Applause.) The Chairman of the

Armed Services Committee, John Warner of Virginia. (Applause.)

I thank Norb Ryan, as well, for his leadership. I do appreciate all the folks that are at Walter Reed who have joined us today. I'm going to tell the parents of our troops, we provide great health care to those who wear the uniform. I'm proud of those folks at Bethesda and Walter Reed—are providing you the best possible care to help you recover from your injuries. Thank you for your courage. Thank you for joining us here today. May God bless you in your recovery. (Applause.)

Next week, America will mark the fifth anniversary of September the 11th, 2001 terrorist attacks. As this day approaches, it brings with it a flood of painful memories. We remember the horror of watching planes fly into the World Trade Center, and seeing the towers collapse before our eyes. We remember the sight of the Pentagon, broken and in flames. We remember the rescue workers who rushed into burning buildings to save lives, knowing they might never emerge again. We remember the brave passengers who charged the cockpit of their hijacked plane, and stopped the terrorists from reaching their target and killing more innocent civilians. We remember the cold brutality of the enemy who inflicted this harm on our country—an enemy whose leader, Osama bin Laden, declared the massacre of nearly 3,000 people that day—I quote—''an unparalleled and magnificent feat of valor, unmatched by any in humankind before them.''

In five years since our nation was attacked, al Qaeda and terrorists it has inspired have continued to attack across the world. They've killed the innocent in Europe and Africa and the Middle East, in Central Asia and the Far East, and beyond. Most recently, they attempted to strike again in the most ambitious plot since the attacks of September the 11th—a plan to blow up passenger planes headed for America over the Atlantic Ocean.

Five years after our nation was attacked, the terrorist danger remains. We're a nation at war—and America and her allies are fighting this war with relentless determination across the world. Together with our coalition partners, we've removed terrorist sanctuaries, disrupted their finances, killed and captured key operatives, broken up terrorist cells in America and other nations, and stopped new attacks before they're carried out. We're on the offense against the terrorists on every battlefront—and we'll accept nothing less than complete victory. (Applause.)

In the five years since our nation was attacked, we've also learned a great deal about the enemy we face in this war. We've learned about them through videos and audio recordings, and letters and statements they've posted on websites. We've learned about them from captured enemy documents that the terrorists have never meant for us to see. Together, these documents and statements have given us clear insight into the mind of our enemies—their ideology, their ambitions, and their strategy to defeat us.

We know what the terrorists intend to do because they've told us—and we need to take their words seriously. So today I'm going to describe—in the terrorists' own words, what they believe... what they hope to accomplish, and how they intend to accomplish it. I'll discuss how the enemy has adapted in the wake of our sustained offensive against them, and the threat posed by different strains of violent Islamic radicalism. I'll explain the strategy we're pursuing to protect America, by defeating the terrorists on the battlefield, and defeating their hateful ideology in the battle of ideas.

The terrorists who attacked us on September the 11th, 2001, are men without conscience—but they're not madmen. They kill in the name of a clear and focused ideology, a set of beliefs that are evil, but not insane. These al Qaeda terrorists and those who share their ideology are violent Sunni extremists. They're driven by a radical and perverted vision of Islam that rejects tolerance, crushes all dissent, and justifies the murder of innocent men, women and children in the pursuit of political power. They hope to establish a violent political utopia across the Middle East, which they call a ''Caliphate''—where all would be ruled according to their hateful ideology. Osama bin Laden has called the 9/11 attacks—in his words—''a great step towards the unity of Muslims and establishing the Righteous... [Caliphate].''

This caliphate would be a totalitarian Islamic empire encompassing all current and former Muslim lands, stretching from Europe to North Africa, the Middle East, and Southeast Asia. We know this because al Qaeda has told us. About two months ago, the terrorist Zawahiri—he's al Qaeda's second in command—declared that al Qaeda intends to impose its rule in ''every land that was a home for Islam, from [Spain] to Iraq. He went on to say, ''The whole world is an open field for us.''

We know what this radical empire would look like in practice, because we saw how the radicals imposed their ideology on the people of Afghanistan. Under the rule of the Taliban and al Qaeda, Afghanistan was a totalitarian nightmare—a land where women were imprisoned in their homes, men were beaten for missing prayer meetings, girls could not go to school, and children were forbidden the smallest pleasures like flying kites. Religious police roamed the streets, beating and detaining civilians for perceived offenses. Women were publicly whipped. Summary executions were held in Kabul's soccer stadium in front of cheering mobs. And Afghanistan was turned into a launching pad for horrific attacks against America and other parts of the civilized world—including many Muslim nations.

The goal of these Sunni extremists is to remake the entire Muslim world in their radical image. In pursuit of their imperial aims, these extremists say there can be no compromise or dialogue with those they call ''infidels''—a category that includes America, the world's free nations, Jews, and all Muslims who reject their extreme vision of Islam. They reject the possibility of peaceful coexistence with the free world. Again, hear the words of Osama bin Laden earlier this year: ''Death is better than living on this Earth with the unbelievers among us.''

These radicals have declared their uncompromising hostility to freedom. It is foolish to think that you can negotiate with them. (Applause.) We see the uncompromising nature of the enemy in many captured terrorist documents. Here are just two examples: After the liberation of Afghanistan, coalition forces searching through a terrorist safe house in that country found a copy of the al Qaeda charter. This charter states that ''there will be continuing enmity until everyone believes in Allah. We will not meet [the enemy] halfway. There will be no room for dialogue with them.'' Another document was found in 2000 by British police during an anti-terrorist raid in London—a grisly al Qaeda manual that includes chapters with titles such as ''Guidelines for Beating and Killing Hostages.'' This manual declares that their vision of Islam ''does not . . . make a truce with unbelief, but rather confronts it.'' The confrontation . . . calls for . . . the dialogue of bullets, the ideals of assassination, bombing, and destruction, and the diplomacy of the cannon and machine gun.''

Still other captured documents show al Qaeda's strategy for infiltrating Muslim nations, establishing terrorist enclaves, overthrowing governments, and building their totalitarian empire. We see this strategy laid out in a captured al Qaeda document found during a recent raid in Iraq, which describes their plans to infiltrate and take over Iraq's western Anbar Province. The document lays out an elaborate al Qaeda governing structure for the region that includes an Education Department, a Social Services Department, a Justice Department, and an ''Execution Unit'' responsible for ''Sorting out, Arrest, Murder, and Destruction.''

According to their public statements, countries that have—they have targeted stretch from the Middle East to Africa, to Southeast Asia. Through this strategy, al Qaeda and its allies intend to create numerous, decentralized operating bases across the world, from which they can plan new attacks, and advance their vision of a unified, totalitarian Islamic state that can confront and eventually destroy the free world.

These violent extremists know that to realize this vision, they must first drive out the main obstacle that stands in their way—the United States of America. According to al Qaeda, their strategy to defeat America has two parts: First, they're waging a campaign of terror across the world. They're targeting our forces abroad, hoping that the American people will grow tired of casualties and give up the fight. And they're targeting America's financial centers and economic infrastructure at home, hoping to terrorize us and cause our economy to collapse.

Bin Laden calls this his ''bleed-until-bankruptcy plan.'' And he cited the attacks of 9/11 as evidence that such a plan can succeed. With the 9/11 attacks, Osama bin Laden says, ''al Qaeda spent $500,000 on the event, while America. . . lost—according to the lowest estimate—$500 billion . . . Meaning that every dollar of al Qaeda defeated a million dollars'' of America. Bin Laden concludes from this experience that ''America is definitely a great power, with . . . unbelievable military strength and a vibrant economy, but all of these have been built on a very weak and hollow foundation.'' He went on to say, ''Therefore, it is very easy to target the flimsy base and concentrate on their weak points, and even if we're able to target one-tenth of these weak points, we will be able [to] crush and destroy them.''

Secondly, along with this campaign of terror, the enemy has a propaganda strategy. Osama bin Laden laid out this strategy in a letter to the Taliban leader, Mullah Omar, that coalition forces uncovered in Afghanistan in 2002. In it, bin Laden says that al Qaeda intends to ''[launch],'' in his words, ''a media campaign . . . to create a wedge between the American people and their government.'' This media campaign, bin Laden says, will send the American people a number of messages, including ''that their government [will] bring them more losses, in finances and casualties.'' And he goes on to say that ''they are being sacrificed . . . to serve . . . the big investors, especially the Jews.'' Bin Laden says that by delivering these messages, al Qaeda ''aims at creating pressure from the American people on the American government to stop their campaign against Afghanistan.''

Bin Laden and his allies are absolutely convinced they can succeed in forcing America to retreat and causing our economic collapse. They believe our nation is weak and decadent, and lacking in patience and resolve. And they're wrong. (Applause.) Osama bin Laden has written that the ''defeat of . . . American forces in Beirut'' in 1983 is proof America does not have the stomach to stay in the fight. He's declared that ''in Somalia . . . the United States [pulled] out,

trailing disappointment, defeat, and failure behind it.'' And last year, the terrorist Zawahiri declared that Americans ''know better than others that there is no hope in victory. The Vietnam specter is closing every outlet.''

These terrorists hope to drive America and our coalition out of Afghanistan, so they can restore the safe haven they lost when coalition forces drove them out five years ago. But they've made clear that the most important front in their struggle against America is Iraq—the nation bin Laden has declared the ''capital of the Caliphate.'' Hear the words of bin Laden: ''I now address. . . the whole . . . Islamic nation: Listen and understand . . . The most . . . serious issue today for the whole world is this Third World War . . . [that] is raging in [Iraq].'' He calls it ''a war of destiny between infidelity and Islam.'' He says, ''The whole world is watching this war,'' and that it will end in ''victory and glory or misery and humiliation.'' For al Qaeda, Iraq is not a distraction from their war on America—it is the central battlefield where the outcome of this struggle will be decided.

Here is what al Qaeda says they will do if they succeed in driving us out of Iraq: The terrorist Zawahiri has said that al Qaeda will proceed with ''several incremental goals. The first stage: Expel the Americans from Iraq. The second stage: Establish an Islamic authority or amirate, then develop it and support it until it achieves the level of Caliphate . . . The third stage: Extend the jihad wave to the secular countries neighboring Iraq. And the fourth stage: . . . the clash with Israel.''

These evil men know that a fundamental threat to their aspirations is a democratic Iraq that can govern itself, sustain itself, and defend itself. They know that given a choice, the Iraqi people will never choose to live in the totalitarian state the extremists hope to establish. And that is why we must not, and we will not, give the enemy victory in Iraq by deserting the Iraqi people. (Applause.)

Last year, the terrorist Zarqawi declared in a message posted on the Internet that democracy ''is the essence of infidelity and deviation from the right path.'' The Iraqi people disagree. Last December, nearly 12 million Iraqis from every ethnic and religious community turned out to vote in their country's third free election in less than a year. Iraq now has a unity government that represents Iraq's diverse population—and al Qaeda's top commander in Iraq breathed his last breath. (Applause.)

Despite these strategic setbacks, the enemy will continue to fight freedom's advance in Iraq, because they understand the stakes in this war. Again, hear the words of bin Laden, in a message to the American people earlier this year. He says: ''The war is for you or for us to win. If we win it, it means your defeat and disgrace forever.''

Now, I know some of our country hear the terrorists' words, and hope that they will not, or cannot, do what they say. History teaches that underestimating the words of evil and ambitious men is a terrible mistake. In the early 1900s, an exiled lawyer in Europe published a pamphlet called ''What Is To Be Done?''—in which he laid out his plan to launch a communist revolution in Russia. The world did not heed Lenin's words, and paid a terrible price. The Soviet Empire he established killed tens of millions, and brought the world to the brink of thermonuclear war. In the 1920s, a failed Austrian painter published a book in which he explained his intention to build an Aryan super-state in Germany and take revenge on Europe and eradicate the Jews. The world ignored Hitler's words, and paid a terrible price. His Nazi regime killed millions in the gas chambers, and set the world aflame in war, before it was finally defeated at a terrible cost in lives.

Bin Laden and his terrorist allies have made their intentions as clear as Lenin and Hitler before them. The question is: Will we listen? Will we pay attention to what these evil men say? America and our coalition partners have made our choice. We're taking the words of the enemy seriously. We're on the offensive, and we will not rest, we will not retreat, and we will not withdraw from the fight, until this threat to civilization has been removed. (Applause.)

Five years into this struggle, it's important to take stock of what's been accomplished—and the difficult work that remains. Al Qaeda has been weakened by our sustained offensive against them, and today it is harder for al Qaeda's leaders to operate freely, to move money, or to communicate with their operatives and facilitators. Yet al Qaeda remains dangerous and determined. Bin Laden and Zawahiri remain in hiding in remote regions of this world. Al Qaeda continues to adapt in the face of our global campaign against them. Increasingly, al Qaeda is taking advantage of the Internet to disseminate propaganda, and to conduct ''virtual recruitment'' and ''virtual training'' of new terrorists. Al Qaeda's leaders no longer need to meet face-to-face with their operatives. They can find new suicide bombers, and facilitate new terrorist attacks, without ever laying eyes on those they're training, financing, or sending to strike us.

As al Qaeda changes, the broader terrorist movement is also changing, becoming more dispersed and self-directed. More and more, we're facing threats from locally established terrorist cells that are inspired by al Qaeda's ideology and goals, but do not necessarily have direct links to al Qaeda, such as training and funding. Some of these groups are made up of ''homegrown'' terrorists, militant extremists who were born and educated in Western nations, were indoctrinated by radical Islamists or attracted to their ideology, and joined the violent extremist cause. These locally established cells appear to be responsible for a number of attacks and plots, including those in Madrid, and Canada, and other countries across the world.

As we continue to fight al Qaeda and these Sunni extremists inspired by their radical ideology, we also face the threat posed by Shia extremists, who are learning from al Qaeda, increasing their assertiveness, and stepping up their threats. Like the vast majority of Sunnis, the vast majority of Shia across the world reject the vision of extremists—and in Iraq, millions of Shia have defied terrorist threats to vote in free elections, and have shown their desire to live in freedom. The Shia extremists want to deny them this right. This Shia strain of Islamic radicalism is just as dangerous, and just as hostile to America, and just as determined to establish its brand of hegemony across the broader Middle East. And the Shia extremists have achieved something that al Qaeda has so far failed to do: In 1979, they took control of a major power, the nation of Iran, subjugating its proud people to a regime of tyranny, and using that nation's resources to fund the spread of terror and pursue their radical agenda.

Like al Qaeda and the Sunni extremists, the Iranian regime has clear aims: They want to drive America out of the region, to destroy Israel, and to dominate the broader Middle East. To achieve these aims, they are funding and arming terrorist groups like Hezbollah, which allow them to attack Israel and America by proxy. Hezbollah, the source of the current instability in Lebanon, has killed more Americans than any terrorist organization except al Qaeda. Unlike al Qaeda, they've not yet attacked the American homeland. Yet they're directly responsible for the murder of hundreds of Americans abroad. It was Hezbollah that was behind the 1983 bombing of the U.S. Marine barracks in Beirut that killed 241 Americans. And Saudi Hezbollah was behind the 1996 bombing of Khobar Towers in Saudi Arabia that killed 19 Americans, an attack conducted by terrorists who we believe were working with Iranian officials.

Just as we must take the words of the Sunni extremists seriously, we must take the words of the Shia extremists seriously. Listen to the words of Hezbollah's leader, the terrorist Nasrallah, who has declared his hatred of America. He says, ''Let the entire world hear me. Our hostility to the Great Satan [America] is absolute . . . Regardless of how the world has changed after 11 September, Death to America will remain our reverberating and powerful slogan: Death to America.''

Iran's leaders, who back Hezbollah, have also declared their absolute hostility to America. Last October, Iran's President declared in a speech that some people ask—in his words—''whether a world without the United States and Zionism can be achieved . . . I say that this . . . goal is achievable.'' Less than three months ago, Iran's President declared to America and other Western powers: ''open your eyes and see the fate of pharaoh . . . if you do not abandon the path of falsehood . . . your doomed destiny will be annihilation.'' Less than two months ago, he warned: ''The anger of Muslims may reach an explosion point soon. If such a day comes . . . [America and the West] should know that the waves of the blast will not remain within the boundaries of our region.'' He also delivered this message to the American people: ''If you would like to have good relations with the Iranian nation in the future . . . bow down before the greatness of the Iranian nation and surrender. If you don't accept [to do this], the Iranian nation will . . . force you to surrender and bow down.''

America will not bow down to tyrants. (Applause.)

The Iranian regime and its terrorist proxies have demonstrated their willingness to kill Americans—and now the Iranian regime is pursuing nuclear weapons. The world is working together to prevent Iran's regime from acquiring the tools of mass murder. The international community has made a reasonable proposal to Iran's leaders, and given them the opportunity to set their nation on a better course. So far, Iran's leaders have rejected this offer.

Their choice is increasingly isolating the great Iranian nation from the international community, and denying the Iranian people an opportunity for greater economic prosperity. It's time for Iran's leader to make a different choice. And we've made our choice. We'll continue to work closely with our allies to find a diplomatic solution. The world's free nations will not allow Iran to develop a nuclear weapon. (Applause.)

The Shia and Sunni extremists represent different faces of the same threat. They draw inspiration from different sources, but both seek to impose a dark vision of violent Islamic radicalism across the Middle East. They oppose the advance of freedom, and they want to gain control of weapons of mass destruction. If they succeed in undermining fragile democracies, like Iraq, and drive the forces of freedom out of the region, they will have an open field to pursue their dangerous goals. Each strain of violent Islamic radicalism would be emboldened in their efforts to topple moderate governments and establish terrorist safe havens.

Imagine a world in which they were able to control governments, a world awash with oil

and they would use oil resources to punish industrialized nations. And they would use those resources to fuel their radical agenda, and pursue and purchase weapons of mass murder. And armed with nuclear weapons, they would blackmail the free world, and spread their ideologies of hate, and raise a mortal threat to the American people. If we allow them to do this, if we retreat from Iraq, if we don't uphold our duty to support those who are desirous to live in liberty, 50 years from now history will look back on our time with unforgiving clarity, and demand to know why we did not act.

I'm not going to allow this to happen—and no future American President can allow it either. America did not seek this global struggle, but we're answering history's call with confidence and a clear strategy. Today we're releasing a document called the ''National Strategy for Combating Terrorism.'' This is an unclassified version of the strategy we've been pursuing since September the 11th, 2001. This strategy was first released in February 2003; it's been updated to take into account the changing nature of this enemy. This strategy document is posted on the White House website—whitehouse.gov. And I urge all Americans to read it.

Our strategy for combating terrorism has five basic elements:

First, we're determined to prevent terrorist attacks before they occur. So we're taking the fight to the enemy. The best way to protect America is to stay on the offense. Since 9/11, our coalition has captured or killed al Qaeda managers and operatives, and scores of other terrorists across the world. The enemy is living under constant pressure, and we intend to keep it that way—and this adds to our security. When terrorists spend their days working to avoid death or capture, it's harder for them to plan and execute new attacks.

We're also fighting the enemy here at home. We've given our law enforcement and intelligence professionals the tools they need to stop the terrorists in our midst. We passed the PATRIOT Act to break down the wall that prevented law enforcement and intelligence from sharing vital information. We created the Terrorist Surveillance Program to monitor the communications between al Qaeda commanders abroad and terrorist operatives within our borders. If al Qaeda is calling somebody in America, we need to know why, in order to stop attacks. (Applause.)

I want to thank these three Senators for working with us to give our law enforcement and intelligence officers the tools necessary to do their jobs. (Applause.) And over the last five years, federal, state, and local law enforcement have used those tools to break up terrorist cells, and to prosecute terrorist operatives and supporters in New York, and Oregon, and Virginia, and Texas, and New Jersey, and Illinois, Ohio, and other states. By taking the battle to the terrorists and their supporters on our own soil and across the world, we've stopped a number of al Qaeda plots.

Second, we're determined to deny weapons of mass destruction to outlaw regimes and terrorists who would use them without hesitation. Working with Great Britain and Pakistan and other nations, the United States shut down the world's most dangerous nuclear trading cartel, the AQ Khan network. This network had supplied Iran and Libya and North Korea with equipment and know-how that advanced their efforts to obtain nuclear weapons. And we launched the Proliferation Security Initiative, a coalition of more than 70 nations that is working together to stop shipments related to weapons of mass destruction on land, at sea, and in the air. The greatest threat this world faces is the danger of extremists and terrorists armed with weapons of mass destruction—and this is a threat America cannot defeat on her own. We applaud the determined efforts of many nations around the world to stop the spread of these dangerous weapons. Together, we pledge we'll continue to work together to stop the world's most dangerous men from getting their hands on the world's most dangerous weapons. (Applause.)

Third, we're determined to deny terrorists the support of outlaw regimes. After September the 11th, I laid out a clear doctrine: America makes no distinction between those who commit acts of terror, and those that harbor and support them, because they're equally guilty of murder. Thanks to our efforts, there are now three fewer state sponsors of terror in the world than there were on September the 11th, 2001. Afghanistan and Iraq have been transformed from terrorist states into allies in the war on terror. And the nation of Libya has renounced terrorism, and given up its weapons of mass destruction programs, and its nuclear materials and equipment. Over the past five years, we've acted to disrupt the flow of weapons and support from terrorist states to terrorist networks. And we have made clear that any government that chooses to be an ally of terror has also chosen to be an enemy of civilization. (Applause.)

Fourth, we're determined to deny terrorist networks control of any nation, or territory within a nation. So, along with our coalition and the Iraqi government, we'll stop the terrorists from taking control of Iraq, and establishing a new safe haven from which to attack America and the free world. And we're working with friends and allies to deny the terrorists the enclaves they seek to establish in ungoverned areas across the world. By helping governments reclaim full sovereign control over their territory, we make ourselves more secure.

Fifth, we're working to deny terrorists new recruits, by defeating their hateful ideology and spreading the hope of freedom—by spreading the hope of freedom across the Middle East. For decades, American policy sought to achieve peace in the Middle East by pursuing stability at the expense of liberty. The lack of freedom in that region helped create conditions where anger and resentment grew, and radicalism thrived, and terrorists found willing recruits. And we saw the consequences on September the 11th, when the terrorists brought death and destruction to our country. The policy wasn't working.

The experience of September the 11th made clear, in the long run, the only way to secure our nation is to change the course of the Middle East. So America has committed its influence in the world to advancing freedom and liberty and democracy as the great alternatives to repression and radicalism. (Applause.) We're taking the side of democratic leaders and moderates and reformers across the Middle East. We strongly support the voices of tolerance and moderation in the Muslim world. We're standing with Afghanistan's elected government against al Qaeda and the Taliban remnants that are trying to restore tyranny in that country. We're standing with Lebanon's young democracy against the foreign forces that are seeking to undermine the country's sovereignty and independence. And we're standing with the leaders of Iraq's unity government as they work to defeat the enemies of freedom, and chart a more hopeful course for their people. This is why victory is so important in Iraq. By helping freedom succeed in Iraq, we will help America, and the Middle East, and the world become more secure.

During the last five years we've learned a lot about this enemy. We've learned that they're cunning and sophisticated. We've witnessed their ability to change their methods and their tactics with deadly speed—even as their murderous obsessions remain unchanging. We've seen that it's the terrorists who have declared war on Muslims, slaughtering huge numbers of innocent Muslim men and women around the world.

We know what the terrorists believe, we know what they have done, and we know what they intend to do. And now the world's free nations must summon the will to meet this great challenge. The road ahead is going to be difficult, and it will require more sacrifice. Yet we can have confidence in the outcome, because we've seen freedom conquer tyranny and terror before. In the 20th century, free nations confronted and defeated Nazi Germany. During the Cold War, we confronted Soviet communism, and today Europe is whole, free and at peace.

And now, freedom is once again contending with the forces of darkness and tyranny. This time, the battle is unfolding in a new region—the broader Middle East. This time, we're not waiting for our enemies to gather in strength. This time, we're confronting them before they gain the capacity to inflict unspeakable damage on the world, and we're confronting their hateful ideology before it fully takes root.

We see a day when people across the Middle East have governments that honor their dignity, and unleash their creativity, and count their votes. We see a day when across this region citizens are allowed to express themselves freely, women have full rights, and children are educated and given the tools necessary to succeed in life. And we see a day when all the nations of the Middle East are allies in the cause of peace.

We fight for this day, because the security of our own citizens depends on it. This is the great ideological struggle of the 21st century—and it is the calling of our generation. All civilized nations are bound together in this struggle between moderation and extremism. By coming together, we will roll back this grave threat to our way of life. We will help the people of the Middle East claim their freedom, and we will leave a safer and more hopeful world for our children and grandchildren.

God bless. (Applause.)

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. CARPER. Mr. President, good morning.

(The remarks of Mr. CARPER pertaining to the introduction of S. 3846 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I ask unanimous consent that I be allowed to speak in morning business for 15 minutes.

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

NOMINATION OF JOHN BOLTON

Mr. DODD. Mr. President, at this moment in history our Nation faces enormous challenges from terrorism, Iraq, Afghanistan, Lebanon, Israel and the occupied territories, Sudan's Darfur region, Iran, North Korea, Syria, HIV/AIDS, global health generally, climate change, energy security, and the list seems endless. These are all important issues that call out for important action and leadership from the United States.

America's capacity to respond to this global clarion call has been seriously circumscribed, in my view, by the Bush administration's preemptive war of choice in Iraq—circumscribed militarily, politically, and economically. The options have become fewer since March 19, 2003, as the world has become more dangerous, and the reputation and global standing of the United States has become weaker.

Our friends know this. More importantly, so do our adversaries, apparently.

That is why it is imperative that we make the most of the options still available to respond to these challenges. Diplomacy is one of the few options that remain available with a reasonable political and minority pricetag. As John Kennedy said so eloquently more than 45 years ago, this Nation should never fear to negotiate but never negotiate out of fear. It is going to take effective and pragmatic diplomacy to build the kinds of international partnerships and coalitions to address the challenges that confront us so that America can feel safe and be safer and more secure.

While the United Nations isn't the only forum for the conduct of that diplomacy, it is very clear that President Bush has placed much more reliance on the United Nations Security Council in his second term in office than he certainly did in the first. Be it Iran, North Korea, Darfur, or Lebanon, the United States has turned to the Security Council to respond to humanitarian crises and other threats to international peace and stability.

That is why, more than at any other time in recent years, since the founding of the United Nations, that it matters who sits in the United States chair on that Council. In my view, Mr. John Bolton does not fit the bill.

Based on information developed by the Senate Foreign Relations Committee last year from unprecedented committee testimony by former Assistant Secretary of State Carl Ford and more than 30 staff interviews of then-current and former colleagues of Mr. Bolton in the Bush administration—in the Bush administration, I might add—the Senate made the decision not to act on that nomination.

Carl Ford and 12 of those interviewed were extremely critical of Mr. Bolton, including retired COL Lawrence Wilkerson, chief of staff to Secretary Powell; Thomas Fingar, Deputy Assistant Secretary of State for Intelligence and Research; former Deputy Director of the CIA, Stuart Cohen; and Robert Hutchings, former acting head and head of the National Intelligence Council, respectively; and Jamie Miscik, former Deputy Director of Intelligence at the CIA.

These are not light people; these are serious people, all of whom served in the Bush administration. Here is what some of them had to say about this nomination. Again, these were Bush appointees, people who served in the Bush administration. Listen to Carl Ford, the Assistant Secretary of State for Intelligence in his testimony before the Senate Foreign Relations Committee:

Mr. Bolton is a ''quintessential kiss-up, kick-down sort of guy.''

Mr. Bolton has ''a bigger kick and it gets bigger and stronger the further down the bureaucracy he's kicking.''

Mr. Bolton is a ''serial abuser.''

I have never seen anyone quite like Secretary Bolton—doesn't even come close. I don't have a second and third or fourth in terms of the way that he abuses his power and authority with little people.

I consider myself to be a loyal Republican and conservative to the core. I'm a firm and enthusiastic supporter of President Bush and his policies, and I'm a huge fan of Vice President Cheney, who I worked with when he was Secretary of Defense.

With respect to the Bolton's treatment of Westermann, Mr. Ford went on:

The attitude, the volume of his tone, and what I understand, the substance of the conversation, he was so far over the line that he meets—he's one of the sort of memorable moments in my 30-plus-year career [in public service for the Federal Government.]

Again, this is a Bush appointee about whom we are talking.

Listen further. Larry Wilkerson, lieutenant colonel, chief of staff to Secretary of State Colin Powell in a telephone interview, Lieutenant Colonel Wilkerson said:

Do I think John Bolton would make a good ambassador to the United Nations? Absolutely not.

He is incapable of listening to people and taking into account their views.

He would be an abysmal ambassador.

Listen further to Mr. Wilkerson:

I differ from a lot of people in Washington, both friend and foe of Under Secretary Bolton, as to his ''brilliance.'' I didn't see it.

I saw a man who counted beans, who said ''98 today, 99 tomorrow, 100 the next day,'' and had no willingness—and, in many cases, no capacity—to understand the other things that were happening around those beans. And that is just a recipe for problems at the United Nations.

Lastly, Mr. McLaughlin, Deputy Director of the CIA, responding to a question as to whether other policymakers had sought to remove CIA analysts:

No. This is the only time I had ever heard of such a request . . . I reacted strongly to it. I didn't think it was appropriate.

I will return to that particular point in a few minutes, this idea of attempting to fire intelligence analysts.

These are just some of the quotes, again, of people who served in the Bush administration commenting on the nomination of John Bolton to be our ambassador to the United Nations.

There have been some excellent U.S. representatives to the United Nations over the years: Henry Cabot Lodge, Adlai Stevenson, Daniel Patrick Moynihan, or former colleague Jeane Kirkpatrick, and Richard Holbrooke, just to name a few. Each and every one of these individuals possessed a certain skill and ability to work with others, our adversaries as well as our friends, in order to stretch the U.N. as an institution in ways that supported U.S. interests. None of them were shrinking violets, to put it mildly.

It is very clear that Mr. Bolton does not possess that skill set. Over the years, Mr. Bolton evidenced great skepticism and disdain for the United Nations and multilateral diplomacy generally.

Nothing he has said or done since assuming his current position in New York suggests that he has altered his views on the United Nations or on multilateral diplomacy generally.

Once again, it is those who have worked most closely with him who are his biggest critics. More than 30 ambassadors with whom Mr. Bolton serves at the United Nations—all supportive of U.N. reform—questioned his leadership abilities.

In a July 21, 2006, New York Times article, one U.N. colleague characterized Mr. Bolton as ''intransigent and maximalist.'' Another suggested that Mr. Bolton's ''high ambitions are cover-ups for less noble aims, and oriented not at improving the United Nations, but at belittling and weakening it.'' A third has essentially written off working with Mr. Bolton. ''He's lost me as an ally now, and that's what many other ambassadors who consider themselves friends of the United States are saying.''

Mr. Bolton's response to a question posed by Senator COLEMAN at his July nomination hearing was stunning to me. Our colleague, NORM COLEMAN, asked the following question:

Mr. COLEMAN. You knew the organization, you were involved in it, then you were on the outside. Now you're there. Is there—has your impression of the U.N. changed? Has there been anything that surprised you in the last year?

Mr. BOLTON. Not really.

That is a response of an individual who is so entrenched in his views that he is incapable of the kind of openness and flexibility that I think most in this Chamber believe is essential if the United Nations Security Council is going to be made to work to serve our interests around the globe.

Mr. Bolton clearly has an aversion to being diplomatic. He has even been called a bully by some of his harshest critics. Mr. Bolton's personality is really not the issue as far as I am concerned. There are a lot of bullies in this town, and I suspect in New York as well. My objection isn't that he is a bully, but that he has been an ineffective bully. He can't win the day for the United States when it really counts. He isolates the United States rather than builds consensus around U.S. positions.

Mr. Bolton showed his colors, in my view, as soon as he arrived in New York after receiving his recess appointment last August 2005. After the U.S. mission had worked for months to negotiate a 2-year reform effort that was to be endorsed by President Bush and other heads of State 2 weeks later, Mr. Bolton almost destroyed the consensus

around the document by tabling 705 separate amendments to the text. It took the involvement of the President of the United States and the Secretary of State to cobble the agreement back together at the last minute at a price of losing some of the provisions that the United States had sought be included with respect to management reforms.

The Bush administration has made the ongoing crisis in Darfur a key concern. Yet when in June of this year members of the Security Council visited the Sudan to send a signal to the Government of Khartoum that it was on the wrong track, Mr. Bolton thought it more important to travel to London to deliver a U.N. bashing speech to a private think tank rather than join his colleagues on a visit to Sudan and carrying on a message of how important we think the genocidal behavior is.

On another occasion, prior to a vote last July on a U.N. Security Council resolution intended to sanction North Korea for its provocative Fourth of July missile launches, Mr. Bolton publicly assured anyone who would listen that he could get support for a resolution with teeth, with the so-called chapter 7 obligations. It turns out he couldn't. The resolution adopted by the U.N. Security Council fell far short of that.

Last September, Mr. Bolton told the House International Relations Committee that the negotiation of an effective Human Rights Council was a key objective of the United States and that it was a ''very high priority, and a personal priority of mine.''

There were 30 negotiating sessions held to hammer out the framework of this new Human Rights Council, and Ambassador Bolton managed to attend just one or two of those sessions.

In the end, the United States was one of four countries to vote against the approval of the U.N. Human Rights Council.

When the tally is taken on how effective Mr. Bolton has been at the U.N., in my view he gets a failing grade overall.

These are key positions that help to strengthen the United States, and yet in case after case, from reform, to Darfur, to North Korea, to the U.N. Human Rights Council—critical issues to strengthen the United States—our ambassador has failed in getting the kind of results that are critically important.

But there is more.

On the basis of those issues, I urge my colleagues to vote against Mr. Bolton, but I am going to go a step further because I believe other actions taken by Mr. Bolton are so outrageous that Mr. Bolton does not even deserve a vote, in my view.

There is Mr. Bolton's well-documented attempts to manipulate intelligence to suit his world view and seek the removal of at least two intelligence analysts who wouldn't play ball. When these analysts refused to support intelligence conclusions not supported by available intelligence, Mr. Bolton mounted a concerted effort to have them fired. The fact they were not removed does not excuse his actions.

I don't mind a heated debate. I don't mind people having serious disagreements with conclusions. But when you attempt to fire lower level employees who are responsible for gathering intelligence for the United States because you don't like their results, that is dangerous business indeed.

I do not care in which administration you may serve. Any individual, in my view, who attempts to doctor evidence to fire people whose conclusions they disagree with when it comes to intelligence gathering does not deserve to be promoted to the high position of ambassador to the United Nations.

His behavior, in my view, endangers our national security because it goes to the very heart of what we depend upon to protect that security—unbiased professional intelligence collection and analysis. Mr. Bolton stepped away and he stepped over the line and committed an offense so grievous, in my view, it warrants that this Senate deny him an up-or-down vote on his nomination.

In concluding, Mr. President, I return to the point I made earlier; namely, that Mr. Bolton has largely burned his bridges with his colleagues in New York and is not likely to be an effective diplomat when his diplomacy is increasingly becoming the coin of the realm in protecting and advancing U.S. interests at this very unstable moment in this country.

Fifty nine former U.S. Ambassadors and diplomats who have served in five administrations, Democratic and Republican, agree. Yesterday, they sent a letter to the Senate Foreign Relations Committee strongly opposing this nomination—59 former U.S. Ambassadors.

I mentioned earlier the number of people in the Bush administration who are outspokenly critical of this nomination. What more do we need to hear, what more do we need to hear that this is a bad nomination and one that is going to jeopardize the interests of the United States? Those Ambassadors recognize, as do I, that at this critical moment in our Nation's future, the President should put the Nation's interests first and nominate an individual with strong diplomatic skills who believes in diplomacy rather than placating his conservative base by continuing to push for the nomination of an unsuitable nominee.

I believe it is time for the Senate to send that message loudly and clearly to the President by rejecting efforts to ramrod this nomination through in the closing days of this session.

I urge my colleagues to join me in strongly opposing this nomination.

Mr. President, I yield floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2007

The PRESIDING OFFICER. Under previous order, the Senate will resume consideration of H.R. 5631, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5631) to make appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

Pending:

Kennedy-Reid amendment No. 4855, to include information on civil war in Iraq in the quarterly reports on progress toward military and political stability in Iraq.

Allen modified amendment No. 4883, to make available from Defense Health Program up to $19,000,000 for the Defense and Veterans Brain Injury Center.

Feinstein-Leahy amendment No. 4882, to protect civilian lives from unexploded cluster munitions.

Mr. STEVENS. Mr. President, what is the pending business on this bill?

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

Mr. STEVENS. Is the Kennedy amendment still set aside following that amendment?

The PRESIDING OFFICER. Yes, it is.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 4882

Mrs. FEINSTEIN. Mr. President, I understand it is appropriate for me now to speak on an amendment I offered yesterday having to do with cluster bombs.

The PRESIDING OFFICER. That is correct.

Mrs. FEINSTEIN. Mr. President, I rise to discuss again the amendment offered by myself and Senator LEAHY to this bill on the use of a munition called a cluster bomb. Our amendment is very simple. It prevents any funds from being spent to purchase, use, or transfer cluster munitions until rules of engagement have been adopted by the Department of Defense to ensure that such munitions will not be used in or near any concentration of civilians.

That is not a difficult requirement. It seems to me, because of the widespread damage caused by these munitions, that there ought to be specific rules of engagement which ban their use in areas where civilian death or maiming might result.

Cluster munitions are large bombs, rockets, or artillery shells that contain up to hundreds of small submunitions or individual bomblets. They are intended for attacking enemy troop formations, and they release these small

bomblets over the radius of a half mile. In practice, they pose a real threat to the safety of civilians when used in populated areas because they leave hundreds of unexploded bomblets over a large area, and they are often inaccurate. In some cases, up to 40 percent of cluster bombs fail to explode, posing a particular danger to civilians long after the conflict has ended.

Bomblets are no bigger than a D battery and in some cases resemble a tennis ball, so they are attractive to small children who pick them up to play with them. Then the bomblet explodes and the individual is either killed or maimed.

I would like to show three photographs.

On March 25, 2003, a youngster by the name of Abdallah Yaqoob was sleeping in his bed in his home in Basra, Iraq when he was hit with shrapnel from a cluster munitions strike that hit his neighborhood. He lost his arm, and his abdomen was severely damaged. He was hit by a British L20A1/M85 munition—a cluster bomb.

Second, Falah Hassan, 13, was injured by an unexploded ground-launched submunition in Iraq on March 26, 2003. The explosion severed his right hand and spread shrapnel throughout his body. He lost his left index finger and soft tissue in his lower limbs.

This is a photo of an unexploded M42 cluster submunition found on a barbed-wire fence in southern Iraq in August 2006. As you will see, this is the bomblet and this is a small pinecone. You will see how small this bomblet is, hanging on the barbed wire.

These unexploded cluster bombs become, in essence, de facto landmines.

The issue was first brought to my attention by a 2005 PBS documentary entitled ''Bombies'' which chronicled the impact of unexploded cluster bombs in Laos. This is startling. In Laos alone, there are between 9 and 27 million unexploded cluster bombs. They are leftovers from U.S. bombing campaigns in the 1960s and 1970s. Approximately 11,000 people, 30 percent of them children, have been killed or injured since that war ended—11,000 killed or injured by cluster bombs. So 40 to 50 years after these munitions were used, their deadly force remains active.

As the documentary showed, these unexploded cluster bombs have ended up in bamboo trees, in playgrounds, in houses, on rice paddies, and in schools. They have been found in the ground where farmers prepare their fields to plant. They have threatened their lives and their livelihood. As one farmer from northern Laos put it, ''Working in these fields is a problem. There are lots of bombies. But we work very carefully. If we work fast, we are afraid we'll hit a bombie.''

These farmers have to tend the fields and put their lives at risk because they have to grow food to feed their families. Decades after the last bomb was dropped, they are still threatened by death and serious injury. A cluster bomb is lethal for up to 150 yards. It will kill or maim the person who picks it up and those nearby.

I remind my colleagues, these munitions have been used in many battles in many wars.

In the first gulf war, 60,000 cluster bombs were used, containing 20 million bomblets. Since 1991, unexploded bomblets have killed 1,600 innocent men, women, and children and injured more than 2,500.

In Afghanistan in 2001, 1,228 cluster bombs with nearly a quarter of a million—248,056—bomblets were used.

Between October of 2001 and November of 2002—that is just 1 year—127 civilians were killed, 70 percent of them under the age of 18.

In Iraq in 2003, 13,000 cluster bombs with nearly 2 million bomblets were used. Combining the first and second gulf wars, the total number of unexploded bomblets in the region is approximately 1.2 million. An estimated 1,220 Kuwaitis and 400 Iraqi civilians have been killed since 1991 by these discarded munitions.

Here we have it: In Iraq, 13,000 cluster bombs, two million bomblets; in Afghanistan, 1,200 cluster bombs, a quarter of a million bomblets, numbers killed in a year, 127 civilians; in the first gulf war, 61,000 used, 20 million bomblets lying around, 1,600 innocent, men, women, and children killed, more than 2,500 wounded since 1991.

This gives rise to recent developments in Lebanon. Throughout southern Lebanon, more than 405 cluster bomb sites containing approximately 100,000 unexploded bomblets have been discovered. Each site covers a radius of 220 yards. As Lebanese children and families return to their homes and begin to rebuild, they will be exposed to the danger of these unexploded bomblets lying in the rubble. Thirteen people already, including three young children, have been killed, and 48 injured. One United Nations official estimates that the rate of unexploded bomblets is 40 percent in southern Lebanon. So far, more than 2,900 exploded bomblets have been destroyed. It will take 12 to 15 months to complete that effort.

The State Department is looking into charges that the cluster bombs found in southern Lebanon were American-made and that they were used in violation of agreements between the United States and Israel that govern their use. I do not know whether that is true. We have tried to find out. At this time, and despite repeated inquiries, I am unaware what those agreements actually say and what conditions they place on Israel. It seems to me we ought to know. It seems to me this information ought to be transparent and that the Congress of the United States, in the process of lawmaking, is entitled to that information.

By passing this information and codifying this language in statute we will help ensure that civilian populations will be protected by adequate rules of engagement that accompany the sale or transfer of these weapons to another country and the rules of engagement that condition their use by our military in foreign countries.

Each death that results from an unexploded bomblet weakens American diplomacy and American values. How do people in Laos feel when they live and farm with the daily threat of running into one of these bomblets? How do they feel in Afghanistan, Iraq, in southern Lebanon, in any other place where civilians can be wounded and killed by these bomblets?

Simply put, unexploded cluster bombs fuel anger and resentment. They make security, stabilization, and reconstruction efforts that much harder.

Senator LEAHY and I are not the only ones that feel this way. Former Secretary of Defense Bill Cohen recognized the threat that cluster bombs pose to civilians and U.S. troops alike because they litter a battlefield. He issued a memorandum which became known as the Cohen policy. It stated that beginning in 2005 all new cluster bombs would have a failure rate of less than 1 percent.

This was an important step forward. But we still have 5½ million cluster bombs containing 728 million bomblets. They are aging in the American arsenal. This indicates we are still prepared to use, transfer, or sell an enormous number of cluster bombs that have significant failure rates.

I ask this question: Is this the source of legacy we want to leave behind in Iraq and Afghanistan?

Let me be clear, this amendment does not place a ban on cluster bombs. It is a simple step that will give the Pentagon time to develop specific guidelines to ensure that cluster bombs are not used in or near populated areas. Does anyone in this Senate believe that a cluster munition should be used in a civilian populated area? That person can stand up and talk to that point of view. It is unconscionable. It is immoral. It is beyond the laws of warfare. If somebody wants to argue that point of view, so be it. If that is the kind of country a Member wants to represent, so be it. It is not the country I want to represent.

This is a simple amendment which says no funds will be used until there are rules of engagement that say that these munitions will not be used in civilian areas where death and maiming is apt to result.

This amendment will go a long way toward ensuring only prudent battlefield use. I hope this amendment has an opportunity to pass.

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

How much time remains?

The PRESIDING OFFICER. Four and a half minutes.

Mrs. FEINSTEIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I cannot support this amendment. It is not

enforceable. It establishes policies that may in some situations dangerously restrict the options available to our commanders on the battlefield.

I do share the Senator's concern about potential use on the indiscriminate manner of these antipersonal weapons. Protecting innocent civilians from the violence and destruction of war is our goal. It is a laudable goal.

Of course, the consequences of using cluster munitions must be carefully considered before such weapons are engaged. This is a complex policy area. It deserves comprehensive review by the relevant policy committees, not only the Committee on Armed Services but also the Foreign Relations Committee. As the Senator has said, it has already been reviewed on a secretarial level several times in the Department of Defense.

This amendment is just not acceptable. It legislates the rules of engagement for an entire class of weapon. The task of settling the rules of engagement properly belongs to the military and to the commander and ultimately to the Commander in Chief.

In an extreme situation the commander must be able to use all options to shape the battlefield to protect our forces and those allied with us. Restricting the deployment of cluster munitions could severely hinder aviation and artillery capabilities and reduce the commander's capability to wage war successfully. It could severely degrade our allies' capability to defend themselves in threatening situations.

The Department of Defense already has guidance and target methodologies that emphasize minimizing dangers to civilians in or near the zone of conflict. This amendment requires that prior to the sale or transfer, the Department ensures that munitions will not be used in or near populations, including villages, camps, and groups of refugees, evacuees, or nomads. This could be obtained at the point of sale.

Once the weapons are transferred, it would be impossible to enforce. They place a burden on the military that is impossible to achieve.

The Arms Export Control Act already has broad guidelines on the use of weapons sold by the United States, and press reports indicate the State Department has opened an investigation into use of cluster bombs by Israel against Hezbollah to determine if those guidelines were violated. If it has, the United States may impose sanctions. This was done in 1982. The Department of State already has tools to enforce the humanitarian considerations and sanction wanton use of cluster munitions.

The Senate should recall the use of cluster munitions is consistent with the convention on certain conventional weapons and international humanitarian law, including the Geneva and Hague Conventions. I recommend the Senate refuse to accept this amendment.

I do support the Defense appropriations bill as drafted.

I yield the floor.

Mr. BIDEN. Mr. President, I share the concerns that prompted the introduction of this amendment, but I am not prepared to approve such a far-reaching measure without a clear legislative record regarding the need for it and its likely impact on U.S. and allied forces.

Cluster bombs have always posed problems for responsible military forces like those of the United States. The weapons are very useful militarily, but they also carry a real risk of causing civilian casualties if they are used where civilians are present or if too many submunitions fail to explode when they hit the ground. This is a legitimate issue to consider and, perhaps, to legislate. But it should be done in a careful manner, after holding hearings and with proper preparation.

I urge the Senate Armed Services Committee to hold hearings on the issue of cluster munitions so that we can all gain a better understanding of how to maintain their usefulness while minimizing their risks. The committee should also make sure the Defense Department lives up to its claim that it ''is working towards minimizing 'dud' cluster munitions by phasing cluster munitions systems with more reliable or self-destructing fuzes.'' Success in that effort would go far to reduce the risks of postwar casualties.

The PRESIDING OFFICER. Who yields time?

Mrs. FEINSTEIN. Mr. President, the ranking member of the Judiciary Committee is here, Senator LEAHY of Vermont, someone whose leadership on the landmine issue has been unparalleled in the Senate. He is a cosponsor of this amendment.

I yield the Senator the remainder of my time.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from California. I have had a chance to work with the Senator on this amendment. It is an extremely important amendment. I have spent decades on the question of landmines. We use the Leahy War Victims Fund in parts of the world to aid landmine victims. I have visited these field hospitals. I have seen the damage, usually to children, overwhelmingly to civilians. My wife is a registered nurse. She has gone into the surgeries and watched the amputations.

The problem of cluster bombs which maim and kill the innocent has been known for many years. Probably one of the most egregious examples was in Laos, where millions of the explosives were dropped by U.S. planes during the Vietnam war. Unfortunately, what happens with landmines, the war ends, the landmines stay. The peace treaties are signed and civilians continue to die; 30 years after those were dropped there are horrific casualties of civilians.

I have urged the Pentagon both in Democratic and Republican administrations to address this problem for nearly a decade. While they have acknowledged the problem, and they do acknowledge it, they have not taken effective steps to solve it.

We have used massive numbers of cluster munitions in the invasion of Iraq, including in densely inhabited areas. Civilians paid the price and continue to pay the price.

Israel used these weapons in Lebanon. Again, it has been innocent civilians who have suffered disproportionately.

Now, cluster munitions, like any weapon, of course, have military utility. They can be effective against armor or military infrastructure, but they are in effect indiscriminate because they scatter thousands of lethal bomblets over wide areas. There are many weapons that can be effective. Used right, I suppose, poison gas is effective, but we have banned it since World War I. We have urged other countries to ban it.

On these cluster munitions, between 1 and 40 percent, depending on the type or the condition of the terrain, fail to explode on contact. Remember, there are thousands of these coming down. So if anywhere from even 1 percent fail, and as high as 40 percent fail, they remain as hazardous duds indefinitely, no different than scattering landmines, something we do not do.

And those who come in contact with them activate them. That could very well be a child out walking to school. It can be someone playing. It can be someone going to tend their animals, their crops, and they end up with lifelong disfigurement or disability, often death.

No one argues it is possible to completely avoid civilian casualties in a war.

Such casualties are inevitable. They have been tragic consequences in all wars. But this amendment should not be necessary. Weapons that are so disproportionately hazardous to civilians should be subject to strict rules of engagement.

The Feinstein-Leahy amendment is fully consistent with the laws of war and international humanitarian law. It uses the same standard as for incendiary weapons, which are also notoriously hazardous to civilians. Rather than prohibit cluster munitions, the amendment says only that they should not be used where there are concentrations of civilians.

This is a moral issue and it is an issue of our own self interest. Using or selling weapons that are so indiscriminate, without strict rules of engagement, is immoral. It is immoral. Anyone who has seen the horrific consequences of children with an arm or a leg blown off, or a part of their face, or their lifeless body cut to pieces by the shrapnel, knows that.

But it is also contrary to our own interest to be using or selling weapons which, without strict controls on their use, cause such appalling casualties of

innocent people who are not the enemy. It fuels anger and resentment we can ill afford among the very people whose support we need.

So again I commend the Senator from California and strongly support the amendment.

Mr. President, I ask unanimous consent that an article from USA Today, dated December 11, 2003, about cluster bombs be printed in the RECORD.

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

[From USA Today, Dec. 11, 2003]

CLUSTER BOMBS KILL IN IRAQ, EVEN AFTER SHOOTING ENDS

(By Paul Wiseman)

BAGHDAD.—The little canisters dropped onto the city, white ribbons trailing behind. They clattered into streets, landed in lemon trees, rattled around on roofs, settled on lawns.

When Jassim al-Qaisi saw the canisters the size of D batteries falling on his neighborhood just before 7 a.m. April 7, he laughed and asked himself: ''Now what are the Americans throwing on our heads?''

The strange objects were fired by U.S. artillery outside Baghdad as U.S. forces approached the Iraqi capital. In the span of a few minutes, they would kill four civilians in the ai-Dora neighborhood of southern Baghdad and send al-Qaisi's teenage son to the hospital with metal fragments in his foot.

The deadly objects were cluster bomblets, small explosives packed by the dozens or hundreds into bombs, rockets or artillery shells known as cluster weapons. When these weapons were fired on Baghdad on April 7, many of the bomblets failed to explode on impact. They were picked up or stumbled on by their victims.

The four who died in the al-Dora neighborhood that day lived a few blocks from al-Qaisi's house. Rashid Majid, 58, who was nearsighted, stepped on an unexploded bomblet around the corner from his home. The explosion ripped his legs off. As he lay bleeding in the street, another bomblet exploded a few yards away, instantly killing three young men, including two of Majid's sons—Arkan, 33, and Ghasan, 28. ''My sons! My sons!'' Majid called out. He died a few hours later.

The deaths occurred because the world's most modern military, one determined to minimize civilian casualties, went to war with stockpiles of weapons known to endanger civilians and its own soldiers. The weapons claimed victims in the initial explosions and continued to kill afterward, as Iraqis and U.S. forces accidentally detonated bomblets lying around like small land mines.

A four-month examination by USA Today of how cluster bombs were used in the Iraq war found dozens of deaths that were unintended but predictable. Although U.S. forces sought to limit what they call ''collateral damage'' in the Iraq campaign, they defied international criticism and used nearly 10,800 cluster weapons; their British allies used almost 2,200.

The bomblets packed inside these weapons wiped out Iraq troop formations and silenced Iraqi artillery. They also killed civilians. These unintentional deaths added to the hostility that has complicated the U.S. occupation. One anti-war group calculates that cluster weapons killed as many as 372 Iraqi civilians. The numbers are impossible to verify: Iraqi records are incomplete, and many Iraqi families buried their dead without reporting their deaths.

In the most comprehensive report on the use of cluster weapons in Iraq, USA Today visited Iraqi neighborhoods and interviewed dozens of Iraqi families, U.S. troops, teams clearing unexploded ordnance in Iraq, military analysts and humanitarian groups. The findings:

The Pentagon presented a misleading picture during the war of the extent to which cluster weapons were being used and of the civilian casualties they were causing. Gen. Richard Myers, chairman of the Joint Chiefs of Staff, told reporters on April 25, six days before President Bush declared major combat operations over, that the United States had used 1,500 cluster weapons and caused one civilian casualty. It turns out he was referring only to cluster weapons dropped from the air, not those fired by U.S. ground forces.

In fact, the United States used 10,782 cluster weapons, according to the declassified executive summary of a report compiled by U.S. Central Command, which oversaw military operations in Iraq. Centcom sent the figures to the Joint Chiefs in response to queries from USA Today and others, but details of the report remain secret.

U.S. forces fired hundreds of cluster weapons into urban areas. These strikes, from late March to early April, killed dozens and possibly hundreds of Iraqi civilians. Forty civilians were killed in one neighborhood in Hillah, 60 miles south of Baghdad, say residents and Saad Khazal al-Faluji, a surgeon at Hillah General Hospital who tracked casualties.

The attacks also left behind thousands of unexploded bomblets, known as duds, that continued to kill and injure Iraqi civilians weeks after the fighting stopped. U.S. officials say they sought to limit civilian casualties by trying to avoid using cluster munitions. But often alternative weapons were not available or would not have been as effective during the invasion.

Unexploded U.S. cluster bomblets remain a threat to U.S. forces in Iraq. They have killed or injured at least eight U.S. troops.

The U.S. Air Force, criticized for using cluster bombs that killed civilians during the wars in Vietnam, Kosovo and Afghanistan, has improved its cluster bombs. But U.S. ground forces relied on cluster munitions known to cause a high number of civilian casualties.

The Air Force, responding to the criticism, began working on safer cluster bombs in the mid-1990s and started using them in Afghanistan. But the Army started a program to install self-destruct fuses in existing cluster bomblets only after former Defense Secretary William Cohen called in January 2001 for dud rates of no more than 1% after 2005. The safer bomblets won't be available for at least two years. During the war in Iraq, U.S. ground forces dipped into stockpiles of more than 740 million cluster bomblets, all with a history of high dud rates.

Senior Army officials in Washington would not answer questions about the Army's use of cluster weapons in Iraq. Maj. Gary Tallman, an Army spokesman at the Pentagon, said such weapons are effective ''against enemy troop formations and light-skinned vehicles'' and are used only after ''a deliberate decision-making process.''

WHY CLUSTER BOMBS ARE DEADLY

Cluster bombs have been controversial since they killed thousands of Vietnamese, Cambodian and Laotian civilians during and after the Vietnam War. They have since been used by armies around the world, including Russian forces in Chechnya and Sudanese government troops fighting rebels in a long-running civil war. But their use in urban areas of Iraq has given new momentum to a movement to restrict the use of cluster bombs.

Last month, dozens of activist groups hoping to duplicate the success of the campaign to ban land mines formed a coalition aimed at getting a worldwide moratorium on cluster weapons. After seeing the toll the weapons took on Iraqi civilians and their own forces, even some U.S. soldiers have misgivings about using cluster weapons, at least in urban areas.

As the war in Iraq approached, humanitarian groups warned the Pentagon against using cluster weapons, especially in urban areas. New York-based Human Rights Watch predicted on March 18, a day before the war began with an airstrike in Baghdad: ''The use of cluster munitions in Iraq will result in grave dangers to civilians and friendly combatants.'' Cluster weapons are especially dangerous to civilians because they spray wide areas with hundreds of bomblets. Most are unguided ''dumb'' weapons, so they can miss their target, and many of the bomblets don't explode immediately.

The U.S. military was aware of the threat cluster munitions posed and was determined to minimize them. Col. Lyle Cayce, an Army judge advocate general (JAG), led a team of 14 lawyers providing advice on the battlefield to the 3rd Infantry Division on the use of cluster munitions, as well as other weapons, during its 21-day, 450-mile drive north from Kuwait to Baghdad. The goal was to ensure that U.S. forces complied with international humanitarian law, enshrined in the Geneva Conventions. ''No other army in the world does that,'' Cayce says. ''We value the rule of law.''

The Geneva Conventions hold that when choosing which targets to hit and which weapons to use, armies must make sure they do not ''cause superfluous injury or unnecessary suffering'' and ensure that the harm to civilians does not outweigh the military advantages.

U.S. forces relied on sophisticated radar to pinpoint the sources of Iraqi fire, then cross-checked them against a computerized list of about 10,000 sensitive sites, such as mosques and schools. Cayce and the other lawyers looked at potential targets and advised U.S. commanders whether the military benefits of using specific weapons against those targets justified the risks to civilians.

Cayce gave advice 512 times during the war, usually in cases involving cluster munitions. Most involved sites outside populated areas. Cayce estimates he dealt with only 25 to 30 ''controversial missions.'' For example: He approved a strike against an Iraqi artillery battery in a soccer field next to a mosque because it was firing on the 3rd Infantry Division's artillery headquarters.

The choices could be agonizing. He says he asked himself, ''How many Americans do I have to let get killed before I take out that (Iraqi) weapons system?'' Ten to 15 times, Cayce advised commanders against firing on a target; they never overruled him. Five times, in fact, they decided against using cluster munitions even after he gave them the go-ahead because they believed the risk to civilians was too great. ''We didn't just shoot there willy-nilly,'' he says.

''It was the enemy who was putting his civilians at risk. . . . They put their artillery right in town. Now who's at fault there?''

Rather than call upon their artillery to hit a target with cluster munitions, U.S. ground forces preferred either to use other weapons, such as M–16 rifles or tank rounds, or to summon the Air Force to hit Iraqi targets from the sky with precision bombs. ''Cluster munitions were the last choice, not the first,'' Cayce says.

But aircraft frequently were unavailable. Sometimes the weather was bad or sandstorms were swirling. Sometimes Air Force pilots insisted on seeing targets instead of relying on radar readouts. The cluster munitions, especially M26 rockets fired by a multiple-launch rocket system (MLRS), had

greater range than other weapons and were more reliable in bad weather.

Commanders also thought an MLRS was better at returning fire and killing the enemy. ''MLRS is ideal for counterfire,'' says Col. Ted Janosko, artillery commander for the Army's V Corps. In fighting on March 31 around Karbala, 50 miles south of Baghdad, U.S. forces came under heavy artillery fire from the Iraqis. ''We used (MLRS) rockets to fire back,'' Janosko says. ''As soon as we started using rockets, guess what? We never heard from that unit again. I'm not going to say we killed them all . . . but believe me, they did not fire again from that position.''

The 3rd Infantry Division also used MLRS frequently. The rockets can go more than 20 miles, and they spray a wider area than other weapons. The 3rd Infantry fired 794 MLRS rockets during the Iraq war, according to an assessment by two high-ranking division artillery officers in the U.S. Army journal Field Artillery, published at Fort Sill, Okla.

As they raced north from Kuwait toward Baghdad in late March and early April, U.S. forces fired rockets and artillery shells loaded with bomblets into Iraqi troop and artillery positions in Hillah, in Baghdad and in other cities. U.S. aircraft sometimes dropped cluster bombs as well.

Just before U.S. forces' ''thunder run'' into Baghdad on April 7, the 3rd Infantry Division fired 24 MLRS cluster rockets into Iraqi positions at an important intersection in the capital. The damage assessment, recounted in the Field Artillery article: ''There's nothing left but burning trucks and body parts.''

The PRESIDING OFFICER. The time of the Senator from California has expired.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I reiterate my opposition to this amendment. The rules of engagement properly belong with the Department of Defense and the Commander in Chief. This amends and sets forth restrictions on the ability of our military to use these munitions to protect our people in the future. It also would put on our military and our executive branch the duty of trying to determine how weapons might be used in the future, should they sell these weapons to other countries.

We have been informed that this amendment is opposed by the Department of Defense. It is their determination that once the weapons have been transferred to a country under a sale that is permitted, it would not be possible to enforce this restriction. They point out the Arms Export Control Act already has broad guidelines on the use of weapons sold by the United States. And if that act is violated, the United States may impose sanctions and deny sale or transfer of weapons in the future, and has, as it did in 1982, sanctioned a country for misusing such weapons, not these in particular but the weapons that had been sold.

The Senator from California said if anyone wants to stand up and talk about using these munitions, they ought to defend them. Some of the instances which the Senator from California mentioned were years ago when the areas were not occupied by civilians at all. And later the civilians moved into the areas, areas that had not been cleared properly by the country involved. I think that is a dangerous situation. Obviously, it is a difficult situation.

But I would urge her to go back to the countries she mentioned and reconsider the reason for the use of these weapons in the past—in Korea, in Vietnam. I do not think we used them in Spain. But they were used in Spain after having been sold to Spain. The concepts here are impossible for our commanders to protect our forces with the prohibitions that are involved. It is impossible for us to enforce.

We have a population of approximately 300 million people. We are involved in situations throughout the world and have been. Just remember the ''Marines' Hymn: From the halls of Montezuma to the shores of Tripoli.'' We have been doing this for years, protecting our system abroad and protecting freedom abroad. It is not the province of the Senate to enact rules of engagement. We authorize people to do it, and we review them—if you want to have a hearing on it and review the rules of engagement, I will be pleased to participate in such a hearing—but we do not write them. And we should not attempt to restrict them. I think this would place a dangerous restriction on the options available to our commanders, as I have said.

If the issue is a relatively high rate of existing inventory, as the Senator indicates, then the solution is to replace these munitions with improved items, many of which are not possible to manufacture now because of existing restrictions on such manufacturing.

I do not believe it can be shown we have used these weapons indiscriminately in civilian areas. I believe civilians have moved into areas where they have been used in defense of our country and defense of our people.

So under the circumstances, I oppose this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

Mr. STEVENS. Madam President, it is my understanding this is the time set for the vote on Senator FEINSTEIN's amendment. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. STEVENS. Madam 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 amendment.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 30, nays 70, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—30

Akaka	Durbin	Levin
Baucus	Feingold	Menendez
Bingaman	Feinstein	Mikulski
Boxer	Harkin	Murray
Byrd	Jeffords	Obama
Cantwell	Johnson	Reed
Carper	Kennedy	Reid
Conrad	Kerry	Sarbanes
Dayton	Kohl	Stabenow
Dorgan	Leahy	Wyden

NAYS—70

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

The amendment (No. 4882) was rejected.

Mr. DURBIN. Madam 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.

AMENDMENT NO. 4895

Ms. MIKULSKI. Madam President, I am here to join with my colleague, Senator PAUL SARBANES, to offer an amendment, which we have at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maryland [Ms. MIKULSKI], for herself, and Mr. SARBANES, proposes an amendment numbered 4895.

Ms. MIKULSKI. Madam 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 that none of the funds appropriated or otherwise made available by this Act may be used to enter into or carry out a contract for the performance by a contractor of any base operation support service at Walter Reed Army Medical Hospital pursuant to a private-public competition conducted under Office of Management and Budget Circular A–76 that was initiated on June 13, 2000, and has the solicitation number DADA 10–03–R–0001)

On page 218, between lines 6 and 7, insert the following:

SEC. 8109. None of the funds appropriated or otherwise made available by this Act may be used to enter into or carry out a contract for the performance by a contractor of any base operation support service at Walter Reed Army Medical Hospital pursuant to a

private-public competition conducted under Office of Management and Budget Circular A–76 that was initiated on June 13, 2000, and has the solicitation number DADA 10–03–R–0001.

Ms. MIKULSKI. Madam President, I ask unanimous consent that Senator SARBANES be added as a cosponsor to the amendment.

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

Mr. STEVENS. Madam President, I thought we had an agreement to stand in recess at 12:30.

Ms. MIKULSKI. If the distinguished Senator will yield, I thought there was an agreement for us to offer this amendment and not ask for a vote on this amendment. Had the Senate followed the regular order, we would have been done with the other business, the pending business on cluster bombs.

Mr. STEVENS. Was there an order for the recess at 12:30?

The PRESIDING OFFICER. There is an order to recess. The Senator from Maryland will need unanimous consent in order to proceed beyond the hour of 12:30.

Ms. MIKULSKI. I apologize. Madam President, I ask unanimous consent that the session be extended for 10 additional minutes so that Senator SARBANES and I may offer an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Will the Senator yield? I thought the amendment had been offered.

Ms. MIKULSKI. No, it has not.

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

Mr. SARBANES. Madam President, parliamentary inquiry: Is the amendment now pending?

The PRESIDING OFFICER. The amendment is now pending.

Mr. SARBANES. And we have this unanimous consent request to take 10 minutes in order to proceed; we are trying to help the chairman move this process along.

Mr. STEVENS. Madam President, I have no objection to offering the amendment and making comments about its introduction. The Senator wants 10 minutes?

Ms. MIKULSKI. Yes.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. We will move briskly. This is to fix a terribly botched competition for Federal jobs at the Walter Reed Army Medical Center. This competition has wasted taxpayer money. It is unfair to Federal employees, and we urge that it stop. We are opposed to this because it has gone on too long, it is unfair, it has broken the rules, and cost taxpayers an incredible amount of money.

I do wish at this time, though, to pay tribute to the distinguished Senators, the chair and the ranking member of the Defense Appropriations Subcommittee, Senator STEVENS and Senator INOUYE. We have had no finer, more hard-working champions for Walter Reed and military medicine than those two men. So in raising this amendment, we understand where they are and why they also don't want to get into individual privatization issues, but this was such an egregious, unfair process, we felt we had to do this.

This amendment would privatize 350 jobs at Walter Reed, mostly landscapers and maintenance workers.

Why is this A–76 so flawed? Well, the competition has broken the rules. It has gone on and on and on. It is deeply flawed. It is disastrous. It started in June of 2000. It has lasted more than 6 years, beyond a full Senate term and longer than a President's term. OMB says that it should not have gone on more than 12 months, but this competition has gone on for more than 6 years. Federal employees in 2004 September were declared the winner of this competition, only to have the decision reversed 2 years later—not 2 days, not 2 weeks, but 2 years. Then DOD kept putting out new plans. They announced a new plan where they amended it 16 times. Every time the Federal employees won, the Army came up with a new rule. The last amendment included 1,500 changes. This was the 49th month of this solicitation, and once again they said: Let's start over. They keep changing the rules every time the Federal employees win, and then finally they lost it in 2006 after this chaos.

Now, does contracting out save money? You bet, sometimes, but not this time. It has already cost the military $7 million to conduct this privatization. It is going to cost another $5 million to implement. When the demands on Walter Reed are so high, when we have a war that has no line item, should we be spending tax dollars to implement a program that will not save it? This will not save the taxpayers' money.

Also, I bring to my colleagues' attention that Walter Reed will be closing in just a couple of years. Why privatize now? It is a solution that is wrong. The competition was flawed. It does not save taxpayers' money. Sure, we understand contracting out when it is legal, when it is fair, when it saves taxpayers' money and maintains integrity. This amendment will eliminate the funding to carry this out, and we urge its adoption at the appropriate time.

Mr. SARBANES. Madam President, how much time remains?

The PRESIDING OFFICER. There is 5 minutes remaining.

Mr. SARBANES. Madam President, I wish to very strongly underscore the arguments made by my very able colleague, Senator MIKULSKI, with respect to this amendment. I am very pleased to join with her in offering it.

This amendment would put an end to a very costly and flawed A–76 competitive sourcing study at Walter Reed Army Medical Center, which is, of course, one of our foremost military hospitals. There have been numerous and serious flaws in the conduct of this A–76 study. The study has been going on now for 6 years—contrary to law governing the A–76 process. As a result, it has been extraordinarily expensive and promises to be even more expensive if completed.

The Federal employees actually were declared the winner of this competition in September of 2004, only to have that decision reversed earlier this year. The decision was reversed after a whole new set of amendments were made with respect to the bidding process. In fact, the solicitation has been amended a number of times with hundreds of changes, making the process terribly unfair to everyone involved. This particular A–76 is so egregious that it ought to be brought to an end, and that is what this amendment proposes to do.

I believe the situation as it currently stands is also having a detrimental impact on the work being done at Walter Reed. The A–76 study covers base operation support services—workers who deal in landscaping and maintenance. The requirements now are that these A–76 processes cannot go on for more than 30 months—in part to avoid such a disruption in the workforce. However, this study has been going on for more than 6 years. Obviously it is having an impact on the morale of the employees and resulting in a loss in productivity. So I urge my colleagues to be supportive of this amendment, which will bring this costly and flawed A–76 study to an end and help Walter Reed maintain the high level of services which characterizes that fine institution.

I would also add that the BRAC Commission has recommended the consolidation of Walter Reed with the Bethesda Naval Medical Center. That is supposed to take place over the next few years. That seems to me to be an additional argument for adopting this amendment.

In other words, in a very short period of time, Walter Reed will move to a new campus where we will be developing a new, more modern, military hospital. At that point, the base operations workforce will have to be reshaped to fit the needs of this new facility.

So I urge my colleagues to respect the reasonable rules of the bidding process, rules which have been so departed from in this instance. We should adopt this amendment to ensure that this and other competitive sourcing studies are conducted pursuant to the laws and regulations governing the A–76 process.

I very strongly support my colleague. I commend her for her important leadership on this issue. Let's be fair to the employees. Let's honor a reasonable bidding process with its own rules and requirements.

If Federal jobs are to be subject to the competitive sourcing process, Federal agencies should follow the rules and requirements governing that process. That has not been done in this instance, which is the reason I support

the amendment that is pending before us.

I yield the floor.

RECESS

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

Thereupon, the Senate, at 12:45 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. SUNUNU).

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2007—Continued

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the distinguished Democratic leader seeks recognition now. I ask unanimous consent that the majority leader be recognized immediately following Senator REID.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Nevada is recognized.

Mr. REID. Mr. President, I will at an appropriate time send an amendment to the desk. The amendment will read as follows:

At the appropriate place insert the following:

It is the sense of the Senate on the Need for a New Direction in Iraq Policy and in the Civilian Leadership of the Department of Defense.

Here are the findings.

1. U.S. forces have served honorably and courageously in Iraq, with over 2,600 brave Americans having made the ultimate sacrifice and over 20,000 wounded.

2. The current ''stay the course'' policy in Iraq has made America less secure, reduced the readiness of our troops, and burdened America's taxpayers with over $300 billion in additional debt.

3. With weekly attacks against American and Iraqi troops at their highest levels since the start of the war, and sectarian violence intensifying, it is clear that staying the course in Iraq is not a strategy for success.

Therefore, it is the sense of the Senate that:

1. Our troops deserve and the American people expect the Bush Administration to provide competent civilian leadership and a true strategy for success in Iraq.

2. President Bush needs to change course in Iraq to provide a strategy for success. One indication of a change of course would be to replace the current Secretary of Defense.

In war, strategy is the searchlight that illuminates the way ahead. In its absence, the U.S. military would fight hard and well but blindly and the noble sacrifices of soldiers would be undercut by the lack of thoughtful leadership at the top that soberly assessed the realities of the situation and constructed a response.

That is a direct quote from a book called ''Fiasco,'' which was written by Washington Post senior Pentagon correspondent, Thomas Ricks. The quote concerns a war and a Secretary of Defense I would like to talk about today. The war is Iraq, the Secretary of Defense is Donald Rumsfeld.

For me, it was not a quick or easy decision to come to the floor to demand that President Bush replace Secretary Rumsfeld. I have always held the opinion that the President of the United States deserves ample leeway in determining who serves in his Cabinet. Regrettably, after 5 years of mismanagement and mistakes in Iraq that have made America less safe, the time for that leeway has passed. So, today, as I have indicated, I will offer an amendment expressing the sense of the Senate that President Bush replace Secretary Rumsfeld immediately.

This amendment is bigger than Donald Rumsfeld. This is about changing course in Iraq and the President demonstrating to the American people he understands America cannot stay the course when the present course is taking our country in the wrong direction. The United States currently has about 140,000 soldiers serving in far away Iraq. Thousands have served coming from Nevada. Hundreds are there right now. They are bravely performing their jobs, but it is time for the President to do his and chart a new direction in that far away land called Iraq.

In the last month, scores of U.S. soldiers and marines have been killed. Hundreds of U.S. troops have been wounded. More than a thousand Iraqis have been killed. American taxpayers have lost another $12 billion to this mismanaged war. The totals for this conflict now approach 2,700 Americans killed and over 20,000 Americans wounded. A third of these wounded soldiers and marines are missing arms, legs, eyes. They are paralyzed or coping with brain injuries, and over $300 billion of debt already has been expended for which the American taxpayer must foot the bill.

Today, because of Iraq, the readiness of our troops has declined to levels not seen since Vietnam. There is not a single Army nondeployed combat brigade that is currently prepared to meet its wartime mission. I repeat, not a single nondeployed combat brigade is currently prepared to meet its wartime mission. And the Chief of the National Guard has said the Guard is ''even further behind or in an even more dire situation than the Army.''

In peacetime such a state of our military would be disturbing. At a time of war, this is unacceptable. The facts on the ground do not lie. All the speeches by President Bush, all the speeches by the Vice President, all the speeches by Secretary Rumsfeld do not change what is taking place on the ground in that desert called Iraq. The current course in Iraq is not working, not for our military, not for the Iraqi people, and not for our security.

Five years after the attacks of September 11, 2001, America is not as safe as it needs to be. Secretary Rumsfeld and the Bush White House have mastered the politics of national security, but as we have seen day after day, week after week, month after month, in Iraq they have failed to do what it takes to make America safe.

This is not a personal attack. I am not looking to pick a fight with Secretary Rumsfeld or the President of the United States, but it is about making America as safe as we can and should be. Secretary Rumsfeld's failed track record is well documented, and the consequences of his mismanagement on American national security are well known. Secretary Rumsfeld was a leading participant in the administration's cherry-picking and manipulation of intelligence in the run-up to the war, exaggerating Iraq's connections to al-Qaida and the threat posed by its weapons of mass destruction—which didn't exist.

As a result of his and others' actions, our Nation was rushed to war based on faulty facts, and the Pentagon is now spending $20 million on a public relations campaign to rebrand the war to the American people. New money, $20 million—public relations.

Secretary Rumsfeld was one of those who ignored the advice of the uniformed military and went into battle in Iraq with too few troops and no plan—no plan to win the peace. As a result, the insurgency was able to gain a foothold in Iraq, and now even the Pentagon is forced to conclude that civil and sectarian strife threatens our troops and the future of the country of Iraq. Secretary Rumsfeld was the one who directed disbanding the Iraqi Army and purging of all Baath Party officials from the Iraqi Government. His lack of preparation delayed the training of Iraqi security forces for untold time.

As a result, here we are, more than 3 years later, with not a single Iraqi Army battalion that can operate independently—not one. We should remember the Secretary's mistakes are not all buried in the past. Just last week he demonstrated again he is not the man for the job. As he spoke to the American Legion this became very clear. His remarks were wrong, they were unnecessary, and they were a slap in the face to every American.

Rumsfeld's speech was filled with reckless, irresponsible assertions, but the most insulting and misguided words compared the critics of the Bush administration's Iraq policy to those who appeased the Nazis, leading to World War II—a statement made by our Secretary of Defense. These assertions were offensive and indicative of a Secretary of Defense who has lost his way, who is not capable of overseeing America's defense or certainly a new direction in Iraq; who is more concerned, it seems, with the Bush administration's political fortunes than the safety and security of the American people; and who must be replaced.

Keith Olbermann of NBC observed, after Rumsfeld's comments, as follows:

[His speech] did not merely serve to impugn the morality or intelligence—indeed the loyalty—of the majority of Americans who oppose the transient occupants of the highest offices in the land. Worse, still, it credits those same transient occupants—our

employees—with a total omniscience; a total omniscience which neither common sense, nor this administration's track record abroad, suggests they deserve.

We need to change course, and it starts at the top with President Bush.

Before anyone dismisses this amendment as partisan politics, I would like to remind my colleagues that Democrats are not alone in criticizing the poor performance, the faulty performance, the unfortunate performance of Secretary Rumsfeld. In fact, on page 18 of the Hill newspaper today, there is a full story on all the Republicans who oppose Secretary Rumsfeld and say that he should leave.

From the military we have heard from at least eight retired generals have called for his resignation. These are some of the best of the best. Who are these eight? Are they fly-by-nighters? Do they have any ability to speak, to say Rumsfeld should go? Who are they?

Retired MG Charles Swannack, former commander of the Army's 82nd Airborne Division—that is a real soldier; retired MG John Batiste—whom we have all met; he used to come and brief us here—who commanded the Army's 1st Infantry Division in Iraq in 2003 and 2004. I would think he would know or have some idea of the competency of the Secretary of Defense.

Third, Marine LTG Greg Newbold; No. 4, MG Paul Eaton, who was in charge of training Iraqi troops in 2003 and 2004; Former NATO Commander Wesley Clark, a four-star general; Army MG John Riggs; Marine GEN Anthony Zinni, the former Commander of the United States Central Command; LTG Paul van Riper, United States Marine Corps, Director of the Command and Staff College, Quantico, VA.

Those are just eight. There are many more.

From the Republican side of the aisle, we not only have page 18 of the Hill—anyone within sound of my voice can read that. I am not going to go through all the names. We have heard, though, from Senators in this body—Senators MCCAIN and HAGEL, two war heroes from Vietnam. JOHN MCCAIN served in a prison war camp for years—not months, years. Senator HAGEL saved his brother from death in the battlefields of Vietnam. Both are highly decorated. I repeat, two heroes of Vietnam who have been harsh critics of the Secretary of Defense have said they have no confidence in Rumsfeld. Senator HAGEL said:

The concern I've had is, at a very dangerous time, (the) Secretary of Defense does not command the respect and confidence of our men and women in uniform . . . There is no real question about his capacity to lead at this critical time.

This is Senator HAGEL quoted in the Lincoln Journal Star.

In the House of Representatives, the list is very long. I will not name all of the Members. Longtime Congressman Chris Shays from Connecticut, who has been in Iraq 14 times, is quoted in today's New York Times as saying he would vote for an amendment of ''no confidence'' if it came to the House of Representatives.

These men are card-carrying conservatives. If we go out of Congress, we can find other leading conservatives. How about William Kristol?

Actually, we have a pretty terrific Army. It's performed a lot better in this war than the secretary of defense has . . . Surely Don Rumsfeld is not the defense secretary Bush should want to have for the remainder of his second term.

From the Washington Post, that is a direct quote.

Across the country and in my own State of Nevada, people from all walks of life have called for Donald Rumsfeld to step down, asking the President to make a change. This would be a start in the change of direction. There is a reason for this bipartisan groundswell: Having the right leadership to keep America safe is not a partisan issue; it is a national priority.

Today in the Senate, I hope we see similar bipartisan support for this amendment, this vote of no confidence. There is no better way for the Senate to show the American people and, indeed, the world that we are committed to success in Iraq and a more secure America than by demanding that President Bush find leadership from the Pentagon that matches the skill, determination, and commitment of our valiant troops. We need a vote on this amendment. It cannot fall to parliamentary tricks. Our troops and the American people must be given the opportunity to see that the Senate stands with them in seeking a new direction for our country.

This amendment, which I will send to the desk later, says:

SENSE OF THE SENATE ON THE NEED FOR A NEW DIRECTION IN IRAQ POLICY AND IN THE CIVILIAN LEADERSHIP OF THE DEPARTMENT OF DEFENSE

Findngs:

1. U.S. forces have served honorably and courageously in Iraq, with over 2,600 brave Americans having made the ultimate sacrifice and over 20,000 wounded.

2. The current ''stay the course'' policy in Iraq has made America less secure, reduced the readiness of our troops, and burdened America's taxpayers with over $300 billion in additional debt.

3. With weekly attacks against American and Iraqi troops at their highest levels since the start of the war, and sectarian violence intensifying, it is clear that staying the course in Iraq is not a strategy for success.

Therefore it is the sense of the Senate that:

1. Our troops deserve and the American people expect the Bush Administration to provide competent civilian leadership and a true strategy for success in Iraq.

2. President Bush needs to change course in Iraq to provide a strategy for success. One indication of a change of course would be to replace the current Secretary of Defense.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the distinguished Senator, the Democrat leader, the Senator from Nevada, is a close friend. I am sad to disagree with him as violently as I do.

I have known Secretary Rumsfeld, Don Rumsfeld, for many years. He came to Washington with Congressman Jerry Ford. He has been in and out of Washington. He has done a great many things, committed a great portion of his life to the service of this country. He is highly intelligent. He is one of the first persons to serve as Secretary of Defense twice. He served previously as Secretary of Defense. He was a person who served in the White House. He has been a very impressive Secretary of Defense.

Since 1981, either Senator INOUYE or I have been the chairman of the Defense Appropriations Subcommittee. During that time, we have met with Secretaries of Defense. I met with them prior to that time, and I served in the Eisenhower administration and knew the Secretaries of Defense then and knew them personally. I can think of no one who has worked harder as Secretary of Defense than Don Rumsfeld.

I have been in meetings with him and members of the Joint Chiefs—with all of the Joint Chiefs—with other members of the defense and intelligence establishment. The rapport he has built up among those who serve this country in uniform and serve this country in the intelligence field is overwhelming. I have been to meetings he has held with the Chiefs, just quiet dinner meetings, to discuss basic subjects that were part of our jurisdiction, the Defense Appropriations Subcommittee jurisdiction. I have seen the way those people interact with Secretary Rumsfeld.

I know some people say there are dissidents in the Department of Defense. It would be surprising in a country as large as ours, with a Defense Department as large as ours, if there were not some. I do believe he has the support of those who are involved in managing our activities at home and abroad now in the defense area. He has a steady hand. I know he has the trust of the President. I admire the work he has done.

I find it unfortunate that this bill will be held up now for a period of time debating the future of Secretary Rumsfeld. I say categorically that this amendment is nongermane to this bill. It is subject to a point of order. I will make the point of order when the amendment is laid down. Everyone realizes that.

The time we take to discuss this subject is going to delay getting this bill to the President to be signed. I repeat what I have been saying for over a month: it must be to the President and signed and the money ready to be allocated on October 1. The funds are absolutely necessary this time. There will be no bridge for this period. These moneys must be available. I hope Members of the Senate will be brief. I will be reasonably brief in terms of what I am saying about my good friend, the Secretary of Defense, Donald Rumsfeld.

He has forged close relationships. He has earned senior military leaders' confidence. Just 2 weeks ago, I was in Fairbanks with him when he dedicated the Lend-Lease Memorial, the memorial to those Army Air Corps pilots who flew planes to Fairbanks and the Russian pilots who flew the planes on into Russia, going across the Bering Strait, going across Siberia, going across the Urals and into the area where they could be used in the defense of the Allies against the Nazi challenge to the world. Secretary Rumsfeld was overwhelming.

The interesting thing was our partner at the dinner table was the Secretary of Defense from Russia—a gentleman with a great deal of capability, by the way. He speaks English very well. We had a delightful conversation about the past, about the war.

It was my honor to serve in World War II as an Army Air Corps pilot. I was pleased to see so many of my colleagues. Everyone was delighted with Secretary Rumsfeld and was overwhelmed to have their pictures taken with him.

This man deserves the support of the Senate. He does not deserve the opposition, I am sad to say, in my opinion, on a purely political basis. There may be some on this side of the aisle who have lost confidence, but this Senator has not.

I hope and I pray that Members of the Senate will be reasonably brief in their comments on this proposal.

Mr. WARNER. Will the Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. WARNER. Mr. President, I will eventually address my own remarks, but as the distinguished Democratic leader spoke, we had the majority leader here. It was his intention, of course, to follow the Democratic leader with his remarks. He was called to the White House, and therefore we will have to hear from our distinguished majority leader later in the day on this matter.

If I could ask my colleagues across the aisle, perhaps we could alternate. Senator STEVENS has spoken; perhaps I could follow your next speaker as a matter of comity.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, let me say initially——

Mr. STEVENS. I still have the floor. I am happy to yield. I want to have the consent entered into. If the Senator from Illinois is willing to enter into the agreement, we can go back and forth across the aisle. I am happy to agree to that unanimous consent with that understanding.

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

The Senator from Illinois.

Mr. DURBIN. Let me say initially that I am sure during the course of the debate there will be many raising the question of whether we should spend this time on this debate. The fact that we might spend 4 hours on the debate over a war we are now facing for our fourth year indicates that it truly is appropriate.

What we would like to do is ask unanimous consent that the following Democratic Senators be recognized in the order as stated with the understanding that if a Republican Senator seeks recognition, they would be recognized in alternating fashion.

I will read the list of Democratic Senators in the order in which they will speak: Senators SCHUMER, DURBIN, LEVIN, REED of Rhode Island, KERRY, CLINTON, KENNEDY, HARKIN, BOXER, DAYTON, CARPER, DORGAN, MURRAY, and MIKULSKI.

Mr. WARNER. Mr. President, at this point in time, I reserve, with the understanding that I encourage it be agreed to, but the distinguished Senator from Texas, the Senator from Alaska, and others are going to work on the sequencing over here, so I wonder if we could just informally say we will follow that until such time as one of these two come over and agree.

Mr. DURBIN. In response to the Senator from Virginia, this only reflects the order of the Democratic speakers, but if the Senator would like to withhold the agreement of this until the Senator has his complete list——

Mr. WARNER. A list, thank you.

Mr. DURBIN.—I am happy to do that.

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

The request is withdrawn.

Mr. DURBIN. I ask unanimous consent that Senator SCHUMER from New York be recognized for this side of the aisle.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I will be brief. I know we have a long list of Members who wish to speak on this weighty and important matter.

First, I compliment the minority leader. The resolution he has put forward is well thought out and covers a range of issues for those who believe the war in Iraq needs a new direction; therefore, I am proud to support this resolution. I hope we can get bipartisan support for it. Most Americans—Democrats, Independents, and Republicans—believe we need a new direction in Iraq. That is what this resolution personifies.

Our troops on the ground and their loved ones here at home deserve a clear policy, a plan, from this administration—not rhetoric, not name-calling, not ''kneecapping''—a plan, a direction. We cannot continue to pour lives and resources into Iraq without a clear plan for transitioning the security of Iraq to Iraqis. With the insurgency diving into civil war, we need to come up with this plan now.

No Americans anticipated that the main goal of our troops would be to police a civil war, knowing the longtime hatred between the Shiites and the Sunnis, between the Shiites and the Kurds, and the Sunnis and the Kurds. Yet that is what this war is devolving into right now.

In sum, to fight a war on terror, we need to be both strong and smart. With Secretary Rumsfeld and this administration, you do see a great deal of strength, but we do not see enough of the smarts. We can have both. The two are not contradictory.

Furthermore, Secretary Rumsfeld's comments last month before the American Legion show he does not get it. The President's comments yesterday show he doesn't get it. We do not need to be reminded that Osama bin Laden is still alive. It is 5 years since September 11, and he is still alive. We will address that in an amendment both colleagues from North Dakota will bring up.

Certainly, when Secretary Rumsfeld tries to draw the analogy to World War II, the analogy is flawed. Back in the late 1930s, indeed, there were many Americans who wished to appease Hitler and thought he could be won over. I don't know of an American who thinks we can appease the terrorists, al-Qaida and the others who strike against us. It is a false analogy. I dare them to name a single Member of this Senate or the other body or anyone else who is seeking appeasements of the terrorists.

Secretary Rumsfeld's speech in Utah was a low point. We got a lot of name-calling, more slogans, but for all the hype, we did not get any new policies. One has to ask: Is the name-calling, is the hype—are there imperfect historical analogies made because there is no plan? That is what it seems to be.

When the American people—Democrats, Independents, and Republicans—are crying out, in droves, for a change in direction and a new policy, we hear none. We never get a plan. Unfortunately, we also often do not get straight answers.

When Secretary Rumsfeld was asked by a member of our Armed Forces about the lack of body armor, he could not give a direct and forthright answer. We must get answers on what has gone wrong. We need to hear a plan for getting it right. Unfortunately, we have heard neither from this administration, and particularly our Secretary of Defense.

This is not even about the end game because that is the President's responsibility. And we are going to be focusing on President Bush repeatedly on that issue. This is also about the implementation of the administration's own goals, and that falls on Secretary Rumsfeld's shoulders.

When a schoolteacher tells one of our colleagues, Senator DORGAN, that she had to pay for the body armor for her son who was in Iraq, something is wrong with the implementation. That does not go to the plan. That does not go to whether you are a hawk or dove. Everyone would think our troops would need body armor. Yet tens of thousands did not get it on Secretary Rumsfeld's watch.

When Iraq was supposed to have, by now, a self-sufficient army that could guard against a civil war, and it is not even close, the implementation of that falls on Secretary Rumsfeld's shoulders. Not even discussing whether democratization is right, it has not been done appropriately or properly.

So to say that Secretary Rumsfeld should be removed from office does not let the President off the hook. He is responsible for the policies, and those are not working. But Secretary Rumsfeld has not only gone along with those policies, he has been the lead figure in the failure of the actual implementation of those policies.

Democrats want new strategies and new ideas to fight a strong war on terror, to secure the peace in Iraq. We certainly do not want the continuation of the status quo, which is clearly not moving Iraq in the right direction.

There have been major tactical failures which Secretary Rumsfeld and the administration refuse to admit: failure to protect vital infrastructure, failure to protect the streets from looters and violence, failure to protect a strong Iraqi security force.

However, these failures are among many, and they are things that neither the President nor Secretary Rumsfeld will own up to, much less address.

People in this administration, this week, are giving a lot of speeches on this topic. But they never talk about a plan, a change in direction, what we are doing wrong, why it has not worked, and what has to change to make it right. If you ignore the realities and simply engage in a game of name-calling and sloganeering, you are never going to solve the very real problems.

In conclusion, Mr. President, the bottom line is very simple: The American people want some answers. What is the game plan in Iraq? How are we going to win the war on terror? We need answers to these questions and a new direction in Iraq. Removing Secretary Rumsfeld from office will be a first step to accomplishing that goal.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. Thank you, Mr. President.

I am afraid if my Democratic colleagues spent half the time helping us fight this war on terror as they do attacking the administration we would be a lot closer to winning this war. But, unfortunately, they are very united in defeatism, in their negative attacks on the President, and, in the process, encouraging terrorists all around the world, sending the signal that America is frustrated and ready to quit.

America is not ready to quit.

As they continue their attacks, I would like to remind them of the progress we have made since President Bush took office. Before President Bush took office, after 8 years of President Clinton's administration, Afghanistan was a worldwide staging area for terrorism, where the training took place, communications were organized, financing took place. Iraq was sitting on multiple chemical weapons in defiance of the United Nations resolution. Numerous terrorist attacks had occurred against our warships, our embassies. And our administration, under President Clinton, did nothing.

Again, terrorism was unchallenged and undetected. President Clinton was doing exactly what our Democratic colleagues want President Bush to do now. They tried to stop the PATRIOT Act so that we would not have the tools to fight terrorism. They have tried to stop the interception of communications from terrorists into this country so we could not find out who they were and what they were planning. They have complained about tracing the financing of terrorism around the world—when this President took action.

We need to remind our Democratic colleagues that before President Bush took office, 9/11 had already been planned under the Clinton administration, been financed. The communication was set up. All the tools that the President needs and has used to protect us were not used then. So 9/11 has happened.

But since 9/11, this President took action. And with the support of this Congress, he along with his staff has changed Afghanistan. Afghanistan is no longer the staging area for terrorism. And a signal has been sent to any country that does it.

Afghanistan is now a democracy. Women can vote and go to school. Iraq no longer has control of their arsenal of chemical weapons. Iraq is moving toward a democracy, admittedly with many difficulties.

But if our Democratic colleagues had their way, Iraq would become the new staging area for terrorists. Being between Iran and Syria, if we leave before this country can stand up on its own, everyone knows it will be in the hands of terrorists.

We cannot retreat. We must fight this global war that has been declared on us. There is a reason there has been no attacks in this country since 9/11. It is because we have been attacking the terrorists all around the world.

The Democrats are united. They are united in the idea of retreat and defeatism. They attack this President with no ideas of their own. They are trying to take the tools to fight terrorism away from this President—the PATRIOT Act, the interception of communications, tracing finances. On every turn, the Democrats are obstructing the things that have changed with this President that allowed terrorism to grow unchallenged for 8 years under the Clinton administration.

Now my colleagues on the other side of the aisle have stooped to attacking members of the President's Cabinet. I think it is time to get this amendment off the table. It is not germane. We need to get back to the business of approving the resources that our soldiers need.

I would appeal to my Democratic colleagues to stop performing for an audience and help us fight this war on terror.

Mr. President, I yield back.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I am glad the Senator from South Carolina is still on the Senate floor because I want to make clear that debating the war in Iraq is not a performance. It is part of our responsibility. This is the world's, maybe the Nation's, greatest deliberative body. And if we do not take a few hours to address the policies and strategies in Iraq, then we are not living up to our responsibility.

The Senator from South Carolina went on to say that we tried to stop the PATRIOT Act. The Senator was not here when the PATRIOT Act was considered. He was still a Member of the House, and he may not know what happened. But with the exception of one Member on our side of the aisle, every Senator voted for the passage of the PATRIOT Act. It was a strong bipartisan vote. Also, for the reauthorization of the PATRIOT Act, it was a strong bipartisan vote.

When it came to obstructing the President's efforts in Iraq, I will concede I was 1 of 23 Senators who voted against the authorization of force. But I have voted for every penny this President has asked for to wage this war in Iraq. On a bipartisan basis, we have provided this President with every resource. So this version of the past which the Senator from South Carolina has recounted, I think, is deficient in many respects. I hope when he reviews the record he will realize that.

I will also tell you that I believe this is an important debate today, and it is, of course, focused on the Secretary of Defense but, more importantly, focused on our strategy in Iraq. The Democratic side of the aisle believes we need a strategy for success. We need to make certain that when we do leave Iraq, it is with our mission truly accomplished. And that means, of course, changing direction on our policies in Iraq.

As we pass this bill, which will add to the nearly $300 billion in our national security effort, we continue to make a great investment in Iraq—no greater investment than the human lives that have been lost by our brave American soldiers who have served there. Yet it is our responsibility, in fact I think it is our constitutional responsibility, to question the policies of the administration when we disagree with them.

Retired GEN Wesley Clark stated yesterday that our Nation made a strategic mistake in invading Iraq.

We went into that war on the basis of poor intelligence, with too few troops, and without the necessary equipment. Our troops paid a heavy price for those decisions.

Today, we face a situation in Iraq which the Pentagon told us last week is dangerously close to civil war. We cannot continue along this same pattern. Our soldiers deserve better.

If we are to change policy in Iraq, we need new leadership at the Department of Defense. We need a fresh start. We need a new team. We need a new direction when it comes to our strategy in Iraq.

Our Armed Forces have shown extraordinary courage. They have done everything we have asked of them. With courage and with dedication they have adapted to conditions on the ground with enormous skill and ingenuity. But decisions by the leadership at the highest levels of the Government—at the White House and at the Department of Defense—have magnified the challenges our troops face.

I listened as the Senator from South Carolina talked about nuclear weapons in Iraq and weapons of mass destruction. I am sure he did not mean to state that we found those weapons of mass destruction because, despite the best efforts of our Government, we have found no evidence of the weapons of mass destruction we were told were the reason we had to invade this country. We have found no evidence of the nuclear weapons program which we were told threatened the United States with mushroom clouds.

So to suggest today, as some still do, that there really were weapons of mass destruction when we invaded Iraq, we have never found them, and it is an indication that the American people were misled, misled from the highest levels of our Government as to the true threat against the United States. That is, indeed, unfortunate. And it is unfortunate, as well, that the President, the Vice President, as well as the Secretary of Defense, and others, made statements that misled us into believing that there were threats in Iraq that clearly did not exist.

But when we talk of the record of the Secretary of Defense, even beyond the misleading statements which led to our war, the fact is that at a moment in time the Secretary of Defense said to the President: We are ready to go to war.

We know now we were not ready to go to war.

Do you recall on February 25, 2003, Army Chief of Staff GEN Eric Shinseki testified before the Senate Armed Services Committee? He stated that, in an invasion of Iraq, ''any postwar occupying force would have to be big enough to maintain safety in a country with ethnic tensions that could lead to other problems.''

He was asked how many troops were needed. General Shinseki said:

> Something on the order of several hundred thousand soldiers.

And he added:

> Assistance from friends and allies would be helpful.

For his candor and his honesty, he was replaced. Instead of sending the necessary troops to make sure we lived up to the Powell doctrine with overwhelming force and responded to the possibilities that were ahead of us after Saddam Hussein was deposed, for his candor and honesty General Shinseki's command was replaced.

The administration was not about to stand still for someone in uniform telling them the stark, honest truth: that without enough soldiers, the ones we sent to war would be in danger.

So we invaded with too few troops to secure the peace. As a result of that decision, and the decision to disband the Iraqi Army, the initial insurgency took hold in Iraq. The miscalculation by the planners and the leaders made life more dangerous for our soldiers on the ground in Iraq.

Since then, sectarian violence has exploded, creating conditions that now approach civil war. And every one of us recalls the situation involving the equipment given our troops. I remember my first visit to Walter Reed Hospital, meeting a National Guardsman from Ohio who lost his right leg at the knee. He said:

> I was in one of those humvees that just had canvas on the side. A bomb went off and I lost my leg. You have to do more to protect those soldiers.

He wanted to go back, even with his amputation, just to show his commitment to our Nation. The leadership under Secretary Rumsfeld didn't show the same commitment when it came to protecting our troops as they road in humvees. I recall a friend of mine whose son is a member of the military police with the U.S. Army. He told me he and his wife went out to buy the body armor that his son wasn't given when he went to Iraq. Have we reached that point, spending billions of dollars, as we have, when individual families have to take up collections at churches or reach into their savings accounts to provide the most basic equipment?

The fact is that that happened, and it happened under the watch of Secretary Rumsfeld. Today, we know the situation with our military. Brave men and women are still willing to serve, but we understand that readiness is a serious issue. Bonuses are being given for those who will join the military or stay in uniform. We understand that the standards have changed because of the difficulty meeting enlistment goals. But these are reality. We know that the National Guard across the United States has 34 percent of the equipment they need to do their job.

Let me remind everybody that the decision to invade was the decision of this administration and this Secretary of Defense. They picked the date, the time, and they established when readiness would be adequate. Sadly, they were wrong. The administration chose to invade Iraq but failed to plan for its aftermath. You have heard about the generals who spoke out, calling for a change in the leadership at the Department of Defense, calling for Secretary Rumsfeld to go. As Senator REID said earlier, these generals were under his command. Many of them had important responsibilities and saw up close this Secretary in action.

I thought one of the most dramatic statements was made by retired LTG Gregory Newbold, a Marine Corps general. He said:

> We need fresh ideas and fresh faces. That means, as a first step, replacing Rumsfeld and many others unwilling to fundamentally change their approach. The troops in the Middle East have performed their duty. Now we need people in Washington who can construct a unified strategy worthy of them. It is time to send a signal to our Nation, our forces and the world that we are uncompromising on our security but are prepared to rethink how we achieve it.

General Newbold went on to say, in some of the most touching and dramatic words I have read:

> The cost of flawed leadership continues to be paid in blood. . . . They must be absolutely sure [speaking of our soldiers] that the commitment is for a cause as honorable as the sacrifice.

Here is what Lieutenant General Newbold of the Marine Corps said in closing:

> My sincere view is that the commitment of our forces to this fight was done with the casualness and a swagger that are the special province of those who have never had to execute these missions—or bury the results.

He is not alone in this assessment, nor is he alone calling for a change in leadership at the Pentagon. For those who stand before us and say that any time we are critical of the policy of this administration we are somehow not standing behind the troops, I will tell you these are words spoken by troops, by soldiers and marines who have been there, paid the price for swearing to stand by our Nation.

Now we have a report from the Pentagon that the situation on the ground in Iraq is deteriorating—a grim portrait last week of Iraq—saying violence has reached its highest level in the last 2 years, with executions, kidnappings, bombings, and torture killings of more than 3,000 Iraqis a month. Ninety percent of the bodies coming into the Baghdad morgue are execution victims. Many were gruesomely tortured before being killed.

According to that assessment, the number of attacks in Iraq over the last 4 months is up 15 percent, and the number of civilian casualties in the last 4 months is up 51 percent. Over 137,000 people have been internally displaced in Iraq since last February, pushed out of their homes. We know it is because of rising sectarian strife and violence. The report from the Pentagon, for the first time, concedes that ''conditions that could lead to civil war exist in Iraq.''

Today, we have about 140,000 troops in Iraq, and 2,657 brave Americans have given their lives in that conflict as of September 5. We owe it to those who gave their lives and who still serve, and their families who stay behind and pray for their safety, to make sure they have the right leadership.

This is not a question of will. This is a question of leadership and mission. Our soldiers deserve better. They deserve leadership from the Pentagon that will provide them with the equipment they need, the direction they need to make certain that they truly come home with their mission accomplished. We need to change the leadership in the Department of Defense, and we need to change the leadership of this Secretary.

The Pentagon's report makes it clear:

> Since the last report, the core conflict in Iraq has changed into a struggle between Sunni and Shia extremists. . . .

Is that something we bargained for when we voted for this? Did we bargain for the fact that our soldiers are standing in the crossfire of a civil war today? How many times have we been promised that the Iraqis will come to the rescue? We are spending billions to train them and replace our troops. It is not a credible statement until American soldiers start coming home.

Many of us believe that the Iraqis will not stand and fight and defend their own country as long as they believe the American soldiers will do the job. The best military in the world is there to protect them at no expense. We have to let the Iraqis know that this is their responsibility.

I will close by saying this debate makes one thing very clear to the people of America. Neither this Republican President nor this Republican Congress will challenge, nor will they change a policy that has cost us too many brave American lives, 2,657 sons and daughters, husbands and wives, cousins and friends—the people we love who have given their lives so far. Sadly, last week, 18 were added to that list. More were added yesterday.

We have now spent over $300 billion. We are in the fourth year of this fight. There is no end in sight. Suggesting a change in leadership so we can start to move forward in a new direction toward a real victory is long overdue.

Change may not take place in this Republican-controlled Senate. We have been told they will object to even taking a vote on this issue about whether we are confident in the leadership of Secretary Rumsfeld. But even if change will not take place in this Chamber, the American people will still have the last word on November 7.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, at this time, we seek the benefit of the comments of the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, listening to the comments of our friends across the aisle, you would think this is more about an election than it is about winning a war. The problem is not so much in the eyes of the critics or the Islamic extremists who attacked the United States time and time again, until we finally woke up on September 11, 2001, and realized we were at war. The problem is not them; the problem is us. It is America. It is America's leaders. We are the problem.

This is more important than any party. This is more important than any election. This is more important than any single person. This is about whether we will win this war that was declared against the United States that we finally woke up and realized was going on, on September 11. It dates back as long ago as 1979, when the U.S. embassy in Tehran was overcome and for 444 days American citizens were held captive by Islamic militants.

Our friends on the other side of the aisle would like to claim that this is all about Iraq and a mistake that was made going into Iraq, and but for that mistake the world would be rosy and we would be at peace. But that is revisionist history.

The fact is that in 1979, when our embassy was captured and Americans were kidnapped in Tehran, and in 1983, when 241 marines were killed in Beirut by Hezbollah, the same terrorist organization that has been lobbing Katyusha rockets, supplied by Iran through Syria, into Israel—yes, this is the same enemy that continued to attack American embassies in Africa in 2000, and killed 17 American sailors on the USS *Cole*. Yes, this is the same enemy that killed almost 3,000 Americans on September 11, 2001, in New York City and Washington, DC, and but for the brave actions of a few on Flight 93, perhaps thousands more would have been killed.

Recently, I attended a speech where the Deputy Secretary of Defense spoke. He asked the question:

> Do you know why it was that these Islamic extremists killed 3,000 people on September 11, 2001? It was because they could not kill 30,000, and because they could not kill 3 million. Is there any doubt in anyone's mind that an ideology that celebrates the murder of innocent civilians in order to accomplish their objective would stop at anything, use any weapon at its disposal to accomplish its ends?

Mr. President, I disagree with our colleagues on the other side of the aisle that this war is limited to Iraq and that if we were to withdraw our troops precipitously, the world would suddenly be a rosy place and we would live in peace.

Unfortunately, this debate seems to be more about criticizing those who are prosecuting the war. No, we are not going to be critical of the men and women in uniform, but our colleagues on the other side of the aisle are all too ready to criticize those who command them, the civilian leadership in the Department of Defense and the Commander in Chief. I am not saying they don't have a right to criticize them. I am not saying that they have been perfect and haven't made mistakes. But I think we need to keep our eye on the threat. The threat is not just Iraq, the threat is in Afghanistan, it is in Madrid, it is in Beslan, it is in London. It is a threat driven by an extreme ideology that celebrates the murder of innocent civilians to accomplish its goals. What would be the consequences of doing as our colleagues on the other side of the aisle suggest, leaving before the Iraqi security forces are able to provide security for their fragile and fledgling democracy? It would be the same mistake that we saw occur in Afghanistan. After the Soviet Union was defeated and Afghanistan became a failed state, we saw the rise of the Taliban and saw its partners in al-Qaida and Osama bin Laden.

Our friends on the other side of the aisle talk about a change in direction, fresh ideas, new direction. Those are campaign slogans. They are not about solving the problem. They are not about beating the enemy, defeating the enemy who declared war on us as far back as 1979.

I know that our colleagues have been critical. Again, they have every right to be. This is America. We believe in free speech. We believe in people being able to express their views no matter how mistaken, no matter how naive.

This administration and the Secretary of Defense have been criticized for saying we need to stay the course, we need to keep the faith, that what we are doing in Iraq and what we are doing in trying to fight and defeat this enemy of Islamic extremism is important to the security of this country because if we were to do as some of our friends on the other side of the aisle suggest and leave Iraq before the Iraqis are able to provide basic security, it would become another failed state. And, no, this is not George Bush's Vietnam because after Vietnam, the Vietcong did not follow us here. That is exactly the threat with which we are confronted today.

The Islamic extremists who have declared war on America and the West will follow us here unless we deal with them on the offensive there. And, yes, every time we seem to talk about the tools that are necessary to win this war, we run into a brick wall of opposition on the other side of the aisle, such as listening to international phone calls between al-Qaida operatives and their confederates here in the United States. Yet our friends on the other side of the aisle said: Foul; the President doesn't have the authority to do that. Only Congress has the authority to do that. So we get into a big food fight about who has the power, who has the authority, not about working together to solve the problem.

When it comes to the issue of how do we deal with those who have been captured on the battlefield and detained in Guantanamo Bay—sources of important intelligence that have disrupted and deterred terrorist attacks and saved American lives—it seems as if the focus is all too often on what should we be doing to make the detainee's life better rather than what should we be doing to get that intelligence which will allow us to detect, deter, and disrupt terrorist activities.

Now the world has turned an anxious eye toward Tehran once again, where the same radical ideology has caused them to supply, through Syria, weapons to Hezbollah, a terrorist organization that has killed more Americans than any other in the world, save and except al-Qaida.

Is there any doubt that if Iran had been able to supply biological, chemical or nuclear weapons to Hezbollah in order to achieve its stated goal of wiping Israel off the map, is there any question that they would have withheld their hand, that they would not have done so?

I have to say I think this must be a very strange picture to the civilized world, those who actually believe we are serious about fighting this enemy who has declared war against the West and against our way of life and against our values, that instead of focusing together on how do we defeat this enemy who declared war on us, we have somehow turned this into an election-year effort to discredit and vote no confidence for the Secretary of Defense. It is the wrong direction.

Our colleagues on the other side of the aisle say there is no plan for success and, of course, there is. It is to provide training to the Iraqi security forces so they can provide security, and we can bring our troops home, allow this new Government in Iraq to resolve its differences after 30 years of tyranny, try to work through the sectarian conflicts by creating a coalition government, and then to allow the Iraqi people to enjoy the prosperity so they can see the benefits of self-determination and free and fair elections.

But our colleagues on the other side of the aisle seem to be long on criticism, long on complaints, and short on plans. They have yet to offer a single concrete idea about what they would do differently to win this war and defeat this enemy. I, as one Senator, would welcome their ideas, if they have ideas, so we can work together to defeat the common enemy because, as I said, this is more important than any election, than any party or any person. This is about the safety and security of our Nation and our hope and dream that the values we represent can be exported—and the blessings of liberty along with it—to other nations that have never known anything but the boot heel of a tyrant.

I hope our colleagues will reconsider and will not pursue this distraction, will not pursue this unwise and inappropriate vote of no confidence against the Secretary of Defense.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Michigan.

Mr. LEVIN. Mr. President, our current policy in Iraq has not been working; it is not working. It is making us less secure against the common enemy which the Senator from Texas has correctly identified. It is, indeed, a common enemy. The question is whether the current course we are on is contributing to the defeat of that enemy or whether the current course we are on is making us less secure, as our resolution states.

It is long past time for a change in course. When you find yourself in a hole, the first thing you should do is stop digging. Unfortunately, President Bush and the administration just keep digging us into a deeper and deeper hole.

The President has given the Iraqis the impression that our commitment in Iraq is open ended. He reinforced that impression when he said last month: We are not leaving so long as I am President.

The Iraqi leadership needs a wakeup call, a dose of reality. They need to be told: If you don't get your political house in order, if you don't reach a political settlement that leads to the end of the Sunni insurgency and leads to the dismantling of the Shia militia, then we cannot save you from yourselves. It is in your hands, we must tell the Iraqis, not ours. Whether you want to put together a nation or whether you have a civil war is your choice. We have opened the door for you. We have given you an incredible opportunity which no other country would even consider giving but ours. We have paid for it in blood and treasure. But only the Iraqis can utilize that opportunity. We cannot force them through that door that we have opened for them.

The Iraqi leadership now is operating under the misconception that we are there as long as they want us or as long as they need us. That misconception must end. They must be told that they must make the political compromises, they must share resources, they must share political power, that only they can decide if they are going to, in fact, avoid an all-out civil war and defeat the insurgency. We cannot do that for them.

We have been there now longer than we fought the Korean war. They have had an opportunity to create a constitution. By now, they were supposed to consider amendments to that constitution. That apparently has been shelved by the Iraqi political leadership. That is unacceptable to us; it is unacceptable to the American people. The American people want the Iraqi leadership to make the compromises they need to make to avoid an all-out civil war. They must take hold of their country.

We must begin, I believe, a phased withdrawal of U.S. forces from Iraq this year, by the end of this year—and the Iraqis should be told by the end of this year that the phased withdrawal is going to begin. It is essential to do this in order to prod the Iraqis to reach the political settlement which, according to our top commander in Iraq, is essential if all-out civil war is going to be avoided.

This cannot be won militarily. The military piece has been done. We have 80 to 90 percent of the Iraqi military force now trained. It is the political will in Iraq which is lacking, and that will must be brought to bear. We must prod it, we must pressure it, we must push them to do what only they, again, can do.

I believe they must face an abyss. These decisions are obviously difficult, we know that. There is a long history there that needs to be overcome. But the Iraqi leaders must face the abyss. They must face a very stark choice: civil war or nationhood.

The American security blanket is now providing a negative incentive to reach those kinds of essential decisions. Instead, similar to a broken record, President Bush and members of his administration keep saying that the choice in Iraq is between staying the course or withdrawing, cutting and running. That is not the choice. There is a third choice: changing the course, changing the negative dynamic in Iraq, which is the best and, I believe, only hope of achieving our mission. Staying on this downward spiral in Iraq makes no sense.

Some of the President's recent comments on Iraq sound as if he is out of touch with the reality on the ground. For example, the President was extremely naive when he said at a recent press conference that the violence in Iraq, Lebanon, and Gaza was the result of ''groups of terrorists trying to stop the advance of democracy.'' But it is a terrorist group, Hezbollah, which is part of a democratically elected Government of Lebanon, and the democratically elected Government in Iraq supported and identified itself with Hezbollah, a terrorist group, and its attacks on Israel.

The President also said at that August 21 news conference that ''Saddam Hussein had relations with Zarqawi,'' a terrorist who was killed in Iraq. That simply is not true. It continues an administration's tactic of trying to link Saddam Hussein and al-Qaida, a link that our intelligence community has repeatedly said did not exist. It continues a pattern of this administration of falsely linking Saddam Hussein to the people who attacked us on 9/11 in an obvious effort to win public support for the administration's Iraq policy.

It is part of a continuing pattern of misleading and false statements, such as the effort which lasted over years of making the American people believe that there was a meeting in Prague between the head of the Iraqi Secret Service and Mohammed Atta prior to 9/11, Mohammed Atta being the lead hijacker and attacker on us on 9/11. That was false. The intelligence community did not believe that meeting took place. And yet month after month prior to the war and after the war, the administration kept pointing to reports of the meeting that suggested the link between the people who attacked us on 9/11 and Saddam Hussein, trying to create the impression that Saddam Hussein was part of that attack, to such an extent that over half the American people believed that, in fact, there was such a link.

Finally, the President recently insisted there be no withdrawal of American troops so long as he was President. He gave a long list of reasons for his statement, and one of those reasons was that it is what the Iraqi people want, to quote the President. The President is badly misinformed.

An April 2006 survey of Iraqi public opinion conducted by the University of Michigan and reported in U.S. News leads to the opposite conclusion. This survey found that almost 92 percent of Iraqis oppose the presence of coalition troops in Iraq. Even more disturbing than that is the fact that this number was an increase from the 74 percent of Iraqi people who opposed the presence of coalition troops in Iraq in 2004. So that in the 2 years from 2004 to 2006, the percentage of Iraqi people who oppose the presence of coalition troops in their country increased from 74 percent to 92 percent. And almost 85 percent of that 92 percent—almost 85 percent of Iraqis—are ''strongly opposed to the presence of coalition troops.''

So our open-ended commitment of troops is not supported even by the Iraqis, and it sends the wrong message to the Iraqi leadership.

Our strategy in Iraq is not succeeding. We need to change course. The longer we maintain our failed stay-the-course approach, the weaker we are in the war on terrorism. The Iraqis need to hear a wake-up call from the President instead of a soothing message that we will be there so long as he is the President.

President Bush has repeatedly said that as the Iraqis stand up, we will stand down. The Iraqi security forces are 85 percent stood up. Where is the Presidential promised response that there be at least the beginning of a standdown as the Iraqis have been standing up? Where is that commitment being kept, so critically important to the American people, so repeatedly made by the President of the United States: As the Iraqis stand up, we will stand down? It doesn't say after all the Iraqis have been fully trained, even though they are nearly there. It says as they stand up. And the reason that is so critically important is because as long as the present policy continues, that the Iraqis believe we will be there as a security blanket even though they do not make the political decisions and compromises which are essential to their success, our policy of staying the course, our open-ended commitment makes it less likely that we are going to succeed in Iraq.

I think every Member of this Chamber believes we have a common enemy, and that is the religious fanatics who terrorize innocents. They are a common enemy and we all want to see them defeated. But the current course that we are on makes it more difficult for us to defeat that enemy where they are, and it makes it less likely that we will have the ultimate success which is so essential to our own security.

The amendment that is being offered calls on the President to change course in Iraq. It also says that one important indication of that change would be the replacement of the current Secretary of Defense. I have said in the past that I would call for the changing of the Secretary of Defense if I thought it would represent a change in the administration's policies in Iraq. I have focused on the policies, not on the personalities. But, in my view, as the resolution says, replacing Secretary Rumsfeld would be an indication, finally, that the Bush administration recognizes the need to change course in Iraq, and because it is that policy change which is so essential, I will support the resolution and hope that the Senate is allowed to vote on it.

Mr. President, I ask unanimous consent to have printed in the RECORD the University of Michigan poll to which I made reference and which was referred to and utilized, I believe, in U.S. News and World Report.

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

TABLE 3

	Do you support or oppose the presence of coalition forces in Iraq				
	Strongly support	Somewhat support	Somewhat oppose	Strongly oppose	Total (percent)
Sunni Arabs:					
2004	1.8	3.8	5.5	89.0	100
2006	1.5	.4	.9	97.2	100
Shiiti Arabs:					
2004	5.8	13.0	17.7	63.5	100
2006	3.1	2.3	4.9	89.7	100
Sunni Kurds:					
2004	37.3	42.7	7.5	12.1	100
2006	10.6	26.1	32.7	30.6	100
All:					
2004	10.0	15.7	13.3	61.0	100
2006	3.6	4.7	7.2	84.5	100

Mr. WARNER. Mr. President, before my colleague departs, I wonder if I might engage in a colloquy with him. I am the next speaker on this side. I have allowed my colleagues to go ahead of me to accommodate them. If the Senator wants to recite his unanimous consent request, we have absolutely no objection, and I would simply add to it that following the speaker on the Democratic side who follows me, the distinguished Senator from New Hampshire be recognized to speak on our side.

The PRESIDING OFFICER (Mr. COBURN). Is there objection?

Mr. DURBIN. Mr. President, I made an earlier unanimous consent request that we were going to alternate. I could read the list that we currently have subject, of course, to the arrival of Senators. But it is our hope that we would have Senator KERRY followed by Senator KENNEDY, and then Senators JACK REED and HILLARY CLINTON, followed by Senators HARKIN, BOXER, DAYTON, CARPER, DORGAN, MURRAY, MIKULSKI, and LAUTENBERG.

Mr. WARNER. Mr. President, we have no objection. I would simply ask that it be amended such that following my taking the floor on our side, as I understand it, the distinguished Senator from Massachusetts will speak, and then the Senator from New Hampshire on our side will be recognized.

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

Mr. WARNER. Mr. President, I say to my good friend and colleague, we have had 28 wonderful years together on the Armed Services Committee. Now, with the passage of time, the responsibility of the management of that committee rests on our two shoulders, I as chairman at the present time, incidentally succeeding my good friend as chairman before me for a brief period, and he is now a distinguished ranking member. But I would like to start my remarks with a question to my good friend by asking Senators as we participate in this debate to consider what I regard as a very interesting approach to this debate as characterized by our President in a news conference on August 21.

He said the following:

> You know, it is an interesting debate we are having in America about how we ought to handle Iraq. There is a lot of people—good, decent people—saying: Withdraw now. They are absolutely wrong. It would be a huge mistake for this country.

And I continue to quote the President:

> There are a lot of good, decent people saying, get out now. Vote for me. I will do everything I can, I guess, to cut off money, is what they will try to do to get our troops out. That, too—

The President said—

> is a big mistake. It would be wrong, in my judgment, for us to leave before the mission is completed in Iraq.

I will refer to this later. But this is the tenor. It seems to me that it is a very balanced and respectful tenor because the President went on to say:

> I will never question the patriotism of somebody who disagrees with me. This debate has nothing to do with patriotism.

I take my cues from his approach and the manner in which he addressed the importance of the debate and how those who participate in it hopefully will be guided by his impressions.

To my good friend from Michigan, I listened very carefully to much of what he said, and I commend him in the sense that he is consistent in his approach. But what I want to draw the Senator's attention to is, what are the consequences—to the whole region, to the people in Iraq, to the war we are waging against terrorism, to our people here at home—what are the consequences if this somewhat fragile and new Government struggling to put down its roots and exercise the full reigns of sovereignty, what are the consequences should it fail to be able to exercise the full spectrum of responsibilities of a sovereign nation that Iraq is now? It is a sovereign nation. I believe those consequences, of their inability to govern, the inability of those in control of their armed forces—we are not in control of their armed forces—they are a sovereign nation. It is the Prime Minister who will issue the orders to their armed forces, not General Abizaid or General Casey. We work in concert with them, but they are a sovereign nation.

What are the consequences if this Government were not able to exercise the reins of sovereignty because of such conditions of further deterioration in the security situation? What are the consequences, I ask my good friend?

I would name several, in my judgment. First and foremost, that nation is sitting on the second largest oil reserve in the world—the second largest oil reserve. There it is. It is not the property of the United States. It is not the property of the coalition forces. We are not there to fight over the oil. But we are there to try to elect a government—or not elect, but let a government handle those natural resources which can quickly, if properly extracted, turn into hard cash. If those reserves fall into the wrong hands, hands which are dealing with terrorism, which support terrorism, which are antithetical to every principle of free democracies in the world, ours or other free nations, it would give terrorists unlimited cash to pursue their goals on terrorism—unlimited. And you couple unlimited cash with the cruelest, yet regrettably most effective weapon of war of the terrorists; namely, the human bombers, who, regrettably, they can purchase for dollars—for Dinars—you are facing not only the coalition forces in Iraq but the forces of freedom the world over, a very dangerous combination of unlimited funding and the human bomber.

The world stood in awe as we watched the human bombers inflict time and time again disastrous consequences on Israel. Now we have watched how they inflict disastrous consequences on our coalition forces in Iraq and, unfortunately, in a growing number of instances in Afghanistan.

Secondly, if that Government were to fail after all of the courage that the coalition of nations, working with the United States, has shown in trying to give the Iraqi people a sequence of free elections, a freely elected government, a constitution; if that Government were to fail, it would seriously affect the credibility of the United States of America in that region and complicate the already complicated problem posed by Iran, a nation that is thus far manifesting an unrelenting intent to acquire the capabilities to manufacture and possess nuclear weapons.

I would love to hear this Chamber debate what would be the consequences to that region if Iran were to obtain that capability and put it in its arsenal. There is no chapter in world history to match that threat—not the Cold War that our Nation and other nations faced with the Soviet Union. We always knew the Soviet Union had a degree of rational, objective understanding of the consequences of the use of the nuclear weapon. I have not seen any manifestations of this current Government in Iran that they operate in any rational, objective way.

So I ask my friend, as you spell out your fervent belief that we should begin, as you said just now—I copied it down—a ''phased withdrawal,'' could that not trigger instability in that fragile Government? Take, for example, their legislative body which just convened again this week. Each of us travels to and from this Chamber with a sense of absolute security in this country that we can do so safely. But each member of that legislative body, as they traverse Iraq, given the instability of that country in many areas, questions the personal safety of individuals serving in this Government. If the message were that we are going to start to withdraw, it might well cause that individual legislator or member of the Cabinet of the Maliki government to say: Wait a minute. Am I going to take all these personal risks to myself and to my family if this Government is not going to succeed? And what if this withdrawal were to trigger, in the minds of many of those brave people stepping up to serve in public service in Iraq today—it might well trigger to them: I better consider my own personal safety rather than trying to continue this public service.

Mr. LEVIN. It will trigger exactly the opposite. If the Iraqis finally recognize that our commitment is not open-ended, we are not going to be their security blanket, if they finally recognize we cannot do for them what only they can do for themselves—share power, share resources, consider amendments to their Constitution, which were supposed to have been considered by now—that statement to them will trigger a reality in them that only they can save themselves; we cannot save them. We can give them an opportunity—and we have, at great cost of blood and treasure. As I said before, I know of no other country that would do what we did, what we have done for mankind, which is to give people an opportunity for freedom.

I didn't vote for this war. I thought it would unleash forces which would be very negative. But now that we are there, I have always believed—my dear friend from Virginia knows this—that we should maximize the chances for success. The road we are on now is not a road to success. We are on a downward spiral now. Sectarian violence is increasing, not decreasing. So the consequences are consequences which we both want to avoid. The consequences which the Senator from Virginia outlined are consequences which are clearly negative, and every person in this Chamber and in this land would want to avoid those consequences. But how do we best prod the Iraqis to take hold of their own situation and share power, share resources, recognize the rights of each other, become tolerant, give up the revenge slayings which are going on there? How do we force them to do that if we say we are here for some open-ended time?

The President says some people want to withdraw now—and some do. What I believe is we should give fair notice to the Iraqis that in a reasonable period of time, since their army is now almost fully stood up, we are going to begin a phased withdrawal, and that should begin by the end of the year so that it can be done in a way which is planned, thoughtful, but that it finally impress on the Iraqi leaders that: Folks, it has been 3 or 4 years. You have had elections. You have had an opportunity to pass the Constitution. You have a civil war some folks say is going on. You and you alone can address the issues which are driving that civil conflict.

We cannot as Americans solve their political disputes. That is what I believe is at stake. We all want to avoid the consequences. The issue is, How do we best avoid the consequences which the Senator from Virginia has outlined? Stay the course? Is that avoiding the consequences? I don't think so. We get deeper and deeper into that mire, and the very consequences, the consequences which the Senator from Virginia has outlined, are the consequences which are more likely to occur if we do not change that negative dynamic which exists in Iraq with a wake-up call which the President alone can give to the Iraqis. Only the President can tell the Iraqis: Folks, there is no open-ended commitment here. You have to take hold of this situation. I think only the President can do that.

We can try, and that is what we are doing. Some Senators believe we should try to send that message to the Iraqis. I think the good Senator from Virginia was present at the White House when I urged the President to stop counseling patience when the Iraqis should understand that the American people are impatient. We are impatient, and rightfully so, at the failure of the Iraqi political leadership to reach those political compromises

which are essential to avoiding an all-out civil war, and end the insurgency.

The Senator was present when I urged the President: Please, Mr. President, you know I voted against the war. I am not expecting you to grab on to my advice. I have been a critic. I have been a critic of the way the war has been handled. The Iraqi Army being disbanded was a tragic mistake. The failure to have a plan for the aftermath was a terrible mistake. There were a lot of mistakes. But to the extent you are willing to consider this message, Mr. President, let the Iraqis know the American people are impatient, instead of counseling patience.

The President looked me in the eye and said: That is a useful message. In other words, it is a useful message for a Senator to be delivering. But he implied—by implication—he is not willing to deliver that message himself to the Iraqis.

What this argument is about, in my judgment, is that the President needs to deliver that message to the Iraqis in order to help them recognize that is the only way they can succeed—if they take hold. They have to look into that abyss. They have to see some stark alternatives. They, the Iraqi leadership, have to see some very stark alternatives: settle the issues politically, defeat the insurgency thereby, avoid all-out civil war thereby. You have to do it, folks. We can't do it for you. I believe that has to be laid before the Iraqis as the best chance of avoiding those very negative consequences which the Senator from Virginia outlined.

Mr. WARNER. Mr. President, I respect my colleague's views. We have had this debate several times before. I recognize and feel, as do you, as do I and I think every Member of this Chamber, the extraordinary losses in this country of 2,600-some men and women who have given their lives and some over 20,000 who are trying to recover from wounds and the impact on their families. That is an enormous sacrifice.

But what I say to you, my dear friend: You pose a big gamble. If you are not right and this legislature interprets that as a signal, the public servants in Iraq interpret that as a signal, the members of the Iraqi security forces—namely, the army—hear that their support base, logistically and other ways, the United States, that we are beginning a phased withdrawal, this could trigger the opposite reaction. If that Government were not able to function because of the lack of security and they lose reins of sovereignty, I ask my good friend, what happens? If these oilfields—maybe not all at once but fractionally—what happens if this country begins to divide in three parts: the Kurds in the north, the Sunnis in al Anbar, and down south in the Bosra region, the Shia? Iran is flexing its muscles in various ways, and as you and I know their influence is being felt in that country. What happens if they see we are not there with the resolve that our President, time and time again, has stated?

Yesterday, I was privileged, along with others, to be in the audience when he delivered what I thought was one of his strongest and best speeches, sketching the whole history of the war on terrorism and with direct quotes of the principals who are fighting against our interests here in this country. I ask, what happens if that Government fails to exercise the full range of democracy? What is your anticipation?

Mr. LEVIN. I think it is more likely that the Government will succeed if they recognize that they are the ones who have to succeed and we can't do it for them. The gamble that we are now taking is greater, which is continuing on a course of action which is failing.

You know, the first argument which was used to go to Iraq was there were weapons of mass destruction. That was the first argument which was used. That didn't work out as the basis for the policy. The next one was we are going to promote democracy in Iraq. Now the argument is there were no weapons; we are not doing very well on the democracy side since that democratic Government is supporting at least one terrorist and probably two terrorist groups, in Lebanon and in Gaza, so the democratically elected Government is giving substance and support to what we believe is terrorism. So now there is a third argument used for this policy, that our leaving will create a huge problem.

First it was weapons of mass destruction. Then it was we were promoting democracy. Now it is we cannot leave because look what will happen if we leave.

Look at what is happening because we are staying in an open-ended way because they don't see that stark choice they face because they are relying on Uncle Sam's security blanket. That is what must be changed. That is the dynamic which I believe must be changed, and the only way to change it is in a reasonable way, a thoughtful way, a planned way, to say: Folks, we have to do what we said we would do—as you stand up, we are going to stand down. You have known that now for years. We are going to carry out that policy which the President has enunciated.

Mr. WARNER. Mr. President, I have one other question for my colleague, and let me preface it with the following. You are a signatory of a letter, dated September 4, to the President, along with a number of your colleagues and the distinguished Democratic leader and the distinguished House Democratic leader and others. In it, you say the following:

> In short, Mr. President, the current path for our military, for the Iraqi people and for our security is neither working nor making us more secure.

That is your basic thesis. And you list in here:

> Therefore, we urge you once again to consider changes to your Iraq policy. We propose a new direction, which would include: (1) transitioning the U.S. mission in Iraq to counter-terrorism, training, logistics and force protection; (2) beginning the phased redeployment of U.S. forces from Iraq before the end of this year; (3) working with Iraqi leaders to disarm the militias and to develop a broad-based and sustainable political settlement, including amending the Constitution to achieve a fair sharing of power and resources; and (4) convening an international conference and contact group to support a political settlement in Iraq, to preserve Iraq's sovereignty, and to revitalize the stalled economic reconstruction and rebuilding effort. These proposals were outlined in our July 30th letter and are consistent with the ''U.S. Policy in Iraq Act'' you signed into law last year.

In reply, a letter, a very respectful letter, was forwarded to all signatories on September 5. It was signed by the Chief of Staff of the President, Joshua B. Bolton. It is interesting, his observations. You say stay the course. Did you have an opportunity to look at this letter? Fine. Let me just read it. He cites as follows:

> Thank you for your September 4 letter to the President. I am responding on his behalf.
>
> A useful discussion of what we need to do in Iraq requires an accurate and fair-minded description of our current policy: As the President has explained, our goal is an Iraq that can govern itself, defend itself, and sustain itself. In order to achieve this goal, we are pursuing a strategy along three main tracks—political, economic, and security. Along each of these tracks, we are constantly adjusting our tactics to meet conditions on the ground. We have witnessed both successes and setbacks [acknowledging that, Senator] along the way, which is the story of every war that has been waged and won.
>
> Your letter recites four elements of a proposed ''new direction'' in Iraq.

This I think most important. He cites in this letter that three of those elements reflect well-established administration policy and the fourth is dangerously misguided.

I ask unanimous consent this be printed in the RECORD following this paragraph.

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

(See exhibit 1)

Mr. WARNER. He recites the changes in the administration adaptation to the ever-changing situation on the ground and with the Government. He recites each of the four points raised in your letter and addresses how this administration is pursuing a revised strategy.

To say we are staying the course is an inaccurate statement.

Mr. LEVIN. But the President says we should stay the course.

Mr. WARNER. I understand.

Mr. LEVIN. But the President of the United States says we should stay the course.

Mr. WARNER. This outlines the course we will embark on at this point in time. I urge my colleagues to read this letter in the context of our debate today.

I thank my colleague.

EXHIBIT 1—RESPONSE FROM THE CHIEF OF STAFF JOSH BOLTEN TO A DEMOCRATIC LETTER

SEPTEMBER 5, 2006.

Senate Democratic Leader HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: Thank you for your September 4 letter to the President. I am responding on his behalf.

A useful discussion of what we need to do in Iraq requires an accurate and fair-minded description of our current policy: As the President has explained, our goal is an Iraq that can govern itself, defend itself, and sustain itself. In order to achieve this goal, we are pursuing a strategy along three main tracks—political, economic, and security. Along each of these tracks, we are constantly adjusting our tactics to meet conditions on the ground. We have witnessed both successes and setbacks along the way, which is the story of every war that has been waged and won.

Your letter recites four elements of a proposed ''new direction'' in Iraq. Three of those elements reflect well-established Administration policy; the fourth is dangerously misguided.

First, you propose ''transitioning the U.S. mission in Iraq to counter-terrorism, training, logistics and force protection.'' That is what we are now doing, and have been doing for several years. Our efforts to train the Iraqi Security Forces (ISF) have evolved and accelerated over the past three years. Our military has had substantial success in building the Iraqi Army—and increasingly we have seen the Iraqi Army take the lead in fighting the enemies of a free Iraq. The Iraqi Security Forces still must rely on U.S. support, both in direct combat and especially in key combat support functions. But any fair-minded reading of the current situation must recognize that the ISF are unquestionably more capable and shouldering a greater portion of the burden than a year ago—and because of the extraordinary efforts of the United States military, we expect they will become increasingly capable with each passing month. Your recommendation that we focus on counter-terrorism training and operations—which is the most demanding task facing our troops—tracks not only with our policy but also our understanding, as well as the understanding of al Qaeda and other terrorist organizations, that Iraq is a central front in the war against terror.

Second, your letter proposes ''working with Iraqi leaders to disarm the militias and to develop a broad-based and sustainable political settlement, including amending the Constitution to achieve a fair sharing of power and resources.'' You are once again urging that the Bush Administration adopt an approach that has not only been embraced, but is now being executed. Prime Minister Nouri al-Maliki is pursuing a national reconciliation project. It is an undertaking that (a) was devised by the Iraqis; (b) has the support of the United States, our coalition partners and the United Nations; and (c) is now being implemented. Further, in Iraq's political evolution, the Sunnis, who boycotted the first Iraq election, are now much more involved in the political process. Prime Minister Maliki is head of a free government that represents all communities in Iraq for the first time in that nation's history. It is in the context of this broad-based, unity government, and the lasting national compact that government is pursuing, that the Iraqis will consider what amendments might be required to the constitution that the Iraqi people adopted last year. On the matter of disarming militias: that is precisely what Prime Minister al-Maliki is working to do. Indeed, Coalition leaders are working with him and his ministers to devise and implement a program to disarm, demobilize, and reintegrate members of militias and other illegal armed groups.

Third, your letter calls for ''convening an international conference and contact group to support a political settlement in Iraq, to preserve Iraq's sovereignty, and to revitalize the stalled economic reconstruction and rebuilding effort.'' The International Compact for Iraq, launched recently by the sovereign Iraqi government and the United Nations, is the best way to work with regional and international partners to make substantial economic progress in Iraq, help revitalize the economic reconstruction and rebuilding of that nation, and support a fair and just political settlement in Iraq—all while preserving Iraqi sovereignty. This effort is well under way, it has momentum, and I urge you to support it.

Three of the key proposals found in your letter, then, are already reflected in current U.S. and Iraqi policy in the region.

On the fourth element of your proposed ''new direction,'' however, we do disagree strongly. Our strategy calls for redeploying troops from Iraq as conditions on the ground allow, when the Iraqi Security Forces are capable of defending their nation, and when our military commanders believe the time is right. Your proposal is driven by none of these factors; instead, it would have U.S. forces begin withdrawing from Iraq by the end of the year, without regard to the conditions on the ground. Because your letter lacks specifics, it is difficult to determine exactly what is contemplated by the ''phased redeployment'' you propose. (One such proposal, advanced by Representative Murtha, a signatory to your letter, suggested that U.S. forces should be redeployed as a ''quick reaction force'' to Okinawa, which is nearly 5,000 miles from Baghdad).

Regardless of the specifics you envision by ''phased redeployment,'' any premature withdrawal of U.S. forces would have disastrous consequences for America's security. Such a policy would embolden our terrorist enemies; betray the hopes of the Iraqi people; lead to a terrorist state in control of huge oil reserves; shatter the confidence our regional allies have in America; undermine the spread of democracy in the Middle East; and mean the sacrifices of American troops would have been in vain. This ''new direction'' would lead to a crippling defeat for America and a staggering victory for Islamic extremists. That is not a direction this President will follow. The President is being guided by a commitment to victory—and that plan, in turn, is being driven by the counsel and recommendations of our military commanders in the region.

Finally, your letter calls for replacing Secretary of Defense Rumsfeld. We strongly disagree. Secretary Rumsfeld is an honorable and able public servant. Under his leadership, the United States Armed Forces and our allies have overthrown two brutal tyrannies and liberated more than 50 million people. Al Qaeda has suffered tremendous blows. Secretary Rumsfeld has pursued vigorously the President's vision for a transformed U.S. military. And he has played a lead role in forging and implementing many of the policies you now recommend in Iraq. Secretary Rumsfeld retains the full confidence of the President.

We appreciate your stated interest in working with the Administration on policies that honor the sacrifice of our troops and promote our national security, which we believe can be accomplished only through victory in this central front in the War on Terror.

Sincerely,

JOSHUA B. BOLTEN,
Chief of Staff.

Identical Letters Sent To:

The Honorable Harry Reid, Senate Democratic Leader.

The Honorable Nancy Pelosi, House Democratic Leader.

The Honorable Dick Durbin, Senate Assistant Democratic Leader.

The Honorable Steny Hoyer, House Minority Whip.

The Honorable Carl Levin, Ranking Member, Senate Armed Services Committee.

The Honorable Ike Skelton, Ranking Member, House Armed Services Committee.

The Honorable Joe Biden, Ranking Member, Senate Foreign Relations Committee.

The Honorable Tom Lantos, Ranking Member, House International Relations Committee.

The Honorable Jay Rockefeller, Vice Chairman, Senate Intelligence Committee.

The Honorable Jane Harman, Ranking Member, House Intelligence Committee.

The Honorable Daniel Inouye, Ranking Member, Senate Defense Appropriations Subcommittee.

The Honorable John Murtha, Ranking Member, House Defense Appropriations Subcommittee.

Mr. LEVIN. And I thank my friend.

Mr. WARNER. I return to the President's August 21 news conference. That sets the tenor for how we should address this debate not only in the Senate but across the land as we direct our attention to this important subject. The President concludes another paragraph in that news conference:

> And so we will continue to speak out in a respectful way, never challenging somebody's love for America when you criticize their strategies or their point of view.

That is the context in which I wish to address the Senate this afternoon and have tried to do so in a respectful way, just as the President said.

I turn to another part of the letter I referred to, written by the Democratic leadership, in which they say:

> We also think there is one additional measure you can take immediately to demonstrate that you recognize the problems your policies have created in Iraq and elsewhere, consider changing the civilian leadership at the Defense Department.

Everyone has a perfect right to do that. That has been stated in this letter.

We go back to the basic strategy of this great republic, as laid down by our forefathers in the Constitution. The President was given the responsibility as Commander in Chief, as President, to assemble the Cabinet of his choosing—or her, in the future, if we have a female President. He has exercised that. This Senate has given its advice and consent, as is required under the Constitution for each of the Members, including Secretary Rumsfeld.

I draw upon my distinguished colleague from Alaska, his comments about Secretary Rumsfeld. Similar to the Senator from Alaska, I, too, have known Secretary Rumsfeld for a very long time. When I was Secretary of the Navy, he was in the White House at that time. I had some contact with him. In the ensuing years, I served under three Secretaries of Defense in my 5 years in the Department of Defense. In the ensuing years, in my

years in the Senate, I have worked with each and every one of the Secretaries of Defense, so I have some understanding, modest though it be, with regard to that office and those who have served in that office.

I find in my dealings with Secretary Rumsfeld over the years he has been in office—I worked on his confirmation, as a matter of fact, at that time—I have found him, much like the Senator from Alaska, to be an individual with whom I could work very successfully. I have established a working relationship and a mutual respect. I believe it is a fundamental right of the President to make his choice.

This debate, in a way, is an attack on the President as to his choice and to his constitutional right to select his own Cabinet. In so doing, we must respect that Constitution and his right to do so. He has chosen Secretary Rumsfeld. Within the past day or two, he has reiterated his unwavering support. Consequently, we must recognize it comes down to the Constitution, the Presidential right to select members of his Cabinet.

I join my colleague from Alaska and other colleagues in resisting, in every way, any call by which to indicate a lack of confidence in the President's choice for the Office of Secretary of Defense.

I may have further remarks to deliver on this subject as the debate continues, but at this point I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I begin by saying, I have been listening to the debate for a good period of time. It is a pleasure to hear the Senator from Virginia, who is always civil in his approach to these debates and who always asks intelligent and probing questions. The colloquies I have had with him, and certainly the colloquy I listened to a moment ago, are what the Senate ought to be about. It has been an intelligent, healthy exchange with respect to policy in Iraq.

I will speak to the question of Secretary Rumsfeld in a few moments, but I share some thoughts. Regrettably, the debate that preceded the Senator from Virginia, without mentioning Senators specifically, is relatively insulting and is not worthy of the subject and its importance.

One colleague talked about how war was declared against the United States on September 11 and drummed up America's passion that we all share about opposing terrorists. However, he did exactly what a lot of people on the other side of the aisle have been doing for 4 or 5 years now, which is conflating the war on terror into Iraq.

Let me remind my colleagues on the other side of the aisle, I have not heard one person in this country who doesn't want to do everything in the power of our Nation in order to stand up to terrorists. We all voted to go to Afghanistan. We all voted to take on the Taliban and al-Qaida. If the President had kept his eye on the ball and done what was necessary in Afghanistan and not outsourced the job to Afghan mercenaries, we would have perhaps used the 101st Airborne, the 82nd Airborne, the 10th Mountain Division, or the 1st Marines to do what the CIA, it is now known publicly, was arguing adamantly we ought to be doing, which was surrounding Tora Bora and capturing or killing Osama bin Laden and those thousand or so people up there with him. The President wouldn't have had to quote Osama bin Laden yesterday if we had done the job at Tora Bora. That is what we voted to do, every single one of us.

We gave the money. We have consistently voted for the PATRIOT Act—the vast majority—and voted for the reorganization of our intelligence community and done everything in our power to fight terrorists.

Let me remind our colleague who wanted to drum up the passion of the Nation about being attacked on September 11, that it was not Saddam who attacked us. It was not anybody from Iraq. It was Osama bin Laden and other terrorists.

The fact is, there are more terrorists today in Iraq than there were on September 11. There are more terrorists in the world today who want to kill Americans than there were on September 11. Is that a policy that is working?

More terrorists today want to kill Americans than on September 11, when the whole world was united behind the United States of America, when newspapers across the world said, ''We are all Americans now,'' and everyone was ready to do what we needed to do in Afghanistan. We squandered that. This administration has squandered it. There has been a complete and total lack of accountability for what has happened in between.

I heard one of our colleagues come to the Senate and say it would be a mistake to leave before Iraq can provide its own security. We are not talking about leaving before they can provide their own security. I heard another colleague say what a mistake it would be to withdraw precipitously. Precipitously? What is precipitous about saying we are going to set a target for withdrawal a year from now? A whole year from now we are going to stand up their forces, to provide for the security of their nation. That is not precipitous.

I am tired of a whole bunch of people who want to conflate, distort, and mislead Americans with a phony debate about the war on terror.

Iraq was not the war on terror. Today it is not the center of the war on terror. Are there some terrorists in Iraq? You bet there are. It is the best training ground in the world for terrorists. It is a poster child for recruitment for terrorists. And they are coming. And where are they going? They are going to Europe. Europe is now the center of al-Qaida. I don't know how many people know that. There are cells in Germany and elsewhere in Europe. We are providing the training ground.

The fact is that Iraqis themselves do not want al-Qaida there. If we can provide them the capacity to provide for their own security, believe me, they will drive out whatever is left of the remnants of foreign tourists because the Shia don't like them, the Sunnis don't like them, the Kurds don't need them and don't like them, and they will not survive, except to the degree that they currently provide a convenient connection between the interests of the different parties in Iraq that can only be resolved politically.

Now, let's come back to that. Let's get away from this phony debate we have had in the Senate and this country. Secretary Rice said this can only be resolved politically and diplomatically. General Casey has said there is no military solution. If there is no military solution, what is the solution?

The Senator from Texas said: Give me a plan, give me an idea, one idea that is different. Well, we have done it. We have suggested, many of us, including distinguished people such as General Zinni, who knows the region. He is about as good and as tough and as patriotic as there is a soldier in America. He believes, as I and others do, the only way to resolve what is happening in the Middle East and Iraq is through diplomacy and political effort.

I suggested during the discussion of the amendment that I had several months ago we ought to have an international summit. The Secretary-General of the United Nations believes it. The King of Jordan believes it. The President of Egypt believes it. A whole bunch of people in the region believe that unless you get the full measure of all the parties together—the Sunni, the Shia, the Kurds, the factions of Iraq, the Iraqis themselves, obviously as a government, the Arab League, the neighbor states, including Syria and Iran—you cannot begin to resolve this problem.

Ask yourselves the simple question: How is this going to be resolved? How are American forces going to come back? They are going to come back if you provide the measure of stability to Iraq that it deserves and needs. How do you provide the measure of stability it deserves and needs? By providing confidence to the people and confidence to the parties that the differences between them are adequately resolved, that there is a level of investment, of a stakeholder investment in all of those parties.

How do you get there? You don't get there by not talking to each other. You don't get there by not having the kind of summitry and diplomacy that has guided the world through most of the last centuries of civilized behavior. That is not taking place. There is a total absence of the kind of effort that can help to resolve what is happening in Iraq.

Our soldiers have done their job. They have provided the opportunity for

democracy. They have provided for several elections, for the transfer of authority. And to measure plans—the Senator from Texas said: Give me a plan—what was the plan of the Republicans, of the administration? The plan is: As they stand up, we will stand down. What American has not heard those words from the President? ''As they stand up, we will stand down.''

Well, what has happened? Eighty-five percent of their forces are now supposedly trained. You cannot have it both ways. At some point the game has to stop. Either there really are 85 percent trained, and they are making progress—which they keep telling us—or they are not. If they are, then why aren't we able to withdraw a few troops? Either they are or they are not. And you ought to be able to withdraw some of those troops. The fact is, we are not standing down.

The violence over the last month was the worst. They have just upped the number of people in the morgue, tripled it. It is the worst month in the last months. And each month keeps on being a worse month than the month before.

Now, somewhere along the line, I learned in the military there is accountability. If a captain runs a ship aground, he is gone. That is it—usually with no questions asked. I noticed that the commander of the Cole was held responsible, even though it was not his fault for what happened in the bombing of the Cole, and he is not going to be promoted. These things affect careers and they affect your tenure. Ask General Shinseki. Ask the folks who were involved in Abu Ghraib, at least at the lower levels.

What happened to the accountability in this administration, particularly within the military branch, the Pentagon, for the decisions that have been made along the way?

Our plan says we will set a date by which time the Iraqis have to assume responsibility so that we leverage the Iraqis to assume that responsibility. Now, is that precipitous—a year from now? I do not think so, particularly when you read the language of what we laid out, which says the President has the discretion to leave troops there to complete the training. There is nothing precipitous about allowing the President to have the discretion to complete the training and leave troops there. That is not a withdrawal even, complete and total.

Secondly, we allow the President the discretion to keep sufficient special forces there to fight al-Qaida.

And, thirdly, we allow the President to be able to protect American facilities and forces.

Now, that is pretty broad, folks. It is time we had a real debate about what is going to empower the Iraqis to be able to take control over their own future, and we had a real debate that does not try to scare the American people. The way fear has been thrown around by this administration is disgraceful. And they keep drumming up terrorism and suggesting that Iraq is somehow the center of this war on terror, which it is not now today and never has been.

This administration has made our Nation less safe than it ought to be because they have focused so much time and energy and effort—and squandered it—in Iraq. They have lost allies and regional links that we ought to have traditionally because they have pushed people away from us. They do not have credibility in the region. It is extremely difficult for them to conduct diplomacy with people who, frankly, do not trust them.

In fact, they have empowered Iran. Iran is stronger today because of Iraq than it would have been without Iraq. And there is no expert on Iran who will not tell you that. Are we safer because Iran is stronger today? Because we are so bogged down in Iraq we do not have the ability to do what we need to do?

I listened to my colleagues talk about Secretary Rumsfeld. I heard them say that they have known him a long time, that they have a good working relationship, that there is a mutual respect, that they like him, that he is smart, and a whole host of things that are part of working with somebody through the years. I respect that.

But none of that goes to the fundamental question of whether you have confidence in his judgment. None of that goes to the question of whether he has made such a series of mistakes that he is a symbol, an emblem, of our failure in Iraq and is one of the reasons you cannot get other countries and other people to the table to help resolve the differences here.

I called for Secretary Rumsfeld to resign 3 years ago. Three years ago I felt that the level of the mistakes were so significant—in the deployment of troops, in the abandonment of a plan for postwar Iraq, in the choices that were made—that I thought that track record exhibited terrible judgment, poor planning, and ideologically driven decisionmaking, to which this administration has consistently turned a deaf ear.

I think the office of Secretary of Defense ought to be above politics. And I think it also ought to never be beyond accountability. But under Secretary Rumsfeld it has been profoundly political, as we saw last week reemphasized again, and it has been utterly unaccountable.

The Secretary's record says a lot about the question of accountability in this administration and certainly has not stopped him from speaking his mind.

A few days ago, Secretary Rumsfeld gave a low and ugly political speech, smearing those who dissent from a catastrophic policy. And then he spoke of moral confusion in our country. Well, there is some moral confusion around.

I think it is immoral for old men to send young Americans to fight and die in a conflict with a strategy that is failing and a mission that has not weakened terrorism but strengthened it.

I think it is immoral to not tell the truth to America about the progress in that war just to get through a new cycle or an election.

I think it is immoral to treat 9/11 as a political pawn and to continue to excuse the invasion of Iraq by exploiting the 3,000 mothers and fathers, sons and daughters who were lost on September 11. They were attacked and killed, I remind the Senate again, not by Saddam Hussein but by Osama bin Laden.

And it is deeply immoral to compare a majority of Americans—a majority of Americans—who oppose a failing policy and seek a winning one; we do not seek to quit, as one Senator suggested—we seek to win. And we have a better strategy for winning. And to compare those who seek a better strategy to win to appeasers of fascism and Naziism is an insult to the quality of debate we ought to have in this country. And it is overtly political.

The leaders in this administration have shown they will do anything, say anything, twist any truth, and even endanger our Nation's character as one America simply to execute a political strategy for the election.

I heard one Senator talk about political strategy. Karl Rove has been pretty open about expressing where the Republicans need to go in order to try to win; and it is to exploit security.

Americans, I believe, now see through this charade. They know the truth. They know we have a ''Katrina'' foreign policy, a succession of blunders and failures that have betrayed our ideals, killed and maimed soldiers, and widened the terrorist threat instead of defeating it.

In the place of accountability, we have vicious, partisan attacks on anyone who opposes those policies with a suggestion not for how you quit, not for how you run but for how you win—how you win.

We have watched Iraq sliding further and further into a bloody civil war, with too few troops and no plan. Who is responsible for too few troops and no plan? The President and Secretary of Defense.

I have heard Republican colleagues privately express their reservations about this policy and about this Secretary. Can we afford to trust our Pentagon to an individual who seems to be the last person to acknowledge the mistakes that have been made? Secretary Rice said there have been thousands of mistakes.

Who admits to the fiasco of hubris and mismanagement that falls largely at the Secretary's own doorstep, who can only reach for a sort of clumsy, rhetorical brick to hurl at the opponents, suggesting, without an ounce of shame, that they are soft on Hitler. Soft on Hitler?

We are too long overdue for some accountability. But instead of the pink slips that they so richly deserve, this

administration's worst foreign policy failures are instead rewarded. You get a Presidential Medal of Freedom. George Tenet, who presided over the intelligence failures leading up to 9/11, Medal of Freedom. Paul Bremer, who botched the occupation, Medal of Freedom. And somehow it seems the only people in this administration who are rewarded are those who make the mistakes, while those who tell the truth are punished.

According to Secretary of State Rice, we know this has to be resolved politically and diplomatically, but it is not.

Who is accountable for those mistakes? Who is accountable for young people dying as a result of mistakes? Who is accountable for billions of dollars being spent as a result of mistakes?

We are all human. We all make mistakes. We understand that. But there is a point of accountability in the carrying out of a high public job, where mistake compounded on mistake compounded on mistake begs for accountability.

On issue after issue, Secretary Rumsfeld has made the wrong decision. You may like him, respect him, admire his long years of public service, but he has been wrong, when he could have listened to General Shinseki, and other generals, and put in enough troops to maintain order. We have heard a whole group of other generals speak out about what happened over there. He chose not to listen. He chose not to listen. He was wrong.

When he could have implemented a detailed State Department plan for reconstructing post-Saddam Iraq—guess what—he ignored it, threw it away, would not have anything to do with it. He was wrong, again.

When he could have ordered the protection of American forces by guarding the ammo dumps and making sure a plan was in place to move efficiently through the territory that they were taking, where there were weapons of individual destruction, he chose not to. He was wrong. And he exposed our young men and women to the ammo that now maims and kills them because they chose not to act. Who is accountable for that?

When he could have imposed immediate order and structure in Baghdad after the fall of Saddam, do you know what he did? He shrugged his shoulders publicly on television and he said Baghdad was safer than Washington, DC, and he chose not to act. He was wrong.

When the administration could have kept an Iraqi Army selectively intact, they chose not to. He was wrong.

When they could have kept an entire civil structure functioning and provided basic services to Iraqi citizens, they chose not to. And they were wrong.

When they could have accepted the offers of the United Nations and individual countries that were provided at the time in order to give us on-the-ground peacekeepers to help us and reconstruction assistance to help us so the American taxpayer and soldier did not carry the whole burden, he chose not to. They were wrong.

When they should have leveled with the American people that the insurgency had grown—when many of us were on the floor of the Senate saying the insurgency is growing, it is out of control—they ignored the insurgency, chose to ignore it. And they were wrong.

Wrong decisions, wrong priorities, but, tragically, no accountability.

Some Republican Senators have had the courage to come to the floor and talk about this lack of accountability and talk about these judgments that were wrong. How did it get so wrong? It got so wrong because, in part, the Secretary became so enamored with ''new think'' and transformation at the Pentagon that he failed to see the limits. He believed the American military could operate lighter, smaller, leaner.

A lot of people spent a great deal of time in the 1990s thinking about this. They looked at the first Persian Gulf war, and they saw how the application of air power and stealth and precision munitions, combined with the latest information technology, could radically change the way wars are fought. And operationally they were right. But at the operational level, we had a military that emerged from the Clinton administration prepared to apply its technological advantage against any enemy.

Witness the fact that it was the Clinton buildup and capacity that, in effect, was used because the President had only been President for 10 months. They had not transformed the military. That was the military that succeeded in routing the Iraqi Army. It was that military that drove to Baghdad in 3 weeks. And that is an edge that we all want to maintain forever.

But Secretary Rumsfeld failed to understand that the wars of the future would not be fought only at the operational level. He fell in love with the vision of the Armed Forces of the future and lost track of the reality of the current threat.

He believed that a heavy dose of shock and awe was all it would take to break our adversary's will. That failure to see past the operational level was part and parcel of an administration that came to power with nothing but contempt for nation building. They scoffed at the lessons learned previously. That is why the Secretary began his tenure trying to slash Army end strength and boots on the ground to fund missile defense. He was betting, unwisely, that America would not find itself in anymore failed states.

So now we have the fifth summer of Mr. Rumsfeld's tenure coming to a close, and we find ourselves engaged in massive stability operations in two failed states, Iraq and Afghanistan. In short, Mr. Rumsfeld was wrong again and again and again. American troops have had to pay the price for that, as has the American taxpayer, and too many Americans have paid with their lives.

I believe personally that Secretary Rumsfeld should be held accountable for this job. When faced with widespread looting in Iraq, the Secretary quipped that freedom is messy. When he was asked by a soldier why they were sent in without the necessary armor, he said that you go to war with the Army you have, not the Army you want—despite the fact that parents were able to buy armor for their kids on the Internet and elsewhere. He has dismissed international law regarding military detainees and abuses at Abu Ghraib. He still refuses to acknowledge that the Army and Marine Corps are too small for the missions they face. Earlier this year, he even supported cuts to the National Guard.

Mr. President, I believe his stubbornness is our weakness. He likes to talk about the war on terror as the long war, but in this long war he is stretching the Army to its limits. Its officers and noncommissioned officers are sent on back-to-back deployments with inadequate resources. Despite their heroic service, they are leaving this military. It is costing us enormous extra sums of money to hold it together.

Mr. President, the Secretary's benefit of the doubt has come and gone. I think the moment of accountability is long overdue. Americans deserve leadership they can trust. We need to change the course in Iraq. We all want to be successful, but the current course is not leading to that success. And if it is, then there is no reason they cannot begin an adequate redeployment, as General Casey said—in fact, General Casy's own dates coincide with the dates of those of us who suggested to set a date about a year from now. You can always change a date if you have to. If the situation on the ground doesn't change adequately, you have flexibility. But unless you leverage the willingness of the Iraqis to assume responsibility for their own future, there is nothing that American troops can do except continue to be sent out on missions where they discover improvised explosive devices the hard way. We have too many young Americans who are in Bethesda and Walter Reed as a consequence of that policy. I believe there was a better policy to fight terror, to liberate us, and to fight broadly in some 65 countries around the world where al-Qaida is embedded. We need to fight that, and we need a greater troop level and capacity on the ground in Afghanistan.

All of these things are needed, and they are all suffering because of decisions made and not made. I believe on credibility and the track record of decisions based on ideology, this Secretary is not the person for the job.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I have listened to the Senator from Massachusetts speaking. In many ways, I find it a bit disingenuous. I had planned to speak specifically about other points relative to this resolution. I think it is appropriate to respond to some of what he has said. Of course, he is the former standard bearer of the party in the prior election and, therefore, a voice of considerable import on policy in this Nation relative to the position of the Democratic Party.

The Senator gave a litany of what he deemed to be errors—some of which I agree were errors—that have occurred relative to the way we have pursued this battle in Iraq. It is a litany as if he is a Monday morning quarterback and had the answer now to what would have been the correct process. It sort of makes you think that if he were giving a discussion about the Red Sox, he would not have put Bill Buckner at first. He would not have picked Bucky Dent. He would have given Carlton Fisk his contract. Or he would not have traded Babe Ruth.

When you come to the Senate floor and pick out a series of events as unique items that flowed within the context of a major effort to confront the terrorist threat to this Nation—he uses the term ''hubris'' and mismanagement. I would say it is a bit of hubris to take that position on the Senate floor.

The Senator failed to mention, for example, that as a result of the initiatives of this administration, led by this President and this Secretary of Defense, over 50 million people today are free who were not free; that women in Afghanistan are no longer closeted in their homes and threatened with death if they wear the wrong garment on the street, or shot in soccer stadiums in Afghanistan, but women have the right to move about as they wish; that there have been elections in Afghanistan that have brought to power a democratic government, which is under pressure today, yes, because of those forces that represent our enemies, and our enemies seek to undermine that democracy. He failed to mention that Iraq, which has suffered for 20 years from a genocide executed by a homicidal leadership, is now free and that the people of Iraq no longer have to fear mass murder of the proportions that occurred under Saddam Hussein; that a government that was and had produced chemical weapons and used them against their own people—specifically the Kurds—was no longer in power; that we have had a series of democratic actions in Iraq that have led to a freely elected government, which involves a coalition of very disparate groups—Sunnis, Shiites, Kurds, and subdivisions within those various clans of political purpose; that that government is moving forward, and that it has stood up an army that is a responsible army, not one of threat to its people but an army of defense of its people. And it is in the process of taking responsibility or defending those people from forces in that nation who wish to return to chaos, to genocide, and to a government that is lawless in the name of fanaticism.

He failed to mention any of that as the results of the efforts of this administration. Those are pretty big things. Instead, he picks out the little events—fairly big in some instances—of error. Yes, there have been some errors, and nobody denies that for a second. But the purpose is to defeat our enemies, and we have set as a goal in that process setting up a government in the nation of Iraq that will speak to the basic values that are fundamentally western—individual liberty, democracy, rights for women, and a marketplace economy. And we have had considerable success in that effort. We are not there yet, and we do not know if we will accomplish the final goal because, obviously, there are forces at work who do not wish to have us accomplish that goal.

But to dismiss this as a failure and to point to a series of incidents as an example of failure and never acknowledge the 50 million free people, the fact that an entire half of the population that had been written out of the ability to participate in civilized life—specifically women—are now brought into the process of having a decent lifestyle, the fact that we have had elections, the fact that we have an army in place that is their army, the fact that we are moving toward a nation based on democracy and law—we have a long way to go, but we are moving that way—to dismiss that and say that because of a series of errors, which he deems to be errors—and in some instances I agree—we should call for the removal of the Secretary of Defense because of those events is just ignoring reality.

In fact, he used the terms on innumerable instances, saying he did not want to see a partisan fight; he thought the Secretary of Defense should be above politics. So how can you then come to the floor of the Senate and make the speech that was just made? It was ''overtly political,'' to use his term, which was for the purpose of exuding a political strategy that if you attack the Secretary of Defense, you weaken the Presidency and will do better in the election. It was, to use his term, ''a viciously partisan attack.''

There is inconsistency which cannot go uncalled. So let me point it out. This proposal is not an attack on Donald Rumsfeld. That is not the purpose of this attack. That is the politics of this attack. It generates a good press release, and it is a sound bite event to call for the Secretary of Defense to resign. But that is not what this is about. We all know that.

This is about the policy of fighting people who have determined that America should be extinguished from the face of the Earth, that Americans should be killed and our culture should be destroyed, and whether our efforts in Iraq are a legitimate part of that defense as we confront that threat.

It is the position of the other side, it appears, that Iraq is not part of the battle or essential to the battle against Islamic fascism, Islamic fundamentalism. I find that position to be untenable. That is hardly the position taken by our enemies. The words of Zarqawi and the words of bin Laden have been very specific: Iraq is where they see the war being waged. Their purpose is to use Iraq as a bootstrap to pursue their goals of basically undermining and destroying western culture and killing Americans. You need to believe their words. If your enemy tells you what they are going to do, and your enemy then does what they tell you they are going to do, you have to start taking them seriously when he tells you something else. And when Osama bin Laden and Zarqawi say Iraq is where the war is being fought, where the effort to pursue Islamic fundamentalism is being pursued and aggressively undertaken, then you have to take that seriously.

But it appears that the other side believes that Iraq is a distraction to our efforts. Well, the track record doesn't show that. Have we been attacked in the United States since 9/11? The reason we have not been attacked, in some measure, is good luck, good fortune, but it is also the fact that this administration has put into place an aggressive effort to fight terrorism not in America—Islamic fundamentalism and fascism—not on our soil but to take the fight to their soil and to meet them where they are.

That policy appears to be working. We can't take great solace, obviously, because who knows when they will attack us again and when they will breach our capacity to be secure.

I don't claim that we are anywhere near secure. In fact, I made it very clear that I have serious reservations about things we still need to do to make ourselves secure. But the fact is that the concept, the basic philosophy of pursuing the terrorists, the Islamic fundamentalists, the Islamic fascist movement, on their territory versus waiting for them to attack us and hoping to get them through our intelligence capability before they do that is a policy which is the correct policy.

Yet the other side of the aisle has had enough of it. They have had enough of it. So they want to use the stalking horse of attacking the Secretary of Defense as a process for basically undermining the policies and efforts which have led us at least to this point to some level of security as a nation. They don't appear, from what I have heard here so far, to really even have an offer of an alternative that is specific enough that it could be said to be a real alternative.

A letter was sent to the President outlining their alternative. They outlined four initiatives in this alternative. Three of them we are already pursuing and pursuing aggressively. The response from the administration was put in the RECORD earlier today by the Senator from Arizona.

The diplomatic process is going forward. I heard the Senator from Massachusetts talk extensively about the diplomatic need, that this should be resolved diplomatically, and I believe his words were that there is no military solution, there is only a diplomatic solution.

I only point out the obvious: You can't get to a diplomatic solution without having a military on the ground that makes things stable enough so that diplomacy can go forward. If you withdraw the military, you have chaos, and there is no diplomacy that is going to straighten that out. So that argument is a little disingenuous, to say the least.

Sure, there isn't a military solution in the sense that this is a war involving nationhood, nation against nation in the tradition of the wars of the 20th century, but there are military actions that can be taken and need to be taken which involve finding those people who wish to do us harm and eliminating them before they can do us harm. And a big part of that involves the intelligence and the on-the-ground capability which we gain by being in Iraq and having an influence in that nation which is leading toward a form of democracy.

Another big part of that which is again military based is allowing Iraq to evolve to the point where it can actually show the rest of the Islamic world that democracy is not an enemy, that democracy gives people good options; that giving people rights, especially women, is not bad for them but actually is good for them; that a culture which is open, which is market oriented, which has a reasonable level of freedom, is a better way of life than a culture which is closed and which denies people the rights to participate other than through some sort of extremist control, such as the Taliban had. It becomes a beacon of opportunity to look to. We are not there yet, but we are never going to get there if we don't make the effort.

So if we look at their proposals—and, as I said, three of them have already been met. What is the fourth one? The fourth one is to begin what they refer to as—I will quote this. This is actually not their fourth one, it is their second one—although the other three have been met—in their letter to the President:

> . . . beginning the phased redeployment of U.S. forces from Iraq before the end of this year.

This year. The Senator from Massachusetts kept saying a year from now to begin the redeployment. Their position is not a year from now; their position is this year to begin redeployment.

What does this term ''phased redeployment'' mean? I wonder how many focus groups they ran that one through before they decided to use that terminology, ''phased redeployment.'' I will tell you what it means. It is a phrase, the purpose of which is to give political cover to those who wish to stand in opposition to the administration relative to what is happening in the war against the Islamic fascists.

In practice, were it ever to be executed—in other words, if you were actually to start pulling down troops before the end of this year—you would have set an arbitrary date and you would start removing American troops. What would happen to the troops left there? We all know Iraq is not yet ready to defend itself. Would that not put at even greater risk American soldiers left on the ground? How could you look the people in the face who are in the divisions and who are in the brigades who have been left behind as you started to pull people out prematurely and said: Oh, good luck, you are now a bigger target because we aren't there to give you the cover you need.

Phased redeployment before the end of this year, arbitrary date set for the purposes of making a political statement as we head into an election—it is not very good policy, to say the least, even if it is policy. It isn't policy. It is just politics, a political statement.

With whom are they going to replace Donald Rumsfeld? Howard Dean? Ned Lamont? I mean, these are the standard bearers of the position of their party. They want to take out Donald Rumsfeld and I presume they want to put in Howard Dean and Ned Lamont, two people whose purpose it is to speak for the party—one being the chairman of the party, one being the most recent standard bearer of the party—to immediately withdraw, to take our troops out of there now and to let happen what happens.

I am not going to use the pejorative to describe that. I think the American people are sophisticated enough to recognize that policy makes no sense. Howard Dean as Secretary of Defense? Maybe we should amend this and say ''and we shall replace him with Howard Dean.''

Howard Dean was a pretty good Governor from Vermont. I enjoyed working with him when I was Governor of New Hampshire. He wouldn't be a very good person in the Defense Department. He is not a very good person on foreign policy, and he clearly does not understand the threat, in my opinion, that the Islamic fundamentalists reflect.

The Howard Dean-Ned Lamont policy is a policy based on naivete. It is a policy that rejects the reality of the situation, which is there are people out there who wish to kill us and destroy our culture, and there are a lot of them, unfortunately. They feed off weakness, and they believe we are weak and will believe we are truly weak and will be able to make that case should we begin a phased withdrawal this year when we have no military capability of covering that withdrawal and protecting our troops who are left behind. It is a policy that is firmly grounded in Birkenstocks and clearly not grounded in the reality of the world as it is but the world as they wish it were.

We have a truly extraordinary military. I recognize everybody on both sides of the aisle understands that. There isn't a Member in this Chamber who hasn't been to a funeral and tried to console a member of a family of someone who has been lost in this war, in this battle. These are exceptional people who defend us and who carry forward our flag. They need to understand that their purpose is good and their purpose is right. And it is. Their cause is to find the people who wish to do America harm and who have said they intend to do America harm and to eliminate them before they can attack us and do us further harm.

Iraq is an integral part of that cause. Have there been mistakes there? Absolutely. Absolutely. It is terribly unfortunate, and we all recognize that. But have there been successes there and very significant successes there? Yes, there have been. As I said before, 50 million people, between Iraq and Afghanistan, are now free, women brought from behind the closeted doors of their houses into society, press availability, elections, governments formed, security forces who report to a government. We have a long way to go, but these soldiers have served extraordinarily well, and they have accomplished a great deal. To use this attack on Donald Rumsfeld as a stalking horse as an attack on the policies of Iraq I don't believe does anybody any good.

If the other side of the aisle wishes to debate the Iraq issue in context of the policy, fine, but to personalize this in such a manner—to quote the Senator from Massachusetts—is viciously partisan and overtly political and is not constructive to our ability to pursue this war or to our need to assure our soldiers in the field that they fight for our right and just cause.

Under the leadership of this President and the Secretary of Defense, Secretary Rumsfeld, the military has received the largest increases in resources since World War II. We have taken an approach to the military which has been to essentially get them whatever they need to do the job and do it right and make sure our soldiers are safe. Errors have been made along the way in accomplishing that, but the attention and the commitment to resources have been there, and this President and this Secretary of Defense take a second seat to no one in our history relative to their commitment to the men and women who wear the uniform of the United States of America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, like others, I have had the good opportunity to listen with great interest during the course of the afternoon about the nature of the resolution which is before us which questions the serious judgments of the Secretary of Defense in bringing us to where we are. He is the principal architect of the Iraq policy. I have listened to others talk

about the general nature of the threat in terms of our national security.

In most recent times, we have an excellent Department of Defense study, some 63 pages long. We referenced it yesterday. It talks about the principal challenges we are facing in Iraq. I will briefly mention parts of it.

It talks about sustained ethnosectarian violence is the greatest threat to security and stability in Iraq; breaking the cycle of violence is the most pressing immediate goal of the coalition in Iraqi operations; conditions that could lead to civil war exist in Iraq, specifically around Baghdad; concern about civil war with the Iraqi civilian population has increased in recent months.

It goes on and talks about both Shia and Sunni death squads are active in Iraq and responsible for the significant increase in sectarian violence; militias—small, illegally armed groups—operate openly and often with popular support; civilian casualties increased by approximately 1,000 per month since the previous quarter; executions in particular reached new highs in the month of July; and rising sectarian strife defines the nature of violence in mid-2006.

Now we have to ask ourselves: How could all of this come to pass? Who was the architect that brought us to this situation? Clearly, it is because of the persistent, stubborn insistence of those who believe that we ought to stay the course, the principal architects being the Secretary of Defense and the President of the United States.

As has been mentioned here time in and time out, America was struck by al-Qaida, not Saddam Hussein. All of us gathered together to support the attacks that took place in Afghanistan and the isolation of Osama bin Laden and the belief, as has been pointed out earlier in the course of the afternoon, we had a real opportunity to catch and to punish and to bring to justice the individual that was the principal architect of 9/11. But instead, the administration moved military units and moved focus out of that search for Osama bin Laden into Iraq—into Iraq. It was Osama bin Laden who was the architect, not Saddam Hussein, and as a result, we have effectively taken our eye off the principal author of terrorism.

Even as the President of the United States spoke yesterday, 17 times he mentions Osama bin Laden. He was the one who was the architect. We should have been after him for the last 4 years. Instead, we have been weighted down with the resulting conditions that I described earlier, and the principal architect of that is the Secretary of Defense. He was wrong when he represented that there were weapons of mass destruction in Iraq that threatened the United States. He was wrong about the connection of al-Qaida to 9/11, as was demonstrated by the 9/11 Commission. He was wrong about the insurgency being just a group of deadenders. He was wrong about the administration of Abu Ghraib. He has just been continuously wrong, and we have the current situation which is outlined not by those of us who are supporting this resolution but by the Department of Defense.

Let's look at what the military does to its soldiers when they have failures in the performance of their duty. Here we have just mentioned, and it has been discussed over the course of the afternoon, the series of blunders by the Secretary of Defense—a series of blunders. Let's look at how the military treats its people.

In 2003, the Navy fired 14 commanding officers. In October of that year, the commanding officer of a Prowler aircraft squadron lost his job after one of his jets skidded off a runway. The Navy cited a ''loss of confidence'' when they made the decision to dismiss him.

In December of 2003 and January of 2004, the commanding officers of the submarine *Jimmy Carter* and the frigate USS *Gary* were both fired because of ''loss of confidence.''

In 2004, the Navy fired the captain of the USS *John F. Kennedy* aircraft carrier for running over a small boat in the Persian Gulf. The Navy didn't hide the incompetence or gloss over the facts. It responded decisively. It stated plainly it had ''lost confidence'' in the captain's ability to operate the carrier safely. He was the eleventh commanding officer of the Navy to be fired that year.

In February 2004, the commanding officer of the frigate USS *Samuel B. Roberts* was fired for a ''loss of confidence'' after he spent a night off the ship during a port visit to Ecuador.

For military officers in the Navy, the message is clear: If you fail, you are fired. The message to the civilian leadership of this administration is equally clear: If you fail, there are no consequences, no accountability, even if more than 2,600 Americans lose their lives.

It is time for the Department of Defense to run a tighter ship at all levels of command, including the civilian leadership. Those leaders at the Pentagon should be held at least to the same standard of accountability to which military officers in the Navy are held.

Secretary Rumsfeld must be held accountable for the massive failures in Iraq. Civilian control of the military is one of the great cornerstones of our democracy. But what if the civilian leaders don't know what they are doing and mindlessly lead our troops into battle unprepared? Clearly, there must be accountability for this breathtaking incompetence which has put our soldiers in daily danger and weakened American national security.

In a hearing by the Senate Armed Services Committee in 2004, former Defense Secretary Harold Brown described the key to accountability:

> At each level, the question is a loss of confidence. And in the Navy, the loss of confidence goes with grounding your ship. At a higher level, the loss of confidence has to be determined on a basis that is somewhat broader, the full performance. And I think that applies at the highest military levels. And it applies at the level of the Secretary of Defense and his staff.

That is what this resolution is all about.

The Bush administration has had its chance, and it has failed the basic test of competence. It is more focused on the spin of war than the real war in Iraq.

There is broad agreement among military experts, Members of Congress of both parties, and the overwhelming majority of the American people that we need to change course in Iraq. We need this administration to face up to its mistakes and correct them. A good place to start would be for the President to replace Secretary Rumsfeld. It is long past time for Secretary Rumsfeld to go, and I urge the Senate to pass this resolution.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Another speaker on our side is coming. I wish to not make a statement in that queue, so to speak. I just want to speak as a manager of the bill. I was under the impression we would be able to get through this discussion prior to the submission of this resolution and be able to go ahead with the votes we have. We have at least three votes left tonight, and we have assurance that we are going to pass this bill tomorrow, and there are still quite a few other amendments out there.

So I would like to know—can I inquire, may we get a time agreement from the other side of when this bill will pass tomorrow? I would like to know what is going to happen to this bill now? We had the understanding—I agreed we could not finish it on Wednesday, as we initially agreed—that is today—and that we would finish it tomorrow. But we had not anticipated this prolonged discussion about a resolution that hasn't even been introduced yet.

Is the distinguished deputy leader willing to enter into some discussion about this?

Mr. DURBIN. Mr. President, if I could respond to the question of the Senator from Alaska, it is my understanding there was an attempt to reach a time agreement before this started and, unfortunately, there was objection on the other side of the aisle. But——

Mr. STEVENS. We have not had any request for a time agreement. I have been willing to enter into a time agreement from the very beginning—from the very beginning.

Mr. DURBIN. I would be happy to discuss this with Senator REID, and we will move quickly as our Members come to the floor prepared to speak. We have tried to alternate back and forth, and we are prepared to continue to do that. Our goal is to finish this bill by tomorrow.

Mr. STEVENS. I would suggest then—is the Senator from Delaware going to speak next?

Mr. DURBIN. The Senator from Minnesota.

Mr. STEVENS. Pardon me. It is my eyes. I am sorry. Let's just skip this space and we will have a speaker come and follow him when he is finished.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. DAYTON. Mr. President, I join today with many of my colleagues in expressing ''no confidence'' in Secretary of Defense Donald Rumsfeld and urging President Bush to replace him. I truly respect the Secretary's commitment to public service, and I recognize that he has one of the most difficult jobs here or anywhere in the world. He is a stand-up, tell-it-as-he-sees-it man, the kind we need more of in Washington. Unfortunately, the way he sees it has too often been wrong.

His disastrous failures in prosecuting the war in Iraq have left our courageous American troops mired in a quagmire there with no end in sight. And his shameful rhetoric last week comparing critics of his failed policies to the appeasers of Hitler was clearly a desperate attempt to divert attention away from his own failures.

Recent polls show the number of Americans who support the Administration's policies in Iraq is down to 39 percent compared to a high of 76 percent in April 2003.

That loss of public confidence has occurred not because Americans are appeasers—they most certainly are not—and not because Americans don't support our troops because they most certainly do support them and admire their incredible courage and patriotism as they persevere in the awful, deteriorating conditions there.

That loss of the public confidence in the Bush administration's war has occurred because Americans can tell the difference between success and failure. They can see that the President's policies are not succeeding in Iraq. They can see that the Iraqi Government and the Iraqi people are not winning against their own countrymen who oppose them. And the conditions in Iraq are getting still worse, not better.

All of the administration's rhetoric won't change their failed plans, policies, and practices that have created this mess.

Shortly before the invasion of Iraq, then-Army Chief of Staff Eric Shinseki testified before the Armed Services Committee that more than twice the number of U.S. troops that the Secretary was planning to commit to Iraq would be needed to secure the country after Saddam Hussein's overthrow.

For his foresight and his candor, General Shinseki was essentially dismissed by the Secretary, who preferred to believe the administration's favorite Iraqi exile, Ahmed Chalabi that the country would go back to work the day after Saddam's regime was toppled.

So when widespread looting and disorder occurred instead, the Secretary of Defense dismissed its significance. We now know that General Shinseki was right and President Bush, Secretary Rumsfeld, and Mr. Chalabi were wrong.

And that the initial civil disorder was a warning of much worse upheavals ahead, for which the Bush administration and its appointed Iraqi administrators were completely unprepared.

Even more tragically, they remain unprepared even today. Increasing violence, widespread corruption, nonexistent public services, failed improvement projects, delays, failures, and finger-pointing—those are the miseries that Iraqi citizens must endure today.

Democracy is a great thing, but democracy as we know means life, liberty, and the pursuit of happiness. Most Iraqis today fear for their lives, more and more are losing them, and reportedly almost 1 million Iraqi citizens have fled their country.

The New York Times today has an article about Iraqi citizens who are changing their names, something that is almost forbidden in the Iraqi culture, because it is the only way they know to save themselves from being pulled out of their cars or their homes and murdered simply because of their identity. The story states, and I will quote in part:

> Stories abound of Iraqi civilians being stopped at checkpoints by militia men or uniformed men and having their identification cards scrutinized. They are then taken away or executed on the spot if they have a suspect name or a hometown dominated by the rival sect. In Baghdad, Shiite death squads, sometimes in police uniform, operate many of the illegal checkpoints, Iraqi and American officials say. The most infamous episode of this kind took place in July when Shiite gunmen set up fake checkpoints and went on a daytime rampage through the Jihad neighborhood of Baghdad, dragging people from their cars and homes and shooting them after looking at their identification cards. Up to 50 people were killed.

Liberty, as we know, requires basic security, which the Bush administration and the Iraqi Government are failing to provide. And the chance to pursue happiness for many Iraqis is tragically even less possible now than it was under Saddam Hussein's evil regime.

This is the disaster for which over 2,600 heroic American soldiers have given their lives. Almost 20,000 have given their bodies, and for which Secretary Rumsfeld must accept responsibility—but won't.

Instead, what we are getting is another round of overheated and misleading rhetoric from the Secretary, the Vice President, and the President.

Last week was a repeat of some of the 2002 conventions where they first trotted out their overheated and misleading rhetoric to stampede Congress into supporting the Iraqi war resolution.

Saddam Hussein and his supposed weapons of mass destruction were then called urgent threats to our citizens' safety.

The Secretary of Defense, the Vice President, and the President all claimed proof positive that Saddam Hussein was developing nuclear weapons that would soon, if not already, present mortal danger to our national security.

Critics, skeptics, and even questioners were derided and dismissed as being appeasers of the then-Hitlerian menace of Saddam Hussein.

The administration offensive succeeded in persuading the majority of Congress and the American people. I was 1 of only 23 Members of the Senate to vote against the Iraq war resolution in October of 2002.

Yet even with bipartisan support for their war resolution, the President and others still used it politically to try to defeat Democrats in the 2002 midterm elections—just as they are now trying to do in this year's midterm elections.

Once again their rhetoric is misleading at best and blatantly wrong at worst.

Just yesterday the President repeated his claim that Iraq is the central battlefield where the war against terrorism will be decided.

There is no question that we must win the war in Iraq because we started that war, and once you are in it you must win it or suffer serious consequences.

But the worsening violence in Iraq, which the Bush administration and the Iraqi Government are failing to control or contain, is, by all rational accounts, primarily and mostly Iraqi-against-Iraqi sectarian violence.

To the extent that Al-Qaida and other terrorist organizations are operating in Iraq it is because of the openings and opportunities President Bush has provide them by creating a leaderless and lawless state.

Al-Qaida, as we have just witnessed, is not using Iraq as its central battlefield, but rather Heathrow Airport, or bombings in Spain, Jordan, and Egypt.

Osama bin Laden is by all accounts not masterminding his next assault against the United States from Iraq but rather from Pakistan or Afghanistan, where the al-Qaida allied Taliban is now resurgent due to other failed Bush administration policies, including their tragic and disastrous failures to meaningfully help rebuild that country.

Five years after 9/11, Osama bin Laden is still alive, unscathed, and plotting against the United States because the Bush administration has failed to devote the military personnel, the resources, and the diplomatic efforts necessary to find him and eliminate him.

Given the administration's attempts to exploit next month's fifth anniversary of 9/11 to its political benefit, it is a disgrace to the Americans Osama bin Laden murdered and to their families—this terrible criminal remaining alive and free to operate against the United States.

Let me conclude with excerpts from public statements made recently by

two U.S. generals with firsthand experience of the situation in Iraq. The first are excerpts from an article in the Washington Post by GEN John Batiste, a retired Army major general who commanded the First U.S. Infantry Division in Iraq. He wrote on Wednesday, April 19, 2006:

I had the opportunity to observe high-level policy formulation in the Pentagon and experience firsthand its impact on the ground. I have concluded that we need new leadership in the Defense Department because of a pattern of poor strategic decisions and a leadership style that is contemptuous, dismissive, arrogant and abusive . . .

We went to war with the wrong war plan. Senior civilian leadership chose to radically alter the results of 12 years of deliberate and continuous war planning, which was improved and approved, year after year, by previous secretaries of defense, all supported by their associated chairmen and Joint Chiefs of Staffs. Previous planning identified the need for up to three times the troop strength we committed to remove the regime in Iraq and set the conditions for peace there . . .

Our current leadership decided to discount professional military advice and ignore more than a decade of competent military planning . . .

We took down a regime but failed to provide the resources to build the peace. The shortage of troops never allowed commanders on the ground to deal properly with the insurgency and the unexpected. What could have been a deliberate victory is now a long, protracted challenge.

Defense Secretary Donald Rumsfeld claims to be the man who started the Army's transformation. This is not true. Army transformation started years before this administration came into office. The secretary's definition of transformation was to reduce the Army to between five and seven divisions to fund programs in missile defense, space defense and high-tech weapons . . . the Army remains under-resourced at a time when it is shouldering most of the war effort. Boots on the ground and high-tech weapons are important, and one cannot come at the expense of the other.

Civilian control of the military is fundamental, but we deserve competent leaders who do not lead by intimidation, who understand that respect is a two-way street, and who do not dismiss sound military advice. At the same time, we need senior military leaders who are grounded in the fundamental principles of war and who are not afraid to do the right thing, Our democracy depends on it. There are some who advocate that we gag this debate, but let me assure you that it is not in our national interest to do so. We must win this war, and we cannot allow senior leaders to continue to make decisions when their track record is so dismal . . .

Secondly, a statement in Time magazine on Sunday, April 9, 2006, by LTG Greg Newbold, who states:

From 2000 until October 2002, I was a Marine Corps lieutenant general and director of operations for the Joint Chiefs of Staff. . . . Inside the military family, I made no secret of my view that the zealots' rationale for war made no sense. And I think I was outspoken enough to make those senior to me uncomfortable. But I now regret that I did not more openly challenge those who were determined to invade a country whose actions were peripheral to the real threat—al-Qaeda . . . I am driven to action now by the missteps and misjudgments of the White House and the Pentagon, and by my many painful visits to our military hospitals . . .

What we are living with now is the consequences of successive policy failures. Some of the missteps include: the distortion of intelligence in the buildup to the war, McNamara-like micromanagement that kept our forces from having enough resources to do the job, the failure to retain and reconstitute the Iraqi military in time to help quell civil disorder, the initial denial that an insurgency was the heart of the opposition to occupation, alienation of allies who could have helped in a more robust way to rebuild Iraq, and the continuing failure of the other agencies of our government to commit assets to the same degree as the Defense Department. My sincere view is that the commitment of our forces to this fight was done with a casualness and swagger that are the special province of those who have never had to execute these missions—or bury the results . . .

The consequence of the military's quiescence was that a fundamentally flawed plan was executed for an invented war, while pursuing the real enemy, al-Qaeda, became a secondary effort. . . .

So what is to be done? We need fresh ideas and fresh faces. That means, as a first step, replacing Rumsfeld and many others unwilling to fundamentally change their approach. The troops in the Middle East have performed their duty. Now we need people in Washington who can construct a unified strategy worthy of them. It is time to send a signal to our nation, our forces and the world that we are uncompromising on our security but are prepared to rethink how we achieve it. . . .

This debate is long overdue on the Senate floor, and I thank our Democratic leader for it.

This debate is about how to finally win in Iraq, how to bring our courageous troops home as safely and as soon as possible, with their victory secured by the Iraqi Government, the Iraqi military and police, and the Iraqi people.

Our heroic soldiers deserve better than the President's apologies, again defending the failures of the past and the continuing failures of the present. They deserve a new strategy to win victory in Iraq and a new leader to achieve it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, we are here ostensibly debating a resolution that deals with the Secretary of Defense but, of course, the conversation has devolved into a discussion of the war against the radical Islamists and the battle in Iraq, a battlefront of that war.

Let me begin, though, by asking unanimous consent that at the end of my remarks we have printed in the RECORD a letter from Josh Bolton, of the administration, to the distinguished minority leader.

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

(See exhibit 1.)

Mr. KYL. Mr. President, that letter goes to one of the points of the resolution that we are ostensibly debating, a resolution which seems to mock the phrase ''stay the course,'' claiming that the current stay-the-course policy has made America less secure.

I guess it all depends on what you mean by stay the course because, if you mean by stay the course don't abandon the effort, then of course the administration and the Senate do not want to abandon the effort and therefore do want to stay the course. At least the people on this side of the aisle do not want to abandon the effort. But if it means don't change the way you are doing anything, obviously that is another matter. The problem is, it is a straw man for those on the other side to argue that the administration is not willing to change anything. The letter from Mr. Bolton to the distinguished minority leader will demonstrate the fact that, just as the enemy is agile and changes its tactics, so, too, has the United States changed the way that it deals with the enemy in Iraq.

So, yes, stay the course if by that we mean don't abdicate the mission; no, if it means don't ever change the way you operate.

The other part of the resolution I found rather odd was the condemnation of Secretary Rumsfeld, which for days now we heard is coming. I was rather bracing for an indictment of the Secretary of Defense who, of course, needs no one to defend him. He is an honorable and effective and totally self-sacrificing public servant who has served the President and the American people well. But I noted that the big indictment is that President Bush needs to change course in Iraq—undefined how that change in course might operate—to provide a strategy for success—the strategy was announced over and over by the President, reiterated in his speech yesterday—and one indication of a change of course would be to replace the current Secretary of Defense.

I suppose it would be. That is a bit of a tautology. But it doesn't suggest that it would do anything or accomplish anything except, perhaps, embarrass the President, perhaps undermine our credibility abroad, perhaps embolden our opponents and raise questions by our allies. That is not a very constructive proposition by our friends on the other side of the aisle. But, on the other hand, not much that they have offered is very constructive.

It is easy to criticize, easy to play Monday morning quarterback. It is a little more difficult when you are in the middle of the battle, charged with the responsibility of success. I shudder to think what these Monday morning quarterbacks would have done in World War II or World War I, a day after the landing on D-day or at Iwo Jima—10,000 casualties. Or the Civil War. It occurs to me we would not be here debating as a unified nation today if one of the greatest generals in the history of America, Robert E. Lee, hadn't made a monumental mistake at Gettysburg. The reality is mistakes are made in war and it is very difficult while the war is going on, and before the historians have the context in which to reflect on it, to debate the mistakes, especially when the enemy is listening and certainly our allies and our troops are listening as well.

But just to reflect on a couple of these, one comment by one of the Senators was the problem is we are trying to do a war without enough military. A lot of us on this side of the aisle have steadfastly supported a stronger more robust military. Sometimes we don't get a lot of support on the other side of the aisle for that. But the comment was we do need more troops, from a Senator who wants to withdraw our troops.

I happen to agree with my colleague, the senior Senator from Arizona, who has said we need more troops. The best way to do that, at least under current circumstances, is to not withdraw an American soldier for every Iraqi trained but combine the two armies as the Iraqis are trained up in order to go into a place like Baghdad and get control. That is not reducing troops, obviously; that is enhancing the total power there.

How do we get more troops if every time we train up an Iraqi an American has to leave? Or we set a timetable for leaving by the end of the year? I am at a loss to understand this notion: Our problem is we need more troops, so let's bring our troops home. I don't get it. Unless, of course, we are not concerned about the outcome—and that is the question.

That, unfortunately, is the question that must be in the minds of our allies. It must be in the minds of our enemies when they hear a debate like this and they hear: We need more troops, let's bring our troops home. They must ask: Okay, what does that mean? Does it mean America is in it for winning or does it mean we are going to be leaving, and the vacuum that is created will be an opportunity to move in and do our evil deeds?

The President, in his speech yesterday, was very clear about the nature of the enemy, an enemy that sees the Iraq battlefront as a central part of what he called World War III, their attempt to either make us bow down to their will or kill us or, if we succeed, they die trying. It is a win-win for them either way, according to them.

The reality is, this is a battle we cannot leave. This is a fight we cannot walk away from. If we are going to win the war against the terrorists, we have to win the battle in Iraq. There is no other way around that proposition. We cannot abdicate Iraq and still hope to win this war against these radical Islamists, at least not without taking horrendous casualties and losses in the meantime until our allies and some in America determine it is worth fighting, that it is a serious enemy, that we have to do whatever it takes to win, and that includes fighting in places such as Iraq.

I conclude with this notion, and the Senator from New Hampshire made the point earlier in a very eloquent way. After recounting all of the carping and criticism of what could have been done differently, he asked: Is there no credit for what we have achieved in Afghanistan, a country that was ruled by the Taliban, where women were beaten, where people were taken to the soccer stadium and shot, where little girls could not go to school and on and on, an altogether horrific place? Is there no credit for the fact that the people of Afghanistan are now free? Is there no credit for the fact that a brutal dictator who killed thousands and thousands of his own citizens, gassed many of them to death, killed hundreds of thousands of people in neighboring countries and was prepared to do battle with us, is there no credit for the fact that Saddam Hussein is gone, that his people have now been afforded the opportunity to freely elect their own government, and we are in the process of helping them secure that freedom? Is there no credit for the fact that Qadhafi decided America's will was pretty well demonstrated in Afghanistan, and he was not going to buck that will by continuing his evil way and developing nuclear weapons, so discretion being the better part of valor, he would get on the right side of history and be with us in this war? Is there no credit for any of these achievements?

No, no, not when you are discussing the President of the United States, who in some circles has to be vilified in the name of political discourse. This is not the way to conduct this debate. The way to conduct a debate over the strategy and over the course of history is to have a civil discussion that does not focus on an individual in the administration—who, after all, is only one person making the decisions and who has served this country ably—but, rather, on the strategic objectives over the goals.

Can anyone doubt what the goals in the war have to be? Can anyone doubt that the goal has to be to retain the ability of the country of Iraq to keep terrorists out and to ensure the safety and security of their own citizens in the future? I don't think there can be any doubt about what the goals ought to be.

Yet the President was right yesterday in reiterating those goals because there appear to be some who have lost sight or who have not ever realized the true evil nature of this enemy, who don't quite comprehend what it will take to defeat this enemy, who do not connect the dots to see we cannot walk away from Iraq and still be able to defeat this enemy, the radical Islamist, both the Sunni and the Shia Islamists, the people who would do us evil if we do not stand in that way. If you do not understand the enemy, I suppose it is not hard to conclude that, because the going is getting tough in Iraq, we ought to leave. The people who believe that are very strong, as the President said, maybe quite patriotic but very wrong.

It is the terrorist leaders themselves who believe that Iraq is a central battlefield in what we call the Third World War, a war that obviously the United States is leading. With our allies, we need to bring this to a successful conclusion.

I quote from the President's speech the words of Osama bin Laden who said:

> I now address the whole Islamic nation. Listen and understand. The most serious issue today for the whole world is this third world war that is raging in Iraq.

He calls it a war of destiny between infidelity and Islam and concludes that the whole world is watching this war, and it will end in victory and glory or misery and humiliation.

In the latter, I think he was correct. We have to make sure that it is his misery and humiliation and the terrorists' misery and humiliation that is the result of the conflict in Iraq and not that of the United States. In order to ensure that, it is incumbent upon us to prosecute this war to a successful conclusion and not leave this difficult battlefield prematurely—in the process, by the way, support those who are working very hard on our behalf, not denigrate them. It is fine to show the loyalty and the gratitude to our troops that the resolution does, and which I do, but it is also important to show that same kind of gratitude to other people who are trying very hard to protect the American people. That includes the President of the United States and the Secretary of Defense.

EXHIBIT 1

RESPONSE FROM THE CHIEF OF STAFF JOSH BOLTEN TO A DEMOCRATIC LETTER

SEPTEMBER 5, 2006.

Senate Democratic Leader HARRY REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: Thank you for your September 4 letter to the President. I am responding on his behalf.

A useful discussion of what we need to do in Iraq requires an accurate and fair-minded description of our current policy: As the President has explained, our goal is an Iraq that can govern itself, defend itself, and sustain itself. In order to achieve this goal, we are pursuing a strategy along three main tracks—political, economic, and security. Along each of these tracks, we are constantly adjusting our tactics to meet conditions on the ground. We have witnessed both successes and setbacks along the way, which is the story of every war that has been waged and won.

Your letter recites four elements of a proposed ''new direction'' in Iraq. Three of those elements reflect well-established Administration policy; the fourth is dangerously misguided.

First, you propose ''transitioning the U.S. mission in Iraq to counter-terrorism, training, logistics and force protection.'' That is what we are now doing, and have been doing for several years. Our efforts to train the Iraqi Security Forces (ISF) have evolved and accelerated over the past three years. Our military has had substantial success in building the Iraqi Army—and increasingly we have seen the Iraqi Army take the lead in fighting the enemies of a free Iraq. The Iraqi Security Forces still must rely on U.S. support, both in direct combat and especially in key combat support functions. But any fair-minded reading of the current situation must recognize that the ISF are unquestionably more capable and shouldering a greater portion of the burden than a year ago—and because of the extraordinary efforts of the United States military, we expect they will

become increasingly capable with each passing month. Your recommendation that we focus on counterterrorism training and operations—which is the most demanding task facing our troops—tracks not only with our policy but also our understanding, as well as the understanding of al Qaeda and other terrorist organizations, that Iraq is a central front in the war against terror.

Second, your letter proposes ''working with Iraqi leaders to disarm the militias and to develop a broad-based and sustainable political settlement, including amending the Constitution to achieve a fair sharing of power and resources.'' You are once again urging that the Bush Administration adopt an approach that has not only been embraced, but is now being executed. Prime Minister Nouri al-Maliki is pursuing a national reconciliation project. It is an undertaking that (a) was devised by the Iraqis; (b) has the support of the United States, our coalition partners and the United Nations; and (c) is now being implemented. Further, in Iraq's political evolution, the Sunnis, who boycotted the first Iraq election, are now much more involved in the political process. Prime Minister Maliki is head of a free government that represents all communities in Iraq for the first time in that nation's history. It is in the context of this broad-based, unity government, and the lasting national compact that government is pursuing, that the Iraqis will consider what amendments might be required to the constitution that the Iraqi people adopted last year. On the matter of disarming militias: that is precisely what Prime Minister al-Maliki is working to do. Indeed, Coalition leaders are working with him and his ministers to devise and implement a program to disarm, demobilize, and reintegrate members of militias and other illegal armed groups.

Third, your letter calls for ''convening an international conference and contact group to support a political settlement in Iraq, to preserve Iraq's sovereignty, and to revitalize the stalled economic reconstruction and rebuilding effort.'' The International Compact for Iraq, launched recently by the sovereign Iraqi government and the United Nations, is the best way to work with regional and international partners to make substantial economic progress in Iraq, help revitalize the economic reconstruction and rebuilding of that nation, and support a fair and just political settlement in Iraq—all while preserving Iraqi sovereignty. This effort is well under way, it has momentum, and I urge you to support it.

Three of the key proposals found in your letter, then, are already reflected in current U.S. and Iraqi policy in the region.

On the fourth element of your proposed ''new direction,'' however, we do disagree strongly. Our strategy calls for redeploying troops from Iraq as conditions on the ground allow, when the Iraqi Security Forces are capable of defending their nation, and when our military commanders believe the time is right. Your proposal is driven by none of these factors; instead, it would have U.S. forces begin withdrawing from Iraq by the end of the year, without regard to the conditions on the ground. Because your letter lacks specifics, it is difficult to determine exactly what is contemplated by the ''phased redeployment'' you propose. (One such proposal, advanced by Representative Murtha, a signatory to your letter, suggested that U.S. forces should be redeployed as a ''quick reaction force'' to Okinawa, which is nearly 5,000 miles from Baghdad).

Regardless of the specifics you envision by ''phased redeployment,'' any premature withdrawal of U.S forces would have disastrous consequences for America's security. Such a policy would embolden our terrorist enemies; betray the hopes of the Iraqi people; lead to a terrorist state in control of huge oil reserves; shatter the confidence our regional allies have in America; undermine the spread of democracy in the Middle East; and mean the sacrifices of American troops would have been in vain. This ''new direction'' would lead to a crippling defeat for America and a staggering victory for Islamic extremists. That is not a direction this President will follow. The President is being guided by a commitment to victory—and that plan, in turn, is being driven by the counsel and recommendations of our military commanders in the region.

Finally, your letter calls for replacing Secretary of Defense Rumsfeld. We strongly disagree. Secretary Rumsfeld is an honorable and able public servant. Under his leadership, the United States Armed Forces and our allies have overthrown two brutal tyrannies and liberated more than 50 million people. Al Qaeda has suffered tremendous blows. Secretary Rumsfeld has pursued vigorously the President's vision for a transformed U.S. military. And he has played a lead role in forging and implementing many of the policies you now recommend in Iraq. Secretary Rumsfeld retains the full confidence of the President.

We appreciate your stated interest in working with the Administration on policies that honor the sacrifice of our troops and promote our national security, which we believe can be accomplished only through victory in this central front in the War on Terror.

Sincerely,

JOSHUA B. BOLTEN,
Chief of Staff.

The PRESIDING OFFICER. The Senator from New York.

Mr. DURBIN. Will the Senator from New York yield for a moment?

Mrs. CLINTON. Certainly.

Mr. DURBIN. I make a unanimous consent as to the remaining speakers on the Democratic side, if I might. I apologize for interrupting the Senator from New York.

I ask unanimous consent that the following speakers be recognized on the Democratic side in sequence, alternating with Republicans: Senator CLINTON for 10 minutes; Senator HARKIN for 15 minutes; Senator BOXER, 6 minutes; Senator CARPER, 5 minutes; Senator DORGAN, 10 minutes; Senator MURRAY, 5 minutes; Senator MIKULSKI, 5 minutes; and Senator LAUTENBERG, 10 minutes.

The sequence may be different, depending on who is in the Chamber, but those are the times allotted for which I ask unanimous consent.

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

The Senator from New York is recognized for 10 minutes.

Mrs. CLINTON. Mr. President, we are debating this resolution for two simple reasons. First, no matter how the lily is gilded, things are not going well in our war against terrorism, and there is no doubt we need new leadership.

Second, this Congress has abdicated its constitutional responsibility to conduct oversight and hold the administration accountable for the decisions which it has made over the course of the last 5 years.

This is quite unusual in American history because ordinarily the Congress would play that role of check and balance.

In the middle of World War II, which really was a world war, then-Senator Harry Truman was the chair of a commission looking into war profiteering and other matters related to the conduct of the war. There was a Democratic Congress, a Democratic President. Yet the Congress, under then-Senator Truman's leadership, fulfilled its responsibility.

During the Vietnam war, which ripped this country apart, Senator Fulbright felt compelled to hold hearings about the conduct of that war. A Democratic Congress, a Democratic President, fulfilling its responsibility.

We have seen none of that, with very few exceptions. This Congress has been either intimidated or negligent in the fulfillment of its responsibilities to hold the administration accountable. Absolute power not only corrupts, but it can lead to bad decisions. This has been a very small group of decision-makers.

Recently, the President changed the leadership of his economic team because we all know the economy is not doing as well as advertised. Profits are up, productivity is up, but average wages and income aren't. It is getting harder and harder for the average American to make ends meet. So the President changed his economic leadership, changed his Chief of Staff in the White House. Yet there is no accountability with respect to his security team.

I just returned, as did my colleagues, from our recess. I visited throughout my State. In every kind of community, people are expressing deep concerns about the direction we are heading when it comes to the war in Iraq, when it comes to American security interests. New Yorkers, as most Americans, want things set right in Iraq, when so much both has gone wrong and seems to continue to go wrong.

We are asking for some accountability. There is no illusion on this side of the aisle that this resolution will pass. We know it will not. We may not even get a vote on it because, heaven forbid, the other side would have to stand up and actually vote. We know that many on the other side share our doubts. Privately, they will say some of the most harsh and critical comments about the Secretary of Defense, about the President, about the Vice President, and the conduct of this war. However, they abdicate their responsibility in public. We have no illusions we are going to get a vote. Yet we owe it to ourselves, our troops, our fellow citizens to raise these issues.

One doesn't have to read the recently published book ''Fiasco'' or the book before it, ''Cobra II,'' to see how badly things have gone. We know that. At the center of so many of the wrong calls, the misjudgments, the strategic blunders has been the Secretary of Defense. No one is questioning his patriotism,

his honorable service. We are questioning his judgment and his leadership.

We went to war with the Secretary of Defense we had. Now it is time to complete the mission with the new Secretary of Defense we need. It is past time.

Our friends on the other side will come forward and make the most impassioned arguments about how things are going, how we have to stay the course, and what has to be done in order to succeed. But under Secretary Rumsfeld's leadership, it has not happened. We have a full-fledged insurgency and full-blown sectarian conflict in Iraq. I don't care what you label it—civil war, sectarian violence—the fact is the Iraqis are losing hundreds and hundreds of lives. As of yesterday, 2,652 service men and women have been killed in Iraq; amongst them, 123 New Yorkers.

We didn't go with enough troops to establish law and order, to put down a marker as to our authority as we replaced an authoritarian dictatorship. We went with this dysfunctional bureaucracy known as the Coalition Provisional Authority, which disbanded the Iraqi Army which we are now trying to recreate.

Secretary Rumsfeld rejected virtually all of the planning that had been done previously to maintain stability when the regime was overthrown. He deliberately and repeatedly underestimated the nature and strength of the insurgency, the sectarian violence, and the spread of Iranian influence.

Let us not confuse the leadership's failures with either the remaining mission in Iraq, the war on terrorism or with our support for our troops. What we have is a failure of leadership to accomplish that mission. What was hailed as our shortest war has now become one of our longest.

What was hailed as a model of democracy teeters on the brink of complete anarchy. What was the leadership that quickly claimed credit for success has been lethargic in the face of misjudgments and setbacks. I do not see what other conclusions one can draw. We will have the same President and Vice President for the next 2 years. But why not ask the President to exercise his judgment to bring in new leadership, to send a new signal to our troops, to our military leadership, to our friends and our allies, and to our country that—guess what—we get it, we need new leadership.

When I confronted Secretary Rumsfeld a month ago, he continued to obfuscate and deny responsibility. He denied he ever painted a rosy picture in Iraq. In response, my office compiled a list of 13 statements, out of many he had made, which clearly painted a rosy scenario.

Mr. President, I ask unanimous consent that those statements be printed in the RECORD.

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

STATEMENT FOR THE RECORD BY SENATOR CLINTON

In the August 3 Armed Services Committee hearing, I had the following exchange with Secretary Rumsfeld:

CLINTON: Well, Mr. Secretary, I know you would, and I know you feel strongly about it, but there's a track record here. This is not 2002, 2003, 2004, '5, when you appeared before this committee and made many comments and presented many assurances that have, frankly, proven to be unfulfilled. And . . .

RUMSFELD: Senator, I don't think that's true. I have never painted a rosy picture. I've been very measured in my words. And you'd have a dickens of a time trying to find instances where I've been excessively optimistic. I understand this is tough stuff.

I ask unanimous consent that the following quotes from Secretary Rumsfeld be included in the Record:

CONGRESSIONAL HEARINGS

July 9, 2003: Senate Armed Services Committee hearing

''The residents of Baghdad may not have power 24 hours a day, but they no longer wake up each morning in fear wondering whether this will be the day that a death squad would come to cut out their tongues, chop off their ears, or take their children away for 'questioning,' never to be seen again.''

September 30, 2003: House Appropriations Committee hearing

''My impression is that the war was highly successful.''

Source: Transcript of Hearing of House Appropriations Committee, Subcommittee on Defense on President's FY '04 Supplemental Request for Iraq and Afghanistan, available online from FDCH Political Transcripts on Lexis-Nexis.

February 4, 2004: Senate Armed Services Committee hearing

''The increased demand on the force we are experiencing today is likely a 'spike,' driven by the deployment of nearly 115,000 troops in Iraq. We hope and anticipate that that spike will be temporary. We do not expect to have 115,000 troops permanently deployed in any one campaign.''

May 7, 2004: Senate Armed Services Committee hearing

''Senator BAYH. So my question, Mr. Secretary, my final question is just very simply, do you believe we're on the right course presently, or is dramatic action necessary to regain the momentum so that we can ultimately prevail in what is a very noble and idealistic undertaking?

Sec. RUMSFELD. I do believe we're on the right track.''

June 23, 2005: Senate Armed Services Committee hearing

''But terrorists no longer can take advantage of sanctuaries like Fallujah.''

June 23, 2005: House Armed Services Committee hearing

''The level of support from the international community is growing.''

March 9, 2006: Senate Appropriations Committee hearing

''Sen. ROBERT BYRD. Mr. Secretary, how can Congress be assured that the funds in this bill won't be used to put our troops right in the middle of a full-blown Iraqi civil war?

Sec. DONALD RUMSFELD. Senator, I can say that certainly it is not the intention of the military commanders to allow that to happen. The—and to repeat, the—at least thus far, the situation has been such that the Iraqi security forces could for the most part deal with the problems that exist.''

PRESS INTERVIEWS AND OTHER FORUMS

November 14, 2002: Infinity CBS Radio Connect, interview with Steve Kroft

''The Gulf War in the 1990s lasted five days on the ground. I can't tell you if the use of force in Iraq today would last five days, or five weeks, or five months, but it certainly isn't going to last any longer than that.''

December 18, 2002: CNN ''Larry King Live''

''The Taliban are gone. The al Qaeda are gone.''

February 7, 2003: Town hall meeting with U.S. troops in Aviano, Italy

''And it is not knowable if force will be used, but if it is to be used, it is not knowable how long that conflict would last. It could last, you know, six days, six weeks. I doubt six months.''

February 20, 2003: PBS ''NewsHour''

''Lehrer. Do you expect the invasion, if it comes, to be welcomed by the majority of the civilian population of Iraq?

RUMSFELD. There's obviously the Shia population in Iraq and the Kurdish population in Iraq have been treated very badly by Saddam Hussein's regime, they represent a large fraction of the total. There is no question but that they would be welcomed.''

March 30, 2003: ABC ''This Week with George Stephanopoulos''

''We know where [the WMD] are. They're in the area around Tikrit and Baghdad and east, west, south and north somewhat.''

February 1, 2006: Department of Defense News Briefing

''Q: One clarification on ''the long war.'' Is Iraq going to be a long war?

Sec. RUMSFELD. No, I don't believe it is.''

Mrs. CLINTON. It is time for the Senate to exercise our responsibility, for the Members of this Chamber to decide: What do we owe our constituents, our young men and women in uniform? What do we owe history in terms of our responsibility? We know the answer. Whether we stand up and deny it or not, we know the answer. History is going to judge this period harshly. And I wish we could, as a body, redeem ourselves and redeem this mission, give it a chance for success, with new eyes and ears, with a new way of thinking and leading.

I have no idea whom the President might ask to replace the Secretary were he to be asked to leave or resign, but I have to believe that some fresh thinking, some new ideas would make a difference. It is time we put our policy, our chance for success, ahead of politics, that we put wise decision-making and new leadership ahead of the status quo. When it is not working, why do we keep digging a deeper hole? So I hope this body would exercise responsibility in the only way open to us, since we cannot have the oversight and accountability the Congress should be demanding.

Thank you, Mr. President.

Ms. MIKULSKI. Mr. President, does the distinguished Senator from Alaska, the chairman of the Appropriations Subcommittee on Defense, wish to speak?

Mr. STEVENS. No. We are alternating speakers on each side, and Senator INHOFE is coming.

Ms. MIKULSKI. While we are waiting, my remarks are 5 minutes. May I proceed?

Mr. STEVENS. Yes, you may.

Ms. MIKULSKI. I thank the Senator.

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

Ms. MIKULSKI. Thank you very much, Mr. President. I appreciate all the courtesy.

Mr. President, this is really a sad day for me. It is a very sad day, as we are coming up on the anniversary of September 11, as I remember the fear that gripped the Capitol and gripped the United States of America. I remember us being outside on the steps of the Capitol on the evening of September 11 when we stood together and sang ''God Bless America'' together, when we were one Nation indivisible and when we were united and we were so determined to fight that global war against terrorism.

I joined with all of my colleagues and I voted to give the President the power to use lethal force to pursue the terrorists and pursue the Taliban and take the fight to Afghanistan. And how pleased I was with the victory in Afghanistan and the way, then, that the Afghan people came together in their Loya Jurga to choose Mr. Karzai to be their leader and to lay the groundwork for a democratic Afghanistan. I thought we were going to make Afghanistan the jewel of the Middle East, where the Muslim community could flourish, a democratic community could emerge, and women would be able to exercise their rights. How joyful we were when those little girls were going to school the same way as the little boys. But it was not meant to be. Afghanistan did not get the backing and support it needed, and along the way there was the recommendation to go to war in Iraq.

In 2002, 1 year later, we were debating the war in Iraq. Well, on October 10, 2002, I disagreed with the resolution before the Senate, with the request to give the President the authority to wage war in Iraq, using a unilateral approach, and to engage in a preemptive war. I did not agree that the world and the United States of America faced a clear, present, immediate danger from weapons of mass destruction.

That information was coming from our CIA, and it was coming from our Department of Defense, which had cozied up to a dissident named Achmed Chalabi, the guy who hung around London, being paid $300,000 a week from the CIA, eating Dover sole, with no backing, no information. He sold us a bill of goods. There were no weapons of mass destruction in Iraq. Rumsfeld was one of the ones who made that argument, along with the CIA.

So where am I today? Today, I really do believe we need a fresh approach. One of the ways to get it is through new leadership. Ordinarily, I would not single out a personality. I would agree with my colleagues on the other side of the aisle, that this is about policies. But we have gotten nowhere. So I have joined with my colleagues to ask for Donald Rumsfeld's resignation.

I have been asking for his resignation since 2004 because I watched us go from being at war with Iraq to being at war within Iraq. Well, this dangerous incompetence has been wrong for America and wrong for our troops and wrong for our allies and wrong for the Iraqi people.

Rumsfeld was wrong about the Iraqi weapons of mass destruction, and he led us into war on inaccurate evidence. As a member of the Intelligence Committee, I know that Rumsfeld skewed, selected, and exaggerated information about weapons of mass destruction. And our men and women in uniform have been paying for this deception ever since.

Rumsfeld was wrong about what it would take to secure Iraq. We sent our troops to war without sufficient body armor, without armored humvees, and unprotected for the war in Iraq, where they face daily attacks by IEDs and RPGs. It was up to the Congress, and actually the Defense Appropriations Subcommittee, to add over $1 billion to make sure our troops have the protection they need.

Well, now they need to have new leadership, as well as new protection and new weapons. And along the way, when we hear we are going to listen to our generals in the field—what generals in the field? Those generals who said we need more troops or different strategies, who disagreed with Rumsfeld's rosy projections were muzzled. Warnings about lawlessness and looting were ignored. The State Department's reconstruction plan for Iraq was dismissed and laid aside.

DOD's own report says now sectarian violence is the dominant trend in Iraq. But the Secretary of Defense, Mr. Rumsfeld, refuses to admit what our generals can clearly see: Iraq is slipping into a civil war and sectarian violence. And whose side are we going to be on? We have said this must be a year of transition. And the transition must begin with Mr. Rumsfeld resigning.

Now, Mr. Rumsfeld also assured us about the cost of the war. I was in the meetings. I was in the hearings. He said: Don't worry, American taxpayers will not pay for the war. With our shock and awe, and this quick war, we are going to have a mission accomplished, that the war will be over, and the cost of rebuilding will be paid for by Iraqi oil. Well, Iraqi oil—drip, drip, drip. When do we get a chance to see it? There is no Iraqi oil coming to the United States. Why? Because the infrastructure is broken. Because of the corruption. And because we were once again oversold.

Finally, we need to hold Rumsfeld responsible for the prisoner abuse scandals. The abuse at Abu Ghraib is deplorable, despicable and dishonorable. It does not reflect the values of the United States, or the code of conduct that most of our Soldiers live by every day. Rumsfeld's leadership created a command atmosphere where terrible abuse of prisoners was not just tolerated, but encouraged. But only junior enlisted and young officers have been held accountable, while high level military and civilian leaders are let off the hook. This is unacceptable.

Rumsfeld is completely incapable of speaking the truth—or facing the truth—about Iraq. His dismal performance has undermined U.S. credibility in the world, and undermined the President's credibility with the American people. We face serious threats from terrorism and rogue regimes, and our brave troops are risking their lives every day around the world. We need a Secretary of Defense we can trust. Donald Rumsfeld should resign now.

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

Ms. MIKULSKI. I think I made my point, and I am willing to yield my time. We need new leadership. We need a new Secretary of Defense.

I yield my time.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, first of all, let me say I have listened with some interest. Unfortunately, the committee I chair has had meetings all day, and I have not had a chance to really get involved in this discussion. But I have been listening to people criticizing Secretary Rumsfeld, talking about the war, and I just wonder what war they are talking about and what Secretary they are talking about because it certainly is not what is going on right now.

I can remember so many times during the 1990s when we had this euphoric attitude that somehow the Cold War was over and so we no longer needed a military and so we knew we could do some downgrading at that time. I can remember so many times on the floor saying we will rue the day we did this, we are going to have to rebuild, not knowing at that time that this would have to be during a time of war.

At that time, our Army divisions went down by about 50 percent. The tactical air wings went down by about 50 percent. Ships went down from 600 to 300. And again, people were thinking, there is no need to have this strong of a military. And they did not seem to think there was any kind of a threat out there. Nobody really thought about what we call today the asymmetric threat.

Now, that is what Secretary Rumsfeld inherited. I remember so well, about 6½ years ago, at his confirmation hearing, I asked a question. I said: Right now, we have downgraded the military to the point where we are going to have to build it up again. And as we try to anticipate the problems we will be facing that we must prepare for today, that will come 10 years from now, you are going to have all the four star generals, who are all smart people, but they are not going to guess it right.

I can remember one time, in 1994, I was in the House Armed Services Committee, and we had someone testify that in 10 years from then we would no longer need ground troops. That was in 1994. So I asked: What is the answer to this? If we are going to try to have our kids, our troops go into the field on some future date 10 years from now, how are we going to be sure they have the best of everything?

He said: Well—I am going from memory now, but he said—all throughout the 20th century the amount we spent on defense equaled 5.7 percent of GDP. At the end of the 1990s, we were down to 2.7 percent.

I said: Where should it be?

He said: Probably, in order to be prepared for any contingency in the future, we would have to be somewhere between 4 and 4.5 percent or maybe even 5 percent of GDP.

That is the problem he inherited. And he was hired because he has had the vision to restructure this and set about doing that job some 6½ years ago.

During his first month, he called for flowcharts to be created that would detail the interdepartmental relationships at the Pentagon. What he received back looked like a bowl of spaghetti.

It was totally disorganized. He had to expose this, and we all know now what he did. He started in on reforming the Pentagon. Nobody else did it prior to him. He was the one who did it. We know the big picture changes and takes time when we shake up the very foundation of the Pentagon, but he did it. We were shifting from a division-oriented force to a modular brigade combat force, from a conventional base enemy toward an asymmetric war, while maintaining our ability as a modernized nation. Much progress has been made in the Army's system of dealing with divisions and organizing them into modular brigades, combat teams that are more capable and faster to deploy. He increased force size from 33 brigades to 42 brigades. I didn't agree with him at first.

I remember that out in Oklahoma we were shocked when he made the announcement as to one of the programs that we had, that we were working on, the development of a modern nonline-of-sight cannon called the Crusader. It was going to take us out of the World War II technology. Right now, the best thing we have in terms of artillery is the Paladin, and that is World War II technology. It is one where you have to swab the breach after every shot. That is what we were faced with at that time. I criticized him for junking that program. He had a bigger picture in mind. It was a future combat system for the Army.

He looked at the Navy and said the biggest problem was spare parts. Donald Rumsfeld concentrated on that and now has ships ready to be deployable. Another change in the Navy was instead of bringing a ship all the way with a crew out to a battle area, he leaves the ship there and flies the crew back and forth and increases the ship's efficiency at sea by about 50 percent. That is common sense, but it is something that nobody else did. It took Donald Rumsfeld to come along with the idea to do that.

In the Air Force, he recognized at that time that—I think it was probably under his supervision that General Jumper had the courage to stand up and say: Now we are sending our airmen out with equipment that isn't as good, potentially, as the enemy's. He talked about our strike fighters, and the best that we had were the F–15 and the F-16. We slowed down the F–22 development, the joint strike fighter. But General Jumper stood up and said—and Rumsfeld agreed—that now the potential is that the enemy has better equipment than we do. What he was referring to was the SU series the Russians were making, SU–27s, SU–30s, and SU–35s were, in many ways, superior to what our airmen and women were flying.

So, anyway, we got this back on schedule and now we have some 66, 68 F–22s flying. I see a couple of the Senators on the floor who will join me in wanting to enhance that program of F–22s and move the joint strike fighter forward. That is something that this Secretary did, which others were not willing or capable of doing and didn't have the foresight to do.

I have to tell you this, Mr. President. I was there during the confirmation hearing, and I said publicly on the Senate floor that the liberals are not going to like Rumsfeld for one major reason: they cannot intimidate him. He is not one to be intimidated. He has stood up to them, and he tells the truth; he tells it like it is. People in politics, many times, don't like that.

Turning to Iraq, the positive things that have changed in Iraq are economic change, where the economy is recovering after 30 years of a bloody dictatorship that we are aware of. In 2005, the Iraqi economy grew an estimated 3 percent. It is estimated to be some 10 percent in 2006. The International Monetary Fund is anticipating that. Under Saddam Hussein's regime, the Iraqi standard of living deteriorated rapidly. The per capita income there dropped from $3,800 in 1980 to $715 in 2002. Today, the economic recovery is picking up, with GDP growing from $18.9 billion in 2002 to $33 billion in 2005.

I have to say this, also. So many of the people who criticize what is going on over there in the war don't go over there and see. If you watch CNN and the networks and read the New York Times, you will not get an accurate picture of what is going on. I have been there more than anybody else. I have been in the Iraqi AOR 11 times, during all of the elections. I was in Fallujah during that election. I recall very well a general there named Mahi, who had been the brigade commander for Saddam Hussein; he had hated Americans. He hated Americans until the Marines went into Fallujah and started this embedded training. He learned to love them so much that he looked across at me and he said, ''When they rotated the Marines out, we all cried.'' Then he renamed the Iraqi security forces in Fallujah to be the Iraqi Marines.

Then, up in Saddam's hometown, I was there when they blew up some of the Iraqi security forces who were training. Forty were either killed or near dead. What you didn't get in the media was the success story, the support from the Iraqis. Each family of the ones who were killed in Tikrit supplied another member of the family to take the place of the one who died. You don't see that in the news. I was fortunate to have arranged to be there at the same time that their Government took over. The Prime Minister, Defense Minister Jasim, and the National Security Advisor were there. I asked them basic questions. Some are talking about the civil war that is going on. A civil war is not going on. If you go there and sit down and talk to them, I believe it was Jasim who said that he is Shia and his wife is a Sunni. He didn't even know what some of the other members of the Cabinet were. I wasn't sure I believed this, I say to my friend from Alabama. I went out on my own with an interpreter and I saw an honor guard force, the very elite of the group; there were nine of them. One was the leader. I said to the leader: I would like to know about the civil war, about what is happening between the Shia and the Sunnis. He said: That is just not a real thing. I have been with these guys 8 days now, and I cannot tell you which are Shia and which are Sunni. He said—and this is interesting because he repeated what Dr. Rubai said—he said: That is a Western concept.

I wish that some of these people who are criticizing what is going on would hear the testimonials we hear. A woman told me ''now my daughter can get married.'' I said: Why couldn't she get married before? She said it was because the wedding celebrations take place outdoors. Many times, the forces would come by—and we know, of course, Saddam's sons would capture and rape all of the girls and bury them alive. That is not happening anymore. For the first time, we have women going to school there. You have to go there and talk to them before you realize it.

The security forces that we criticize on the floor of the Senate are up now to 275,000 trained and equipped. I have talked to them, visited with them. I was in Fallujah when they voted. They voted 2 days ahead of time because they were risking their lives to vote. They are looking forward to the day when they are going to be able to take care of their own security. It is difficult for people to say when that day is going to come. That is a military decision. Many of the military people tell me that when they have 10 divisions

trained and equipped, they will be able to do it. Now they have 275,000, so that would be about 325,000.

They are making great progress. I heard the distinguished minority leader of the Armed Services Committee talk about a poll taken about how the Iraqi people are responding to us. If a question is worded: Do you want to have the coalition forces here from now on? Of course, they don't. They are a very proud people. They want to take care of their own problems. But they are not ready for us to leave right now. In a poll taken about two trips ago, they said 94 percent of the Iraqis support a unity government. Now they have that unity government.

In the same poll, 78 percent of the Iraqis said they were opposed to Iraqis being segregated by religion or ethnicity. And so we can show you that the Iraqi people are so appreciative. It is spooky when they recognize you as an American and come running up to you. You never know for sure what they have with them. But they come up and embrace you and they are recognizing that what we and the coalition forces have done is a remarkable thing.

Also, what do a lot of these critics I heard on the floor have in common? They are all running for President of the United States. This is going to be their issue. If they can go to the Democrats and say, I am more liberal than anybody else, I am heading up the surrender, cut-and-run caucus, that is what they are going to try to do.

I suggest that we are very fortunate that Donald Rumsfeld was here at this time. I have thought often about what might have been the alternative. The greatest possible disservice we can do, not just to the Iraqi people but to our troops there, is to use Rumsfeld and the war for political advancement. I have spent time with them over there, and I assure you that we did the right thing.

People who say there is no connection between 9/11 and Iraq don't realize that three major terrorist camps were actually in Iraq at that time. They are not open for business anymore. So I am very proud to stand here and defend our Secretary of Defense, who has done a great job, and also to say that our troops are doing an incredible job under most difficult circumstances.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, the Senate really should not have to debate the need to replace Donald Rumsfeld, the Secretary of Defense. If the Bush administration believed in accountability, if it believed in performance standards, if it believed in demanding competence from senior officials, Mr. Rumsfeld would have been dismissed long ago.

Instead, as disaster after disaster has followed disaster after disaster, and as Iraq descended first into guerrilla war and into civil war, Mr. Rumsfeld has been allowed to cling to his job.

For the record, I was the first Senator to call for Mr. Rumsfeld's resignation. I did so nearly 2½ years ago, on May 6, 2004, in response to the revelations of torture and abuse at Abu Ghraib prison. As I said then:

> For the good of our country, the safety of our troops, and our image around the globe, Secretary Rumsfeld should resign. If he does not resign forthwith, the President should fire him.

I said that on May 6, 2004. However, the scandal at Abu Ghraib is not the only disaster that can be traced directly to Mr. Rumsfeld. The Secretary of Defense has become virtually synonymous with disastrous decision-making. The litany of his catastrophic mistakes is familiar to all of us.

Before the invasion of Iraq, Mr. Rumsfeld sidelined General Shinseki, then the Army Chief of Staff, for daring to state that hundreds of thousands of troops would be needed to secure Iraq. Instead, Mr. Rumsfeld insisted on going to war on the cheap, with the bare minimum number of troops needed to overthrow Saddam Hussein. Mr. Rumsfeld gave no thought to securing the country after Saddam's fall. Indeed, he threw out the State Department's plan for restoring order. It was Mr. Rumsfeld, remember, who dismissed the postwar anarchy in Baghdad and other places with the phrase ''stuff happens.'' That is a direct quote from Mr. Rumsfeld.

He was complicit in the decision to disband the Iraqi Army which fed the chaos and drove many former Iraqi soldiers into the arms of the insurgency.

Again and again, he refused to increase U.S. troop strength to a level that would allow law and order to be restored in Iraq.

He gave a green light to abusive practices that led to the scandal at Abu Ghraib prison.

He dismissed the insurgency as the work of just a few ''dead-enders'' who would soon be routed.

He failed to adequately equip our Armed Forces in Iraq, including basic items such as body armor and fortified humvees.

Most recently—just last week—Mr. Rumsfeld lashed out at critics of the war in Iraq. He accused them of ''moral and intellectual confusion'' and of appeasing ''a new type of fascism.'' Those are his exact words, ''moral and intellectual confusion,'' ''a new type of fascism.''

Wait a minute. This is the same Donald Rumsfeld who visited Baghdad in 1983 and was photographed warmly shaking hands with none other than Saddam Hussein. He had been sent on that mission to court Saddam Hussein and to communicate the Reagan administration's desire to help the Iraqi dictator in his war against Iran.

Mr. Rumsfeld went on that mission after we knew that Saddam Hussein had committed mass murders, after we knew he had used chemical weapons to gas the Iraqi Kurds and Iranians. Mr. Rumsfeld is the last person to be preaching about ''moral and intellectual confusion.''

I don't know of anyone else, I don't know of anyone on this side of the aisle who has criticized the President and his mismanagement of the war, and Rumsfeld and his mismanagement, who ever went to Iraq to shake hands with Saddam Hussein, who went to tell Saddam Hussein we would share information and intelligence and whatever weapons we might need. This was after we knew that he had gassed the Kurds and Iranians, after he committed mass murders. Yet for Mr. Rumsfeld in 1983, Saddam was our guy. Let me rephrase that, Saddam was his guy, not ours.

Now, for Mr. Rumsfeld to be talking about moral and intellectual confusion, let's get real here, folks. The only person who is morally and intellectually confused is Donald Rumsfeld.

The litany of Donald Rumsfeld's mistakes and misjudgments go on and on. He has become almost a legend in his own time as a Secretary of Defense who has been catastrophically wrong again and again but who arrogantly refuses to acknowledge any mistakes.

Earlier this year, when Secretary of State Condoleezza Rice said the United States made tactical errors in Iraq, Mr. Rumsfeld dismissed her, too. He said:

> If someone says, well, that's a tactical mistake, then I guess it's a lack of understanding of what warfare is about.

Maybe we should listen to those who truly do understand what warfare is about. Maybe we should listen to some of the generals.

In early April, LTG Greg Newbold, the former Director of Operations for the Joint Chiefs of Staff, wrote in Time magazine that the invasion of Iraq ''was done with a casualness and swagger that are the special provenance of those who have never had to execute these missions—or bury the results.''

He added:

> The cost of flawed leadership continues to be paid in blood.

About the same time, MG John Baptiste, who commanded the 1st Infantry Division in Iraq in 2004 and 2005, said:

> I believe we need a fresh start at the Pentagon. . . .We need leadership up there that respects the military as they expect the military to respect them.

Marine GEN Anthony Zinni, the former Chief of U.S. Central Command, accused Mr. Rumsfeld and his civilian advisers of ''dereliction of duty'' in failing to prepare adequately for war.

The remarkable thing about the debacle in Iraq is that nobody, aside from a few privates and sergeants, has been held accountable or dismissed. Isn't it the truth? It is always the grunts, it is always the noncoms and the privates who get the raw end of the deal. They were the ones who were thrown in prison for the scandals at Abu Ghraib. What about the people above them? No one is ever held accountable above them.

Incredible as it may seem, the four coarchitects of the Iraq debacle—Paul

Wolfowitz, George Tenet, GEN Tommy Franks, Paul Bremmer—have all been awarded the Medal of Freedom. They have all been awarded the Medal of Freedom. Paul Wolfowitz, who said we would pay for it with Iraqi oil, who said it would be over within 6 weeks, maybe 6 months at the most, was awarded the Medal of Freedom. Think about that, the architects of the debacle in Iraq. And Donald Rumsfeld has been rewarded with continued tenure as Secretary of Defense.

Meanwhile, our enterprise in Iraq continues to descend deeper and deeper into chaos, corruption, and crime. Who is surprised by this? The same Secretary of Defense whose decisions created the quagmire in Iraq is still in office, still in charge, still making key decisions.

It boggles the mind. I am reminded that the definition of insanity is doing the same thing over and over again and expecting a different result.

We have the same disastrous civilian leadership in place at the Pentagon. Why should we expect anything but the same disastrous results?

I saw a bumper sticker the other day that said ''Support our troops, not poor leadership.'' I agree. Our soldiers and marines on the ground in Iraq are putting their lives on the line every day. They are trying their best to salvage some kind of positive outcome in Iraq. They deserve our respect and our support. They also deserve competent civilian leadership at the Pentagon.

Donald Rumsfeld ought to have the decency to step aside and allow for fresh leadership at the Pentagon. Instead, he stubbornly refuses to admit any error. He stubbornly refuses to change course. He stubbornly refuses to go.

Quite frankly, Mr. Rumsfeld has a pre-9/11 mentality, a pre-9/11 mindset. He talks about World War II, fascists, and Nazis. That is World War II.

Then, he said we have to stop the terrorists in Iraq before they get into the Philippines, Indonesia, and other places. I remember as a staff aide to a committee in the House in 1970 going to Vietnam and sitting in a meeting with then-President Nguyen Van Thieu with a bunch of Congressmen. I remember him lecturing how the Communist goal was not South Vietnam; it was just a stepping stone to the Philippines and Indonesia. And the Congressmen there lapped it up. They lapped it up. Oh, yes, we have to stop the Communists in Vietnam before they get to America. This is Rumsfeld saying this about terrorists.

As it has been pointed out, there are more terrorists in Iraq now than prior to 9/11. It seems as though for every terrorist we kill, four or five spring up.

So Mr. Rumsfeld has a pre-9/11 mindset, that he is fighting World War II or maybe even fighting the Vietnam war. That is why we need a change at the Pentagon. His tenure at the Pentagon has been disastrous—disastrous for our economy, disastrous for Iraq, disastrous for the world, disastrous for so many of our troops now injured, now deceased, killed in Iraq.

It is unacceptable. It is time for the Senate to go on record saying that it is unacceptable. That is what the amendment is all about. It is about holding Mr. Rumsfeld accountable for his tragic mistakes. It is about giving our troops the credible, competent civilian leadership they deserve, someone with a post-9/11 mindset on the world, not a pre-9/11 mindset, such as Mr. Rumsfeld has.

It is about charting a new course in Iraq. It is also about charting a new course in the war against terrorists who attacked us on September 11, 2001.

It is time for Mr. Rumsfeld to go. It is time for new leadership at the Pentagon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise in opposition to this amendment that I understand is going to be filed. I want to be brief, but I want to make two quick points.

I listened with interest to my good friend from Iowa, and he is my dear friend. I understand there are reasons one can put hindsight glasses on and one can criticize somebody for failing to take action when something has been done over a course of weeks, months, and years in this case. But what I don't hear in addition to the criticism is what we could have done or what we ought to do. All I hear is blame being put on, in this case, one man for the situation that has developed in Iraq.

I happen to have a different opinion. I have been involved from the intelligence side, as well as from the Armed Services side in this body, as well as previously on the House side. Secretary Rumsfeld has been at the helm of the Department of Defense now for almost 6 years, and during that 6 years, we, first of all, saw a movement toward transformation of our military to a leaner, meaner, more mobile military. Under his leadership, we have been headed in that direction.

During the course of that, along comes the conflict in Afghanistan, followed by the conflict in Iraq, and the overall global war on terror, which is really what this is all about.

I heard the distinguished minority leader say this morning that this is not about Donald Rumsfeld. It goes well beyond that. He is exactly right because the criticism I hear now is not just specifically at the Secretary of Defense but the overall policy of this administration toward the global war on terrorism.

I am not a military expert. I don't pretend to be, and I don't think there is anybody in this body who is an expert on the type of conflict in which we are now engaged, particularly as much of an expert as those folks who wear the uniform of the United States. All of those who have worn it, all of those who do wear it are true heroes to all of us. But the fact is, when it comes to the leadership in the Army, the leadership in every other branch of the U.S. military—but most specifically the Army because, frankly, they have carried the brunt of this in Afghanistan as well as in Iraq—there is strong leadership over there, strong individuals, men who are well educated, men who are smart, men who are well schooled in the war on terrorism but who are principally schooled in military operations. We don't hear any one of those individuals jumping up and saying: I have told the Secretary this, he wouldn't do this, and therefore we suffered the consequences of his decision.

What we have heard from my good friend from Iowa, again, is comments made by former military individuals who probably didn't agree with what this Secretary did, but they didn't say it while they were in uniform. They waited until they were out of uniform.

It is awfully easy to look back and say what we should have done. But there has been no Secretary of Defense in modern times that has had to deal with as many complex military issues as this Secretary of Defense.

This Secretary of Defense is a tough boss. He is a very tough boss, but he has a tough job to do. When I look at the men who are making comments relative to what this Secretary of Defense should have done or should not have done, I start with GEN Tommy Franks. General Franks was there from day one as the Commander of CENTCOM. Tommy Franks was the man who was leading his men and women into battle under this Secretary of Defense. He is the man who was providing tactical information to this Secretary of Defense and who made the key decisions in Afghanistan and the decisions early on relative to Iraq. And what does Franks say about the leadership of Donald Rumsfeld? He couldn't say enough nice things or enough positive things about the leadership of Donald Rumsfeld. But as the minority leader said, this goes beyond that. What we are hearing in this debate is about the policy in Iraq and not about just the leadership of that one position. And this amendment goes to that.

My second point is when we talk about in this amendment that America is less secure today than we were prior to September 11, that statement could not be any more false. All of us in this body who were here on September 11—I happened to be in the other body on September 11, and all of us who were in both the House and the Senate who had any knowledge whatsoever of the intelligence situation and, for that matter, probably 100 percent of the Members of the House and the Senate, believed that at some point in time we were going to suffer another attack by the terrorists, who wake up every single morning with their sole purpose that day being to try to decide how they are going to kill and harm Americans. Yet we are going to celebrate next Monday

the fifth anniversary of September 11. And, gosh knows we hope it doesn't happen today, we hope it doesn't happen tomorrow, but if we get to Monday, it will be 5 years that the United States has gone without suffering another attack.

There are reasons for that, and Donald Rumsfeld is one of the reasons we have not suffered another attack on U.S. domestic soil since September 11. He is part of a team. There are a lot of people who deserve credit for it. Our intelligence community is doing a much better job. We had a briefing in the Intelligence Committee from the Director of the CIA, Mike Hayden, today to find out some additional things that we are doing now, all positive things, all continuing to move in the right direction. Mike Hayden is a part of that team. As we look out at all of our other intelligence agencies around the country, from a defense standpoint as well as a civilian standpoint, they are all doing a better job than they were on September 11. They are all a part of that team with Donald Rumsfeld and Mike Hayden to make sure that we are protected as citizens of the United States.

When you look at Director Mueller at the FBI, the FBI is doing a better job today than they were doing on September 11 of helping to gather intelligence and interrupting and disrupting potential terrorist operations inside the United States. They, again, are part of that team. Every single FBI agent, whether they are on domestic soil or whether they are on foreign operations, are doing a better job of making sure that as a team they are working to protect Americans and to help interrupt and disrupt terrorist activity.

So to say that we are not as safe today as we were on September 11, 2001, is simply an incorrect statement and shows a lack of understanding about what has happened in the 5 years since September 11.

Donald Rumsfeld is in a very unique position. He is in a position of making decisions relative to every single aspect of the war on terror. Donald Rumsfeld has a boss and he has to answer to that boss, and the boss is the President. I suspect that the underlying motive behind what we are debating today is not about Donald Rumsfeld; it is one more opportunity for those folks who came on the floor of the Senate and attacked the war in Iraq and said it was time to get out and made the arguments that we ought to get out of there now, we ought to get out of there in 6 months, we ought to be out in 9 months, whatever it is—let's set a timetable and tell the terrorists: You sit where you are, and in that period of time we are going to be out of there. And when the vote came on that particular issue, there was a resounding vote in opposition to that particular philosophy in this body. I hope the next vote that we take, which will be on this particular amendment, will be just as resounding in opposition and a defeat of this amendment.

I will say that I haven't always agreed with Donald Rumsfeld. He and I have had some very public and tough battles. But he has always been fair. He has always been straightforward.

In one instance, when he called me about a matter that I was involved in, frankly, he was right and I was wrong, and I had to admit that. I made a change in something we were doing, and we moved on. In other matters, he has told me that I was right, and he was wrong. That is the kind of leader he is. He is not one who says that you either agree with me or you are simply not on the team. Secretary Rumsfeld has been in a tough position since he has been there. He has dealt with very tough decisions in a very fair and favorable way.

If you look at the men who have served under him and you start with Tommy Franks, for whom I have such great respect and who I think everybody in this body would agree is not somebody who is going to get rolled over, Tommy Franks is not that kind of individual. If he believed in something, he would encourage the Secretary of Defense under his leadership to do exactly what he thought ought to be done. Donald Rumsfeld is the kind of person who would have listened to him, and he would have done whatever General Franks recommended. When General Franks says this is the kind of guy we need in the foxhole with us, as Tommy Franks has alluded to, then he is the kind of guy we want leading the Department of Defense.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, it is interesting and amazing to me to listen to the critics of dissent in this democratic society. If you disagree with the administration, they try to insult you out of order and to create positions that describe you as insignificant, willing to retreat. We watched last week as the President continued his administration, as he began yet another campaign to convince Americans that its policy in Iraq is working. But much like the President's Iraq policy itself, this latest rhetorical campaign just isn't working. There have been five Bush administration campaigns to convince America that we should stay the course, and in each one of these administration claims they fail to convince the public. The public is smarter than they give them credit for. The American people understand what is happening in Iraq, and no wordsmithing is going to change that.

The administration rhetoric continues. Last month, in a speech in Arizona, Vice President CHENEY said:

> What these Democrats are pushing now is the very kind of retreat that has been tried in the past and has failed.

Is he implying that their mismanaged offense worked? Ask the 2,600 families who lost a son or a daughter there whether they think the plan has worked. It is insulting to suggest that those who disagree suggest a retreat. They are ugly, partisan, political comments by the Vice President.

What the Democrats want—and many Republicans—is a change in the direction in Iraq and new civilian leadership at the Pentagon to implement it. The stubborn Bush-Cheney-Rumsfeld approach is simply not working. The retreat the Republican administration should be concerned with is the retreat of their colleagues from this failed Iraq policy.

Some Republicans in Congress are happy to walk the plank and support the arguments that simply defy logic and others are jumping ship. We are seeing staunch Republicans, such as Representative GIL GUTKNECHT of Minnesota, saying that we lack strategic control of Baghdad and calling for a limited troop withdrawal. Representative MIKE FITZPATRICK of Pennsylvania has characterized the Bush stay-the-course strategy as extreme. We all know our principled colleague, Senator HAGEL, has spoken up in favor of changing course in Iraq from these failed policies.

But through it all, the Bush administration mantra is the same: Stay the course. Don't cut and run.

The alternative to that is stay and die. Critics are either unpatriotic or, as we heard from Secretary Rumsfeld last week, like Nazi appeasers.

It seems the more the Americans call on the President to change course in Iraq, the more adamant he is to continue his failed approach. President Bush and Secretary Rumsfeld are making the same speeches now that they were making a year ago and even 2 years ago. Most of the words and phrases are the same. Nothing has changed except the date and the stage of the time.

The reality is that this administration is incompetent, and those in this Congress who stand with them are endorsing this grievous incompetence. The administration's incompetence in Iraq has put our troops in danger. The administration's incompetence in Iraq is now empowering the terrorist regime in Iran. The administration's incompetence in Iraq has strengthened, not weakened, al-Qaida and other jihadists.

In summary, this administration's incompetence has made us less safe, and Americans feel it in poll after poll and in State after State.

I used to run a large company. Any successful CEO will tell you that if one of the top executives is making mistake after mistake after mistake, you have only one course: fire him. Get rid of him. There have been so many mistakes and miscalculations by Secretary Rumsfeld it is staggering to try to understand why he is still around, to be polite, why he is still on the job. It doesn't make sense. It doesn't make sense to me, and it doesn't make sense to millions across the country.

Before the war, Secretary Rumsfeld said:

We know where the weapons of mass destruction are.

But now we know that there was no real evidence that Iraqis had WMDs. He also said that the Iraqis would welcome U.S. troops and that Iraqi resistance would be limited. That was obviously wrong. He also failed to build coalitions with our allies. That doesn't stop him from referring to the coalition experience that we are having. There is virtually no coalition existence there, with the exception perhaps of the U.K. and Canada. In fact, Secretary Rumsfeld went out of his way to mock our allies when he should have been reaching out to them.

This administration's failure to build a real coalition has caused our troops to bear the vast majority of risk and to suffer the casualties. These casualties stand at 2,652 deaths and almost 20,000 wounded.

Secretary Rumsfeld said the war would be short. He said:

It is unknowable how long that conflict will last. It could last six days, six weeks. I doubt six months.

More than 3 years later, we know that assessment was tragically wrong.

Secretary Rumsfeld also ignored warnings that he wasn't committing enough personnel and resources to win the war. When Army Chief of Staff GEN Eric Shinseki suggested that we needed more troops to maintain order in postwar Iraq, he was forced out.

Secretary Rumsfeld also was way off on the cost of the war. He said it would cost no more than $100 billion. The war so far has cost a staggering $320 billion. He missed the mark. He said—insultingly:

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

Is that a suggestion that our troops are less competent, less brave, less courageous, less willing to do their job? I think it is a terrible reference:

If you think about it, you can have all of the armor in the world on a tank and a tank can be blown up.

Ask the parents of those who are in the tank corps how they feel about that.

And you can have an up-armored humvee and it can be blown up.

So it means, if you take it literally, well, that is what happens. If you don't have enough armor, they just get killed. Talk to the parents. I talked to them. I visited with them. Boy, they don't feel they were as protected as they should have been.

Despite all of the funds, all of the effort, all of the sacrifice devoted to the war, Secretary Rumsfeld has failed to fully equip our troops. As we know, a number of prominent retired generals have come forward to say what many in the military have been thinking for years—it is time for Secretary Rumsfeld to leave his post.

The generals who have spoken out: MG Paul D. Eaton, GEN Anthony Zinni, LTG Gregory Newbold, MG John Batiste, MG John Riggs, MG Charles Swannack, Jr., LTG Paul van Riper, GEN Wesley Clark—distinguished military leaders who served nobly, who served bravely. Now, when they say take a look and see where we are going, they are ignored.

General Eaton, who served in Iraq, said the following about Secretary Rumsfeld:

In sum, he has shown himself incompetent, strategically, operationally, and tactically, and is, far more than anyone else, responsible for what has happened to our important mission in Iraq. Mr. Rumsfeld must step down.

In summary, business as usual in Iraq has to stop. We need new leadership. Unless Secretary Rumsfeld is replaced, we are, unfortunately, destined for more of the same pain and casualties as we have in Iraq now.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Alabama.

Mr. SESSIONS. Mr. President, what we are having now is a rehash of people's complaints about the war, and they are focusing it on the Secretary of Defense in a political season. We all know we will soon have an election. So, everything anybody wants to complain about with regards to the war on terror, that they are unhappy about regarding the difficulties we now face in Iraq, is now dropped on the head of the Secretary of Defense.

The President of the United States took his case to the American people in the last election. We heard these same complaints from these same people, and they made them all over the country, and the President of the United States, George Bush, won that election. He won it with a majority of the votes of the American people. For the first time in over a decade, a President has won the majority of the votes in this country.

Now unfortunately, that is not enough.

I would just say a couple of things I think are important. This Senate, after months and weeks of debate and discussion and hearings—open hearings, secret hearings, briefings from the intelligence officers at lower rank, briefings from the CIA Director, from Defense intelligence—we came into this body and we had to do our duty. Our duty was to vote our conscience on whether to authorize military force in Iraq. That was a solemn duty. I do not think anyone here misunderstood the seriousness of that event. If they did, they are not very grown up because it was a grownup decision we were asked to make: whether we were going to commit our soldiers to military action against the Saddam Hussein regime, which had violated 16 U.N. resolutions. This regime had fired at our airplanes on a regular basis—we cannot forget that. And we were dropping bombs on him weekly and he was shooting missiles at our airplanes weekly. That had been going on for years. He was violating the resolutions, he was violating the weapons of mass destruction discovery and openness requirement that he had committed to, to the U.N.—all those things.

The situation was such that we, with many of our allies, gave him one last chance. He didn't take that chance, that one last chance to clear himself and demonstrate he had no weapons of mass destruction, and that is when we voted. There was no mystery about that.

The Secretary worked with GEN Tommy Franks, and GEN Tommy Franks approved and designed a military campaign that he believed would be successful. He moved with lightning speed and tremendous effectiveness, and it was a tremendously effective destruction of Saddam Hussein's regime in a time period far less than I would ever have thought possible and with a loss of life far less than I would have thought possible. It was a brilliant deal, and the Secretary of Defense, if you read GEN Tommy Franks' book, followed GEN Tommy Franks' decision, supported that decision and was praised by GEN Tommy Franks, the man who led this effort against Saddam Hussein and removed him from office.

Now what has happened? Many of the things that were predicted to happen didn't happen. We didn't have a humanitarian disaster. We didn't have to lose thousands or tens of thousands of soldiers in house-to-house fighting. We didn't have oil well fires. We didn't have a lot of things people projected. The people did welcome our soldiers, and they were happy to see the statue fall. You remember those scenes.

But look, we have difficulties now. There has been a persistent measure of violence in Iraq driven by a whole lot of forces. They are determined and striving every day to not allow a good and decent government to be formed and be sustained in Iraq. We have invested a lot of time and effort in that. It is tough.

I have a nephew there and the son of a good friend there in the Marines, in tough areas right now. My nephew is in the Marines. I have a sense for the effort and courage of our soldiers. It is a tough duty, and we are in a very tough struggle.

The struggle moved to Baghdad. An effort has been made to destabilize Baghdad and the Government there. We moved to counter that. That is the way, American people, it is always going to be when you deal with an enemy who has an ability to think. When you move in one direction, they will counter. When they move in another direction, you have to counter that. That is the way it will be. It is not a failure when an enemy moves in one direction for you to counter that and alter your tactics. In fact, I expect any good military commander would be altering tactics on a regular basis to stay one step ahead of the enemy. That is what we are in, and it is a tough battle.

I, therefore, ask, first and foremost, does the resolution suggest—I say the

resolution. It hasn't been offered because it is not appropriate, as I understand it, and it would not be appropriate to be offered. But any resolution to change the Secretary of Defense, is that going to help our soldiers in Iraq? Is that going to help them be successful? Is it going to make their lives better? Will it help us win this war, which we must do? We need to ask ourselves that.

It is ironic, I have to say, that some of the people who complain about Secretary Rumsfeld not having enough troops voted consistently for the reduction of the number of troops we had by 40 percent when President Clinton was in office.

I see Senator MCCAIN here. He has been a strong supporter of defense. He has been concerned about the number of troops and said so consistently. But there are many in the Chamber today who are saying we do not have enough troops and at the same time saying they must be withdrawn ahead of time; we ought to pull the number of troops down. How ironic is that.

They say Secretary Rumsfeld doesn't listen to the generals. I say he has listened to the generals.

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

Mr. SESSIONS. I will be pleased.

Mr. MCCAIN. The Senator, who is a strong supporter of the military men and women who are serving and with whom I have had the great privilege of serving on the Armed Services Committee, if I may be a bit cynical, may I ask, Does the Senator think we would be having this discussion if we were not in an even-numbered year in September?

Mr. SESSIONS. Unfortunately, I think the Senator's suggestion is correct. We are on the eve of an election. We have a motion here, a suggestion and an attack on the Secretary of Defense who is leading a war effort.

Let me ask the Senator from Arizona, who served in the military courageously and who has been actively engaged in trying to help us be successful in this war, is he troubled that the resolution and remarks that are made, even recognizing we are in an election cycle, could be such that they would add to the risk and difficulties our soldiers face?

Mr. MCCAIN. Mr. President, I ask unanimous consent to respond to the Senator.

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

Mr. MCCAIN. I say to my friend from Alabama, we have many pressing areas of the war on terror in Iraq. I think we should be engaged in discussions as to how we can better equip the men and women who are serving in Iraq. I think we could discuss the situation of the acquisition of nuclear weapons by Iran and North Korea. There are many pressing issues around the world this body could be discussing.

I would respond with one more question for my friend from Alabama. I do not want to take up too much of his time, but isn't it true that elections have consequences? The fact is, when we elect a President of the United States, one of the most important things is for him to have a team around him that he can trust and that he can rely on, and the President should be able to keep that team until such time as the President of the United States loses confidence in that team.

If we begin dictating who the team is around the President of the United States, it bodes ill for any President of the United States, whether it be a Democrat or Republican or whoever, because one of the important aspects of the Presidency is to have people around the President of the United States whom he or she can trust. Isn't that one of the most important predicates of capable government?

Mr. SESSIONS. I couldn't agree more. I think the Senator from Arizona has made a tremendously important point. This President is committed to a successful outcome in Iraq. He has chosen his Secretary of Defense, and his Secretary of Defense is his person in whom he has confidence, and he does not believe changing that Cabinet Member at this point in time would help him be successful in that effort. I agree. But regardless of whether you and I might agree, it is his call. He was elected after a full debate over the wisdom and the conduct of the war in Iraq. He was reelected. I think the American people, therefore, affirmed him and expect him to choose the type people he believes will be successful.

I think the Senator makes a good point.

I would just share a couple of thoughts before my time is up. To repeat, we made a decision in this body. A majority of the Democratic side and a large majority if not all the Republicans voted to authorize this military action. Many things went far better than we could have expected. But we are now facing very difficult, persistent violence that places at risk our soldiers, places at risk the new Iraqi Government, and it is something that should not be minimized. This is a very tough time. But we have to be successful.

I know my colleagues have filed a motion and had quite a number of votes on one or more resolutions to set a date and just withdraw, regardless of what is going on in the country—to just withdraw.

Just a few weeks ago, just before we recessed on August 3, we had an Armed Services Committee hearing on Iraq. Testifying before that committee was General Abizaid. General Abizaid followed Tommy Franks as CENTCOM Commander. That region of the world is under his control. We had just voted overwhelmingly to reject a pullout of the troops in Iraq without regard to the status of the military situation in Iraq. I asked him a question at that hearing.

I see the Senator from Alaska is here. I know he has had experience in these issues. He served our country in combat.

This is the question I asked General Abizaid:

> What kind of reaction, what kind of impact would there be with regard to the Islamic extremists in the Middle East? And you are a student, General Abizaid of that region. You spent time in that region as a young person. You speak Arabic and you have been with us, conducting this Iraq war, virtually from the beginning. What kind of impact would result if we were to precipitously withdraw? Would it mollify the extremists? Would it make them say, well, the United States is a nicer place now? We don't have to be so aggressive now? Or would they likely be emboldened, empowered, and more aggressive?

And just like that, General Abizaid said:

> Emboldened, empowered, more aggressive.

I said:

> In your opinion, would a failure in Iraq embolden and empower these radical extremists?
>
> Yes, it would.

I asked again:

> And, in your opinion, would setting a fixed date, regardless of the situation in Iraq, for a withdrawal, embolden or empower the extremist forces?
>
> Embolden.

Then I asked General Pace, Chairman of the Joint Chiefs of Staff, Marine Corps general:

> General Pace, this is a matter we've discussed. Unfortunately, it's had very little support in the Senate but there is a political election coming up and people float this idea that we should just pull out. You've heard General Abizaid's comments. He's been in the region for years and been leading this effort. Would you agree with his comments?

General Pace, Marine Corps general, Chairman of the Joint Chiefs of Staff, said:

> Sir, I agree with each of General Abizaid's responses to each of your questions.

Mr. REID. Will the Senator yield?

Mr. SESSIONS. I would, briefly.

Mr. REID. Senator STEVENS came to me and wanted to enter into an agreement that we will have two votes tonight. I am very inclined to agree to that, but I ask the Senator—we have specific times on our speakers. We need an idea as to how much longer the Senator will speak.

Mr. SESSIONS. I won't be speaking but just 3 or 4 minutes.

Mr. REID. That way we can work through there and have the votes the majority leader wants.

Mr. SESSIONS. Then he basically volunteered, he said:

> Senator Sessions, sir, what I'd like to say is that the troops that serve in the region are not afraid of what's happening there. They would be afraid of what would happen if we just precipitously left.

I would carry it a little bit further because I was talking to some soldiers. Basically, what they told me was they were worried the politicians wouldn't have the gumption to stay the course and be successful after we have committed so much of our resources and lives, when we have a new government

that has been up less than 6 months, trying to get itself established, and then we send signals with this kind of debate that we might just up and leave.

Fortunately, when we have had the votes, they have not been there. It is not helpful, in my view, to have this kind of debate. We have had it before. We have had our votes. The American people have elected the President again when he stated exactly what he intends to do to protect this country from the regimes and the terrorists that are gathering in Iraq.

We have an outstanding Secretary of Defense, a man who has the confidence of the President, a man who has listened to the generals.

I was on an airplane, a C–130, flying into Baghdad with General Abizaid. We could hardly hear anyone talk on the planes. Just the two of us were sitting on one side of the aircraft. He explained to me why he thought we should not send more troops there 2 years ago. He testified recently at the hearing that he does not believe we need to send more troops.

Is Secretary Rumsfeld dictating this policy or is he listening to the general? That is what they have advised him; that is what he is doing. He is following the advice of one of the most brilliant generals in the Army, General Abizaid, the commander in that region.

If we will continue to follow that advice, if we will show strength and courage, if we continue to alter our tactics to meet the changing tactics of the enemy, this mindless violence can be defeated and a good and decent government in Iraq can be established. We have invested so much in that effort.

We voted as a Congress to undertake this action. We need to see it through successfully. We can do that. We just do not need to lose our nerve. We must win this war.

I yield the floor.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Delaware.

Mr. CARPER. I have listened to my friend from Alabama assert that the Democrats are really interested in precipitous withdrawal from Iraq. For the most part, the debate I have heard from our side and in our own caucus is really more reflective of the words of some of our top military leaders in Iraq with whom I met who said, as recently as last December, it is time for America to move toward the door; not to go out the door, not to close the door behind us but, again, move toward the door.

That is a pretty good way to describe the way most feel. It is time to redeploy our forces, not to leave overnight, not to leave precipitously, but to move toward the door.

Senator MCCAIN asked: Would we be having this debate if it were not September of an election year? I remember voting in 1991 to authorize the use of force to invade Iraq and to force and compel the Iraqis out of Kuwait back into Iraq. Eighteen months or so after that, September 1992, we were not having a debate. There was an election year.

Mr. STEVENS. I ask my comments not interrupt the Senator's speech in the RECORD.

Could the Senator yield to me? We have a time agreement following the disposition of this.

Mr. CARPER. I am happy to yield.

Mr. STEVENS. I ask unanimous consent following the disposition of the Reid amendment there be a period of 30 minutes equally divided in relation to the Kennedy amendment, No. 4885, with no second-degree amendments in order prior to a vote in relation to the amendment; provided further, following the vote, there will be 10 minutes equally divided in the usual form prior to a vote in relation to the Mikulski amendment, No. 4895, with no second-degree in order prior to that vote.

Mrs. BOXER. We have no objection on our side.

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

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. What I was saying, responding and reflecting on Senator MCCAIN's question, would we be having this debate if it were not September of an election year, in 1991, we voted to authorize the use of force in Iraq. Eighteen months after a number of us voted to authorize the use of force to force the Iraqis out of Kuwait and to follow them into Iraq, 18 months later, in September of 1992, a Presidential election year, we were having debates. One of the things we were not debating was the wisdom of going out, getting the Iraqis out of Kuwait and forcing them far into Iraq, into Baghdad.

The reason we are having this debate today is not because it is an election year, not because it is September of an election year, but because of how badly too much of our effort in that part of the world has been managed. It is not a reflection of our troops. They have served us valiantly. They continue to do so.

I say to my friend on the other side, be honest with yourself. If the shoe were on the other foot, if we had a Democratic administration, Democratic President, a Secretary of Defense appointed by that Democratic President; if we were in a war that the Secretary of Defense had alleged would cost $50 billion to $60 billion, and in reality was costing 10 to 20 times that amount; if we were in a war that was expected to last maybe 6 months, and we are in it 3 years later, with no end in sight; if we were in a war where basically a Democratic administration had said to the Iraqi Army, go home, we don't need you; if we were in a situation where instead of fostering a situation where we had fewer insurgents, we had at least a fourfold increase in the number of insurgents holding forth in Iraq; if we had a Democratic administration in Afghanistan that was starting to slip away from us, and we were seeing a massive increase in drug production, growing enough poppies in Afghanistan today to meet the demands of the whole rest of the world, not just the U.S. heroin addiction but the rest of the world, I say to my friends on the other side, if the effort were mismanaged as badly by a Democratic administration, I bet we would be having this debate in September of 2006.

This is a reasonable debate. I say that as one who has voted for most of this administration's nominees who had to be confirmed, who tried to help a bunch of my old colleagues, including Secretaries Thompson, Ridge, Leavitt, Whitman, and others to put together their teams to help govern this country.

Every now and then the time comes to change course. We know what we are doing is not working. One of the keys to changing course, frankly, is to change leadership.

Secretary Rumsfeld, to his credit, in response to early criticism, I am told, actually came to the President and offered to resign. And the President, to his credit, being loyal to his team, declined that offer by his Secretary. I believe that to be true.

I would say, Mr. President, if Secretary Rumsfeld feels compelled to submit his resignation to you again, accept it. It is time to turn the page. It is not the time to turn our backs on Iraq. It is not the time to turn our backs certainly on the men and women who are serving there for us on behalf of the Iraqi people today, but it is time to change course. It is time to change the leadership. That begins with the civilian leadership of the Department of Defense.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, the Senate is debating a resolution that simply asks the question: Could the Bush administration be doing things better in Iraq, the global war on terror, and with homeland security?

I know we can do better. I know we need to change course if we want to be more secure. We can do better than sending our troops into war without the armor and equipment they need. We can do better than misleading the American people about the costs of this war. We can do better than completely misreading the insurgency, which the Vice President told us over a year ago was in its last throes. We can do better than a policy that leaves our troops without a clear mission and without a plan for success.

Our servicemembers deserve better. Frankly, our security demands better. It starts with this Senate simply saying we need to change the course. We cannot tolerate more of the same. We cannot have an administration that has gotten it wrong at every turn. It is time to send that message loudly and clearly.

We all want the same thing in Iraq: for our troops to complete their mission successfully and to come home safely. But today it is not even clear why our servicemembers are still there. What are they supposed to be accomplishing in Iraq today? Overthrowing Saddam Hussein? They accomplished that. Looking for weapons of mass destruction? They looked and there were no weapons to be found. Are they supposed to be setting up an Iraqi Government? We have done that. The Iraqi people have created a Constitution. They have elected their leaders. They filled their Cabinet. Our troops have done everything we have asked them to do. What is left? What are our troops supposed to be accomplishing today? And how will the President's policies get us there? That is the discussion we need to be having.

This administration's focus—solely on Iraq—has distracted us from the larger important war on terror and has left us vulnerable. Our country faces possible threats from terrorists around the world. We need a security strategy that ensures we can fight those threats wherever they are. But, instead, this administration has become increasingly focused on Iraq. The President took a detour from the war on terror and has invested a majority of our resources in Iraq, seemingly forever. That weakens our ability to fight the important war on terror. That is another mistake.

Bin Laden is still on the loose and our homeland security efforts are woefully inadequate. This resolution sends the message that we have to get back on track on the war on terror. We cannot continue to stay the course in Iraq indefinitely and expect to make progress in the global war on terror.

The war on terror extends far beyond the borders of Iraq, and unless we deal with all the threats we are facing, we are not going to have the security we deserve in this country. But this White House has put all our eggs in the baskets of Iraq, and we are slipping behind all the other challenges we face in Iran, in North Korea, in Afghanistan.

Yesterday, the New York Times showed us how bad things have gotten in Afghanistan. And I quote:

> Across Afghanistan, roadside bomb attacks are up by 30 percent; suicide bombings have doubled. Statistically it is now nearly as dangerous to serve as an American soldier in Afghanistan as it is in Iraq.

Today the Seattle Post-Intelligencer in my home State of Washington editorialized that we need to get back to work in Afghanistan. And I want to read to you what they said:

> The central government's control is weakening as warlords and the Taliban reassert themselves. Casualties for international troops are mounting, making Afghanistan almost as risky for U.S. soldiers as Iraq. Opium production is at a record. The head of the U.N. Office on Drugs and Crime said Afghanistan is now supplying a ''staggering'' 92 percent of the world's opium supply.

We entered Afghanistan because it had harbored al-Qaida and bin Laden—who are responsible for the terrorist attacks of September 11, which killed nearly 3,000 Americans. We still have not captured bin Laden, and the Taliban is reemerging in Afghanistan.

Iraq is not the only challenge we face, and if we do not recognize that, Americans will pay the price.

This administration has gotten it wrong in Iraq, the war on terror, and on homeland security time and again. Continuing the status quo is unacceptable, and that is the message I send with my support for this resolution.

The American people deserve straight answers and a real debate so we can get this right. Nothing is more important for our security, and nothing is more important for this country's future.

Thank you, Mr. President.

Mrs. FEINSTEIN. Mr. President, I rise today in support of a no-confidence resolution on the leadership of Secretary of Defense Donald H. Rumsfeld.

Secretary Rumsfeld has overseen a failed strategy, policy, and military tactics for Iraq that have weakened the state of our national and homeland defense.

Despite clear evidence that our current strategy is not working, he has stubbornly stuck to a deteriorating course.

We need a new direction. ''Staying the course'' is not the answer and Secretary Rumsfeld has been the key proponent of this failed policy.

I first publicly called for Secretary Rumsfeld's resignation 6 months ago, after watching 3 years of mismanagement of our war effort in Iraq.

And, since that time, I have become more convinced of the importance of changing the leadership at the top of the Department of Defense.

In truth, the Bush administration's failed strategy and tactics in Iraq have significantly diminished the United States' standing in the world and made waging the global war on terror more difficult.

Despite optimistic reports by Pentagon officials regarding the security situation near Baghdad over the past several weeks, it is clear that Iraq is on the edge of civil war.

For example, in recent days news agencies have reported that: 40 bodies, 25 of which had been blindfolded and executed by gunshot, were discovered in a mass grave in Baghdad—this from the New York Times.

The number of killings in and around Baghdad grew substantially last week despite an American-led security crackdown, with morgues receiving as many bodies as they had during the first three weeks of August combined—this from the Los Angeles Times.

Finally, the Iraqi parliament voted to extend a state of emergency throughout much of the country a strong indication that the security situation remains tenuous—this from the Associated Press.

Yet we are continuing down the same failed path, buttressing the Shiite-dominated government and preventing it from taking actions necessary to end the insurgency and prevent a full-scale civil war.

As a result of these failed policies under Secretary Rumsfeld's leadership, Iraq continues to be a nation in chaos.

Yes, there is a permanent government in place. But the ministries do not function properly; terror, kidnappings, and assassinations continue on a daily basis.

Iranian influence is growing, and Shiite militias dominate the police.

Civilian killings now top 3,000 a month, and a Sunni-Shiite civil war is emerging, with U.S. forces caught in the middle.

Despite spending almost $20 billion on reconstruction efforts, our plan for Iraq reconstruction has stalled as security requirements continue to tax our resources.

Unemployment may be as high as 50 percent, many utilities are not online, and demand for subsidized gasoline—U.S. $0.55/gallon—has led to a thriving black market and corruption. Oil production has yet to meet revenue goals.

The list of failures in our war policy in Iraq is comprehensive and long:

(1) Failed strategic, logistical, and financial planning for the Iraq war

Secretary Rumsfeld ignored suggestions early on by advisers like Army Chief of Staff General Shinseki, Senators such as John McCain, and reports by well-respected think tanks such as the RAND Corporation, that many more ground troops were needed.

For questioning Rumsfeld's plan, General Shinseki was effectively forced into early retirement.

White House economic adviser Lawrence Lindsey found himself out of a job after differing with Rumsfeld in suggesting that the Iraq war might cost up to $200 billion Rumsfeld initially argued that it would cost only $50 billion.

With the addition of emergency supplemental funding, the cost of the Iraq war has now reached $320 billion, with spending averaging $2 billion a week.

American troops went into combat without the proper equipment and protection. Hundreds of soldiers and marines were killed or maimed in the early stages of the war due to the lack of appropriate vehicle and body armor.

Yet in responding to these concerns, Secretary Rumsfeld famously quipped, ''You go to war with the Army you have.''

(2) Failed policy of de-Baathification, including abolishing the Iraqi Army with no severance pay or pensions for soldiers

Perhaps the biggest strategic mistake made by military planners, beyond the lack of adequate troop strength, was the decision to demobilize the standing Iraqi Army, while ''blacklisting'' other civilian professionals who had been members of the Baathist Party.

Many of these soldiers, government officials, doctors, lawyers, and other civilian workers, with their jobs eliminated and no money to feed their families chose to join the insurgency that has now grown to an estimated 20,000 individuals.

Remarkably, Rumsfeld until only recently tried to characterize the insurgency as a group of ''foreign fighters,'' failing to understand the deep resentment cultivated by American policies in post-Saddam Iraq.

(3) Faulty belief that capturing Baghdad meant controlling Iraq

As related in recent firsthand accounts of the initial invasion, commanders on the ground quickly identified the threat of a guerilla war, but after GEN William Wallace, who was leading the march toward Baghdad, recommended crushing the small insurgency along the way, he was nearly forced to resign.

While U.S. forces successfully captured Baghdad within 3 weeks, this strategy allowed an insurgency to grow within the Sunni triangle and hundreds of foreign fighters to stream across Iraq's unguarded borders.

(4) Failure to manage the chaos in the aftermath of the invasion

Some of the first signs that the U.S. lacked adequate troops were the pictures of Iraqis rioting and looting in several key cities immediately following the invasion.

Rumsfeld dismissed the chaos as a symbol of ''freedom and democracy,'' simply saying ''stuff happens.'' Sadly, it demonstrated to all Iraqis that American military resources were limited.

This shortage of U.S. troops also resulted in a failure to secure munition dumps and small arms that were stashed throughout the country.

The insurgency was able to thrive through access to these munitions and weapons caches, and many American troops have been killed or injured from bombs or RPGs that could have been secured in the initial invasion, had we had enough troops.

(5) Failure to stop abuse and torture

One of the greatest stains on America's reputation that will come out of the war effort is our failure to properly protect the rights of those detained by our military.

While most of our men and women have served honorably, it is clear that the Pentagon allowed a culture of abuse to develop in prisons such as Abu Ghraib, Guantanamo, and Camp Nama.

Yet despite the clear evidence of detainee abuse, no high-level official has been held accountable for these actions.

(6) Failure to maintain military readiness

The Iraq war has taken a significant toll on the state and preparedness of our military. Our armed forces are stretched thin; our men and women in uniform overburdened.

Last month, the Marine Corps was forced to issue call-up orders for 2,500 from its Individual Ready Reserve the first time it has had to do so since the war started.

Top Army commanders have suggested that two-thirds of all Army brigades do not meet the necessary state of readiness, and National Guard chief, LTG Steven Blum, estimates that two-thirds of the National Guard cannot even be deployed today.

Equipment is fast wearing out. It is estimated that the Army and Marines will need a combined $75 billion over the next 5 years for maintenance, repair, and replacement alone.

As a result of failed policies under Secretary Rumsfeld's leadership, we may well end up with a broken force and an Iraq held captive by civil war.

There must be a change in course and a change in those who have managed the war effort.

This is critical if we want to have any chance for success in Iraq.

Just last week, Secretary Rumsfeld employed truly shameful rhetoric by comparing those who have criticized the Iraq War with those who ''appease[d]'' the Nazis in the run-up to World War II.

In the speech at the American Legion conference in Salt Lake City, Rumsfeld stated:

> Once again, we face similar challenges in efforts to confront the rising threat of a new type of fascism but some seem not to have learned history's lessons.

Questioning the patriotism of those who might not support the war, he said:

> The struggle we are in is too important the consequences too severe to have the luxury of returning to the ''blame America first'' mentality.

These baseless, partisan attacks are simply over-the-top and are being used to fill a gaping vacuum created by the lack of a successful plan for Iraq.

It is clear to me that this administration, led by the President and Secretary Rumsfeld, has been wrong at almost every turn.

Still, Secretary Rumsfeld remains in place, despite a growing number of bipartisan calls for the President to replace him.

Consequently, I believe that now is the time for the Senate to assert its oversight role and move forward with a vote of no-confidence.

Ultimately, it is true that President Bush is responsible for the failures in Iraq, but no Bush administration official was closer to the war planning than Defense Secretary Rumsfeld.

Secretary Rumsfeld was and remains the chief architect of the strategy and policy in Iraq.

Consequently, it is time for President Bush to ask for Secretary Rumsfeld's resignation and pursue a course correction under new Pentagon leadership.

There must be accountability for the disastrous policy pursued in Iraq.

It is time to bring in a new team to run our military. Secretary Rumsfeld must step down.

Our men and women in uniform deserve better.

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

Mrs. BOXER. Mr. President, I am going to be the last speaker. Senator DORGAN will not be using his time, so I am asking that I have 4 minutes of his time, since he has given me that.

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

Mrs. BOXER. Thank you. That will give me a total of 10 minutes.

Mr. President, I think it is a very sad day that the Republicans are not going to allow a vote on this Democratic resolution calling for a changed course in Iraq. And their reason—I sat here and listened—is that we are only doing this because it is an election year. Well, folks, I do not know how to break this to you, but every 2 years is an election year. Are we supposed to stop working in an election year? Are we supposed to stop talking about the issues that are on the minds of the American people because they may be difficult or they may be controversial or they may have consequences for us? Are we supposed to stop doing the people's business in an election year?

I do not know about my Republican friends, but I know Californians expect me to work every year—election year or not—every day, every week, every month. And I say to Senator MCCAIN, elections do have consequences. He said elections have consequences. Yes. And all of us were elected, too. Is he forgetting that? Does he think the only election that matters is the election of a President? I think our Founders would be very shocked. Our job is to provide oversight. Our job is to, in fact, advise and consent on many nominations, including the top levels of this administration. So I rise in strong support of this very important amendment Senator REID has carefully put together.

This amendment does three critically important things.

First, it is about this Congress conducting its constitutional responsibility to exercise oversight over the executive branch. It is our job, given to us by the Founders. It is our job not to be a rubberstamp Congress, not to be a compliant Congress, not to be a roll-over-and-play-dead Congress, but to challenge, to question, to push; and if things are not going well for our country—be it wages for our workers or be it education for our children or be it deficits as far as the eye can see and debt as far as the eye can see or the war in Iraq—we need to speak out. And that is what this carefully crafted amendment does.

Second, the amendment is about helping to chart a new path forward in Iraq and clearly states that we need a new direction. That is important. There are those on the other side who said this is all about Donald Rumsfeld. It is not all about Donald Rumsfeld. It talks about starting over, starting anew, getting a new strategy in place for success in Iraq.

Third, it is about calling for a new civilian leadership. As you know, in this

particular version, we do not even mention Donald Rumsfeld's name. We are basically saying it is time to change direction. Things are dangerously heading down the wrong path in Iraq.

Let's hear what the latest Pentagon report said. My friends are quoting the Pentagon, as well they should. Let's hear what the Pentagon itself is saying:

> Concern about civil war within the Iraqi civilian population and among some defense analysts has increased in recent months. Conditions that could lead to civil war exist in Iraq.

They pointed out that the average number of weekly attacks—against coalition forces, Iraqi security forces, the civilian population, and infrastructure—increased by 15 percent since last spring. The number of weekly attacks has increased from approximately 640 to nearly 800. July saw the highest level of weekly attacks since military operations began.

In California, we have bases that are sending our troops out for their fourth tour of duty—their fourth tour of duty. So we are supposed to sit back and be compliant because it is an election year? Because it is an election year? Just talk to the parents and the families who are losing their family members, who are losing their sons and daughters, who are losing their moms and dads, who are seeing them come back with post-traumatic stress disorder, severe brain injury. Talk to them about it. They could care less if it is an election year. They want us to change course and bring their kids home. The fact is, we could do it if the Iraqis wanted democracy and wanted freedom as much as we wanted it for them. You show me one country that survives that cannot take care of its own security.

Sectarian violence is what is going on over there. As a result of our flawed policy, we are shorting the war on terror. We are not protecting our ports. The money is going to Iraq. It is being sucked out of the Treasury, going onto the backs of our grandchildren, to the tune of over $300 billion. And where is the money for port security? Where is the money to protect our nuclear powerplants? Where is the money to protect our infrastructure? Where is the money to protect our aircraft from shoulder-fired missiles, when we know that at least two dozen terrorist organizations have those missiles and the FBI has warned us over and over that we need to do something about it? Oh, they have to slow-walk it because they do not have the money—except for tax cuts to billionaires. They have the money for that.

So the bottom line is, this flawed strategy is shorting the war on terror. Secretary Rumsfeld how wrong could he be? He said he doubted this war would even last even 6 months. But he cannot admit a mistake. The fact is, when we went into Iraq without a plan, we turned away from the war on terror. Every single Senator voted for the war on terror—every single Senator.

I remember writing a speech, coming to this floor, and giving strong support to this President to go get Osama bin Laden, to go break the backs of terrorists, to go break the backs of al-Qaida to do it—and I would give him everything he needed. The whole world was with us. Go back to those days. Everyone was with us. But, oh, no, he had this thing, he was going to go into Iraq, even though his own State Department showed there was not one al-Qaida cell in Iraq. There were more al-Qaida cells in America than in Iraq. Took the money, took the energy, took the military, spread them thin, thought this war would be over in a nanosecond. And we have been misled. We have been misled.

So this is a very sensible resolution. Let me just read you the operative language:

> Our troops deserve and the American people expect the Bush Administration to provide competent civilian leadership and a true strategy for success in Iraq.
>
> President Bush needs to change course in Iraq to provide a strategy for success. One indication of a change, of course, would be to replace the current Secretary of Defense.

Mr. President, this resolution is written with respect to the President. It does not demean anybody. I believe it is very carefully drawn, and I think it speaks for the American people. If you look at the polls today, they are begging us—begging us—to change course. And I will tell you, it has not been easy for the American people to make their feelings known because they have changed. In the beginning, they were all for this. But they have seen what has happened. We cannot close our eyes to what is happening. And then when the Secretary of Defense looks at those of us in America—a vast majority who oppose this war—and says we do not understand history and we are appeasers, that has gone just too far.

I say to the Secretary and to this President: Get with the current times.

I even heard Secretary Rice talk about how this was somehow akin to the people who did not want to fight the Civil War. Talk about drawing up analogies that do not make any sense, there is another one.

Let's change course now. And let's start by approving this resolution. At the minimum, I say to my friends on the Republican side, let us vote on this resolution. It is our job to speak out. It is our job to do oversight. And let the votes fall where they may. But the American people deserve this vote. I thank my leader for putting this resolution together.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I will momentarily send an amendment to the desk. But my disappointment is that the majority, as they have done for years when a tough issue comes before the Senate, through technical means, is preventing Senators and preventing the Senate from expressing its will—in this instance on this resolution of no confidence. This is unfortunate. We should have the ability to vote on this amendment.

AMENDMENT NO. 4904

Mr. President, I send this amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Nevada [Mr. REID], for himself, Mr. DURBIN, Mrs. BOXER, Mrs. FEINSTEIN, Mr. BAYH, Mr. KENNEDY, Mr. LAUTENBERG, Mr. CARPER, Ms. MIKULSKI, Mr. KERRY, Mr. SCHUMER, Mr. LEVIN, Mr. HARKIN, and Mrs. CLINTON, proposes an amendment numbered 4904.
>
> At the appropriate place insert the following:
>
> SENSE OF THE SENATE ON THE NEED FOR A NEW DIRECTION IN IRAQ POLICY AND IN THE CIVILIAN LEADERSHIP OF THE DEPARTMENT OF DEFENSE:
>
> Findings:
>
> 1. U.S. forces have served honorably and courageously in Iraq, with over 2,600 brave Americans having made the ultimate sacrifice and over 20,000 wounded.
>
> 2. The current ''stay the course'' policy in Iraq has made America less secure, reduced the readiness of our troops, and burdened America's taxpayers with over $300 billion in additional debt.
>
> 3. With weekly attacks against American and Iraqi troops at their highest levels since the start of the war, and sectarian violence intensifying, it is clear that staying the course in Iraq is not a strategy for success.
>
> Therefore it is the sense of the Senate that:
>
> 1. Our troops deserve and the American people expect the Bush Administration to provide competent civilian leadership and a true strategy for success in Iraq.
>
> 2. President Bush needs to change course in Iraq to provide a strategy for success. One indication of a change of course would be to replace the current Secretary of Defense

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I raise a point of order against this resolution on the basis of precedent of the Senate of May 17, 2000. It is not appropriate to raise this amendment as a sense of the Senate on this bill.

The PRESIDING OFFICER. In the opinion of the Chair, the amendment is not germane. The amendment falls under the criteria of the Senate.

AMENDMENT NO. 4885

Mr. STEVENS. Mr. President, there is now, for the Kennedy amendment, 30 minutes on a side, as I understand it; am I correct?

The PRESIDING OFFICER. It is equally divided.

Mr. STEVENS. Fifteen minutes on a side?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Thank you.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield myself 10 minutes. Just for the information of the Members, I intend to ask for the yeas and nays at the conclusion of the debate.

Mr. President, the Kennedy-Reid amendment requires the Secretaries of Defense and State to determine every 3 months whether Iraq is in a civil war and to outline a plan to protect our troops in the event of a civil war.

Under our amendment, if the administration determines that Iraq is not in a civil war, the amendment requires a description of the efforts by our Government to avoid civil war in Iraq, a plan to protect our troops in the event of a civil war, and a strategy to ensure that our troops don't take sides. If the determination is that Iraq is in a civil war, the amendment requires the Secretary of Defense to explain the mission of our troops and the duration, his plan to protect our troops, and a strategy to ensure that they don't take sides in a civil war.

At every step of the way, this administration has missed the threat to our troops, and the American people have seen it time and again. They saw it when the Bush administration disbanded the Iraqi Army after the fall of Saddam Hussein but allowed thousands to walk away with their weapons. They saw it when the Bush administration waited a full year to begin training the new Iraqi security forces. They saw it when the White House failed to see the insurgency spreading like a cancer throughout Iraq. They saw it when the Bush team failed to see the danger of roadside bombs and improvised explosive devices, yet sent our troops on patrol day after day, month after month, year after year. They saw it when the White House failed to provide the proper armor for our troops until the Congress demanded it.

Unfortunately, the administration's repeated failure to see each new threat in Iraq has put our troops and our security in greater peril. Today, once again, the administration refuses to recognize another seismic shift in Iraq—the dangerous prospect that we are drawn into a deadly and divisive civil war.

While the President and DICK CHENEY, Secretary Rumsfeld and Secretary Rice are out on the campaign trail claiming progress in Iraq, military leaders and experts are urging the White House to heed the disturbing warning signs in Iraq. General Abizaid acknowledged the clear danger when he told the Senate Armed Services Committee on August 3:

> I believe that the sectarian violence is probably as bad as I have seen it, in Baghdad in particular, and that if not stopped, it is possible that Iraq could move toward civil war.

General Pace, at the same hearing, agreed about the threat of the civil war. He said:

> I believe that we do have the possibility of devolving to a civil war, but that does not have to be the fact.

Others think that a civil war may have already begun. Former Iraqi Prime Minister Allawi said in March that Iraq is probably in ''an early stage of civil war.''

The British Ambassador to Iraq wrote in August:

> The prospect of a low-intensity civil war and a de facto division of Iraq is probably more likely at this stage than a successful and substantial transition to a stable democracy.

Our colleague from Nebraska, Senator CHUCK HAGEL, concurred, saying in August:

> We, in fact, are in probably a low-grade, maybe a very defined, civil war.

General William Nash, who commanded our troops in Bosnia after that country's civil war ended, stated on March 5:

> We are in a civil war now; it is just that not everybody has joined in.

These leaders see what is really happening in Iraq, not just the White House spin. Indeed, the September 1 report prepared by the Department of Defense on civility and security in Iraq reaffirms what the American people already understand, the conditions of civil war exist. Violence in Iraq is spiraling out of control, and staying the course is not a viable option.

This is what the Department of Defense report says:

> Concern about civil war within the Iraqi civilian population and among some defense analysts has increased in recent months. Conditions that could lead to civil war exist in Iraq.
>
> Rising sectarian strife defines the emerging nature of violence in mid-2006.
>
> Sustained ethnic and sectarian violence is the greatest threat to security and civility in Iraq.
>
> Sectarian tensions increased over the last 3 months, demonstrated by the increased number of executions, kidnappings, attacks on civilians, and internally displaced persons.
>
> Civilian casualties increased by approximately 1,000 per month since the previous quarter. Assassinations, in particular, reached new highs in the month of July. The Baghdad coroner's office reported that 1,600 bodies arrived in June, and more than 1,800 bodies in July, 90 percent of which were assessed to be the result of executions.
>
> Sectarian violence is gradually spreading north into Diyala Province and Kirkuk as Sunni, Shiite, and Kurdish groups compete for provincial influence.
>
> Both Shia and Sunni death squads are active in Iraq, and are responsible for the most significant increases in sectarian violence.
>
> Militias and small, illegally armed groups operate openly and often with popular support. The threat posed by Shiite illegal armed groups, filling perceived and actual vacuums, is growing.
>
> The security situation is currently at its most complex state since the initiation of Operation Iraqi Freedom.

That is all from the report prepared by the Defense Department. These facts are at odds with the administration's statement about civil war. Sectarian divisions are increasing. Militia violence and death squad activity is increasing. The number of Iraqis fleeing the violence is increasing. Yet the President, Vice President, Secretary of Defense, and Secretary of State continue to deny the possibility of civil war. As long as the administration continues to deny the plain truth, America will be behind the curve and unable to adjust to the current realities on the ground and protect our troops.

Most important, our amendment requires the administration to say what we are going to do about it. How are we going to advance America's interests in Iraq in a time of civil war? How are we going to protect our troops from getting drawn ever deeper into an endless sectarian conflict?

An article in Newsweek magazine on August 14 indicates that although the Bush administration insists that Iraq is a long way from civil war, some inside the White House and the Pentagon have begun some contingency planning. The American people and our men and women in uniform want to know what that means.

What is the role of our troops in a civil war? What is our mission? How long will it take? What are the rules of engagement? How do we prevent our troops from taking sides? As long as we are on the ground in the conflict, our troops run the risk that they will be perceived as helping one side against another.

The administration should level with the American people about their planning to protect our troops. We all agree that the Iraqis need to make political compromises necessary to stop the violence and civil war. That is plan A. But what is plan B? What is the contingency plan? What is the plan to protect our troops?

That is the purpose of our amendment this evening. The amendment is needed to ensure proper planning in the event of civil war.

Instead of attacking those who want to change our course, President Bush ought to deal with the hard, cold facts. This Defense Department report underscores the fundamental truth that our brave troops are being let down by the administration and we need to find a way to succeed.

The administration needs to look at all of the facts and honestly address the question of civil war for the sake of our military and the American people. This legislation creates a continuing obligation to ensure that analysis on civil war is done regularly. The facts in the administration's report say one thing about civil war, but the conclusion about civil war says another. We need an honest assessment about the conditions and a clear plan to protect our troops.

Our soldiers and the American people deserve more from the administration. Together, the Secretary of Defense and the Secretary of State need to set the White House political agenda aside and directly and thoughtfully address this ominous threat.

The administration acts as if the mere discussion of a civil war is defeatist. They have it exactly backward. This amendment is an effort to make sure that the administration confronts and deals with the facts on the ground in Iraq and recognizes the emerging threat before it consumes our troops.

We must do better. This administration owes it to the American people. Even more important, dealing with reality is essential and necessary to protect the lives of our brave soldiers.

Iraq's future and the lives of our troops are close to the precipice of a new disaster. The timebomb of civil war is ticking, and our most urgent priority is to defuse it.

For the sake of our men and women in uniform and the stability of Iraq, all Americans are anxious for success, but we need to be realistic and smart enough and humble enough to understand that even our best efforts may not prevent a civil war from overtaking events in Iraq.

We need to begin planning now for this possibility. Such planning is not an admission of defeat. It is essential and necessary for protecting the lives of our service men and women in Iraq who are performing so admirably today under such enormously difficult circumstances.

Benjamin Franklin said as long ago as the 18th century:

> By failing to prepare, you are preparing to fail.

This was sound advice then, it is sound advice now. I urge my colleagues to support this amendment.

I reserve the remainder of my time.

Mr. STEVENS. Mr. President, I yield such time as the Senator from Virginia may use.

Mr. WARNER. Mr. President, I rise in strong opposition to this initiative by my fellow colleague on the Armed Services Committee, Senator KENNEDY of Massachusetts. It is rather interesting, I went back and studied a lot of military treatises and precedents, trying to analyze what constitutes a civil war—Webster's Dictionary; Edward Luttwak, ''The Dictionary of Modern War''; Pennsylvania State University's ''The Classic International War''; and other treatises. It was interesting. There is another academic, with a last name spelled K-A-L-L-Y-V-A-S. He put out a treatise on warfare in civil wars. He talks about a conventional civil war, an irregular civil war, an asymmetric, nonconventional civil war.

This is an academic exercise that yields nothing. The one thing that comes out in this study is that there are no two civil insurrections alike. There is not a blueprint that can be put on this problem in Iraq to say definitively that it constitutes a civil war.

In fact, the situation in Iraq, no matter how disturbed all of us are about the rising number of deaths and the sectarian violence, it is very disturbing and I acknowledge that. It was never, in my judgment, foreseen that this level of insurrection would take place once we had a series of elections by the people of Iraq and a government put into place.

But the basic formula of civil war has the principle in it that if the government is still functioning and if the Armed Forces of that country are still acting in support of the government, then it does not constitute a civil war.

I urge my colleagues to turn their attention to the key fact here: What are the consequences if this government fails to have a security situation that enables it to exercise the full range of sovereignty? What are the consequences? What are the consequences if these valuable oilfields—maybe not all at once, but part of them—fall into the hands of terrorists who seize them? What are the consequences of the situation devolving to the point where the nations around it feel they must inject themselves into the situation? For example, those nations with Sunni populations, Jordan and Saudi Arabia and indeed Syria and Egypt; they are not going to stand on the sidelines.

So I say to my colleague, we better look at what happens if this Government fails to receive that measure of support from the coalition forces, principally the United States, to enable it to continue to exercise the reins of sovereignty and continue to have the allegiance and loyalty of the Armed Forces which we have painstakingly trained in large numbers now and equipped.

Therein is the debate we should have to let the American people know what are the consequences. If the oilfields were to fall into the wrong hands, they would provide an unlimited source of cash for the terrorists—terrorists who have the most frightful of all weapons today; namely, the human bomber. Couple that unlimited cash and what appears to be a number of human bombers and we have a serious problem. The Middle East would be thrown into a convulsive state. The credibility of our Nation, in the eyes of the world, would be tested, and we could no longer be a strong voice in trying to bring about order in this region and to contain the most serious problem, as I see it; that is, the possibility of Iran becoming a power enabling it to have nuclear weapons.

We must maintain a strong presence and we cannot let this Government be in a situation where it can no longer exercise the reins of sovereignty.

I yield the floor.

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

The PRESIDING OFFICER. The Senator has 10 minutes.

Mr. STEVENS. And how much time on Senator KENNEDY's side?

The PRESIDING OFFICER. Three minutes.

Mr. STEVENS. Mr. President, since 2005, the Defense Appropriations Committee has required the Department of Defense to report quarterly on the stability and security situation in Iraq. This is the most recent report. It was prepared in August and embargoed until September 1.

Six pages of the bill language is very detailed. Starting on page 233—my colleagues can look in the bill—it requires a comprehensive set of performance indicators and measures for progress and political stability in Iraq. In other words, we continue in our bill already, without the Kennedy amendment, the concept that every quarter the Department reports to us.

The first part of this report describes trends and progress toward meeting goals and political stability. That requirement is contained in section 9010 of our bill.

The second section of this report describes training development and readiness of the Iraqi security forces, including the forces of the Ministry of Defense and police and paramilitary forces of the Ministry of Interior.

The third section describes transfer of security responsibility from coalition forces to the Iraqi Government, including prerequisite conditions and criteria for assessing the readiness of provinces to assume responsibility for security.

As I said, this report is already prepared and was presented on September 1 and is on every desk in the Senate. The current report addresses the prospect of civil war on pages 33, 34, and 35. It is very clear. It has reviewed the concept of ethno-sectarian violence, and that is the greatest threat to security and stability. It also continues with regard to the concepts on page 34 and has a series of incident reports.

I can tell the Senate there is no question that the Department has discussed already in the report the concepts Senator KENNEDY wants to have discussed. It says this on page 33:

> Notwithstanding this concern, there is no generally agreed upon definition of civil war among academic or defense analysts. Moreover, the conflict in Iraq does not meet the stringent international legal standards for civil war.

In other words, they have already reported to us, as Senator KENNEDY would require. But Senator KENNEDY wants to add additional requirements now. The question he asks, for example, in section (G), subparagraph 3: is the strategy of the United States Government to ensure that the United States Armed Forces will not take sides in the event of a civil war in Iraq?

It may be that we are already taking sides. We are supporting the Government if the insurrection is there. We need to help the elected Government against the al-Qaida attacks. There is no question that should be done. But the Kennedy proposal presumes the United States must not take sides. In other words, he would prevent what we are doing right now.

The question for the strategy of the United States in taking sides is repeated in section 6 of Senator KENNEDY's amendment. I do not believe it is appropriate to direct foreign policy or military strategy through a reporting requirement on an appropriations bill.

Senator KENNEDY and Senator WARNER sit on the Armed Services Committee. That is where policy is discussed. I do not think this is the way the Senate should do business.

We are in a situation tonight where having had this discussion at length on

the other matter, I think too many Members of the Senate have not heard this debate and probably will come and say: What's going on?

The clear answer has to be that we should not dictate policy—particularly military policy—in an appropriations bill. We provide the funding for whatever policies are already established by law, by regulation, by the Commander in Chief. This is something that requires the determination of the Secretary of Defense, the Secretary of State, and the President to set military policy.

There is a constitutional question involved here, in my opinion, in terms of what Senator KENNEDY wants to do. He wants to set up a situation whereby the Department of Defense has to decide if there is a civil war going on and if there is, then it has a set of procedures that must be followed. If they decide a civil war is not going on, there is another set of procedures that must be followed.

As a practical matter, what he is saying is reports such as this should come to the Senate quarterly and they should tell us in advance what are they going to do for the next quarter. In terms of military strategy and what we are doing over there, for those of us who have been there repeatedly, it is not possible to do that.

I certainly believe Senator WARNER outlined the whole concept of civil war very clearly. You can call it a civil war if you want, but the question is, when you put it into an amendment that demands we have a report to assess a finding by the Department, which it must make whether or not there is a civil war going on, and then give it instructions based on how it makes that decision, I think, is micromanaging the Defense Department. If there is one thing we should not do on an appropriations bill is try to micromanage the Defense Department.

I urge the Senate not to support this amendment. I do believe the reports we are getting right now give us some measurement of what is going on, and on the basis of that let's make judgments which we should make. For instance, this bill measures progress toward a democratic Iraq.

It describes the obstacles toward political progress, and it gives us a comparison of the situation in individual Iraqi homes.

It tells us about the black market in Iraq and how it might affect what we are doing over there.

It discusses the al-Qaida influence in Iraq and the recent developments in the security environment.

This is a very extensive report. Like a lot of reports, it comes to us quarterly, Mr. President, but not a lot of people pay attention to it. We do. If you look at our bill, we prepared, on the basis of the last report, a continuation of the concept of what they should do in terms of improving these reports for the coming period.

I do hope the Senate will support our position that this is not the way to go, that this is not the thing to do.

Has my time expired?

The PRESIDING OFFICER. The Senator has 2½ minutes remaining.

Mr. STEVENS. I yield to my friend.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, one can argue about the definition of a civil war, but what I am talking about is the concern of the commanders on the ground in Iraq. This is what GEN Rick Sanchez, former commander of the multinational forces in Iraq, said on January 7:

> The country is on the verge of civil war.

GEN Peter Pace on March 13:

> Everything is in place if they want to have a civil war.

Ambassador Khalilzad is concerned about the threat, March 7:

> The potential is there for sectarian violence to become a civil war.

General Abizaid before the Armed Services Committee on August 3:

> I believe the sectarian violence is probably as bad as I have seen it in Baghdad, and if not stopped, it is possible Iraq could move toward civil war.

General Pace the same day:

> I do believe we have the possibility of devolving into civil war.

Here we have Newsweek magazine, August 14:

> The Bush administration insists Iraq is a long way from civil war but the contingency planning has already begun. . . .

Now, the Senator from Alaska says let's look at the most recent report from the Defense Department that we received September 1. Let's look at it. What does it say?

> Concern about civil war within the Iraqi civilian populations among defense analysts increased in recent months. Conditions that could lead to civil war exist in Iraq.

And it continues:

> Conditions that could lead to civil war exist in Iraq, specifically in and around Baghdad. Concerns about civil war within the Iraqi civilian populations increased in recent months.

All we are asking for is a plan to protect our troops. What are the rules of engagement if there is a civil war? That is the issue. That is the question. That is the information they ought to have, the families ought to have, and the American people ought to have. That is what this amendment is all about.

The White House evidently is concerned, according to news reports. Generals on the ground are concerned about it. The Defense Department's own report is concerned about it. All we want to do is let Congress know and let us have the kind of planning that is going to provide the greatest protection for American troops on the ground should there be a civil war. Rules of engagement—that is all this amendment does. And it does seem to me when we are talking about plans—we heard a great deal of debate about policy today. This is about a plan to protect American troops. That is what this amendment is.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I disagree. This amendment is about changing the report requirements we have had in the past and that we have in this bill now. And we have had a satisfactory report.

If one looks at the report, there is no question there are attitudes in Iraq that indicate this may turn into a civil war. There is no question that is one of the major problems facing us today. To put on the Secretary of Defense the burden of deciding if there is a civil war and giving instructions whether there is or not, changing the basis of things we require that are serving us right now—I urge Senators to look at this report. There are graphs in the report. Are you very or somewhat concerned that a civil war might break out? There is great worry that it might. We should have that worry. But to force the Department of Defense to decide when it has turned into a civil war and give specific instructions in case they do make that decision, and if they don't make the decision—of course, that is not what the Senator from Massachusetts wants. He wants the decision that there is a civil war, obviously, because that would force a withdrawal.

This is very much connected with the debate we just had about the amendment that was considered to be not in order.

I urge the Senate to reject the Senator's amendment. I move to table his amendment and ask for the yeas and nays. Time is up, is it not, Mr. President?

The PRESIDING OFFICER. The motion to table is not in order until all time has expired. The majority has 1 minute remaining, and the minority has 30 seconds remaining.

Mr. STEVENS. The Senator from Massachusetts has 30 seconds.

Mr. KENNEDY. Mr. President, in the 30 seconds, refer to page 3 of my amendment. If there is not a civil war, we are still asking for the strategy to protect American troops. If there is a civil war, the strategy ought to be how are we going to protect the Armed Forces of the United States. This is a plan about how to protect American troops if there is a civil war, plain and simple.

The White House is concerned about it. Newspapers have published that they are concerned about it. We ought to be able to get it, and the members of the Armed Forces ought to be entitled to that information. We missed too many opportunities in the past. Let's not miss this one.

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

Mr. STEVENS. I yield back my time. I move to table the amendment and 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. LIEBERMAN) and the Senator from New Jersey (Mr. MENENDEZ) are necessarily absent.

I further announce that if present and voting, the Senator from New Jersey (Mr. MENENDEZ) would vote ''nay.''

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

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—54

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

NAYS—44

Akaka	Durbin	Mikulski
Baucus	Feingold	Murray
Bayh	Feinstein	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Inouye	Obama
Boxer	Jeffords	Reed
Byrd	Johnson	Reid
Cantwell	Kennedy	Rockefeller
Carper	Kerry	Salazar
Chafee	Kohl	Sarbanes
Clinton	Landrieu	Schumer
Conrad	Lautenberg	Snowe
Dayton	Leahy	Stabenow
Dodd	Levin	Wyden
Dorgan	Lincoln	

NOT VOTING—2

Lieberman	Menendez

The motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4895

Mr. STEVENS. Senator MIKULSKI has an amendment.

The PRESIDING OFFICER. There is 10 minutes equally divided on the Mikulski amendment.

The Senator from Maryland.

Ms. MIKULSKI. Mr. President, this is the Mikulski-Sarbanes amendment. It is very straightforward. It eliminates funding for the Army to carry out the A–76 effort that eliminates close to 400 jobs at Walter Reed, primarily little people, such as landscapers. Senator SARBANES and I objected to this contracting out because the process was flawed, unfair, and does not save the taxpayer any money.

Number 1, it started in the year 2000. It went on and cost $7 million to run the process.

The Federal employees won it in 2004. The Army changed the bar, reissued the solicitation, making up to 1,500 changes. After the Federal employees won the contract in September 2004, the Army changed the solicitation.

Having spent $7 million, it will now spend $5 million to implement it. The Army is about to spend $12 million to save $7 million. Even by Army accounting, that is a bad deal.

This process is flawed. It is unfair. It did not go by the rules. It does not save the taxpayers money. We urge the agreement of the Mikulski-Sarbanes amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. THOMAS. Mr. President, very briefly, no one would argue there are activities which are inherently governmental and should be performed by the Government. However, the Government should not engage in activities which are already offered in the private sector.

I am here today to share my opposition to the Mikulski amendment. If agreed to, this amendment would roll back a completed public-private job competition at Walter Reed Army Hospital. This job competition was won fair and square by the private sector because it proved to be more efficient and will save the taxpayers $32 million over the next 5 years. Furthermore, it was subject to intense review and investigation by the Army and the GAO, all upholding the Army decision to move forward to award to the private sector.

Opponents are not happy with the outcome. They appealed and lost; they appealed again and lost. Now they have appealed the contract award to Congress by offering this amendment. Congress is not in the business of awarding contracts. This amendment is bad policy and bad precedent.

Competitive sourcing is not about outsourcing or offshoring. It is about competition. It is the useful tool that utilizes competition to allow Federal agencies to evaluate whether certain functions shall be performed in the future by Federal employees of the private sector. We ought to continue to evaluate programs and activities and whether the Federal Government should be doing these kinds of things. This is essentially true if the Government is involved in activities that are available to the private sector.

It is my longstanding view that if a service is available to the private sector, there better be a darn good reason why the Government is doing it. In most cases, it simply is not right for the Federal Government to be doing things that could be done by Main Street business.

But the Federal Government is engaged in activity already offered in small business.

If this language prevails, it will undermine a portion of the administration's competitive sourcing program. With the continuing war on terror, the Army must have extra savings to meet its daily needs. The private sector will be discouraged from bidding on future competitions if the Congress demonstrates an effort to reverse legitimate acquisition decisions.

I urge all of my colleagues to oppose this amendment.

I yield the floor.

Mr. SARBANES. How much time remains?

The PRESIDING OFFICER. There is 3½ minutes remaining.

Mr. SARBANES. I yield myself a minute and a half.

Mr. President, I listened very carefully to my able colleague from Wyoming. I don't quarrel with a lot of what he says, but this process was absolutely flawed. This was not a fair process. The rules were constantly being changed. If we are going to have competitive sourcing, it ought to be done according to the rules, with a respect for the competitive bidding process. That didn't happen here.

This was put out for bid in June of 2000. It is now September of 2006. Under current law, none of these competitions can go on for more than 3 years. In 2004, the Federal employees won this competition. And the Army came back and changed the solicitation and put in new requirements for the bids. It is totally unfair, what is happening here. I respect the competitive bidding process, but there has to be some integrity to it. It has to have some decency to it. That is totally lacking in this situation.

I urge my colleagues to support the Mikulski amendment.

Mr. STEVENS. How much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I normally would agree with the Senator from Maryland, but the comments that were made are really not correct.

This has been reviewed by third-party entities, including the Government Accountability Office. We received a final report on May 30, 2006. The Department of Defense strongly opposes the amendment. If the language prevails, it will undermine the competitive sourcing program.

They have learned a lot about using A–76 on an enormous entity like the Walter Reed Hospital, but this amendment would preclude the Army from implementing a contract which has been reviewed three times and has been agreed to by the GAO.

Ms. MIKULSKI. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maryland has 2 minutes.

Ms. MIKULSKI. Let's talk about taxpayers, since this is supposed to inherently do something or other, saving money to fight terrorism.

This started in 2000, as Senator SARBANES said. The Army spent $7 million

to defeat their own Federal employees. They spent $7 million in 6 years. Boy, how about that? These are the little people, the landscapers. Thank God they had the AFGE behind them.

Then, after spending $7 million and changing the rules—and with the last set of specs, they had 1,500 amendments; imagine if we had 1,500 amendments—what we now find is they are going to have to spend another $5 million to implement the savings. So they are going to spend $12 million when the original goal was to save $7 million. Come on. If we are fighting terrorism and saving money, let's leave Walter Reed alone. It is going to be closed in a couple years because of BRAC. Let the landscapers do their job. Let the doctors and nurses do their job. Let's do our job and pass the Mikulski-Sarbanes amendment.

Mr. STEVENS. The delay in this matter really came about—there is no question there is a serious delay—as it was reviewed and upheld on two occasions. These are third-party entities that did the review, including the GAO. We should not upset a process that has taken so long and is finalized now.

I yield back the remainder of my time and move to table the Senator's amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from New Jersey (Mr. MENENDEZ) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. MENENDEZ) would vote ''nay''.

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

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—50

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

NAYS—48

Akaka	Cantwell	Dodd
Baucus	Carper	Dorgan
Bayh	Chafee	Durbin
Biden	Clinton	Feingold
Bingaman	Collins	Feinstein
Boxer	Conrad	Harkin
Byrd	Dayton	Inouye
Jeffords	Lincoln	Rockefeller
Johnson	Mikulski	Salazar
Kennedy	Murray	Sarbanes
Kerry	Nelson (FL)	Schumer
Kohl	Nelson (NE)	Snowe
Landrieu	Obama	Specter
Lautenberg	Pryor	Stabenow
Leahy	Reed	Talent
Levin	Reid	Wyden

NOT VOTING—2

Lieberman	Menendez

The motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4883, AS MODIFIED

Mr. STEVENS. Mr. President, I have an amendment that we wish to adopt. As I understand it, the Allen-Durbin amendment No. 4883 has been cleared as modified. I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 4883), as modified, was agreed to.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

HONORING OUR ARMED FORCES

ARMY CORPORAL CHRISTOPHER SITTON

Mr. SALAZAR. Mr. President, I wish to speak for a moment to honor the memory of a fallen Coloradan: Army Cpl Christopher Franklin Sitton of Montrose.

Corporal Sitton was a medic with the 10th Mountain Division, serving in Afghanistan since March. He had just turned 21 and graduated from Montrose High School just 3 years ago. Now, instead of having his whole life ahead of him, he has been taken from his friends, family and country by a roadside bomb in Kunar, in eastern Afghanistan.

Chris Sitton was looking forward to a medical career. His interest in medicine reached back to his childhood, where as a young man in Quinlan, TX he would accompany his father, a volunteer with a rescue group, on emergency calls.

Corporal Sitton's time in the Army was marked by excellence, not unlike his time in high school. Secialist Sitton entered the Army nearly 3 years ago, in January 2004. In his service, Specialist Sitton received three commander's coins, recognizing his exemplary performance in the Army. One was personally handed to him by a four-star general.

This achievement is remarkable to many but not to those who knew Christopher Sitton. Chris was a natural leader. A standout track star, he is pictured mentoring a younger teammate in a photo that hangs in his high school track coach's office. Young people naturally gravitated to him, and Chris returned their enthusiasm with a smile one friend described as big as Texas itself.

As a young man, Chris Sitton was an accomplished Eagle Scout. He was an avid athlete, a musician and outdoorsman, enjoying his time hiking, skiing and camping. But perhaps most notable, Chris Sitton left a mark on those around him as someone who was always helping others, putting them before himself.

GEN Douglas MacArthur once reflected, ''The soldier, above all other people, prays for peace, for he must suffer and bear the deepest wounds and scars.'' Chris' legacy as a son, friend and mentor, his willingness to put others before himself, shows how fundamentally he understood this calling to find a better tomorrow. Corporal Sitton sought to make the world a better place in his every action, to bring us to a better understanding of the ties that bind humanity together.

To Corporal Sitton's parents, Judy and Steve Sitton, I know that no words can ease the grief you feel at the loss of your son. I and this entire Nation share, in some small way, your painful sorrow. Corporal Christopher Sitton and his entire family will reside in my prayers tonight and remain in my thoughts.

MARINE CORPORAL JORDAN C. PIERSON

Mr. LIEBERMAN. Mr. President, I rise today to pay tribute to Marine Cpl Jordan C. Pierson of Milford, CT.

Corporal Pierson, a member of Charlie Company, 1st Battalion, 25th Marine Regiment, 4th Marine Division 2nd Reconnaissance Battalion, was killed in action on August 24 while conducting combat operations against anti-Iraqi forces in Al Anbar Province. He was shot while on foot patrol. He had been previously awarded the Purple Heart for wounds to his arms and legs by shrapnel from an insurgent's grenade 3 months prior.

Having delayed his education at the University of Connecticut, Corporal Pierson joined the Marine Corps in December 2003. It seems to be apparent by the many recollections of his friends and family that Jordan had already proven himself a leader. They recount many of the high-spirited exploits that he both engineered and led. However, his wily deeds quickly gave way to an outstanding performance as a marine devoted to his comrades and mission.

He is fondly remembered as a brilliant light and strong leader with strength of character and self assurance, persistently watching out for his fellow marines. He is described best by his first sergeant: ''Corporal Pierson had been a bright spot in his platoon, in a place, that can take the softest of hearts into a void of darkness. Even when the gloom of combat reached deep in a man's soul, Corporal Pierson could bring the Marine back to a sense

of purpose, a sense of why we were here, and that we were making a difference. Corporal Pierson was destined not to only be a Marine, but a leader among Marines. He fostered a sense of caring for Marines while still embodying all it meant to be a Marine.''

Corporal Jordan Pierson was a true patriot and defender of our great Nation's principles of freedom of justice. He served as an example of the potent American spirit, which permeates this Nation's history. I am both proud and grateful that we have the kind of defender exemplified by Corporal Pierson serving our great Nation.

Our Nation extends its heartfelt condolences to his family. To his father Eric, his mother Beverly, and brother Ethan, we extend our profound gratitude for sharing this outstanding marine with us, and we offer our prayers and support.

COMMUNICATIONS ACT OF 2006

Mr. MARTINEZ. Mr. President, I would like to bring to the attention of my colleagues a bill that could have a significant impact on the family budgets of millions of American households. H.R. 5252, the Communications Act of 2006, passed by the Senate Commerce Committee in June is that bill.

H.R. 5252 is an important piece of proconsumer legislation. It reforms the cable franchising process to permit competition to incumbent cable companies. The result will be competition in the delivery of cable television services to all our constituents.

While prices for Internet access and wireless service continue to fall, cable bills continue to climb and climb—in fact, according to the Federal Communications Commission, those bills have shot up more than 86 percent over the past decade. Millions of Americans have no choice when it comes to their video provider.

H.R. 5252 will change that by bringing real competition and giving consumers the ability to choose who provides their video programming. This is something consumers want and deserve. Competition brings lower prices and consumers win. Competition brings improved customer service—and consumers win. Competition results in service providers seeking to serve narrower segments of the marketplace—and consumers win.

It is not an exaggeration to say that the enactment of this legislation will save consumers billions of dollars a year. In the few markets where video providers have successfully negotiated franchise agreements—for instance, in parts of Florida, Texas and Virginia—consumers have benefited greatly.

According to a recent Bank of America study, in those aforementioned areas, cable bills have fallen by 28 to 42 percent—a savings of as much as $264 per year for cable customers.

And a recent Phoenix Center report estimates that each year Congress delays cable franchise reform, it costs American consumers $8.2 billion in unrecoverable losses from increased cable rates. This is unacceptable.

Furthermore, according to the same report, this means that Florida consumers are losing $626 million each year. That is a significant amount of money coming out of the pockets of my fellow Floridians. We have the power to change this. Consumers in every State will continue to lose money if we do not act now.

This issue is too important for us to ignore. We all know and understand that technology is changing each and every day—and yet our Nation's telecom laws have not been updated in 10 years.

The United States is the world leader in creating new and innovative technologies and we are at the forefront of bringing these new technologies to the marketplace. Sadly though, when it comes to broadband deployment, the U.S. currently ranks 16th in the world.

We need to act today to update our Nation's telecom laws and bring more choice and competition to the marketplace. Our economy needs it and consumers are demanding it.

I know the Senate Calendar is packed with important legislation which we must complete prior to adjourning. But the video choice legislation will affect every single household in America. It will bring competition to the video programming marketplace, and bring the benefits of competition to all of our constituents, whether or not they subscribe to cable.

I urge my colleagues to support the efforts of Senator STEVENS to bring this legislation before us.

As far as this legislation is concerned, time is money. Change is long overdue, and we are eager to help our fellow Americans keep more of their hard earned money.

We in this Chamber have a responsibility to get this legislation passed sooner, rather than later, so that our constituents can start saving more today, not tomorrow.

TRIBUTE TO WAYNE S. FENTON, M.D.

Mr. DOMENICI. Mr. President, I rise today to pay tribute to Wayne S. Fenton, M.D., Director of the Division of Adult Translational Research and Associate Director for Clinical Affairs at the National Institute of Mental Health who was tragically murdered on September 3, 2006.

Dr. Fenton was a man truly passionate about working with the most severe mentally ill population. He was a compassionate and tireless advocate for people with mental illness and the families so desperately trying to help them. He went above and beyond the call of duty and continued a private practice outside of his work at the National Institute of Mental Health. In his private practice, Dr. Fenton readily treated patients with the most severe mental illnesses, very often ones that other psychiatrists refused to see. These are the patients who are most likely to commit horrific crimes when they do not take necessary medication.

Just last week, I participated in a panel discussion regarding whether the State of New Mexico should enact an assisted outpatient treatment, AOT, program that requires a court ordered treatment for those who are severely mentally ill. It is time we focus on this issue at a State and national level. Dr. Fenton's death should not be in vain; we cannot continue along a path that not only does not help the suffering, but continues to hurt the community. This is a challenging topic to take on and a hard discussion to have but we must start addressing the link between untreated mental illness and violence or we run the risk of seeing more horrific deaths.

Outside of his work and private practice, Dr. Fenton worked with many groups including the National Alliance of the Mentally Ill, the American Psychiatric Association, and the World Psychiatric Association. He served as Deputy Editor of Schizophrenia Bulletin and as a consultant to the Department of Justice, Civil Rights Division. On numerous occasions he was nominated as one of the Best Doctors in America. He was a leader in the field of mental health research, particularly relating to the study of schizophrenia. Dr. Fenton authored many textbook chapters and more than fifty scientific papers on diagnosing, treatment, and mental health service methods for individuals who suffer from schizophrenia. His central goal was to create a treatment system to allow even those suffering from the most severe mental illness to become functioning members of society.

Dr. Fenton's death truly is a great loss to the mental health community. In the words of Dr. Thomas Insel, Director of NIMH, ''It is difficult to grasp such a tragic, shocking loss; a loss not only for his many friends and family but for people with serious mental illness everywhere.'' As advocates for people with mental illness, and mental health policy, my wife Nancy and I had the pleasure to work with him over the years. I am extremely saddened by his tragic death. I want to extend my thoughts and prayers to his family, friends, and coworkers at this time. It is my hope they remember the great impact he made during his time with us. I express my deepest sympathy to them.

NOMINATION OF JAMES O'GARA

Mr. BIDEN. Mr. President, prior to the August recess, the Senate sent the nomination of James O'Gara to be the Deputy Director for Supply Reduction at the Office of National Drug Control Policy back to the White House for reconsideration. Mr. O'Gara's nomination was strongly opposed by Senators on both sides of the aisle, which prevented it even from being reported out

of the Judiciary Committee. Unfortunately, the White House has returned Mr. O'Gara's nomination for confirmation. As such, I am using this opportunity to, again, remind the President of the objections that law enforcement and many Members of this body have to the policies and the leadership at the Office of National Drug Control Policy. In so doing, it is my hope that the administration will change course and develop and implement strategies that will address the drug problems facing our communities, such as the spread of methamphetamine.

More than 20 years ago I began working to create an Office of National Drug Control Policy because I believed then, as I believe now, that we needed a Cabinet-level official who would coordinate Federal drug policy and be publicly accountable for developing and implementing an effective national strategy. I believe the Office of National Drug Control Policy is an important office, and I take matters related to it very seriously.

When our current drug czar, John Walters, came for a vote before this body in 2001, I opposed his nomination because I did not believe he was the right man for the job.

Unfortunately, my fears have been borne out. During his tenure, John Walters has been reticent to acknowledge the methamphetamine problem that is plaguing small communities nationwide, preferring to focus almost exclusively on marijuana. He recommended to the President that the highly popular and highly effective High Intensity Drug Trafficking Area Program, which funds drug enforcement task forces, be cut by 56 percent and relegated to the Department of Justice. And under his leadership, the Office of National Drug Control Policy has essentially walled itself off from consultation and dialogue with external drug policy experts including treatment professionals, prevention specialists, and State and local law enforcement officials.

Those are just a few of the many examples of Mr. Walters' missteps. Under him, the office operates like an ivory tower rather than the command center for our national drug control policy.

This past year, together with many of my Republican colleagues, I fought to prevent James O'Gara—a colleague of Mr. Walters since 1989—from becoming the Deputy Director for Supply Reduction. Together, they have coauthored policy articles expressing their shared drug policy views. Given the misgivings that many of us have about how Mr. Walters has run the Office of National Drug Control Policy, I would likely have a difficult time voting to give a promotion to any member of his inner circle. But that is not the only reason why many of us opposed Mr. O'Gara's nomination.

Perhaps most troubling is that Mr. O'Gara, who was nominated for a position which has authority over international drug control, foreign and domestic drug intelligence, and interdiction, does not have the confidence of law enforcement.

In letters to Senator SPECTER and Senator LEAHY expressing their strong opposition to the O'Gara nomination, law enforcement has expressed its strong opposition. The National Narcotics Officers Association wrote that:

> Mr. O'Gara lacks an operational understanding of a critical issue involved in supply reduction, has no operational background in supply reduction or drug control, and most importantly is not trusted by his constituents in the drug enforcement, prevention and treatment fields. All of this makes him unqualified and unable to effectively lead the coordination of supply reduction initiatives in accordance with the National Drug Control Strategy.

The letter from the HIDTA Directors states that:

> Based on our collective 1,000+ years of law enforcement experience, we believe Mr. O'Gara lacks the qualifications and abilities necessary to coordinate our nation's supply reduction initiatives effectively. We believe his lack of experience and inability and/or unwillingness to collaborate with a variety of stakeholders has resulted in the formulation of three National Drug Control Strategy documents that do not provide adequate guidance to law enforcement, treatment, and prevention professionals; lack specific and measurable objectives; and insufficiently address some of the most pressing drug threats facing our country today, including methamphetamine.

By returning this nomination, it is my hope—together with many of my Republican colleagues—that the administration will reconsider and rescind this nomination.

State and local law enforcement accounts for more than 90% of drug-related arrests. During a time when assistance for State and local law enforcement has been slashed, it is essential that the leadership of the Office of National Drug Control Policy have the confidence of local officials. Mr. O'Gara lacks this support. Moreover, Mr. Walters and Mr. O'Gara have alienated State and local law enforcement, drug prevention and treatment professionals, as well as many members of Congress.

As the scourge of methamphetamine continues to ravage middle America, it is essential that the policies adopted and the personnel appointed by the administration have the confidence of the drug enforcement community. President Bush could take a huge step in this direction by rescinding the nomination of Mr. O'Gara and consulting with local law enforcement to appoint an individual who could win the bipartisan support of the Senate.

ADDITIONAL STATEMENTS

RECOGNIZING THE CENTER FOR INDEPENDENT LIVING—FRESNO

• Mrs. BOXER. Mr. President, I ask my colleagues to join me in recognizing and congratulating the Center for Independent Living—Fresno for 30 years of dedicated service empowering people with disabilities in Fresno, Kings, Madera, and Merced counties. Since opening their doors in 1976, this organization has made significant contributions to the lives of the Central Valley's disabled community and their family members.

For the past three decades, the Center for Independent Living—Fresno has been a respected leader in advocating for people with disabilities to live independent lives. They strongly uphold the principle that everyone should be afforded the opportunity to thrive and live independently in their own communities. The dedicated staff of the Center of Independent Living—Fresno work tirelessly to ensure that those who are in need of their support are treated with the respect and dignity that all people deserve. Through the center, thousands of people have learned invaluable tools to help them become self-advocates and lead productive lives.

I congratulate the Center for Independent Living—Fresno on its 30th anniversary and wish its staff and supporters even greater success as they continue to provide important services to people with disabilities. You are not only a tremendous asset for your clients, but you perform a great service for the Central Valley community.•

RESTORATION OF THE COLONIAL THEATER IN PITTSFIELD, MA

• Mr. KENNEDY. Mr. President, last week, an excellent article in the New York Times of August 29 detailed the renaissance of Pittsfield, MA, which has adopted a bold economic revitalization strategy centered on the arts and historic preservation involving the restoration of the popular Colonial Theater of a century ago. Pittsfield mayor James Ruberto and the entire Pittsfield community came together behind this bold vision, which received major encouragement a decade ago when the theater was included as part of First Lady and now Senator HILLARY RODHAM CLINTON's highly effective Save America's Treasures tour.

The Colonial Theater certainly qualified as an American Treasure. The restored theater reopened on August 29 to wide acclaim, and I am proud of all that the mayor and the community have accomplished. This recognition of their efforts is eminently well-deserved, and I believe all of our colleagues in Congress will be interested in Pittsfield's extraordinary achievement. I commend Mayor Ruberto and the people of Pittsfield for a job well done, and I ask that the article be printed in the RECORD.

The article follows.

[From The New York Times, Aug. 29, 2006]

A CITY PLOTS ITS FUTURE BY REACHING INTO THE PAST

(By Hubert B. Herring)

Arts-minded visitors to the Berkshire Hills in western Massachusetts may think of Pittsfield as little more than an urban speed

bump on the way to Stockbridge, Williamstown and the glories of Tanglewood and Jacob's Pillow.

But the city is betting that, with the help of a long-neglected jewel of a theater, it too can make a place for itself on the region's arts map. After a two-year, $22 million restoration, the century-old Colonial Theater will reopen tonight for a year-round season that kicks off with a week's visit by a touring company of ''Rent.'' After that, there are more than 40 other events scheduled for the rest of the year.

For years, few outsiders were aware of what lay behind the neo-Classical yellow-brick facade on the Route 7 commercial strip. But inside was a grand Broadway-style theater, a Gilded Age monument designed by J.B. McElfatrick, who designed dozens of New York theaters, including the Theater Republic (now the New Victory) on 42nd Street.

From its opening in 1903 to the early 30s, the house, which seated about 1,400, was a regular stop for the likes of Sarah Bernhardt, the Barrymores, Rachmaninoff, Will Rogers and John Philip Sousa. Anna Pavlova danced by, as did the Ziegfeld Follies (100 strong).

In 1937, the Colonial was converted into a movie palace, but by 1952 it had gone dark. It was saved from demolition only because a local businessman, George Miller, bought it and housed his paint business inside.

The idea of transforming the city into a cultural center received a boost in 1998, when Hillary Rodham Clinton, then the first lady, visited the Colonial as part of a ''Save America's Treasures'' tour.

''Her visit said, 'You have a national treasure—it's worth fighting for,' '' said John Bissell, a senior vice president at the Greylock Federal Credit Union and a prominent figure in the move to revitalize Pittsfield.

In 2002, the city commissioned a study on the potential economic benefits of restoring the theater. The study, led by Stephen Sheppard, an economics professor at Williams College, forecast $2 million a year in direct economic benefits to Pittsfield and an increase in local property values of at least $23 million.

That study ''quantified what we felt instinctively, that the theater would indeed make economic sense,'' said James M. Ruberto, Pittsfield's mayor and a major force behind the renovation.

After Mrs. Clinton's visit and the study, of course, came the fund-raising. Ultimately, some $7 million came from donations, the rest from city, state and federal grants and tax credits.

''I have been amazed at the amount of money given to the Colonial,'' said Gary Scarafoni, a retired banker who is now the theater's president.

The theater itself was a shambles, said Tom Johnson of Martinez & Johnson, the Washington architects responsible for the restoration. In the half-darkness of the balcony, ''you could see the plaster detailing,'' big pieces of which were starting to fall.

Now, the curves and curlicues of the interior ornamentation—which Mr. Johnson describes as eclectic neo-Classical—have been restored to their original glory.

But the renovation remains a gamble. David W. Fleming, recently hired as the theater's executive director, said that the Colonial would have an annual overhead of at least $750,000 and expected artists' fees, marketing and stagehand costs collectively to fall in the same range.

That means, said Mr. Fleming, who previously ran the Grand Opera House in Wilmington, Del., and the New Brunswick Cultural Center in New Jersey, that the theater will need to fill about 60 percent of its seats if it is to pay half its annual expenses from ticket sales.

''Ideally,'' he said, ''I'd like to see us cover more like 65 percent''—with the rest coming from annual donations.

He said he hoped that within a few years, the theater, now reconfigured to seat 810, would be active 200 nights a year, with events that appeal to all tastes and budgets. This season's offerings include low-priced fare like Cirkus Inferno and the Inflatable Theater Company.

The theater will have to rely in part on out-of-town audiences. The city's population, roughly 57,000 in 1960, fell steadily after General Electric, which once employed more than 10,000 workers here, gradually shut down most of its operations, paring the workforce to less than 1,000. The population is now 43,000 and is projected to fall considerably further in the next two decades.

The city is betting that, if it can transform itself into an arts center, it can reverse that slide. It took a first step in that direction when the highly regarded Barrington Stage Company moved into a renovated 1912 music hall in downtown Pittsfield this month after working for years out of a high school auditorium in Sheffield, in the southwest corner of the state. The company plans spring, summer and fall productions.

Mr. Bissell of the credit union argues that people will come, not only to visit but also to live. He cites the rise of the local real estate market since the Colonial restoration project was announced.

''When new businesses come to town,'' he added, ''every single one cites the rebirth of the Colonial as a primary reason why they chose this location.''

Such optimism is not universal. Jonathan Levine, publisher of The Pittsfield Gazette, said that while he was ''thrilled to have a renovated theater,'' he questioned the business projections behind it.

''They've made all these economic development promises,'' Mr. Levine said, ''and there is no way, with their current programming, they can achieve those goals.''

But the Colonial can boast of something that half of every Broadway audience can only dream about. The theater bought an abutting property that will house, in addition to the main entrance, a gigantic ladies' room.●

IN MEMORY OF MATTHEW S. COSTA

● Mr. LIEBERMAN. Mr. President, I rise today in memory of Matthew S. Costa, an outstanding young man from Cheshire, CT who died tragically on September 3. I am very saddened to hear of Matthew's death and will be keeping his friends and family in my thoughts and prayers during this difficult time.

At the time of his death Matthew was serving in Mali as a volunteer for the U.S. Peace Corps. Matthew enrolled in the Peace Corps in 2003 and had been serving in the Malian village of Kati since November 2005, after teaching English in Chad for 2 years.

While in Kati, Matthew helped foster one of the Peace Corps core missions, fostering cultural exchange, by fully immersing himself in the local community. He taught English to local high school students and organized training for other teachers in the community. He was also widely known in the community as the host of a popular radio program that played popular American music and then worked with the radio station to improve its marketing strategy. Matthew also sought to involve himself with the village community by playing in a local soccer league and helping to distribute donations of sports equipment.

What I think was truly remarkable about Matthew is that after graduating from Tulane University in 2003, a time in which there must have been unlimited opportunities open for Matthew to pursue, he chose to delay any future career plans to help others and broaden his cultural understanding. Matthew volunteered to travel many miles from home and, if necessary, to give up many of the modern conveniences we often take for granted. Matthew liked it so much, that in 2005 he extended his service. Matthew's sacrifice and dedication is truly inspiring.

The passing of Matthew Costa is truly a loss for the Peace Corps, for the people of Mali, and for Connecticut. May his selfless devotion to helping others live on in the hearts and minds of those who knew him best and were served by his good works.●

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on Finance.

(The nomination received today is printed at the end of the Senate proceedings.)

DRAFT OF PROPOSED LEGISLATION ENTITLED ''MILITARY COMMISSIONS ACT OF 2006''—PM 55

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Armed Services:

To the Congress of the United States:

I transmit for the consideration of the Congress draft legislation entitled the ''Military Commissions Act of 2006.'' This draft legislation responds to the Supreme Court of the United States decision in Hamdan v. Rumsfeld, 126 S. Ct. 2749 (2006), by establishing for the first time in our Nation's history a comprehensive statutory structure for military commissions that would allow for the fair and effective prosecution of captured members of al Qaeda and other unlawful enemy combatants. The Act also addresses the Supreme Court's holding that Common Article 3 of the Geneva

Conventions applies to the conflict with al Qaeda by providing definitions rooted in United States law for the standards of conduct prescribed by Common Article 3.

The military commission procedures contained in this draft legislation reflect the result of an extended deliberation both within the executive branch and between representatives of my Administration and Members of Congress. The draft legislation would establish a Code of Military Commissions that tracks the courts-martial procedures of the Uniform Code of Military Justice, but that departs from those procedures where they would be impracticable or inappropriate for the trial of unlawful enemy combatants captured in the midst of an ongoing armed conflict, under circumstances far different from those typically encountered by military prosecutors.

Five years after the mass murders of 9/11, it is time for the United States to begin to prosecute captured al Qaeda members for the serious crimes that many of them have committed against United States citizens and our allies abroad. As we provide terrorists the justice and due process that they denied their victims, we demonstrate that our Nation remains committed to the rule of law.

I ask that the Congress carefully consider this legislation and respectfully urge its speedy passage for enactment into law.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 6, 2006*.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3861. A bill to facilitate bringing to justice terrorists and other unlawful enemy combatants through full and fair trials by military commissions, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–8057. A communication from the Attorney, Office of Assistant General Counsel for Legislation and Regulatory Law, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Supplemental Standards of Ethical Conduct for Employees of the Department of Energy and Residual Department Standards Regulation'' ((RIN1990–AA19)(RIN3209–AA15)) received on August 18, 2006; to the Committee on Energy and Natural Resources .

EC–8058. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to plutonium storage at the Department of Energy's Savannah River Site; to the Committee on Energy and Natural Resources.

EC–8059. A communication from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''State Abandoned Mine Land Reclamation Plan'' (MS–016–FOR) received on September 5, 2006; to the Committee on Energy and Natural Resources.

EC–8060. A communication from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Topsoil Redistribution and Revegetation Success Standards'' (RIN1029–AC02) received on September 5, 2006; to the Committee on Energy and Natural Resources.

EC–8061. A communication from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Wyoming Regulatory Program'' (WY–034–FOR) received on September 5, 2006; to the Committee on Energy and Natural Resources.

EC–8062. A communication from the Acting Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''West Virginia Regulatory Program'' (WV–109–FOR) received on September 5, 2006; to the Committee on Energy and Natural Resources.

EC–8063. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Special Rule for the Southwest Alaska Distinct Population Segment of the Northern Sea Otter'' (RIN1018–AU21) received on September 5, 2006; to the Committee on Energy and Natural Resources.

EC–8064. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Reclassification of the Gila Trout (Onchorhynchus gilae) From Endangered to Threatened; Special Rule for Gila Trout in New Mexico and Arizona'' (RIN1018–AH57) received on September 5, 2006; to the Committee on Energy and Natural Resources.

EC–8065. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Services, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of Northern Aplomado Falcons in New Mexico and Arizona'' (RIN1018–AI80) received on September 5, 2006; to the Committee on Energy and Natural Resources.

EC–8066. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting a draft of a bill entitled ''Buffalo Soldiers in the National Parks Study Act''; to the Committee on Energy and Natural Resources.

EC–8067. A communication from the Secretary of Energy, transmitting, pursuant to law, a report relative to the status of Exxon and Stripper Well oil overcharge funds as of September 30, 2005; to the Committee on Energy and Natural Resources.

EC–8068. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Subsistence Management Regulations for Public Lands in Alaska, Subpart A; Makhnati Island Area'' (RIN1018–AU70) received on September 5, 2006; to the Committee on Energy and Natural Resources.

EC–8069. A communication from the Chief, Policy and Directives Management Division, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Revision of Federal Migratory Bird Hunting and Conservation Stamp (Duck Stamp) Contest Regulations'' (RIN1018–AU56) received on September 5, 2006; to the Committee on Energy and Natural Resources.

EC–8070. A communication from the Assistant Secretary for Land and Minerals Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Service of Official Correspondence'' (RIN1010–AD22) received on September 5, 2006; to the Committee on Energy and Natural Resources.

EC–8071. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's quarterly report on the status of its licensing and regulatory duties; to the Committee on Energy and Natural Resources.

EC–8072. A communication from the Special Assistant to the Secretary, White House Liaison, Department of Veterans Affairs, transmitting, pursuant to law, the report of a vacancy in the position of Under Secretary for Health, received on August 24, 2006; to the Committee on Veterans' Affairs.

EC–8073. A communication from the Assistant to the Secretary for Regulations Policy and Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Veterans Benefits Act of 2003 and Veterans Benefits Improvement Act of 2004'' (RIN2900–AM27) received on September 5, 2006; to the Committee on Veterans' Affairs.

EC–8074. A communication from the Chief of Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Definition of Psychosis for Certain VA Purposes'' (RIN2900–AK21) received on September 5, 2006; to the Committee on Veterans Affairs.

EC–8075. A communication from the Special Assistant to the Secretary, White House Liaison, Department of Veterans Affairs, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary for Policy and Planning, received on September 5, 2006; to the Committee on Veterans' Affairs.

EC–8076. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Michigan; Revised Format of 40 CFR Part 52 for Materials Being Incorporated by Reference'' (FRL 8214–1) received on September 6, 2006; to the Committee on Environment and Public Works.

EC–8077. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Reportable Quantity Adjustment for Isophorone Diisocyanate'' ((RIN2050–A632)(FRL 8217–4)) received on September 6, 2006; to the Committee on Environment and Public Works.

EC–8078. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''TSCA Inventory Update Reporting Rule; Electronic Reporting'' (FRL 7752–8) received on September 6, 2006; to the Committee on Environment and Public Works.

EC–8079. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality

Implementation Plans; Montana; Revisions to the Administrative Rules of Montana'' (FRL 8202–1) received on September 5, 2006; to the Committee on Environment and Public Works.

EC–8080. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Iowa'' (FRL 8213–9) received on September 5, 2006; to the Committee on Environment and Public Works.

EC–8081. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Amendments to Regulations for Heavy-Duty Diesel Engines'' (FRL 8214–9) received on September 5, 2006; to the Committee on Environment and Public Works.

EC–8082. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Allen County 8-hour Ozone Nonattainment Area to Attainment for Ozone'' (FRL 8214–5) received on September 5, 2006; to the Committee on Environment and Public Works.

EC–8083. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, South Coast Air Quality Management District'' (FRL 8207–9) received on September 5, 2006; to the Committee on Environment and Public Works.

EC–8084. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''2,6–DIPN; Time Limited Pesticide Tolerance'' (FRL 8081–9) received on September 5, 2006; to the Committee on Environment and Public Works.

EC–8085. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Connecticut; VOC Regulations and One-hour Ozone Attainment Demonstration Shortfall'' (FRL 8209–6) received on September 5, 2006; to the Committee on Environment and Public Works.

EC–8086. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Illinois; Ford Motor Company Adjusted Standard'' (FRL 8214–2) received on September 5, 2006; to the Committee on Environment and Public Works.

EC–8087. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans; Kentucky: Air Permit Regulations'' (FRL 8216–7) received on September 5, 2006; to the Committee on Environment and Public Works.

EC-8088. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans; Texas; Discrete Emission Credit Banking and Trading Program'' (FRL 8216-5) received on September 5, 2006; to the Committee on Environment and Public Works.

EC-8089. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans; Texas; Emission Credit Banking and Trading Program'' (FRL 8216-3) received on September 5, 2006; to the Committee on Environment and Public Works.

EC-8090. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans; Texas; Highly Reactive Volatile Organic Compound Emissions Cap and Trade Program for the Houston/Galveston/Brazoria Ozone Nonattainment Area'' (FRL 8216-6) received on September 5, 2006; to the Committee on Environment and Public Works.

EC-8091. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Implementation Plans; Texas; Revisions for the Mass Emissions Cap and Trade Program for the Houston/Galveston/Brazoria Ozone Nonattainment Area'' (FRL 8216-4) received on September 5, 2006; to the Committee on Environment and Public Works.

EC-8092. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions to the Ozone Attainment Plan for the Houston/Galveston/Brazoria Nonattainment Area'' (FRL 8216-1) received on September 5, 2006; to the Committee on Environment and Public Works.

EC-8093. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Texas; Rules for the Control of Highly Reactive Volatile Organic Compounds in the Houston/Galveston/Brazoria Ozone Nonattainment Area'' (FRL 8216-2) received on September 5, 2006; to the Committee on Environment and Public Works.

EC-8094. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Nevada State Implementation Plan'' (FRL 8210-2) received on September 5, 2006; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SHELBY, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 3850. An original bill to improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry (Rept. No. 109–326).

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 3852. An original bill to enhance certain maritime programs of the Department of Transportation, and for other purposes (Rept. No. 109–327).

By Mr. CRAIG, from the Committee on Veterans' Affairs, with amendments:

S. 3421. A bill to authorize major medical facility projects and major medical facility leases for the Department of Veterans Affairs for fiscal years 2006 and 2007, and for other purposes (Rept. No. 109–328).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. INHOFE (for himself and Mr. COBURN):

S. 3845. A bill to designate the facility of the United States Postal Service located at 301 Commerce Street in Commerce, Oklahoma, as the ''Mickey Mantle Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CARPER (for himself and Mr. VOINOVICH):

S. 3846. A bill to provide for the establishment and maintenance of electronic personal health records for individuals and family members enrolled in Federal employee health benefits plans under chapter 89 of title 5, United States Code, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. CLINTON:

S. 3847. A bill to designate the facility of the United States Postal Service located at 110 Cooper Street in Babylon, New York, as the ''Jacob Samuel Fletcher Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. KYL (for himself, Mr. DEWINE, and Mr. CORNYN):

S. 3848. A bill to amend title 18, United States Code, to support the war on terrorism, and for other purposes; to the Committee on the Judiciary.

By Mr. SCHUMER:

S. 3849. A bill to require commercial airlines to make flight delay information available to the public, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SHELBY:

S. 3850. An original bill to improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Ms. MURKOWSKI:

S. 3851. A bill to provide for the extension of preliminary permit periods by the Federal Energy Regulatory Commission for certain hydroelectric projects in the State of Alaska; to the Committee on Energy and Natural Resources.

By Mr. STEVENS:

S. 3852. An original bill to enhance certain maritime programs of the Department of Transportation, and for other purposes; from the Committee on Commerce, Science, and Transportation; placed on the calendar.

By Mr. SCHUMER:

S. 3853. A bill to designate the facility of the United States Postal Service located at

39–25 61st Street in Woodside, New York, as the ''Thomas J. Manton Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 3854. A bill to designate certain land in the State of Oregon as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CONRAD (for himself, Mr. COLEMAN, Mr. NELSON of Nebraska, Mr. TALENT, Mr. DORGAN, Mr. BAUCUS, Mr. SALAZAR, Mr. JOHNSON, Ms. CANTWELL, Mr. DURBIN, Mr. OBAMA, Mr. DAYTON, Mr. THUNE, Mrs. LINCOLN, and Mr. BURNS):

S. 3855. A bill to provide emergency agricultural disaster assistance, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MENENDEZ (for himself, Mr. ENSIGN, and Mr. LAUTENBERG):

S. 3856. A bill to authorize Congress to award a gold medal to Jerry Lewis, in recognition of his outstanding service to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SMITH (for himself and Mrs. LINCOLN):

S. 3857. A bill to amend the Internal Revenue Code of 1986 to provide incentives to small businesses; to the Committee on Finance.

By Mr. SMITH (for himself and Mr. WYDEN):

S. 3858. A bill to authorize the Secretary of Interior to cancel certain grazing leases on land in Cascade-Siskiyou National Monument that are voluntarily waived by the lessees, to provide for the exchange of certain Monument land in exchange for private land, to designate certain Monument land as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS:

S. 3859. A bill to provide incentive for employers to hire service-connected disabled veterans and to improve adjustment assistance and job-training transition for injured and disabled veterans, and for other purposes; to the Committee on Finance.

By Mr. BURNS:

S. 3860. A bill to provide emergency wildfire and agricultural disaster assistance, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FRIST (for himself, Mr. MCCONNELL, and Mr. INHOFE):

S. 3861. A bill to facilitate bringing to justice terrorists and other unlawful enemy combatants through full and fair trials by military commissions, and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DEWINE:

S. Res. 557. A resolution designating September 10 through September 16, 2006, as ''National Polycystic Kidney Disease Awareness Week'' and 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.

By Mr. MCCONNELL (for himself and Mr. BUNNING):

S. Res. 558. A resolution honoring the lives and memory of the victims of the crash of Comair Flight 5191, and extending the most sincere condolences of the citizens of the United States to the families and friends of those individuals; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 370

At the request of Mr. LOTT, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 370, a bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities.

S. 389

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 389, a bill to provide for fire safety standards for cigarettes, and for other purposes.

S. 604

At the request of Mr. CRAIG, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 604, a bill to amend title XVIII of the Social Security Act to authorize expansion of medicare coverage of medical nutrition therapy services.

S. 755

At the request of Mr. BUNNING, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 755, a bill to authorize the Secretary of Health and Human Services to make grants to nonprofit tax-exempt organizations for the purchase of ultrasound equipment to provide free examinations to women needing such services, and for other purposes.

S. 1173

At the request of Mr. DEMINT, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1173, a bill to amend the National Labor Relations Act to ensure the right of employees to a secret-ballot election conducted by the National Labor Relations Board.

S. 1522

At the request of Mr. CHAMBLISS, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1522, a bill to recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land.

S. 1800

At the request of Ms. SNOWE, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1800, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit.

S. 1915

At the request of Mr. ENSIGN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1915, a bill to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes.

S. 1934

At the request of Mr. SPECTER, the names of the Senator from Minnesota (Mr. COLEMAN), the Senator from Massachusetts (Mr. KERRY), the Senator from Washington (Ms. CANTWELL), the Senator from Washington (Mrs. MURRAY) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 1934, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

S. 2010

At the request of Mr. HATCH, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 2010, a bill to amend the Social Security Act to enhance the Social Security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 2075

At the request of Mr. DURBIN, the names of the Senator from Indiana (Mr. BAYH), the Senator from New Mexico (Mr. BINGAMAN), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), the Senator from Minnesota (Mr. DAYTON), the Senator from Massachusetts (Mr. KERRY) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 2075, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain alien students who are long-term United States residents and who entered the United States as children, and for other purposes.

S. 2123

At the request of Mr. ALLARD, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2123, a bill to modernize the manufactured housing loan insurance program under title I of the National Housing Act.

S. 2154

At the request of Mr. OBAMA, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 2154, a bill to provide for the issuance of a commemorative postage stamp in honor of Rosa Parks.

S. 2392

At the request of Mrs. BOXER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2392, a bill to promote the empowerment of women in Afghanistan.

S. 2491

At the request of Mr. CORNYN, the names of the Senator from Maine (Ms.

SNOWE), the Senator from Vermont (Mr. JEFFORDS), the Senator from Ohio (Mr. VOINOVICH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. VITTER), the Senator from Michigan (Mr. LEVIN), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

S. 2590

At the request of Mr. COBURN, the names of the Senator from Colorado (Mr. SALAZAR), the Senator from Wyoming (Mr. THOMAS), the Senator from Wyoming (Mr. ENZI) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 2590, a bill to require full disclosure of all entities and organizations receiving Federal funds.

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 2590, supra.

S. 2663

At the request of Mr. DODD, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2663, a bill to amend the Public Health Service Act to establish grant programs to provide for education and outreach on newborn screening and coordinated followup care once newborn screening has been conducted, to reauthorize programs under part A of title XI of such Act, and for other purposes.

S. 2990

At the request of Mr. VITTER, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 2990, a bill to amend title XVIII of the Social Security Act to restore financial stability to Medicare anesthesiology teaching programs for resident physicians.

S. 3128

At the request of Mr. BURR, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 3128, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 3325

At the request of Mr. BUNNING, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 3325, a bill to promote coal-to-liquid fuel activities.

S. 3456

At the request of Mr. MENENDEZ, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 3456, a bill to ensure the implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States.

S. 3519

At the request of Mr. HATCH, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 3519, a bill to reform the State inspection of meat and poultry in the United States, and for other purposes.

S. 3529

At the request of Mr. MENENDEZ, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 3529, a bill to ensure that new mothers and their families are educated about postpartum depression, screened for symptoms, and provided with essential services, and to increase research at the National Institutes of Health on postpartum depression.

S. 3570

At the request of Mr. ENZI, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 3570, a bill to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 2007 through 2011, and for other purposes.

S. 3623

At the request of Mr. BUNNING, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 3623, a bill to promote coal-to-liquid fuel activities.

S. 3656

At the request of Mrs. FEINSTEIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 3656, a bill to provide additional assistance to combat HIV/AIDS among young people, and for other purposes.

S. 3681

At the request of Mr. DOMENICI, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 3681, a bill to amend the Comprehensive Environmental Response Compensation and Liability Act of 1980 to provide that manure shall not be considered to be a hazardous substance, pollutant, or contaminant.

S. 3685

At the request of Mr. BOND, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 3685, a bill to establish a grant program to provide vision care to children, and for other purposes.

S. 3744

At the request of Mr. DURBIN, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Delaware (Mr. BIDEN), the Senator from Michigan (Mr. LEVIN), the Senator from Michigan (Ms. STABENOW), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 3744, a bill to establish the Abraham Lincoln Study Abroad Program.

S. 3754

At the request of Mr. MARTINEZ, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 3754, a bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and for other purposes.

S. 3768

At the request of Mr. SPECTER, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 3768, a bill to prohibit the procurement of victim-activated landmines and other weapons that are designed to be victim-activated.

S. 3771

At the request of Mr. HATCH, the names of the Senator from New Hampshire (Mr. SUNUNU), the Senator from Utah (Mr. BENNETT), the Senator from Florida (Mr. NELSON), the Senator from Illinois (Mr. DURBIN), the Senator from California (Mrs. BOXER), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 3771, a bill to amend the Public Health Service Act to provide additional authorizations of appropriations for the health centers program under section 330 of such Act.

S. 3788

At the request of Mr. BROWNBACK, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 3788, a bill to clarify Federal law to prohibit the dispensing, distribution, or administration of a controlled substance for the purpose of causing, or assisting in causing, the suicide, euthanasia, or mercy killing of any individual.

S. 3791

At the request of Mrs. HUTCHISON, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 3791, a bill to require the provision of information to parents and adults concerning bacterial meningitis and the availability of a vaccination with respect to such disease.

S. 3795

At the request of Mr. SMITH, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 3795, a bill to amend title XVIII of the Social Security Act to provide for a two-year moratorium on certain Medicare physician payment reductions for imaging services.

S. 3801

At the request of Mr. SMITH, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 3801, a bill to support the implementation of the Darfur Peace Agreement and to protect the lives and address the humanitarian needs of the people of Darfur, and for other purposes.

S. 3837

At the request of Mr. AKAKA, the names of the Senator from Tennessee (Mr. FRIST), the Senator from Colorado (Mr. SALAZAR), the Senator from Washington (Ms. CANTWELL) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 3837, a bill to authorize the establishment of the Henry Kuualoha Giugni Kupuna Memorial Archives at the University of Hawaii.

S.J. RES. 7

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S.J. Res. 7, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

S.J. RES. 35

At the request of Mr. BYRD, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S.J. Res. 35, a joint resolution proposing an amendment to the Constitution of the United States to clarify that the Constitution neither prohibits voluntary prayer nor requires prayer in schools.

S. CON. RES. 20

At the request of Mr. COCHRAN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. Con. Res. 20, a concurrent resolution expressing the need for enhanced public awareness of traumatic brain injury and support for the designation of a National Brain Injury Awareness Month.

S. CON. RES. 84

At the request of Mr. KYL, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. Con. Res. 84, a concurrent resolution expressing the sense of Congress regarding a free trade agreement between the United States and Taiwan.

S. CON. RES. 113

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. Con. Res. 113, a concurrent resolution congratulating the Magen David Adom Society in Israel for achieving full membership in the International Red Cross and Red Crescent Movement, and for other purposes.

S. RES. 407

At the request of Mr. MENENDEZ, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Michigan (Mr. LEVIN) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. Res. 407, a resolution recognizing the African American Spiritual as a national treasure.

S. RES. 448

At the request of Mr. NELSON of Nebraska, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. Res. 448, a resolution supporting the goals and ideals of ''National Life Insurance Awareness Month''.

S. RES. 551

At the request of Mr. REID, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. Res. 551, a resolution expressing the sense of the Senate that illegal immigrants should not receive Social Security benefits and that this prohibition should be strictly enforced.

AMENDMENT NO. 4883

At the request of Mr. ALLEN, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of amendment No. 4883 proposed to H.R. 5631, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of amendment No. 4883 proposed to H.R. 5631, supra.

At the request of Mr. DURBIN, the names of the Senator from California (Mrs. BOXER) and the Senator from Florida (Mr. NELSON) were added as cosponsors of amendment No. 4883 proposed to H.R. 5631, supra.

AMENDMENT NO. 4885

At the request of Mr. KENNEDY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of amendment No. 4885 proposed to H.R. 5631, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INHOFE (for himself and Mr. COBURN):

S. 3845. A bill to designate the facility of the United States Postal Service located at 301 Commerce Street in Commerce, Oklahoma, as the ''Mickey Mantle Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

Mr. INHOFE. Mr. President, I rise today along with my colleague, TOM COBURN, to proudly introduce legislation to designate the facility of the United States Postal Service located at 301 Commerce Street in Commerce, OK as the ''Mickey Mantle Post Office.''

Mickey Mantle emulates the Oklahoma spirit of hard work, charity, and sportsmanship. He is a shining example of how commitment and dedication can lead to great success. I seek to name the post office in Commerce, OK, in Mickey Mantle's honor. He is still known to Commerce by the nicknames ''Commerce Comet'' or ''Commerce Kid''.

At age 4 Mickey Mantle moved with his family to Commerce where he grew up, having been born in Spavinaw, OK. By his father who was an amateur player and fervent fan, Mickey Mantle was named in honor of Mickey Cochrane, the Hall of Fame catcher from the Detroit Tigers.

Signing with the New York Yankees in 1949, Mantle made his Major League Debut in 1951. He played his entire Major League career with the Yankees. He was a twenty-time All Star and named American League MVP three times. Mantle was a part of 12 pennant winners and 7 World Championship clubs. Some of Mantle's records still hold today. He holds the record for most World Series home runs (18), runs batted in (40), runs (42), walks (43), extra-base hits (26), and total bases (123).

Mantle announced his retirement on March 1, 1969. He actually retired on Mickey Mantle Day, June 8, 1969. In addition to the retirement of his uniform number 7, Mantle was given a plaque that would hang on the center field wall at Yankee Stadium, near the monuments to Babe Ruth, Lou Gehrig and Miller Huggins. In 1974, as soon as he was eligible, he was inducted into the Baseball Hall of Fame demonstrating his importance to baseball and community.

Sadly, Mickey Mantle's father died of cancer at the age of 39, just as his son was starting his career. Mantle said one of the great heartaches of his life was that he never told his father he loved him.

After a bout with liver cancer himself, Mickey Mantle was given a few precious extra weeks of life due to a liver transplant. The baseball great was overwhelmed by the selfless gift of a liver from a stranger; therefore, Mickey became determined to give something back at the end of his life. Thus, in 1995, the year he died, the Mickey Mantle Foundation was established to promote organ and tissue donation, and Mickey Mantle will be remembered for something more than his heroic baseball career.

I encourage my colleagues to join me in support of this legislation as we commemorate an outstanding athlete so that future generations will be as inspired by his example of sportsmanship and charity as we have been.

By Mr. CARPER (for himself and Mr. VOINOVICH):

S. 3846. A bill to provide for the establishment and maintenance of electronic personal health records for individuals and family members enrolled in Federal employee health benefits plans under chapter 89 of title 5, United States Code, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. CARPER. Mr. President, I rise today to announce the introduction of a piece of legislation that Senator VOINOVICH of Ohio and I have worked on for a while. It is called the Federal Employees Electronic Personal Health Records Act of 2006. This bill makes available—or would make available—electronic personal health records for every enrollee of a Federal health benefits plan who wishes to have one. That is, potentially, as many as 8 million people. That includes those of us who work in Federal agencies, large and small, across the country and, actually, around the world. It includes their families and includes Federal retirees and their families as well.

Our health care sector is the most innovative in the world, but it has not kept up with the information age. Our excessive reliance on paper record keeping makes our health care system less efficient, more costly, and more prone to mistakes. Expanding the use of health information technology shows promise as a way to improve both the cost and the quality of health care in our country.

In 2004, the United States spent some $1.9 trillion on health care costs.

That is more than any other industrialized country on this planet. In 2005, health care premiums continued their upward trend, increasing by an average, I am told, of some 9 percent. We are literally spending trillions of dollars on health care, but I am sorry to say we are not getting the gold standard of treatment or results.

A 2005 survey conducted by the Commonwealth Fund, a private foundation that focuses on improving health care, found that medical error reports rates in the United States far exceed those of western countries. In that survey, one in three Americans reported getting the wrong dosage of medication, incorrect test results, mistakes in treatment, or late notification of test results. That is nearly 15 percent higher than similar results in Britain and Germany.

I believe some of the problems—though certainly not all of them—can be blamed on the fact that health care providers don't have full and real-time access to patients' medical records. Doctors in this country wait days sometimes for couriers to deliver lab tests or x rays. They diagnose patients without knowing their full medical history, what they are allergic to, what kinds of surgeries they have had, or whether they have complained about similar symptoms before.

Time constraints, or medical necessity, often force doctors to perform a quick diagnosis. Sometimes that diagnosis wrong. Sometimes those errors prove to be costly. The widespread use of health information technology, the ability to immediately access one's full medical history from a computer, can help doctors and nurses provide better care less expensively. It has the potential to dramatically transform the way we provide health care in America—saving lives, saving costs.

If we are looking for success stories on how health care professionals have integrated the use of electronic health care records into their daily routines, we don't have to look any further than our own Department of Defense and our Department of Veterans Affairs.

Times have changed since I retired from the Navy some 15 years ago. I remember that as an ensign I used to carry my medical health records in a brown manila folder from duty station to duty station—from the time I left Ohio State, on to Pensacola, Corpus Christi Naval Air Station, out to California, across the seas and back again, and, finally, getting off of active duty and coming to Delaware to enroll in graduate school, on the GI bill, at the University of Delaware in the business school. I went up the road to the VA hospital. I still had my folder with the records. I turned them in and asked: What kind of benefits am I eligible for?

Over a decade ago, the Department of Defense and VA decided there was a better way, and the results have been nothing short of phenomenal. Today, when a patient enrolls in the Department of Defense's military health system, they no longer need the kind of brown manila folder I carried all those years. Instead, we have electronic health care records to keep track of the medical histories of those who serve our country in the military. This health record is managed electronically, and you don't have to remember to pack it up on your next tour of duty, whether it is in Southeast Asia, or Iraq, or Afghanistan.

Instead, one's electronic health care record follows them wherever they go—both during the time they are in the military and when they leave and join our veterans community as a veteran.

The result is that the Department of Defense and VA have been impressive, especially when you consider that they have only used these electronic health records for about a decade or so.

The VA health system has transformed itself from a troubled, sometimes bloated and inefficient operation to one of the best health care operations in the country.

Researchers and doctors now laud the VA for having the foresight to use electronic health records to improve patient care.

What is the cost? That is a good question. It is about $78 per patient. That is roughly the cost of not repeating one blood test. In other words, it is money well spent.

The VA now regularly outperforms Medicare and other private health plans when it comes to providing patient care for diabetes, high blood pressure, and heart attack victims.

In January, the National Quality Research Center concluded that for the sixth consecutive year, the VA health care system outranks the private sector for customer satisfaction.

I have witnessed that new-found satisfaction in my own backyard, at the Veterans Medical Center in Elsmere, DE. That is the place I went in 1973 fresh out of the Navy. Veterans from neighboring States are now coming to our hospital in Elsmere to seek care instead of going to regular civilian hospitals near them.

In 2004, the Elsmere facility, as well as popular satellite clinics in Millsboro and Seaford, DE, served more than 22,000 veterans and had more than 150,000 outpatient visits. Both totals are about 20 percent higher than just 4 years ago.

Normally, you would think the busier a hospital is, the less satisfied customers are because of longer waits and other hassles. But it turned out that the opposite is true. As the workload has climbed, so has patient satisfaction. I might add, so has the satisfaction of those providing the care to the patients.

More than 85 percent of Delaware's VA outpatients said they were ''highly satisfied'' with the care they received. Planning is now underway to open a third outpatient clinic for veterans in Kent County next spring—probably in Dover where we have another 15,000 veterans.

What is keeping the rest of our Nation's health care system from following the lead of the Department of Defense and the VA? The answer is the high cost of implementing the latest information technologies, as well as the lack of uniformity among various technology products.

A physician can spend up to $30,000 implementing an electronic health records system. A hospital can spend up to five times that amount. If that weren't enough of a reason to say no thanks, there is one more reason; that is, we don't have a set of national standards in place to make sure that once health care providers have made the switch, their new system can communicate with the hospital or doctor on the other side of town. The result: Only 15 percent of doctors and about 30 percent of hospitals have fully functional electronic health care systems today.

A new study by a number of health care scholars estimates there will be another 20 years before the majority of physicians are using an electronic health care system.

Let me say this. Our Presiding Officer is from Louisiana where they went through a terrible situation a year ago with Katrina. The folks who happened to be civilians and were in hospitals or nursing homes, for the most part, they had paper health records and they were destroyed. The veterans who were on the gulf coast when Katrina struck—either in nursing homes, VA nursing homes, or VA hospitals—were evacuated from the area as civilians were; but when the veterans got to another VA facility inland, or a nursing home, or a VA hospital, their electronic health records were available immediately, and whoever provided care for them had access to the records and were able to provide excellent care.

I am sorry to say that the same wasn't true for the civilians whose paper records were largely destroyed at the time of the evacuation.

As a nation, we cannot afford to rely solely on health care providers to bring the health care industry into the 21st century. We must think outside of the box and build on the health information technology issues already underway in other areas of our health care industry.

The Federal Employee Electronic Personal Health Records Act of 2006—the legislation Senator VOINOVICH and I introduce today—does just that. How? By requiring all carriers that contract with the Federal Employees Health Benefits Program to make available an electronic personal health record for those of us who are enrolled in that program. As I said earlier, it is some 8 million people.

Electronic personal health records will provide enrollees with a tool to better access and control their health information. Via the Internet, an enrollee will be able to log on to their

electronic personal health record to keep track of such things as their medications, cholesterol, glucose levels, allergies, and immunization records.

An enrollee will also be able to review a comprehensive, easily understood listing of their health care claims. Health care providers, payers, and enrollees will be able to add this information onto the electronic personal health record. Enrollees will benefit, I believe, significantly from such a tool.

An enrollee can easily share sections of the electronic personal health record with their health care provider, ensuring that their provider has the most up-to-date and accurate health information when making clinical decisions.

In the case of an emergency, an enrollee can also grant others the ability to access their electronic personal health record. Again, it is the decision of the patient, the enrollee in the Federal Employee Health Benefits Program, to decide what kind of access to grant to a provider or a member of the family or another person in the wake of an emergency.

Having health information readily available will increase the efficiency and safety of health care for enrollees by eliminating unwarranted tests, procedures, and prescriptions.

Most important, the legislation ensures that the electronic personal health records provided for through this act are kept private and secure.

The electronic personal health records are required to include a number of security features. They include, among other things, user authentication and audit trails.

The legislation also requires that carriers comply with all privacy and security regulations outlined in the Health Insurance Portability and Accountability Act, which we call HIPAA.

Mr. President, what Senator VOINOVICH and I are introducing today will help demonstrate the importance and utility of health information technology—not just the importance of the technology but the importance of harnessing the technology—in the delivery of health care in this country today. In this case, the potential is as many as 8 million additional Americans.

This bill is designed to jumpstart this new technology by requiring some of the largest health insurance companies to offer these electronic personal health records, which many are beginning to do today. As more insurance companies, health care providers, and consumers use this new technology, I am convinced that more people will recognize its advantages, and we can more quickly move America's health care industry into the 21st century.

We view this initiative as the next necessary step for the Nation's largest employer-sponsored health insurance program that prides itself on being a model for best practices in health care.

I invite my colleagues to join Senator VOINOVICH and me as we introduce this legislation. We look forward to talking with our colleagues about it. With luck, maybe we will have a hearing. Senator VOINOVICH may hold one in his subcommittee this month.

Mr. VOINOVICH. Mr. President, I rise to speak about a bill my colleague Senator CARPER and I introduced today, the Electronic Personal Health Records Act. The purpose of this legislation is to provide for the establishment and maintenance of electronic personal health records for individuals and family members enrolled in the Federal Employee Health Benefits Plan, FEHBP.

The widespread adoption of health information technology, such as electronic health record, (EHR), will revolutionize the health care profession. In fact, the Institute of Medicine, the National Committee on Vital and Health Statistics, and other expert panels have identified information technology as one of the most powerful tools in reducing medical errors and improving the quality of care. Unfortunately, our country's health care industry lags far behind other sectors of the economy in its investment in IT.

The Institute of Medicine estimates that there are nearly 98,000 deaths each year resulting from medical errors. Many of these deaths can be directly attributed to the inherent imperfections of our current paper-based health care system. This statistic is startling and one that I hope will motivate my colleagues to take a close look at the goals of our legislation.

The voluntary EHRs that would be established through the Electronic Personal Health Records Act will provide clinicians with real-time access to their patient's health history. Each EHR would contain claims data, contact information for providers of health care services, and other useful information for diagnosis and treatment. The records will be available cost-free to FEHBP participants and will maintain strict adherence to HIPAA.

Under the bill, the Office of Personnel Management, OPM, would be required to ensure that all carriers who participate in FEHBP educate their members about the implementation of the EHR, as well as give timely notice of the establishment of the record and an opportunity for each individual to elect not to participate in the program.

OPM, through their carriers, would also have to ensure that all records would be available for electronic access through Internet, fax, or printed method for the use of the individual, and that to the extent possible, records could be transferred from one plan to another. The bill would require EHRs to be made available two years after the passage of the legislation or earlier at the discretion of OPM in consultation with the Office of the National Coordinator for Health Information Technology within HHS.

Not only can EHRs save lives and improve the quality of health care, they also have the potential to reduce the cost of the delivery of health care. According to Rand Corporation, the health care delivery system in the United States could save approximately $160 billion annually with the widespread use of electronic medical records. As a result, the private market is already moving toward implementing electronic medical records.

This bill, simply encourages the health care industry to continue in that direction and take their use of technology in the delivery of care to the next step. I urge my colleagues to consider not only the benefit it will provide to the eight million individuals who receive their health care through the FEHBP, but also to our Nation's overall health care system.

By Mrs. CLINTON:

S. 3847. A bill to designate the facility of the United States Postal Service located at 110 Cooper Street in Babylon, New York, as the ''Jacob Samuel Fletcher Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

Mrs. CLINTON. Mr. President, I am pleased to introduce legislation which would designate the facility of the United States Postal Service located at 110 Cooper Street in Babylon, NY, as the ''Jacob Samuel Fletcher Post Office Building.''

Jacob Samuel Fletcher sent his first application for military enlistment to the Marines when he was 8 years old. Young Jacob had completed an application he found in a magazine and submitted it through the mail. Though his mother told the Marines recruiter to call back in a few years, it wouldn't be long before Fletcher was wearing a uniform.

Fletcher enlisted in the Army soon after the September 11 terrorist attacks. He told family members that he felt he had a duty to serve his country. This service was nothing new to his family, as both his father and his stepfather served in Vietnam.

His story, however, ends in a tragically different manner than his father's or stepfather's. On November 14, 2003, PFC Jacob Samuel Fletcher was killed when a road side bomb exploded near a bus he was riding in Samara, Iraq. It was 11 days before his 29th birthday. He was posthumously awarded the Bronze Star and the Purple Heart.

While he was close to finishing his tour of duty at the time of his death, Jacob told family and friends that he was not finished serving; he hoped to become a state trooper upon completion of his tour in the military.

I ask that the Senate come together and honor this brave American for his service to our Nation.

By Mr. KYL (for himself, Mr. DEWINE, and Mr. CORNYN):

S. 3848. A bill to amend title 18, United States Code, to support the war

on terrorism, and for other purposes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today to introduce the Terrorism Prevention Act of 2006. This Act will enhance and improve the statutes governing material support for terrorism, protection of classified information, terrorist hoaxes, and terrorist murders and assaults. Specifically, the TPA expands the reach of statutes punishing material support for terrorism, making it a crime to reward the family of a suicide bomber or other terrorist with the intent to facilitate terrorism, and increases penalties for existing material support offenses; clarifies and improves the Classified Information Procedures Act in light of the lessons learned in the Moussaoui trial; expands the reach of the terrorist hoax statute, and increases penalties for hoaxes about the deaths of U.S. soldiers during wartime; increases penalties for terrorist murders, kidnappings, and assaults committed overseas against U.S. nationals, and increases penalties for terrorist crimes resulting in death; and improves the United States's ability to investigate terrorist crimes by protecting the confidentiality of FISA investigations, authorizing multi-district search warrants in terrorism cases, and increasing penalties for obstruction of justice in terrorism cases.

I ask unanimous consent that a section by section analysis of the Terrorism Prevention Act be printed in the RECORD.

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

THE TERRORISM PREVENTION ACT OF 2006

SECTION BY SECTION ANALYSIS

SECTION 2. MATERIAL SUPPORT

Subsection (a) creates a new offense, 18 U.S.C. §2339E, of giving material benefits to the family or associates of someone who has committed a terrorist act, if the benefit is given with the intent to reward, encourage, or facilitate terrorism. Section 2339E applies overseas to the extent that the offenses are linked to interstate or foreign commerce, are targeted at the United States or its people or property, or the offender is a U.S. national or resident. The offense is punishable by imprisonment for ten years to life. This new offense would punish those individuals who encourage or embolden suicide bombers by rewarding their families after such bombings occur.

Subsection (b) increases penalties for existing material support offenses as follows: §2339A, giving material support to aid a terrorist act, 10 years to life; §2339B, giving material support to a designated terrorist organization, 5 to 25 years; and §2339D, receiving military-type training from a terrorist organization, 3 to 15 years. The §2339A and B penalties have not been increased since the terrorist attacks of September 11, 2001.

Subsection (c) eliminates a loophole in current law that would allow an individual to give an unlimited amount of medical or religious supplies to a designated terrorist organization. This loophole, which was recently criticized by a judge of the U.S. Court of Appeals, could allow a terrorist organization to receive large amounts of supplies that it could either resell in exchange for cash or distribute in its local area in order to build support and gain recruits.

Subsection (d) amends §2339D to bar attempts or conspiracies to obtain military-type training from a terrorist organization.

Subsection (e) bars convicted terrorist from receiving federal benefits.

SECTION 3. IMPROVEMENTS TO CIPA

This section implements a number of lessons learned during the use of the Classified Information Procedures Act during the trial of suspected 20th hijacker Zacarias Moussaoui. Subsection (b) authorizes interlocutory appeals of any order for access to classified information. In the Moussaoui case, the Fourth Circuit determined that CIPA allows interlocutory appeals only of orders entered under CIPA itself, not orders entered under other authority. One judge of that Court noted that, although compelled by the text of CIPA, this result frustrates Congress's intent to allow prompt review of disputes over disclosure of classified information.

Subsection (c) allows requests for CIPA protection to be made ex parte. Sometimes a request for protection of classified information cannot be made publicly without itself compromising classified information. This subsection also ensures that requests for CIPA protection shall remain sealed, regardless of whether they are accepted or denied, and codifies the current practice of allowing such requests to be made orally.

Subsection (d) clarifies that CIPA applies to evidence obtained from nondocumentary sources, such as depositions of witnesses. In the Moussaoui case, the Fourth Circuit determined that CIPA technically only applies to documentary information and information that the defense might disclose during trial. The Court nevertheless looked to CIPA to develop a framework for protecting classified information during depositions. This subsection effectively codifies the Fourth Circuit's approach by formally applying CIPA to nondocumentary sources of evidence, such as depositions.

SECTION 4. TERRORIST HOAXES

This section amends the terrorist hoax statute so that it punishes hoaxes relating to terrorist offenses that inexplicably were excluded from the current hoax law. For example, current law does not punish hoaxes related to the taking of hostages in order to coerce the federal government (18 U.S.C. 1203), hoaxes related to blowing up an energy facility (18 U.S.C. 1366(a)), hoaxes related to terrorist attacks on military bases aimed at undermining national defense (18 U.S.C. 2156), or hoaxes related to attacks on railways and mass-transportation facilities, such as the recent London bombings (18 U.S.C. 1992–93). This section adds these terrorist crimes to the predicates for the terrorist hoax statute.

This section also increases the penalties for hoaxes about the death, injury, or capture of a U.S. soldier during wartime. Unfortunately, there have been a number of incidents in which individuals have contacted the families of US. soldiers serving in Iraq, pretended to represent the military or other official organizations, and falsely told the family that their son, brother, or other relative had been killed. This section would punish such hoaxes with imprisonment for 2 to 10 years. If the hoax resulted in serious bodily injury, it would be punished by 5 to 25 years, and if it resulted in death, 10 years to life.

This section also clarifies that the offense of mailing threatening communications applies to threats made against organizations as well as individuals.

SECTION 5. TERRORIST MURDERS, KIDNAPPINGS, AND ASSAULTS

This section expands 18 U.S.C. §2332, which punishes murder or assault of U.S. nationals overseas for terrorist purposes, to also include kidnappings of U.S. nationals overseas that are carried out for terrorist purposes, and clarifies that sexual assault qualifies as serious bodily injury for purposes of the section's assault prohibitions. This section also increases penalties for terrorist murders and assaults, such that a murder of a U.S. national overseas that is carried out for terrorist purposes would be punished by imprisonment for at least 30 years, and an assault resulting in serious bodily injury would be punished by imprisonment for 10 years to life. ''Serious bodily injury'' is defined by federal statute to mean bodily injury accompanied by a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

This section also creates a new offense of committing a terrorist crime while engaging in conduct that results in death. This new offense is punishable by death or imprisonment for 20 years up to life. This section also makes eligible for capital punishment existing offenses resulting in death that involve the use of nuclear weapons, anti-aircraft missiles, radiological bombs, and variola (smallpox) virus, and increases to 15 years to life the penalties for aiding a foreign terrorist organization or state sponsor of terrorism's WMD program or developing, possessing, using, or threatening to use a radiological weapon.

SECTION 6. INVESTIGATION OF TERRORIST CRIMES

Subsection (a) limits FISA notification requirements so that the government is not required to inform an individual seeking an immigration benefit if FISA information was used to deny their application. Such notice effectively informs such an individual that he or his associates have been the target of an intelligence investigation. The United States should not be required to compromise an intelligence investigation in order to exclude a foreign national with ties to terrorism from the United States.

Subsection (b) authorizes federal judges to authorize search warrants that may be used in multiple judicial districts for purposes of terrorism investigations. Such investigations often require searches to be conducted in different parts of the country at the same time.

Subsection (c) increases the potential penalties for obstruction of justice in the course of a terrorism investigation by making the maximum penalty ten years' imprisonment.

By Ms. MURKOWSKI:

S. 851. A bill to provide for the extension of preliminary permit periods by the Federal Energy Regulatory Commission for certain hydroelectric projects in the State of Alaska; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, I rise to introduce legislation to give private developers more time to complete planning and financing for a complex of three high-mountain lake-tap hydroelectric projects that promise to provide at an electric power for Southeast Alaska and for the Pacific Northwest.

Today, I introduce legislation to extend by a total of six years the time for developers to secure data necessary to determine the feasibility and prepare a development application for three individual hydroelectric projects, all located up Thomas Bay in Southeast

Alaska, near Petersburg, AK. This legislation will give time for construction of the estimated $75 million, 45-megawatt Cascade Creek project, the $56 million, 30-megawatt Scenery Creek, and the $40 million, 20-megawatt Delta Creek hydroelectric projects to be built.

The extensions are needed and justified since the three renewable energy projects can only proceed after a $30 million, 27-mile high-voltage transmission line is constructed in Alaska to the U.S.-Canada border, after another $130 million is spent for 150 miles of new line are built in Canada, after $120 million is spent for 140 miles of transmission line upgrades are finished on the Canadian side of the border to move the excess power to Skeena near Terrace in Canada, and after portions of the proposed Southeast Alaska, Electric, Intertie are finished to also permit excess power from the existing Swan Lake and Tyee Lake hydroelectric projects, and the proposed Mahoney Lake project near Ketchikan, AK, to be shared among Panhandle communities and to connect to export transmission lines.

The developers of the Thomas Bay project, Cascade, LLC., deserve a time extension since the company, so far, has focused all of its planning efforts on winning approval and financing for the vital electrical interconnection between Southeast Alaska and Canada, not on finishing the three individual power projects. The State of Alaska only in early summer 2006 approved a grant of $3.2 million to pay for planning to develop a comprehensive plan and review the economic feasibility of using several of Southeast Alaska's nearly 100 potential hydroelectric sites to provide power for both local needs and for export of the surplus power to the Pacific Northwest power grid to help with financing of the 95 megawatts of installed capacity, 410 gigawatt, power project.

These hydroelectric projects all involve tapping high mountain lakes for power. They do not require the damming of fish streams, so they have no negative environmental impacts. They will produce electricity at substantial savings over the 40- to 50-cents per kilowatt hour cost of generating power from expensive diesel fuel in the region and they will also reduce the effects of local air pollution and reduce carbon dioxide generation through the avoidance of fossil fuel combustion.

Congress routinely extends the three-year deadline for worthy potential FERC-licensed power projects to provide additional time for completion of preliminary planning, financing and design. It is certainly appropriate to grant these three projects that are so interconnected this additional time to work out the contractual and financial planning and to finish the environmental studies needed for construction permits to be obtained.

Developing renewable energy that can be produced without any environmental impacts on streams and the fish and wildlife they support is an increasingly important task of government. This bill will help such environmentally-sensitive development occur and will help reduce the nation's dependence on foreign fossil fuels. I hope for speedy passage of this measure.

By Mr. WYDEN (for himself and Mr. SMITH):

S. 3854. A bill to designate certain land in the State of Oregon as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, Mount Hood is a cherished wild place that is often photographed, visited and enjoyed by scores of Oregonians and many non-Oregonians as well. Today, I am introducing, along with my colleague Senator SMITH, a new bipartisan Oregon Wilderness bill: the ''Lewis and Clark Mount Hood Wilderness Act of 2006.'' In tribute to the great river-dependent journey of Lewis and Clark, our legislation adds nine free-flowing stretches of rivers to the National Wild and Scenic River System. This reflects the Oregonian wish to protect but also actively experience our State's treasures.

This bill contains many elements of the bill I introduced two years ago while incorporating many of the provisions adopted in the House-passed version of Mount Hood Wilderness protections, HR 5025. My bill builds upon the House version by adding more wilderness, more wild and scenic rivers, and providing a recreation area to allow diverse recreational opportunities. It protects the lower elevation forests surrounding Mount Hood and the Columbia River Gorge as Lewis and Clark saw them. These forests embody the natural beauty of Oregon. They provide the clean water necessary for the survival of threatened steelhead, Coho and Chinook salmon. These forests provide critical habitat and diverse ecosystems for elk, deer, lynx and the majestic bald eagle. And these are the forests that provide unparalleled recreational opportunities for Oregonians and our visitors.

But the bill I introduce today differs from the bill I introduced two years ago because it responds to the many comments I heard in the ensuing years. I received thousands of comments on proposed Mount Hood legislation. Some comments came as a result of the general public meetings I held in Oregon. Many of the meetings lasted over 3 hours, and everyone who wanted to speak was given an opportunity to do so. Other comments came from the second Mount Hood Summit held at Timberline Lodge hosted by Representatives WALDEN and BLUMENAUER. I and my staff met with over 100 community groups and local governments, the members of the Oregon congressional delegation, the Governor, and the Bush administration. And still more comments came from letters and phone calls from Oregonians.

Overwhelmingly, these comments urged me to protect and build on Oregon's Wilderness system. This goal is as important today as it was in 1804, 1964 or 1984—if not more so. To succeed, we must provide the tools that help us create a planned future on Mount Hood. This bill does both.

The Mount Hood National Forest is the seventh most visited National Forest in the United States. In the 22 years that have elapsed since any new wilderness has been designated in the Mount Hood area, the population in local counties has increased significantly—25 percent in Multnomah County, 24 percent in Hood River County, and 28 percent in Clackamas County.

The predominant public use of this urban forest is non-mechanized activity like hiking, camping, and fishing. With increasing emphasis on wild scenery, unspoiled wildlife habitats, free flowing rivers, wilderness and the need for opportunities for diverse outdoor recreation sometimes it seems we are in jeopardy of ''loving our wild places to death.''

A few years ago, the Forest Service made a proposal to limit the number of people that could hike the south side of Mount Hood and the public outcry was enormous. Seems to me, rather than tell people that they are going to be restricted from using our public lands, part of the solution for the future of the Mountain lies in providing more opportunities for them to enjoy the Mountain's great places. We should ensure the Mount Hood National Forest can meet the increased use and demand for outdoor experiences—my bill will provide those opportunities.

Of the hundreds of people who attended the meetings I held throughout the State of Oregon, the vast majority spoke in favor of more wilderness. Additionally, I have received more than 2,500 written comments supporting additional wilderness for Mount Hood.

This is what I have heard: More Wilderness: First and foremost, I heard that Oregonians in astonishing numbers support protecting Mount Hood and the Columbia River Gorge with additional wilderness. A large number of Oregonians didn't think that enough wilderness areas had been included in the House proposal.

Mountain Biking: Some mountain bikers expressed concerns that their recreation opportunities not be unfairly curtailed.

Fire Protection and Forest Health: Some people were worried about forest health and those living in towns on the mountain and in the gorge were concerned about fire protection for their communities.

Developed Recreation: Some people were worried about maintaining a role for developed recreation, like skiing, on Mt. Hood.

This is what my bill does to address those concerns: More Wilderness: There are currently 189,200 acres of designated wilderness on the Mount Hood National Forest. The House legislation

would have added approximately 77,200 acres of new wilderness on the Mountain. The bill I am introducing today increases wilderness on Mount Hood by designating approximately 128,385 new acres of wilderness—incorporating all the areas the House bill included and building upon them.

This bill adds the areas surrounding the oldest Mt. Hood Wilderness—the mountain itself—which was designated in the original Wilderness Act of 1964. These additions include cathedral old growth forests, the historic Tilly Jane trail, lava beds that were created during the Mt. Hood eruptions, and much of the legendary route that Oregon's pioneers used when they were settling our great state. To the north and west of the mountain, I would add the viewshed of the Columbia Gorge to the current Mark O. Hatfield wilderness. These areas encompass the spectacular ridges framing the Gorge that we all marvel at from I–84 and include perhaps the greatest concentration of waterfalls in North America. To the southwest of the mountain I add lands to the current Salmon Huckleberry Wilderness to conserve their diverse wildlife and protect unique recreational areas like those around popular Mirror Lake. These lands include Alder Creek, the source of drinking water for the City of Sandy, which unanimously endorsed the draft proposal. Over to the east are proposed additions to the Badger Creek Wilderness. These areas provide a critical link between Westside forests and Eastside ecosystems. This area is known for beautiful fall color and the best deer and elk hunting in the entire Mount Hood National Forest. Among the areas we are protecting is the newly designated Richard L. Kohnstamm Memorial Area. It is dedicated in honor of Mr. Kohnstamm who restored the historic Timberline Lodge—built originally by the Works Progress Administration in 1937—to its former grandeur.

Wild and Scenic Rivers: My proposal seeks to protect over 81 miles of wild and scenic rivers on nine free flowing rivers. This includes some of the most pristine and beautiful rivers in Oregon. Among those proposed rivers are the picturesque waterfalls and glacial outwash of the East Fork of the Hood River, and the ancestral hunting and fishing grounds of Fish Creek. Over 17 miles of superb salmon and steelhead habitat on the Collowash River have also been proposed for protection. My bill again incorporates all the House proposed protections and builds upon them.

Mountain Biking: I believe that local riders raised some valid concerns, so I did two things. I have proposed Mount Hood National Recreation Area. It will offer greater, permanent environmental protections to those beautiful areas, while providing mountain bikers, and other recreational users, an opportunity to continue to recreate in these areas. Additionally, I made boundary adjustments to ensure all open mountain biking trails were not included in my proposed wilderness.

Fire Protection and Forest Health: I protect wilderness, where there are healthy, older trees that should never be harvested on Mount Hood or in the Gorge. Older, healthy stands are the most resistant to fire and disease. However, there is an enormous backlog of over-crowded, plantation, second-growth that should be thinned. My bill incorporates House provisions that would give the Forest Service a mandate to prepare an assessment for promoting forests resilient to fire, insects and disease. This also includes provisions to study and encourage the development of biomass in conjunction with forest health work. In addition, I added fire safe community zones so that the Secretary will construct a system of fire safe buffer zones around the communities of Cascade Locks and Government Camp.

Developed Recreation: In order to facilitate developed recreation opportunities I have adopted the House provisions establishing a ''fee-retention'' provision that will establish an account for the Mount Hood National Forest. In addition, in order to help address growth while ensuring access to recreational opportunities, I have adopted House provisions directing the Secretary and the State of Oregon to develop an integrated transportation plan for the Mount Hood region.

Local and Tribal Relationships: I have also incorporated the House provisions on local and tribal relationships emphasizing the rich history of the Mount Hood region and affirming the rights of Native peoples to access the mountains resources, as they have for generations.

The protection of these important Oregon places will depend on the hard work and dedication of all Oregonians and particularly that of my Oregon colleagues here in the Congress. I am especially pleased that Senator SMITH has joined me in developing this bipartisan legislation and putting forth our proposal for wilderness. I am hopeful everyone will pull together: county Commissioners, environmentalists, entrepreneurs, chambers of commerce, state elected officials, the Governor, and the Oregon delegation here in the Capitol. I look forward to perfecting legislation together in the coming weeks, and seeing its swift adoption by Congress thereafter. Then the grandeur of Mount Hood and other Oregon treasures can be assured for future generations.

Soda Mountain Wilderness: In addition, I wish to offer my cosponsorship of legislation to be presented by Senator SMITH, creating the Soda Mountain Wilderness and authorizing the voluntary cancellation of grazing leases in the Cascade-Siskiyou National Monument. This bill would establish a 23,000-acre Soda Mountain Wilderness in the backcountry of the Cascade-Siskiyou National Monument. In addition, it provides for the negotiated voluntary grazing permit lease buyout in the Monument. This proposed wilderness area lies at the intersection of the Siskiyou and Cascade mountain ranges, and the Oregon Desert, California chaparral, High Cascade and coastal Westside forests. It is truly where east meets west meets north meets south. This makes it a truly unique and biodiverse ecosystem and a key wildlife corridor—one that is used by ten rare, threatened or endangered species, including the northern spotted owl, Ashland thistle, and the Siskiyou fritillary. It is also home to populations of trout, elk, bobcats, black bears and falcons. The grazing buyout in this bill also provides a win-win situation. It provides a good deal for the ranchers—the negotiated agreement between the Bureau of Land Management grazing lessees and the conservationists includes an agreed-upon conservationist premium to be paid to the lessees. This premium enhances the compensation lessees receive from the federal government as part of the legislation. It also ensures this special place will be protected. I commend Senator SMITH for introducing this legislation and am happy to join him in introducing this bill.

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. 3854

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Lewis and Clark Mount Hood Wilderness Act of 2006''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—DESIGNATION OF WILDERNESS AREAS

Sec. 101. Findings and purpose.
Sec. 102. Lewis and Clark Mount Hood wilderness areas.
Sec. 103. Map and legal descriptions.
Sec. 104. Administration.
Sec. 105. Buffer zones.
Sec. 106. Fire safe community zones.
Sec. 107. Gateway communities.
Sec. 108. Fish and wildlife; hunting and fishing.
Sec. 109. Trail restoration and study.
Sec. 110. Fire, insects, and diseases.
Sec. 111. Land reclassification.
Sec. 112. Valid existing rights and withdrawal.
Sec. 113. Maintenance and replacement of foot bridges in wilderness areas.
Sec. 114. Richard L. Kohnstamm Memorial Area.

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Sec. 1001. Authorization of appropriations.

SEC. 2. FINDINGS.

Congress finds that—

(1) long before the arrival of Lewis and Clark, Native Americans in the Oregon country lived amid the wild splendor of the Cascade Mountains and the Columbia River, where the waters teemed with fish, game roamed the forests, and fruits and berries were abundant;

(2) the Native Americans arrived in this bountiful land from Asia by way of the Bering Sea and inhabited the land in and around Mount Hood and the Columbia Gorge;

(3) some of the tribes along the Columbia River were part of the Chinook family;

(4) many of the people of the tribes—

(A) used canoes made from cedar logs;

(B) were expert fisherman;

(C) told fire legends about the mid-Columbia volcanic peaks that featured warrior heroes, fair ladies, and numerous gods; and

(D) Mount Hood as Wy'East, the warrior whose passionate love caused the region to be transformed as he hurled powerful volcanic fire in his quest for the love of the gentle maiden Loo-wit, known today as Mount St. Helens;

(5) traveling down the Columbia River in 1805, the Lewis and Clark Corps of Discovery expedition was awed by the unspoiled scenic splendors of the Cascade Mountains and the Columbia River Gorge cutting through the mountain rampart;

(6) on October 18, 1805, Clark recorded in his journal: ''I ascended a high cliff, about 200 feet above the water, from the top of which is a level plain, extending up the river and off for a great extent. From this place I discovered a mountain of immense height, covered with snow.'';

(7) following Lewis and Clark, settlers came to the Oregon territory by way of the Oregon Trail, transforming more accessible portions of the wild landscape into farms, orchards, and small communities using the old growth forests;

(8) in 1845, Oregon Trail pioneers Samuel K. Barlow and Joel Palmer and their parties opened the Barlow Trail across Barlow Pass, high on the south slopes of Mount Hood, with Palmer writing on October 11, 1845: ''I had never seen a sight so nobly grand.'';

(9) even as the settlers transformed the wilderness, that frontier land helped develop in the settlers the characteristics of self-reliance, fortitude, hard work, independence, and love of the land, which the people of Oregon and the entire United States cherish to this day and wish to inculcate in their children;

(10) the unprotected wilderness that remains in the Mount Hood and Columbia River Gorge region provides easily accessible outdoor recreation for the descendants of the early settlers and more recent arrivals;

(11) Mount Hood is home to the historic Timberline Lodge, which—

(A) is a National Historic Landmark;

(B) was built as a project by the Federal Works Progress Administration in 1937; and

(C) was restored to its former grandeur by the dedication and stewardship of Richard L. Kohnstamm;

(12) preserving wilderness assures the integrity of the background and scenic views that enrich more developed forms of recreational use, including downhill skiing and roadside enjoyment of sweeping wilderness scenery;

(13) designation as wilderness provides the strongest congressional protection of scientific, cultural, educational, environmental, scenic, and recreational values that contribute long-term quality of life and economic benefits to the people of Oregon, visitors to Oregon, and local communities in and around the Mount Hood National Forest, including the wilderness-dependent wildlife, high water quality, and resident and anadromous fish that thrive in undisturbed ecosystems;

(14) the Mount Hood National Forest is the seventh most visited National Forest in the United States;

(15) wilderness management is interrelated with and will interface with the established activities and management of adjacent land, particularly when the land is high-density recreation land;

(16) Mount Hood National Forest is predominantly used by the public for mechanized and non-mechanized activities, such as hiking, camping, and fishing, which according to the Mount Hood National Forest Management Plan, are projected to increase dramatically over time;

(17) the Land and Resource Management Plan for Mount Hood National Forest provides that ''the present capability to supply recreational opportunities such as hiking on trails in primitive and semi-primitive nonmotorized areas is predicted to fall short of satisfying demand'';

(18) according to the plan described in paragraph (17), the Mount Hood National Forest—

(A) provides resources for nearly 2 times the current demand for developed recreation such as skiing, power boating, and sightseeing by car; but

(B) meets less than ⅔ of the demand for back country recreation;

(19) the Management Plan for Mount Hood National Forest projects that by 2040, the Mount Hood National Forest will only meet 16 percent of the demand for wilderness recreation, while meeting more than 100 percent of the demand for mechanized recreation;

(20) because the Mount Hood National Forest provides drinking water for more than 16 communities and over 40 percent of Oregon residents, management of the Mount Hood National Forest needs to take into consideration plans developed by local watershed councils in managing the forest; and

(21) the management of the Mount Hood National Forest should address practical, site-specific situations in a manner that supports wilderness and the general environmental, economic, and community-related welfare of the mountain.

SEC. 3. DEFINITIONS.

In this Act:

(1) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(2) MOUNTAIN BIKE.—The term ''mountain bike'' does not include a motorized vehicle.

(3) OLD GROWTH.—The term ''old growth'', with respect to a tree or grove of trees, means a tree or grove that is—

(A) at last 120 years old; or

(B) previously unmanaged.

(4) SECRETARY.—The term ''Secretary'' means—

(A) when used in reference to Forest Service land, the Secretary of Agriculture; and

(B) when used in reference to Bureau of Land Management land, the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of Oregon.

TITLE I—DESIGNATION OF WILDERNESS AREAS

SEC. 101. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the most recent designation of wilderness in the Mount Hood National Forest occurred in 1984; and

(2) the designation of an additional 128,400 acres as a wilderness area by this title will increase the amount of wilderness designated as a wilderness area in the Mount Hood National Forest by 68 percent.

(b) PURPOSE.—The purpose of this title is to designate approximately 128,400 acres of National Forest System land in the Mount Hood National Forest as a wilderness area.

SEC. 102. LEWIS AND CLARK MOUNT HOOD WILDERNESS AREAS.

(a) DESIGNATIONS.—In accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), the following areas in the State are designated as wilderness areas and as components of the National Wilderness Preservation System:

(1) BADGER CREEK WILDERNESS ADDITIONS.—Certain Federal land managed by the Forest

Service, comprising approximately 3,700 acres, as generally depicted on the maps entitled ''Badger Creek'' and ''Bonnie Butte'', dated September 2006, which are incorporated in, and considered to be a part of, the Badger Creek Wilderness, as designated by section 3(3) of the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; 98 Stat. 273).

(2) BULL OF THE WOODS WILDERNESS ADDITION.—Certain Federal land managed by the Forest Service, comprising approximately 6,870 acres, as generally depicted on the map entitled ''Bull of the Woods'', dated June 2006, which is incorporated in, and considered to be a part of, the Bull of the Woods Wilderness, as designated by section 3(4) of the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; 98 Stat. 273).

(3) CLACKAMAS WILDERNESS.—Certain Federal land managed by the Forest Service and Bureau of Land Management, comprising approximately 11,900 acres, as generally depicted on the maps entitled ''Clackamas Canyon'', ''Big Bottom'', ''Memaloose Lake'', ''South Fork Clackamas'', ''Sisi Butte'', and ''Upper Big Bottom'', dated September 2006, which shall be known as the ''Clackamas Wilderness''.

(4) LOWER WHITE RIVER WILDERNESS.—Certain Federal land managed by the Forest Service and Bureau of Land Management, comprising approximately 2,850 acres, as generally depicted on the map entitled ''Lower White River'', dated September 2006, which shall be known as the ''Lower White River Wilderness''.

(5) MARK O. HATFIELD WILDERNESS ADDITIONS.—Certain Federal land managed by the Forest Service, comprising approximately 26,000 acres, as generally depicted on the maps entitled ''Gorge Ridgeline'' and ''Larch Mountain'', dated September 2006, which shall be known as the ''Mark O. Hatfield Wilderness Additions''.

(6) MOUNT HOOD WILDERNESS ADDITIONS.—Certain Federal land managed by the Forest Service, comprising approximately 21,580 acres, as generally depicted on the maps entitled ''Elk Cove/Mazama Addition'', ''Sandy Additions'', ''Tilly Jane'', ''Sand Canyon'', ''Lost Lake'', ''Twin Lakes'', ''Barlow Butte'', ''White River'', and ''Richard L. Kohnstamm Memorial Area'', dated September 2006, which are incorporated in, and considered to be a part of, the Mount Hood Wilderness as designated under section 3(a) of the Wilderness Act (16 U.S.C. 1132(a)), and enlarged by section 3(d) of the Endangered American Wilderness Act of 1978 (16 U.S.C. 1132 note; 92 Stat. 43).

(7) ROARING RIVER WILDERNESS.—Certain Federal land managed by the Forest Service, comprising approximately 37,750 acres, as generally depicted on the map entitled ''Roaring River Wilderness'', dated September 2006, which shall be known as the ''Roaring River Wilderness''.

(8) SALMON-HUCKLEBERRY WILDERNESS ADDITIONS.—Certain Federal land managed by the Forest Service, comprising approximately 17,720 acres, as generally depicted on the maps entitled ''Alder Creek Addition'', ''Eagle Creek Addition'', ''Mirror Lake'', ''Inch Creek'', ''Salmon River Meadows'', and ''Hunchback Mountain'', dated September 2006, which are incorporated in, and considered to be a part of, the Salmon-Huckleberry Wilderness, as designated by section 3(2) of the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; 98 Stat. 273).

(b) EFFECT OF DESIGNATIONS.—

(1) ELECTRIC UTILITIES.—The areas in the State that are designated as wilderness areas and as components of the National Wilderness Preservation System under subsection (a) shall not—

(A) include any land that on the date of enactment of this Act is—

(i) licensed for a hydroelectric project by the Federal Energy Regulatory Commission; or

(ii) located within 200 feet of an electric power line in the White River Unit of the Mount Hood Wilderness Additions under subsection (a)(6); or

(B) affect any activity relating to the operation, maintenance, or construction of a project described in clause (i) or (ii) of subparagraph (A).

(2) COLUMBIA GORGE AIRSHED.—The area depicted on the maps entitled ''Gorge Ridgeline Wilderness'' and ''Large Mountain'', dated September 2006, that is designated as a wilderness area and as a component of the National Wilderness Preservation System under subsection (a) shall not result in the designation of a Class I airshed in the Columbia Gorge through Federal regulatory action.

SEC. 103. MAP AND LEGAL DESCRIPTIONS.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map entitled ''Lewis and Clark Mount Hood Wilderness Additions of 2006'', dated September 2006, and a legal description of each wilderness area designated by this title, with—

(1) the Committee on Energy and Natural Resources of the Senate; and

(2) the Committee on Resources of the House of Representatives.

(b) FORCE OF LAW.—The map and legal descriptions filed under subsection (a) shall have the same force and effect as if included in this Act, except that the Secretary may correct typographical errors in the map and each legal description.

(c) PUBLIC AVAILABILITY.—Each map and legal description filed under subsection (a) shall be on file and available for public inspection in—

(1) the office of the Chief of the Forest Service;

(2) the office of the Director of the Bureau of Land Management; and

(3) the applicable local Forest Service and Bureau of Land Management offices.

SEC. 104. ADMINISTRATION.

(a) IN GENERAL.—Subject to valid rights in existence on the date of enactment of this Act, each wilderness area designated under this title shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) CONSISTENT INTERPRETATION TO THE PUBLIC.—Notwithstanding their separate jurisdictions, the Secretary of Agriculture and the Secretary of the Interior shall collaborate to ensure that the wilderness areas designated by this title, if appropriate, are interpreted for the public as an overall complex related by—

(1) common location in the Mount Hood-Columbia River Gorge region;

(2) the abundant history of Native American use;

(3) the epic journey of Lewis and Clark;

(4) the pioneer settlement and growth of the State; and

(5) water sources for more than 40 percent of the residents of the State.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or interest in land located within the boundaries of an area designated as a wilderness area by this title that is acquired by the United States after the date of enactment of this Act shall be added to, and administered as part of, the wilderness area within which the acquired land or interest is located.

SEC. 105. BUFFER ZONES.

(a) IN GENERAL.—As provided in the Oregon Wilderness Act of 1984 (16 U.S.C. 1132 note; Public Law 98–328), Congress does not intend for designation of wilderness areas in the State under this title to lead to the creation of protective perimeters or buffer zones around each wilderness area.

(b) ACTIVITIES OR USES UP TO BOUNDARIES.—The fact that nonwilderness activities or uses can be seen or heard from within a wilderness area shall not, of itself, preclude the activities or uses up to the boundary of the wilderness area.

SEC. 106. FIRE SAFE COMMUNITY ZONES.

Consistent with the Mount Hood National Forest Management Plan and the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.), the Secretary shall construct a strategic system of defensible fuel profile zones (including shaded fuelbreaks, thinning, individual tree selection, and other methods of vegetation management) between the wilderness boundary and the community boundary around Cascade Locks and Government Camp.

SEC. 107. GATEWAY COMMUNITIES.

(a) IN GENERAL.—The Secretary may provide grants to communities that are gateways to Mount Hood Wilderness areas, including the Hoodland Fire District, Government Camp, and the villages surrounding Mount Hood, and the appropriate county governments in the State, to be administered through the Forest Service State and Private Forestry program.

(b) LIMITATION OF FUNDS.—The total amount of funds provided by the Secretary to gateway communities under subsection (a) shall not exceed $10,000,000.

SEC. 108. FISH AND WILDLIFE; HUNTING AND FISHING.

(a) FISH AND WILDLIFE.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the Secretary may carry out management activities to maintain or restore fish and wildlife populations and fish and wildlife habitats on the National Forest System land designated as wilderness by section 102 if those activities are—

(1) consistent with applicable wilderness management plans; and

(2) carried out in accordance with applicable guidelines and policies.

(b) BULL TROUT RESTORATION PROJECT.—

(1) IN GENERAL.—Nothing in this Act affects the authority of the Secretary to carry out the Bull Trout restoration project underway as of the date of enactment of this Act in Clear Branch Creek.

(2) MINIMUM TOOL POLICIES.—The Secretary shall carry out the Bull Trout restoration project under paragraph (1) in accordance with the minimum tools policies of the Forest Service.

SEC. 109. TRAIL RESTORATION AND STUDY.

(a) PALMETEER TRAIL RESTORATION.—

(1) IN GENERAL.—It is the intent of Congress that nothing in this title shall prevent the Secretary from conducting the planned Palmateer Trail restoration project underway as of the date of enactment of this Act in the Twin Lakes area of the Mount Hood National Forest to restore the quality of the Trail.

(2) MINIMUM TOOLS POLICIES.—The Secretary shall carry out the Palmateer Trail restoration project described in paragraph (1) in accordance with the minimum tools policies of the Forest Service.

(b) STUDY OF COOL CREEK TRAIL 794.—The Secretary shall conduct a study of the appropriate public use of Cool Creek Trail 794.

SEC. 110. FIRE, INSECTS, AND DISEASES.

As provided in section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)(1)), within the wilderness areas designated by this Act, the Secretary of Agriculture (in collaboration with the Secretary of the Interior, where appropriate) may take such measures as are necessary to control fire, insects, and diseases, subject to such conditions as the Secretary of Agriculture (in collaboration with

the Secretary of the Interior where appropriate) determines to be desirable.

SEC. 111. LAND RECLASSIFICATION.

(a) OREGON AND CALIFORNIA RAILROAD LAND.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall identify any Oregon and California Railroad Land that is subject to section 201 of the Act of August 28, 1937 (43 U.S.C. 1181f), within the boundary of the Clackamas Wilderness, as generally depicted on the map entitled ''South Fork Clackamas'', dated September 2006.

(b) PUBLIC DOMAIN LAND.—

(1) DEFINITION OF PUBLIC DOMAIN LAND.—In this section, the term ''public domain land''—

(A) has the meaning given the term ''public land'' in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702); and

(B) does not include any land managed under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(2) IDENTIFICATION.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall identify public domain land within the State that is approximately equal in acreage of land described in subsection (a), but is not subject to the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

(3) MAPS.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress and publish in the Federal Register, 1 or more maps depicting the land identified under subsections (a) and this subsection.

(4) RECLASSIFICATION.—After providing an opportunity for public comment, the Secretary of the Interior shall administratively reclassify—

(A) the land described in subsection (a) as public domain land that is not subject to section 201 of the Act of August 28, 1937 (43 U.S.C. 1181f); and

(B) the land described in this subsection as Oregon and California Railroad Land that is subject to the Act of August 28, 1937 (43 U.S.C. 1181a et seq.).

SEC. 112. VALID EXISTING RIGHTS AND WITHDRAWAL.

(a) VALID EXISTING RIGHTS.—Nothing in this Act affects any valid existing right.

(b) WITHDRAWAL.—Subject to valid rights existing on the date of enactment of this Act, the Federal land referred to in section 102 is withdrawn from all forms of—

(1) appropriation;

(2) disposal under public law;

(3) location, entry, and patent under mining law; and

(4) disposition under all laws pertaining to mineral and geothermal leasing or mineral materials.

SEC. 113. MAINTENANCE AND REPLACEMENT OF FOOT BRIDGES IN WILDERNESS AREAS.

(a) IN GENERAL.—In the case of each wilderness area designated or expanded by section 102, it is the intent of Congress that the Secretary be able to provide for—

(1) the maintenance of any foot bridge crossing located in a wilderness area; and

(2) when needed, the replacement of the foot bridge crossings to ensure public access and safety.

(b) MINIMUM TOOL POLICIES.—The Secretary shall carry out foot bridge replacement work under subsection (a) in accordance with the minimum tools policies of the Forest Service.

SEC. 114. RICHARD L. KOHNSTAMM MEMORIAL AREA.

(a) DESIGNATION.—Certain Federal land managed by the Forest Service, comprising approximately 30 acres, as generally depicted on the map entitled ''Richard L. Kohnstamm Memorial Area'', dated September 2006, and approximately 157 acres of designated wilderness, as generally depicted on the map entitled ''Richard L. Kohnstamm Memorial Area'', dated September 2006, shall be known and designated as the ''Richard L. Kohnstamm Wilderness''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to an area described in subsection (a) shall be deemed to be a reference to the Richard L. Kohnstamm Wilderness.

(c) BOUNDARY.—

(1) IN GENERAL.—The memorial area shall consist of land located within the boundary depicted on the map entitled ''Richard L. Kohnstamm Memorial Area'', dated September 2006.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the Forest Service.

TITLE II—DESIGNATION OF STREAMS FOR WILD AND SCENIC RIVER PROTECTION IN THE MOUNT HOOD AREA

SEC. 201. FINDING AND PURPOSE.

(a) FINDING.—Congress finds that the addition of 81 miles of waterways to the National Wild and Scenic River System in the Mount Hood National Forest would increase the total length of the portion of the National Wild and Scenic River System that is located in the Mount Hood National Forest by approximately 47 percent.

(b) PURPOSE.—The purpose of this title is to designate approximately 81 miles of waterways in the Mount Hood National Forest as additions to the National Wild and Scenic Rivers System.

SEC. 202. WILD AND SCENIC RIVER DESIGNATIONS, MOUNT HOOD NATIONAL FOREST.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended—

(1) by designating the undesignated paragraph relating to the White Salmon River as paragraph (167); and

(2) by adding at the end the following:

''(168) MOUNT HOOD NATIONAL FOREST, OREGON.—The following segments in the Mount Hood National Forest in the State of Oregon, to be administered by the Secretary of Agriculture:

''(A) The 4.1-mile segment of the South Fork of the Clackamas River from its confluence with the East Fork of the South Fork of the Clackamas to the its confluence with the Clackamas River, as a scenic river.

''(B) The 8.5-mile segment of Eagle Creek from its headwaters to the Mount Hood National Forest boundary, of which—

''(i) the 6.7-mile segment from its headwaters to the west section line of T. 3 S., R. 6 E., sec. 20, as a wild river; and

''(ii) the remaining 1.8-mile segment from that section line, as a recreational river.

''(C) The 3.7-mile segment of the Middle Fork of the Hood River from the confluence of Clear and Coe Branches to the Mount Hood National Forest boundary of sec. 11 and 12 in T. 1 S., R. 9 and 10 E., as a scenic river.

''(D) The 4.6-mile segment of the South Fork Roaring River from its headwaters to its confluence with Roaring River, as a wild river.

''(E) The 4.3-mile segment of the Zig Zag River from its headwaters to the Mount Hood Wilderness boundary, as a wild river.

''(F) The 11.1-mile segment of Fifteenmile Creek from its source at Senecal Spring to the Mount Hood National Forest boundary, including—

''(i) the 2.6-mile segment from its source at Senecal Spring to the Badger Creek Wilderness boundary, as a wild river;

''(ii) the 0.4-mile segment from the Badger Creek Wilderness boundary to the point 0.4 miles downstream, as a scenic river;

''(iii) the 7.9-mile segment from the point 0.4 miles downstream of the Badger Creek Wilderness boundary to the western edge of sec. 20, T. 2 S., R. 12 E., WM, as a wild river; and

''(iv) the 0.2-mile segment from the western edge of section 20, T. 2 S., R. 12 E., WM to the Mount Hood National Forest boundary, as a scenic river;

''(G) The 13.5-mile segment of the East Fork Hood River from Oregon State Highway 35 to the Mount Hood National Forest boundary, as a recreational river.

''(H) The 17.8-mile segment of the Collawash River from the headwaters of the East Fork Collawash to the confluence with the Clackamas River, of which—

''(i) the 11.0-mile segment from the headwaters of the East Fork Collawash River to Buckeye Creek, as a scenic river; and

''(ii) the 6.8-mile segment from Buckeye Creek to the Clackamas River, as a recreational river.

''(I) The 13.6-mile segment of Fish Creek from its headwaters to the confluence with the Clackamas River, as a recreational river.''.

SEC. 203. IMPACT ON WATER RIGHTS AND FLOW REQUIREMENTS.

(a) RELATION TO EXISTING REQUIREMENTS.—Congress does not intend for the designation of any portion of the Hood River under section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)), as amended by this Act, to have any impact on any water right or flow requirement relating to—

(1) the Middle Fork Irrigation District;

(2) the East Fork Irrigation District; or

(3) the Mt. Hood Meadows Ski Resort.

(b) EXCLUSION OF OPERATIONAL AREAS.—Congress does not intend for the designation of any portion of the Hood River under section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)), as amended by this Act, to include any portion of the operational area of—

(1) the Middle Fork Irrigation District;

(2) the East Fork Irrigation District; or

(3) the Mt. Hood Meadows Ski Resort.

TITLE III—MOUNT HOOD NATIONAL RECREATION AREA

SEC. 301. DESIGNATION.

(a) DESIGNATION.—The Mount Hood National Recreation Area shall be known and designated as the ''Mount Hood National Recreation Area''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Mount Hood National Recreation Area shall be deemed to be a reference to the Mount Hood National Recreation Area.

(c) BOUNDARY.—

(1) IN GENERAL.—The Mount Hood National Recreation Area shall consist of land located within the boundary depicted on the map entitled ''Mount Hood National Recreation Area'', dated September 2006.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the Forest Service and Bureau of Land Management.

(d) ADMINISTRATION.—The Secretary shall administer the Mount Hood National Recreation Area in accordance with the laws, rules, and regulations applicable to the national forests for public outdoor recreation—

(1) in a manner that—

(A) protects and maintains—

(i) the diverse recreational opportunities of the Mount Hood National Recreation Area for public use; and

(ii) fish and wildlife habitats;

(B) conserves the scenic, recreational, cultural, scientific, spiritual, and other values

of the Mount Hood National Recreation Area that contribute to the benefit of the public;

(C) preserves each feature and peculiarity of the Mount Hood National Recreation Area believed to be biologically significant, including—

(i) rare and endemic plant species;

(ii) rare combinations of aquatic, terrestrial, and atmospheric habitats; and

(iii) rare combinations of outstanding and diverse ecosystems and parts of associated ecosystems;

(D) protects archeological and paleontological sites and interprets those sites for the benefit of the public;

(E) maintains and enhances the desired structural components consistent with Standards and Guidelines of the Northwest Forest Plan; and

(F) prevents any cutting, sale, or removal of timber except where the cutting, sale, or removal of timber—

(i) improves the health of the forest and—

(I) maximizes the retention of large trees as appropriate to the forest type, to the extent that those trees promote stands that are fire-resilient and healthy;

(II) improves the habitats of threatened, endangered, proposed, or sensitive species; and

(III) maintains or restores the composition and structure of the ecosystem by reducing the risk of uncharacteristic wildfire effects;

(ii) is incidental to the accomplishment of an approved management activity not otherwise prohibited; or

(iii) is for personal or administrative use; and

(2) to prevent the new or temporary construction or reconstruction of roads, except when the new or temporary construction or reconstruction of roads is required—

(A) to protect the health and safety of individuals in cases of an imminent threat of flood, fire, or any other catastrophic event that, without intervention, would cause the loss of life or property;

(B) to conduct environmental cleanup required by the Federal Government;

(C) to allow for reserved or outstanding rights provided for by a statute or treaty;

(D) to prevent irreparable resource damage by an existing road;

(E) to rectify a hazardous road condition;

(F) as part of a Federal-aid highway project; or

(G) in conjunction with—

(i) the continuation, extension, or renewal of a mineral lease on land that is under lease; or

(ii) a new mineral lease that is issued immediately after the expiration of an existing mineral lease.

(e) CHAINSAWS.—The Secretary may use chainsaws to maintain existing trails in the Mount Hood National Recreation Area.

TITLE IV—TRANSPORTATION AND COMMUNICATION SYSTEMS

SEC. 401. DEFINITION OF MOUNT HOOD REGION.

In this title, the term ''Mount Hood region'' means—

(1) Mount Hood and the other land located adjacent to the mountain;

(2) any segment of the Oregon State Highway 26 corridor that is located in or near Mount Hood National Forest;

(3) any segment of the Oregon State Highway 35 corridor that is located in or near Mount Hood National Forest;

(4) each other road of the Forest Service, State, or county that is located in and near Mount Hood National Forest; and

(5) any gateway community located adjacent to any highway or road described in paragraph (2), (3), or (4).

SEC. 402. TRANSPORTATION PLAN.

(a) IN GENERAL.—The Secretary shall collaborate with the State to develop an integrated, multimodal transportation plan for the Mount Hood region to achieve comprehensive solutions to transportation challenges in the Mount Hood region—

(1) to promote appropriate economic development;

(2) to preserve the landscape of the Mount Hood region; and

(3) to enhance public safety.

(b) PLANNING PROCESS.—The transportation plan under subsection (a) shall—

(1) conform with Federal and Oregon transportation planning requirements; and

(2) be developed through a collaborative process, preferably through the use of a commission composed of interested persons appointed by the State, with representation from the Forest Service and local governments in the Mount Hood region.

(c) SCOPE OF PLAN.—The transportation plan under subsection (a) shall address issues relating to—

(1) the transportation of individuals to and from areas outside the Mount Hood region on major corridors traversing that region; and

(2) the transportation of individuals to and from locations that are located within the Mount Hood region.

(d) CONTENTS OF PLAN.—At a minimum, the transportation plan under subsection (a) shall consider—

(1) transportation alternatives between and among recreation areas and gateway communities that are located within the Mount Hood region;

(2) establishing park-and-ride facilities that shall be located at gateway communities;

(3) establishing intermodal transportation centers to link public transportation, parking, and recreation destinations;

(4) creating a new interchange on Oregon State Highway 26 that shall be located adjacent to or within Government Camp;

(5) designating, maintaining, and improving alternative routes using Forest Service or State roads for—

(A) providing emergency routes; or

(B) improving access to, and travel within, the Mount Hood region;

(6) reconstructing the segment of Oregon State Highway 35 that is located between Mineral Creek and Baseline Road to address ongoing debris flow locations; and

(7) creating mechanisms for funding the implementation of the transportation plan under subsection (a), including—

(A) funds provided by the Federal Government;

(B) public-private partnerships;

(C) incremental tax financing; and

(D) other financing tools that link transportation infrastructure improvements with development.

(e) COMPLETION OF PLAN.—Not later than 2 years after the date on which funds are first made available to carry out this section, the Secretary shall complete the transportation plan under subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,000,000.

SEC. 403. STUDY RELATING TO GONDOLA CONNECTION AND INTERMODAL TRANSPORTATION CENTER.

(a) FEASIBILITY STUDY.—The Secretary shall carry out a study of the feasibility of establishing—

(1) a gondola connection that—

(A) connects Timberline Lodge to Government Camp; and

(B) is located in close proximity to the site of the historic gondola corridor; and

(2) an intermodal transportation center to be located in close proximity to Government Camp.

(b) CONSIDERATION OF MULTIPLE SITES.—In carrying out the feasibility study under subsection (a), the Secretary may consider 1 or more sites.

SEC. 404. BURIAL OF POWER LINES.

Because of the incongruent presence of power lines adjacent to or within wilderness areas, the Secretary may provide to Cascade Locks and Hood River County $3,200,000 through the Forest Service State and Private Forestry program to bury ground power lines adjacent to or within Mount Hood Wilderness areas, including wilderness areas designated by this Act.

SEC. 405. CULVERT REPLACEMENT.

(a) IN GENERAL.—The Secretary may provide $1,000,000 to Clackamas County to replace or remove culverts on the wild and scenic river segments in Clackamas County, Oregon, designated by title II.

(b) LIMITATION.—Culvert replacement carried out by the Forest Service and Clackamas County to improve fish passage and the ecology of the wilderness designated by this Act shall not be considered water and resource development.

SEC. 406. CLARIFICATION OF TREATMENT OF STATE HIGHWAYS.

(a) EXCLUSION.—Any part of Oregon State Highway 35 or other any other State highway in existence on the date of enactment of this Act (including all existing rights-of-way and 150 feet on each side of the centerline, whichever is greater, that is adjacent to or within wilderness areas in the Mount Hood National Forest, including wilderness areas designated by this Act) shall be excluded from wilderness under this Act.

(b) NO NET EFFECT.—The designation of wilderness or wild and scenic rivers under this Act or an amendment made by this Act shall not limit or restrict the ability of the State—

(1) to operate, maintain, repair, reconstruct, protect, or make any other improvement to Oregon State Highway 35 or any other State highway in existence on the date of enactment of this Act;

(2) to use any site that is not within a highway right-of-way to operate, maintain, repair, reconstruct, protect, or make any other improvement to those highways; or

(3) to take any action outside of a highway right-of-way that is necessary to operate, maintain, repair, reconstruct, protect, or make any other improvement to those highways.

(c) FLOOD PLAIN.—Congress encourages the carrying out of projects that will reduce the impact of Oregon State Highway 35 on the flood plain of the East Fork Hood River.

TITLE V—LAND EXCHANGE

Subtitle A—Cooper Spur-Government Camp Land Exchange

SEC. 501. PURPOSE.

The purpose of this subtitle is to recognize the years of work by local residents and political and business leaders from throughout the States of Oregon and Washington to protect the north side of Mount Hood and bring to culmination the land exchange authorized by section 502.

SEC. 502. COOPER SPUR-GOVERNMENT CAMP LAND EXCHANGE.

(a) CONVEYANCE REQUIRED.—With the exception if the Retained Conservation and Trail Easements under subsection (j), the Secretary shall convey to Mt. Hood Meadows Oreg., Limited Partnership (in this subtitle referred to as 'Mt. Hood Meadows'), all right, title, and interest of the United States in and to—

(1) a parcel of National Forest System land in Mount Hood National Forest consisting of approximately 80 acres in Government Camp, Clackamas County, Oregon, as depicted on the map entitled ''Cooper Spur-Government Camp Land Exchange'' and dated September

2006 (in this subtitle referred to as the ''official map''); and

(2) a parcel of National Forest System land in Mount Hood National Forest consisting of approximately 40 acres in Government Camp, as depicted on the official map.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), Mt. Hood Meadows, Meadows North, LLC, and North Face Inn, LLC, shall convey to the United States all right, title, and interest of these entities in and to—

(1) a parcel of private land consisting of approximately 770 acres at Cooper Spur, as depicted on the official map;

(2) all buildings, furniture, fixtures, and equipment at the Inn at Cooper Spur covered by the appraisal described in subsection (c)(1);

(3) the 1,350 acre special use permit for the Cooper Spur Ski Area, as depicted on the official map; and

(4) all buildings, furniture, fixtures, and equipment at the Cooper Spur Ski Area covered by the appraisal described in subsection (c)(1).

(c) APPRAISALS.—

(1) IN GENERAL.—The values of the lands to be exchanged under this Act shall be determined by appraisals using nationally recognized appraisal standards, including as appropriate—

(A) the Uniform Appraisal Standards for Federal Land Acquisitions (1992); and

(B) the Uniform Standards of Professional Appraisal Practice.

(2) EXISTING APPRAISALS.—The Secretary shall review the appraisals of the land and other property to be conveyed under subsections (a) and (b) performed in 2005 by Appraiser Steven A. Hall, MAI, CCIM, for accuracy and compliance with paragraph (1). If the Secretary determines that the appraisals are accurate and meet the requirements of paragraph (1), then the Secretary may approve the appraisals.

(3) TREATMENT OF EXCESS CONSIDERATION.—Should the appraisal determine a difference in values between the properties exchanged, in favor of the government, excess value donated to the United States will not be deemed a donation for tax purposes. Donation of non-federal land may exceed 25% of the value of the federal land.

(d) EQUAL VALUE EXCHANGE.—The values of the land to be exchanged under this section shall be determined pursuant to an appraisal acceptable to the Secretary of Agriculture, the County and Mt. Hood Meadows Oreg., Limited Partnership. If the values are not equal, they shall be equalized in the manner provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

(e) COMPLIANCE WITH EXISTING LAW.—Except as otherwise provided in this section, the Secretary shall carry out the land exchange under this section in the manner provided in section 206 of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1716).

(f) CONDITIONS ON ACCEPTANCE.—Title to the non-Federal land to be acquired by the Secretary of Agriculture under this section must be acceptable to the Secretary, and the conveyances shall be subject to valid existing rights of record. The non-Federal land shall conform with the title approval standards applicable to Federal land acquisitions.

(g) LEGAL DESCRIPTIONS.—The exact acreage and legal description of the land to be exchanged under this section shall be determined by surveys satisfactory to the Secretary of Agriculture. The costs of any such survey, as well as other administrative costs incurred to execute the land exchange, shall be negotiated between the Secretary and the County.

(h) EXISTING RIGHTS.—The conveyance of Federal land under this section shall be subject to valid existing rights of third parties. In the alternative, the Secretary of Agriculture may grant substitute permit rights of equivalent utility to use other Federal land.

(i) COMPLETION OF LAND EXCHANGE.—The Secretary of Agriculture shall complete all legal and regulatory processes required in connection with the land exchange under this section and complete the closing of the land exchange not later than 16 months after the date of the enactment of this Act.

(j) RETAINED CONSERVATION AND TRAIL EASEMENTS.—In conjunction with the conveyance of title to Mt. Hood Meadows, the Secretary of Agriculture shall reserve a Conservation Easement to protect existing wetlands on the conveyed parcels, as determined by the Oregon Department of State Lands. Alternative equivalent wetland mitigation measures shall be allowed to compensate for minor wetland encroachments necessary for the orderly development of the parcels. In addition, the Secretary of Agriculture shall reserve a Trail Easement which allows the non-motorized functional use by the public of identified existing trails located on the conveyed parcels as depicted on the map entitled ''Government Camp Trail Map'' and dated September 2006 as such trails may be improved or relocated to accommodate development of the property. The Trail Easement shall provide that roads, utilities and infrastructure facilities may cross such trails.

Subtitle B—Other Land Exchanges

SEC. 511. LAND EXCHANGE, PORT OF CASCADE LOCKS-PACIFIC CREST NATIONAL SCENIC TRAIL.

(a) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey to the Port of Cascade Locks, Cascade Locks, Oregon (in this section referred to as the ''Port''), all right, title, and interest of the United States in and to a parcel of National Forest System land in the Columbia River Gorge National Scenic Area consisting of approximately 10 acres, as depicted on the map entitled ''Port of Cascade Locks-Pacific Crest National Scenic Trail Land Exchange'' and dated June 2006.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Port shall convey to the United States all right, title, and interest of the Port in and to a parcel of land consisting of approximately 40 acres, as depicted on the map referred to in subsection (a). The acquisition of this land will ensure the continued integrity of the Pacific Crest National Scenic Trail in the vicinity of Cascade Locks and the public's ability to access the north Oregon entrance of the trail.

(c) EQUAL VALUE EXCHANGE.—The values of the land to be exchanged under this section shall be determined pursuant to an appraisal acceptable to the Secretary of Agriculture and the Port. If the values are not equal, they shall be equalized in the manner provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

(d) COMPLIANCE WITH EXISTING LAW.—Except as otherwise provided in this section, the Secretary shall carry out the land exchange under this section in the manner provided in section 206 of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1716).

(e) CONDITIONS ON ACCEPTANCE.—Title to the non-Federal land to be acquired by the Secretary of Agriculture under this section must be acceptable to the Secretary, and the conveyances shall be subject to valid existing rights of record. The non-Federal land shall conform with the title approval standards applicable to Federal land acquisitions.

(f) LEGAL DESCRIPTIONS.—The exact acreage and legal description of the land to be exchanged under this section shall be determined by surveys satisfactory to the Secretary of Agriculture. The costs of such survey, as well as other administrative costs incurred to execute the land exchange, shall be negotiated between the Secretary and the Port.

(g) EXISTING RIGHTS.—The conveyance of Federal land under this section shall be subject to valid existing rights of third parties. In the alternative, the Secretary of Agriculture may grant substitute permit rights of equivalent utility to use other Federal land.

(h) COMPLETION OF LAND EXCHANGE.—The Secretary of Agriculture shall complete all legal and regulatory processes required in connection with the conveyances under this section and complete the closing of the conveyances within 16 months after the date of the enactment of this Act.

SEC. 512. HUNCHBACK MOUNTAIN LAND EXCHANGE, CLACKAMAS COUNTY.

(a) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey to Clackamas County, Oregon (in this section referred to as the ''County''), all right, title, and interest of the United States in and to a parcel of National Forest System land in the Mount Hood National Forest consisting of approximately 160 acres, as depicted on the map entitled ''Hunchback Mountain Land Exchange-Clackamas County'' and dated June 2006.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the County shall convey to the United States all right, title, and interest of the County in and to a parcel of land consisting of approximately 160 acres, as depicted on the map referred to in subsection (a). The acquisition of this parcel will ensure the continued integrity of the forested land, a substantial portion of which exceeds 120 years in age, and the public's access to the parcel.

(c) EQUAL VALUE EXCHANGE.—The values of the land to be exchanged under this section shall be determined pursuant to an appraisal acceptable to the Secretary of Agriculture and the County. If the values are not equal, they shall be equalized in the manner provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)).

(d) COMPLIANCE WITH EXISTING LAW.—Except as otherwise provided in this section, the Secretary shall carry out the land exchange under this section in the manner provided in section 206 of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1716).

(e) CONDITIONS ON ACCEPTANCE.—Title to the non-Federal land to be acquired by the Secretary of Agriculture under this section must be acceptable to the Secretary, and the conveyances shall be subject to valid existing rights of record. The non-Federal land shall conform with the title approval standards applicable to Federal land acquisitions.

(f) LEGAL DESCRIPTIONS.—The exact acreage and legal description of the land to be exchanged under this section shall be determined by surveys satisfactory to the Secretary of Agriculture. The costs of any such survey, as well as other administrative costs incurred to execute the land exchange, shall be negotiated between the Secretary and the County.

(g) EXISTING RIGHTS.—The conveyance of Federal land under this section shall be subject to valid existing rights of third parties. In the alternative, the Secretary of Agriculture may grant substitute permit rights of equivalent utility to use other Federal land.

(h) COMPLETION OF LAND EXCHANGE.—The Secretary of Agriculture shall complete all legal and regulatory processes required in connection with the land exchange under

this section and complete the closing of the land exchange not later than 16 months after the date of the enactment of this Act.

TITLE VI—MOUNT HOOD NATIONAL FOREST AND WATERSHED STEWARDSHIP

SEC. 601. FINDINGS AND PURPOSE.

The purpose of this title is to direct the Forest Service to prepare an assessment to promote forested landscapes resilient to catastrophic fire, insects, and disease, to protect homes and communities from property damage and threats to public safety, and to protect and enhance existing community or municipal watersheds. It is the intent of Congress that site-specific forest health projects undertaken pursuant to this assessment shall be completed in accordance with existing law.

SEC. 602. FOREST STEWARDSHIP ASSESSMENT.

(a) PREPARATION OF ASSESSMENT.—The Secretary of Agriculture shall prepare an assessment to identify the forest health needs in those areas of the Mount Hood National Forest with a high incidence of insect or disease infestation (or both), heavily overstocked tree stands, or moderate-to-high risk of unnatural catastrophic wildfire for the purpose of improving condition class, which significantly improves the forest health and water quality. The Secretary may utilize existing information to complete the assessment. The assessment shall also identify specific projects to address these issues.

(b) IMPROVED MAPPING.—The assessment will include peer reviewed mapping of condition class 2 and condition class 3 areas and other areas identified in subsection (a) in Mount Hood National Forest.

(c) COMPLETION.—The Secretary of Agriculture shall complete the assessment not later than 1 year after the date of enactment of this Act.

(d) DURATION OF STUDY.—The assessment shall cover a 10-year period.

(e) IMPLEMENTATION.—Not later than 1 year after completion of the assessment, the Secretary shall commence implementation of projects to address the needs identified in the assessment. These projects shall be implemented using authorities available to the Secretary to manage the Mount Hood National Forest to achieve the purpose specified in subsection (a).

(f) DELAY.—During development of the assessment under this section, a forest management project that is unaffiliated with the assessment and has completed review as required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in accordance with existing law, need not be delayed in the event the Secretary fails to meet the deadline specified in subsection (c).

(g) RELATION TO EXISTING LAW AND PLANS.—Nothing in this section grants the Secretary any authority to manage the Mount Hood National Forest contrary to existing law. The assessment conducted by the Secretary under this section shall not supersede, be considered a supplement or amendment to, or in any way affect the legal or regulatory authority of the Mount Hood National Forest Land and Resource Management Plan or the collection of documents entitled ''Final Supplemental Environmental Impact Statement and Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents Within the Range of the Northern Spotted Owl'' and ''Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest-Related Species Within the Range of the Northern Spotted Owl''.

(h) PUBLIC PARTICIPATION.—The Secretary shall provide an opportunity for interested persons to be involved in development of the assessment conducted by the Secretary under this section.

SEC. 603. SUSTAINABLE BIOMASS UTILIZATION STUDY.

(a) STUDY REQUIRED.—The Secretary of Agriculture shall conduct a study to assess the amount of long-term sustainable biomass available in the Mount Hood National Forest that, consistent with applicable law, could be made available as a raw material for—

(1) the production of electric energy, sensible heat, transportation fuel, or substitutes for petroleum-based products;

(2) dimensional lumber, fencing, framing material, poles, firewood, furniture, chips, or pulp for paper; or

(3) other commercial purposes.

(b) DEFINITION.—In this section, the term ''biomass'' means small diameter trees and understory vegetation that is removed from forested land as a by-product of forest restoration efforts.

SEC. 604. WATERSHED MANAGEMENT MEMORANDA OF UNDERSTANDING.

(a) COMPLETION OF MEMORANDA OF UNDERSTANDING.—To the extent that memoranda of understanding or other legal agreements involving watersheds of Mount Hood National Forest do not exist between irrigation districts or municipalities and the Forest Service, the Secretary of Agriculture may complete memoranda of understanding that outline stewardship goals to manage the watersheds for water quality and water quantity.

(b) ELEMENTS OF MEMORANDUM.—A memorandum of understanding involving a watershed of Mount Hood National Forest shall encourage adaptability, establish benchmarks regarding water quality and water quantity, and require monitoring to determine progress in meeting such benchmarks. The memorandum of understanding may restrict public access to areas of the watershed where appropriate.

(c) PUBLIC PROCESS REQUIRED.—

(1) COLLABORATION AND CONSULTATION.—The Secretary of Agriculture shall ensure that the process by which the Secretary enters into a memorandum of understanding with an irrigation district, local government, or other entity involving a watershed of Mount Hood National Forest is based on collaboration and cooperation between the Forest Service and local jurisdictions and other interested persons.

(2) PUBLIC MEETING REQUIRED.—The Secretary and the other party or parties to the proposed memorandum of understanding shall hold at least 1 joint public meeting before completing a final draft of the memorandum of understanding.

(3) PUBLIC COMMENT.—A draft memorandum of understanding shall also be open to public comment before being finalized.

SEC. 605. TERMINATION OF AUTHORITY.

The authority provided by this title shall terminate on the date that is 10 years after the date of enactment of this Act.

TITLE VII—CRYSTAL SPRINGS WATERSHED SPECIAL RESOURCES MANAGEMENT UNIT

SEC. 701. FINDINGS AND PURPOSE.

The purpose of this title is to establish a special resources management unit to ensure protection of the quality and quantity of the Crystal Springs watershed as a clean drinking water source for the residents of Hood River County, Oregon, while also allowing visitors to enjoy its special scenic, natural, cultural, and wildlife values.

SEC. 702. ESTABLISHMENT OF CRYSTAL SPRINGS WATERSHED SPECIAL RESOURCES MANAGEMENT UNIT.

(a) ESTABLISHMENT.—Effective as provided by section 705, the Secretary of Agriculture shall establish a special resources management unit in the State consisting of all National Forest System land that is located within 200 yards from any point on the perimeter of the Crystal Springs Zone of Contribution, as determined by the Crystal Springs Water District, and other National Forest System land in and around the Inn at Cooper Spur and the Cooper Spur Ski Area, as depicted on the map entitled ''Crystal Springs Watershed Special Resources Management Unit'' and dated June 2006 (in this subtitle referred to as the ''official map'').

(b) DESIGNATION.—The special resources management unit established pursuant to subsection (a) shall be known as the Crystal Springs Watershed Special Resources Management Unit, in this title referred to as the ''Management Unit''.

(c) EXCLUSION OF CERTAIN LAND.—The Management Unit does not include any National Forest System land otherwise covered by subsection (a) that is designated as wilderness by title I.

(d) WITHDRAWAL.—Subject to valid existing rights, National Forest System land included in the Management Unit are permanently withdrawn from all forms of appropriation under the public land laws, including the mining laws and mineral and geothermal leasing laws.

(e) MAPS AND LEGAL DESCRIPTION.—

(1) SUBMISSION OF LEGAL DESCRIPTIONS.—As soon as practicable after the effective date specified in section 705, the Secretary shall prepare and submit to Congress a legal description of the Management Unit.

(2) FORCE OF LAW.—The map referred to in subsection (a) and the legal descriptions prepared under paragraph (1) shall have the same force and effect as if included in this Act, except that the Secretary may correct technical errors in the map and legal descriptions. The map of the Crystal Springs Zone of Contribution is incorporated in this Act to delineate the boundaries of the Management Unit, and the delineation of these boundaries is not intended to affect the specific uses that may occur on private land within the boundaries of the Management Unit.

(3) PUBLIC AVAILABILITY.—The map referred to in subsection (a) and the legal descriptions prepared under paragraph (1) shall be filed and made available for public inspection in the appropriate offices of the Forest Service.

SEC. 703. ADMINISTRATION OF MANAGEMENT UNIT.

(a) GENERAL APPLICABILITY OF EXISTING LAWS.—Except as provided in this title, all other laws and regulations affecting National Forest System lands shall continue to apply to the National Forest System lands included in the Management Unit.

(b) AUTHORIZED ACTIVITIES.—

(1) PROCESS FOR ALLOWING ACTIVITIES.—Only activities described in this subsection may occur in the Management Unit, and the Secretary of Agriculture may permit an activity described in this subsection to occur in the Management Unit only after the Secretary—

(A) obtains the review and opinions of the Crystal Springs Water District regarding the effect of the activity on the purposes of the Management Unit;

(B) complies with all applicable Federal law regarding development and implementation of the activity; and

(C) when appropriate, provides to the general public advance notice of the activity, an opportunity to comment on the activity, and appeal rights regarding the activity.

(2) RECREATION.—The Secretary may—

(A) continue to maintain recreational opportunities and trails, in existence in the Management Unit as of the effective date specified in section 705, within their existing and historic footprints or at an alternative location; and

(B) develop new footpaths or cross-county skiing trails in the Management Unit.

(3) LEASE OF CERTAIN IMPROVEMENTS.—The Secretary may lease improvements and facilities, in existence in the Management Unit as of the effective date specified in section 705, within their existing and designated footprints to 1 or more concessionaires.

(4) ROAD MAINTENANCE.—Subject to subsection (d), the Secretary may maintain National Forest System roads, in existence in the Management Unit as of the effective date specified in section 705 or as directed by the management plan required by subsection (d). Maintenance may include the installation of culverts and drainage improvements and other similar activities.

(5) FUEL REDUCTION IN PROXIMITY TO IMPROVEMENTS AND PRIMARY PUBLIC ROADS.—To protect the water quality, water quantity, scenic, cultural, historic, natural, and wildlife values of the Management Unit, the Secretary may permit fuel reduction on National Forest System land in the Management Unit—

(A) extending up to 400 feet from structures on National Forest System land or structures on adjacent private land; and

(B) extending up to 400 feet from the Cooper Spur Road, the Cloud Cap Road, and the Cooper Spur ski area loop road.

(6) OTHER FUEL REDUCTION AND FOREST HEALTH ACTIVITIES.—The Secretary may conduct fuel reduction and forest health management activities in the Management Unit, with priority given to activities that restore previously harvested stands, including the removal of logging slash, smaller diameter material, and ladder fuels. The purpose of any fire risk reduction or forest health management activity conducted in the Management Unit shall be the maintenance and restoration of fire-resilient forest structures containing late successional forest structure characterized by large trees and multi-storied canopies (where ecologically appropriate) and the protection of the water quality, water quantity, scenic, cultural, historic, natural, and wildlife values of the Management Unit.

(c) SPECIFICALLY PROHIBITED ACTIVITIES.—The following activities may not occur on National Forest System land in the Management Unit, whether separately or, except as provided in paragraph (2), as part of an activity authorized by subsection (b):

(1) New road construction or renovation of existing non-System roads.

(2) Projects undertaken for the purpose of harvesting commercial timber. The harvest of merchantable products that are by-products of activities conducted pursuant to subsection (b)(6) and carried out pursuant to a stewardship contract are not prohibited by this subsection.

(3) Commercial livestock grazing.

(4) The placement or maintenance of fuel storage tanks.

(5) The application of any toxic chemicals, including pesticides, rodenticides, herbicides, or retardants, for any purpose, except with the consent of the Crystal Springs Water District.

(d) MANAGEMENT PLAN.—

(1) PLAN REQUIRED.—Within 9 months after the effective date specified in section 605, the Secretary of Agriculture shall adopt a management plan for the Management Unit that, while providing for the limited activities specifically authorized by subsection (b), protects the watershed from illegal dumping, human waste, fires, vandalism, and other risks to water quality.

(2) CONSULTATION AND PUBLIC PARTICIPATION.—The Secretary shall prepare the management plan in consultation with the Crystal Springs Water District, the Cooper Spur Wild and Free Coalition, and Hood River County and provide for public participation as described in subsection (b)(1)(C).

(e) FOREST ROAD CLOSURES.—As part of the management plan required by subsection (d), the Secretary of Agriculture may provide for the closure or gating to the general public of any Forest Service road within the Management Unit, except for the road commonly known as Cloud Cap Road.

(f) PRIVATE LAND.—Nothing in this section affects the use of, or access to, any private property within the Crystal Springs Zone of Contribution by the owners of the private property and their guests. The Secretary is encouraged to work with interested private landowners who have voluntarily agreed to cooperate with the Secretary to further the purposes of this title.

(g) RELATIONSHIP WITH WATER DISTRICT.—Except as provided in this section, the Crystal Springs Water District has no authorities over management or use of National Forest System land included in the Management Unit.

SEC. 704. ACQUISITION OF LANDS.

(a) ACQUISITION AUTHORITY.—The Secretary of Agriculture may acquire from willing landowners any lands located in the Crystal Springs Zone of Contribution within the boundaries of Mount Hood National Forest. Lands so acquired shall automatically be added to the Management Unit.

(b) PROHIBITION ON SUBSEQUENT CONVEYANCE.—The Secretary may not sell, trade, or otherwise transfer ownership of any land within the Management Unit, including any of the land acquired under subsection (a) or received by the Secretary as part of the Cooper Spur-Government Camp land exchange authorized by subtitle A of title VIII and included within the Management Unit, to any person.

SEC. 705. EFFECTIVE DATE.

The Secretary of Agriculture shall establish the Management Unit as soon as practicable after the final closing of the Cooper Spur-Government Camp land exchange authorized by subtitle A of title VIII, but in no case later than 30 days after the date of the final closing of such land exchange. The Management Unit may not be established before final closing of the land exchange.

TITLE VIII—LOCAL AND TRIBAL RELATIONSHIPS

SEC. 801. FINDINGS AND PURPOSE.

The purpose of this title is to recognize and support the ability of Native Americans to continue to gather first foods in the Mount Hood National Forest using traditional methods and the central role of the State and local governments in management of issues dealing with natural and developed environments in the vicinity of the national forest.

SEC. 802. FIRST FOODS GATHERING AREAS.

(a) PRIORITY USE AREAS.—The Secretary of Agriculture shall identify, establish, develop, and manage priority-use areas in Mount Hood National Forest for the gathering of first foods by members of Indian tribes with treaty-reserved gathering rights on lands encompassed by the national forest. The priority-use areas shall be identified, established, developed, and managed in a manner consistent with the memorandum of understanding entered into between the Department of Agriculture, the Bureau of Land Management, the Bureau of Indian Affairs, and the Confederated Tribes of the Warm Springs Reservation of Oregon (in this section referred to as the ''Warm Springs Tribe'') and dated April 23, 2003, and such further agreements as are necessary between the Secretary of Agriculture and the Warm Springs Tribe to carry out the purposes of this section.

(b) PRIORITY USE.—Members of Indian tribes with treaty-reserved gathering rights on lands encompassed by Mount Hood National Forest shall have exclusive rights to gather first foods in the priority-use areas established pursuant to subsection (a).

(c) APPLICABLE LAW.—In considering and selecting National Forest System land for inclusion in a priority-use area under subsection (a), the Secretary of Agriculture shall comply with the land and resource management plan for Mount Hood National Forest and applicable laws.

(d) DEFINITION.—In this section, the term ''first foods'' means roots, berries, and plants on National Forest System land in Mount Hood National Forest that have been gathered for traditional and cultural purposes by members of Indian tribes with treaty-reserved gathering rights on lands encompassed by Mount Hood National Forest.

SEC. 803. FOREST SERVICE COORDINATION WITH STATE AND LOCAL GOVERNMENTS.

Congress encourages the Secretary of Agriculture to cooperate with the State, local communities, counties, and Indian tribes in the vicinity of Mount Hood National Forest, and the heads of other Federal agencies to identify common ground, coordinate planning efforts around the national forest, and make the Federal Government a better partner in building cooperative and lasting solutions for management of Mount Hood National Forest and non-Federal land in the vicinity of the national forest.

SEC. 804. SAVINGS PROVISIONS REGARDING RELATIONS WITH INDIAN TRIBES.

(a) TREATY RIGHTS.—Nothing in this Act is intended to alter, modify, enlarge, diminish, or extinguish the treaty rights of any Indian tribe, including the off-reservation reserved rights established by the Treaty of June 25, 1855, with the Tribes and Bands of Middle Oregon (12 Stat. 963). Section 702 is consistent with and intended to implement the gathering rights reserved by such treaty.

(b) TRIBAL LANDS.—Nothing in this Act is intended to affect lands held in trust by the Secretary of the Interior for Indian tribes or individual members of Indian tribes or other lands acquired by the Army Corps of Engineers and administered by the Secretary of the Interior for the benefit of Indian tribes and individual members of Indian tribes.

(c) HUNTING AND FISHING.—Nothing in this Act is intended to affect the laws, rules, and regulations pertaining to hunting and fishing under existing State and Federal laws and Indian treaties.

SEC. 805. IMPROVED NATURAL DISASTER PREPAREDNESS.

(a) IMPOSITION OF STANDARDS.—New development occurring on land conveyed by the Secretary of Agriculture under title V or undertaken or otherwise permitted by the Secretary of Agriculture on National Forest System land in Mount Hood National Forest after the date of the enactment of this Act shall be constructed or altered in compliance with 1 of the nationally recognized model building codes or wildland-urban interface codes and with other applicable nationally recognized codes.

(b) INCLUSION OF STANDARDS IN LAND CONVEYANCES.—In the case of each of the land conveyances described in title V, the Secretary shall impose the requirements of subsection (a) as a condition on the conveyance of the Federal land under the conveyance.

(c) EFFECT ON STATE AND LOCAL LAW.—To the maximum extent feasible, the codes imposed pursuant to subsection (a) shall be consistent with the nationally recognized codes adopted by the State or political subdivisions of the State. This section shall not be construed to limit the power of the State or a political subdivision of the State to implement or enforce any law, rule, regulation, or standard concerning fire prevention and control.

(d) ENFORCEMENT.—The codes imposed pursuant to subsection (a) may be enforced by the same entities otherwise enforcing building codes regarding new development occurring on land conveyed by the Secretary of Agriculture under title V.

TITLE IX—RECREATION

SEC. 901. FINDINGS AND PURPOSE.

The purpose of this title is to recognize and support recreation as a dynamic social and economic component of the legacy and future of the Mount Hood National Forest.

SEC. 902. RETENTION OF MOUNT HOOD NATIONAL FOREST LAND USE FEES FROM SPECIAL USE AUTHORIZATIONS.

(a) SPECIAL ACCOUNT.—The Secretary of the Treasury shall establish a special account in the Treasury for Mount Hood National Forest.

(b) DEPOSITS.—Except as provided in section 7 of the Act of April 24, 1950 (commonly known as the Granger-Thye Act; 16 U.S.C. 580d), the National Forest Organizational Camp Fee Improvement Act of 2003 (title V of division F of Public Law 108–107; 16 U.S.C. 6231 et seq.), Public Law 106–206 (commonly known as the Commercial Filming Act; 16 U.S.C. 460l–d), and the Federal Lands Recreation Enhancement Act (title VIII of division J of Public Law 108–477; 16 U.S.C. 6801 et seq.), all land use fees received after the date which is 6 months after the date of enactment of this Act from special use authorizations, such as recreation residences, resorts, winter recreation resorts, communication uses, and linear rights-of-way, and all other special use types issued with regard to Mount Hood National Forest shall be deposited in the special account established under subsection (a).

(c) AVAILABILITY.—Subject to subsection (d), amounts in the special account established under subsection (a) shall remain available, without further appropriation and until expended, for expenditure as provided in section 903. Upon request of the Secretary of Agriculture, the Secretary of the Treasury shall transfer to the Secretary of Agriculture from the special account such funds as the Secretary of Agriculture may request. The Secretary shall accept and use the funds in accordance with section 903.

(d) TERMINATION OF SPECIAL ACCOUNT.—The special account required by subsection (a) shall terminate at the end of the 10-year period beginning on the date of enactment of this Act. Any amounts remaining in the special account at the end of such period shall be transferred to the general fund of the Treasury.

SEC. 903. USE OF FUNDS IN SPECIAL ACCOUNT TO SUPPORT RECREATION.

(a) AUTHORIZED USES.—The Secretary of Agriculture shall use funds received from the special account under section 902(c) for the following purposes related to Mount Hood National Forest:

(1) Installation, repair, maintenance, and facility enhancement related directly to visitor enjoyment, visitor access, and health and safety, such as—

(A) the improvement and maintenance of trails, including trails used for hiking, biking, snowmobiling, horseback riding, cross-country skiing, and off-highway vehicles;

(B) water system improvements; and

(C) personal sanitation facilities improvements.

(2) Interpretive programs, visitor information, visitor services, visitor needs assessments, mapping, signage, Leave-No-Trace materials, and wilderness rangers.

(3) Habitat restoration directly related to recreation.

(4) Cooperative environmental restoration projects with non-Federal partnership groups and associations, including groups and associations that work with youth.

(5) Law enforcement and rescue and recovery efforts related to public use and recreation, such as law enforcement at recreation events, search and rescue operations, illegal recreation activities investigations, and enforcement.

(6) Improving administration of special use authorizations.

(7) Preparation of documents required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) in connection with the improvement or development of recreational opportunities.

(8) Other projects or partnerships recommended by the Mount Hood National Forest Recreation Working Group established by section 905.

(b) ALLOCATION REQUIREMENTS.—Of the total funds received by the Secretary of Agriculture from the special account under section 902(c) for a fiscal year, the Secretary shall allocate the funds as follows:

(1) 95 percent of the funds to Mount Hood National Forest.

(2) 5 percent of the funds to the Regional Office for the Pacific Northwest Region of the Forest Service to develop needed policy and training to support programs in wilderness areas, special uses, trails, developed and dispersed recreation, and interpretation related to Mount Hood National Forest.

SEC. 904. ANNUAL REPORTING REQUIREMENT.

The Secretary of Agriculture shall submit to Congress an annual report specifying—

(1) the total funds received by the Secretary from the special account under section 902(c) for the preceding fiscal year;

(2) how the funds were allocated and expended; and

(3) the results from such expenditures.

SEC. 905. MOUNT HOOD NATIONAL FOREST RECREATIONAL WORKING GROUP.

(a) ESTABLISHMENT AND PURPOSE.—The Secretary of Agriculture shall establish the Mount Hood National Forest Recreational Working Group for the purpose of providing advice and recommendations to the Forest Service on planning and implementing recreation enhancements in Mount Hood National Forest, including advice and recommendations regarding how the funds in the special account established under section 902 should be requested and expended.

(b) DUTIES.—The Working Group shall—

(1) review projects proposed by the Secretary for Mount Hood National Forest under section 903(a);

(2) propose projects under section 903(a) to the Secretary;

(3) recommend the amount of funds from the special account established under section 902 to be used to fund projects under section 903; and

(4) provide opportunities for citizens, organizations, Indian tribes, the Forest Service, and other interested parties to participate openly and meaningfully, beginning at the early stages of the development of projects under section 903(a).

(c) APPOINTMENT.—

(1) APPOINTMENT AND TERM.—The Regional Forester, acting on behalf of the Secretary of Agriculture, shall appoint the members of the Working Group for a term of 3 years beginning on the date of appointment. A member may be reappointed to subsequent 3-year terms.

(2) INITIAL APPOINTMENT.—The Regional Forester shall make initial appointments to the Working Group not later than 180 days after the date of enactment of this Act.

(3) VACANCIES.—The Regional Forester shall make appointments to fill vacancies on the Working Group as soon as practicable after the vacancy has occurred.

(4) COMPENSATION.—Members of the Working Group shall not receive any compensation for their service on the Working Group.

(5) NOMINATIONS.—The State and county governments for each county directly adjacent to or containing any portion of Mount Hood National Forest may submit a nomination to the Regional Forester for each activity or interest group category described in subsection (d).

(6) BROAD AND BALANCED REPRESENTATION.—In appointing the members of the Working Group, the Regional Forester shall provide for a balanced and broad representation from the recreation community.

(d) COMPOSITION OF WORKING GROUP.—The Working Group shall be composed of 15 members, selected so that the following activities and interest groups are represented:

(1) Summer non-mechanized recreation, such as hiking.

(2) Winter non-motorized recreation, such as snowshoeing and backcountry skiing.

(3) Mountain biking.

(4) Hunting and fishing.

(5) Summer motorized recreation, such as off-highway vehicle use.

(6) Local environmental groups.

(7) Winter motorized recreation, such as snowmobiling.

(8) Permitted ski areas.

(9) Forest products industry.

(10) Affected Indian tribes.

(11) Local holder of a recreation residence permit.

(12) Local government interests, such as a county commissioner or city mayor in an elected position representing a county or city directly adjacent or containing any portion of Mount Hood National Forest.

(13) A resident of Government Camp.

(14) The State.

(15) Operators of campground facilities open to the general public.

(e) CHAIRPERSON.—The chairperson of the Working Group shall be selected by a majority of the Working Group.

(f) OTHER WORKING GROUP AUTHORITIES AND REQUIREMENTS.—

(1) STAFF ASSISTANCE.—The Secretary of Agriculture shall provide staff assistance to the Working Group from Federal employees under the jurisdiction of the Secretary.

(2) MEETINGS.—All meetings of the Working Group shall be announced at least 1 week in advance in a local newspaper of record and shall be open to the public.

(3) RECORDS.—The Working Group shall maintain records of the meetings of the Working Group and make the records available for public inspection.

(g) LIMITATION ON ADMINISTRATIVE ASSISTANCE.—Not more than 5 percent of the funds allocated under section 903(b) to Mount Hood National Forest for a fiscal year may be used to provide administrative assistance to the Working Group during that fiscal year.

(h) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Working Group.

(i) TERMINATION OF WORKING GROUP.—The Working Group shall terminate at the end of the 10-year period beginning on the date of enactment of this Act.

SEC. 906. CONSIDERATION OF CONVERSION OF FOREST ROADS TO RECREATIONAL USES.

(a) EVALUATION OF CURRENTLY CLOSED ROADS.—

(1) CONSIDERATION FOR RECREATIONAL USE.—The Secretary of Agriculture may make a determination regarding whether the Forest Service roads in Mount Hood National Forest that were selected before the date of enactment of this Act for closure and decommissioning, but have not yet been decommissioned, should be converted to recreational

uses to enhance recreational opportunities in the national forest, such as conversion to single-track trails for mountain bikes and trails for snowmobiling, off-road vehicle use, horseback riding, hiking, cross-country skiing, and other recreational uses.

(2) CONSIDERATION OF ENVIRONMENTAL AND ECONOMIC IMPACTS.—In evaluating the feasibility and suitability of converting Forest Service roads under this subsection to recreational uses, and the types of recreational uses to be authorized, the Secretary shall take into account the environmental and economic impacts of implementing the conversion and of the resulting recreational uses.

(3) PUBLIC PROCESS.—The consideration and selection of Forest Service roads under this subsection for conversion to recreational uses, and the types of recreational uses to be authorized, shall be a public process, including consultation by the Secretary of Agriculture with the Mount Hood National Forest Recreational Working Group.

(b) FUTURE CLOSURE CONSIDERATIONS.—Whenever the Secretary of Agriculture considers a Forest Service road in Mount Hood National Forest for possible closure and decommissioning after the date of enactment of this Act, the Secretary shall include, as an alternative to decommissioning the road, consideration of converting the road to recreational uses to enhance recreational opportunities in the Mount Hood National Forest.

SEC. 907. IMPROVED TRAIL ACCESS FOR PERSONS WITH DISABILITIES.

(a) CONSTRUCTION OF TRAIL.—The Secretary of Agriculture may enter into a contract with a partner organization or other person to design and construct a trail at a location selected by the Secretary in Mount Hood National Forest suitable for use by persons with disabilities.

(b) PUBLIC PROCESS.—The selection of the trail location under subsection (a) and the preparation of the design of the trail shall be a public process, including consultation by the Secretary of Agriculture with the Mount Hood National Forest Recreational Working Group.

(c) FUNDING.—The Secretary of Agriculture may use funds in the special account established under section 902 to carry out this section.

TITLE X—AUTHORIZATION OF APPROPRIATIONS

SEC. 1001. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

By Mr. MENENDEZ (for himself, Mr. ENSIGN, and Mr. LAUTENBERG):

S. 3856. A bill to authorize Congress to award a gold medal to Jerry Lewis, in recognition of his outstanding service to the Nation; to the Committee on Banking, Housing, and Urban Affairs.

Mr. MENENDEZ. Mr. President, I rise today with my colleagues Senator ENSIGN and Senator LAUTENBERG to introduce legislation to award Jerry Lewis with the Congressional Gold Medal of Honor. This well-deserved recognition pays tribute to the many outstanding and enduring contributions Jerry Lewis has made throughout his career.

Born in 1926 in Newark, NJ, this gifted comedian has been a fixture in the entertainment community for more than five decades keeping spirits high and Americans laughing during some of the most turbulent periods in our history—World War II, the Cold War, and the assassinations of President John F. Kennedy and Dr. Martin Luther King Jr. But in addition to his comic persona, Lewis is also an active champion of charitable causes with an undying commitment to finding a cure for muscular dystrophy. Mr. Lewis has served for five decades as the National Chairman of the Muscular Dystrophy Association, which is an incredible organization dedicated to making a difference in the lives of countless families dealing with the challenges associated with muscular dystrophy. Forty years ago, he began the ''Jerry Lewis MDA Labor Day Telethon,'' an annual television program that benefits children and adults affected by muscular dystrophy and related neuromuscular diseases. This year, Mr. Lewis achieved an amazing accomplishment. His annual Labor Day telethon raised a record $61 million to fight this disease.

In September of 1976, this great body adopted a resolution expressing their appreciation of Jerry Lewis' philanthropic endeavors, in particular, his fight to find a cure for muscular dystrophy. Today, I believe a fitting accolade to this larger than life individual would be for him to join the ranks of distinguished Congressional Gold Medal recipients. I urge my colleagues to join me in congratulating Jerry Lewis, supporting the fight to end muscular dystrophy, and co-sponsoring this important legislation.

By Mr. SMITH (for himself and Mrs. LINCOLN):

S. 3857. A bill to amend the Internal Revenue Code of 1986 to provide incentives to small businesses; to the Committee on Finance.

Mr. SMITH. Mr. President, I rise today to introduce the ''Bringing Opportunity to Our Small Business Taxpayers Act,'' or ''BOOST Act.'' I am pleased to be joined by my colleague Senator Blanche Lincoln of Arkansas.

Small businesses represent over 99 percent of all employers and create approximately three-fourths of the new jobs added to the economy. The approximately 23 million small businesses truly are the backbone of our economy.

However, this important engine of job creation and growth for our economy is subjected to unnecessary and unfair financial burdens inflicted by Federal tax policy and other laws. My bill will extend expensing provisions, eliminate tax inequities and encourage retirement plans for small businesses, as well as provide a health insurance tax deduction for the self-employed.

Current law allows small businesses to expense up to $100,000 of the cost of property per year and invest up to $400,000 per year and still be eligible for expensing. My bill will make these expensing provisions, which are set to expire in 2009, permanent.

My legislation also addresses inequitable provisions in the law that affect the approximately 3.2 million S-corporations in the United States. Today, businesses that convert from C-corporation to S-corporation status are penalized for a period of ten years if they sell assets that were held prior to the conversion, even if the proceeds are driven right back into the business. By reducing the holding period subjected to built-in gains tax from ten years to seven years, S-corporations will be able to unload unneeded assets and improve cash flow and create more jobs.

Known as the ''sting tax,'' S-corporations that have converted from C-corporation status are taxed at the maximum corporate tax rate for passive investment income in excess of 25 percent of their gross receipts. This law is burdensome and unfair and needs to be revised. My bill will decrease the amount of income subjected to the tax. The adjustment will relieve S-corporations from an unnecessary tax burden and level the playing field with C-corporations and LLCs.

Saving for retirement is important for all Americans and access to retirement plans is critical in order to build wealth for an individual's golden years. Unfortunately, high costs and taxes discourage many small businesses from providing retirement plans to their employees. Through tax equity and tax credit measures, my bill encourages small businesses to offer retirement benefits to employees so they will have the necessary tools to prepare for their financial future.

I look forward to working with my colleagues on issues affecting small businesses and urge their support of my 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. 3857

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 ''Bringing Opportunities to Our Small Business Taxpayers Act'' or ''BOOST Act''.

TITLE I—TAX FAIRNESS FOR SMALL BUSINESSES

SEC. 101. PERMANENT EXTENSION OF EXPENSING FOR SMALL BUSINESSES.

(a) DOLLAR LIMITATION.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1986, as amended by the Tax Increase Prevention and Reconciliation Act of 2005, is amended by striking ''$25,000 ($100,000 in the case of taxable years beginning after 2002 and before 2010)'' and inserting ''$100,000''.

(b) REDUCTION IN LIMITATION.—Paragraph (2) of section 179(b) of such Code, as amended by the Tax Increase Prevention and Reconciliation Act of 2005, is amended by striking ''$200,000 ($400,000 in the case of taxable years beginning after 2002 and before 2010)'' and inserting ''$400,000''.

(c) INFLATION ADJUSTMENTS.—Subparagraph (A) of section 179(b)(5) of such Code, as amended by the Tax Increase Prevention and Reconciliation Act of 2005, is amended by striking ''and before 2010''.

(d) ELECTION.—Paragraph (2) of section 179(c) of such Code, as amended by the Tax Increase Prevention and Reconciliation Act of 2005, is amended by striking ''and before 2010''.

(e) COMPUTER SOFTWARE.—Clause (ii) of section 179(d)(1)(A), as amended by the Tax Increase Prevention and Reconciliation Act of 2005, is amended by striking ''and before 2010''.

SEC. 102. MODIFICATION OF CONSTRUCTION CONTRACTS EXCEPTION TO PERCENTAGE OF COMPLETION METHOD OF ACCOUNTING.

(a) IN GENERAL.—Clause (ii) section 460(e)(1)(B) of the Internal Revenue Code of 1986 is amended by striking ''$10,000,000'' and inserting ''$25,000,000''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into after the date of the enactment of this Act.

SEC. 103. MODIFICATION OF LOOK-BACK METHOD FOR CERTAIN CONSTRUCTION CONTRACTS.

(a) IN GENERAL.—Subparagraph (B) of section 460(b)(3) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B) LOOK-BACK METHOD NOT TO APPLY TO CERTAIN CONTRACTS.—Paragraph (1)(B) shall not apply to—

''(i) any construction contract which is—

''(I) entered into by a taxpayer whose average annual gross receipts for the 3 taxable years preceding the taxable year in which such contract is completed do not exceed $25,000,000, and

''(II) completed within 3 years of the contract commencement date, or

''(ii) any other contract—

''(I) the gross price of which (as of the completion of the contract) does not exceed the lesser of $1,000,000 or 1 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the contract was completed, and

''(II) which is completed within 2 years of the contract commencement date.

For purposes of this subparagraph, rules similar to the rules of subsections (e)(2) and (f)(3) shall apply.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

SEC. 104. USE OF CASH METHOD OF ACCOUNTING FOR CERTAIN SMALL BUSINESSES.

(a) IN GENERAL.—Section 446 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(g) USE OF CASH METHOD OF ACCOUNTING BY CERTAIN TAXPAYERS.—

''(1) IN GENERAL.—Notwithstanding section 471 and subject to such regulations as the Secretary may provide, a qualifying small business taxpayer may use the cash receipts and disbursements method of accounting.

''(2) QUALIFYING SMALL BUSINESS TAXPAYER.—For purposes of this subsection, the term 'qualifying small business taxpayer' means a taxpayer which—

''(A) meets the gross receipts test under section 448(c) (determined by substituting '$10,000,000' for '$5,000,000' each place it appears therein),

''(B) is not prohibited from using the cash receipts and disbursement method of accounting under section 448, and

''(C) meets the requirements described in section 4.01 of Revenue Procedure 2002-28.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

TITLE II—S CORPORATION PARITY

SEC. 201. REDUCED RECOGNITION PERIOD FOR BUILT-IN GAINS.

(a) IN GENERAL.—Paragraph (7) of section 1374(d) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended to read as follows:

''(7) RECOGNITION PERIOD.—The term 'recognition period' means the 7-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation. For purposes of applying this section to any amount includible in income by reason of distributions to shareholders pursuant to section 593(e), the preceding sentence shall be applied without regard to the duration of the recognition period in effect on the date of such distribution.''.

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendment made by this section shall apply to any recognition period in effect on or after the date of the enactment of this Act.

(2) SPECIAL APPLICATION TO EXISTING PERIODS EXCEEDING 7 YEARS.—Any recognition period in effect on the date of the enactment of this Act, the length of which is greater than 7 years, shall end on such date.

SEC. 202. MODIFICATION TO S CORPORATION PASSIVE INVESTMENT INCOME RULES.

(a) INCREASED PERCENTAGE LIMIT.—Paragraph (2) of section 1375(a) of the Internal Revenue Code of 1986 is amended by striking ''25 percent'' and inserting ''60 percent''.

(b) REPEAL OF EXCESSIVE PASSIVE INVESTMENT INCOME AS A TERMINATION EVENT.—

(1) IN GENERAL.—Section 1362(d) of the Internal Revenue Code of 1986 is amended by striking paragraph (3).

(2) CONFORMING AMENDMENT.—Subsection (b) of section 1375 of such Code is amended by striking paragraphs (3) and (4) and inserting the following new paragraph:

''(3) PASSIVE INVESTMENT INCOME DEFINED.—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'passive investment income' means gross receipts derived from royalties, rents, dividends, interest, and annuities.

''(B) EXCEPTION FOR INTEREST ON NOTES FROM SALES OF INVENTORY.—The term 'passive investment income' shall not include interest on any obligation acquired in the ordinary course of the corporation's trade or business from its sale of property described in section 1221(a)(1).

''(C) TREATMENT OF CERTAIN LENDING OR FINANCE COMPANIES.—If the S corporation meets the requirements of section 542(c)(6) for the taxable year, the term 'passive investment income' shall not include gross receipts for the taxable year which are derived directly from the active and regular conduct of a lending or finance business (as defined in section 542(d)(1)).

''(D) TREATMENT OF CERTAIN DIVIDENDS.—If an S corporation holds stock in a C corporation meeting the requirements of section 1504(a)(2), the term 'passive investment income' shall not include dividends from such C corporation to the extent such dividends are attributable to the earnings and profits of such C corporation derived from the active conduct of a trade or business.

''(E) EXCEPTION FOR BANKS, ETC.—In the case of a bank (as defined in section 581), a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a))), or a financial holding company (within the meaning of section 2(p) of such Act (12 U.S.C. 1841(p))), the term 'passive investment income' shall not include—

''(i) interest income earned by such bank or company, or

''(ii) dividends on assets required to be held by such bank or company, including stock in the Federal Reserve Bank, the Federal Home Loan Bank, or the Federal Agricultural Mortgage Bank or participation certificates issued by a Federal Intermediate Credit Bank.

''(F) COORDINATION WITH SECTION 1374.—The amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meanings as when used in section 1374.''.

(c) OTHER CONFORMING AMENDMENTS.—

(1) Subparagraph (J) of section 26(b)(2) of the Internal Revenue Code of 1986 is amended by striking ''25 percent'' and inserting ''60 percent''.

(2) Clause (i) of section 1042(c)(4)(A) of such Code is amended by striking ''section 1362(d)(3)(C)'' and inserting ''section 1375(b)(3)''.

(3) Subparagraph (B) of section 1362(f)(1) of such Code is amended by striking ''or (3)''.

(4) Clause (i) of section 1375(b)(1)(A) of such Code is amended by striking ''25 percent'' and inserting ''60 percent''.

(5) The heading for section 1375 of such Code is amended by striking ''25 percent'' and inserting ''60 percent''.

(6) The item relating to section 1375 in the table of sections for part III of subchapter S of chapter 1 of such Code is amended by striking ''25 percent'' and inserting ''60 percent''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 203. NONRESIDENT ALIENS ALLOWED TO BE SHAREHOLDERS.

(a) NONRESIDENT ALIENS ALLOWED TO BE SHAREHOLDERS.—

(1) IN GENERAL.—Paragraph (1) of section 1361(b) of the Internal Revenue Code of 1986 (defining small business corporation) is amended—

(A) by adding ''and'' at the end of subparagraph (B),

(B) by striking subparagraph (C), and

(C) by redesignating subparagraph (D) as subparagraph (C).

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (4) and (5)(A) of section 1361(c) of such Code (relating to special rules for applying subsection (b)) are each amended by striking ''subsection (b)(1)(D)'' and inserting ''subsection (b)(1)(C)''.

(B) Clause (i) of section 280G(b)(5)(A) of such Code (relating to general rule for exemption for small business corporations, etc.) is amended by striking ''but without regard to paragraph (1)(C) thereof''.

(b) NONRESIDENT ALIEN SHAREHOLDER TREATED AS ENGAGED IN TRADE OR BUSINESS WITHIN UNITED STATES.—

(1) IN GENERAL.—Section 875 of the Internal Revenue Code of 1986 is amended—

(A) by striking ''and'' at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting '', and'', and

(C) by adding at the end the following new paragraph:

''(3) a nonresident alien individual shall be considered as being engaged in a trade or business within the United States if the S corporation of which such individual is a shareholder is so engaged.''.

(2) PRO RATA SHARE OF S CORPORATION INCOME.—The last sentence of section 1441(b) of such Code (relating to income items) is amended to read as follows: ''In the case of a nonresident alien individual who is a member of a domestic partnership or a shareholder of an S corporation, the items of income referred to in subsection (a) shall be treated as referring to items specified in this subsection included in his distributive share of the income of such partnership or in his

pro rata share of the income of such S corporation.''.

(3) APPLICATION OF WITHHOLDING TAX ON NONRESIDENT ALIEN SHAREHOLDERS.—Section 1446 of such Code (relating to withholding tax on foreign partners' share of effectively connected income) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

''(f) S CORPORATION TREATED AS PARTNERSHIP, ETC.—For purposes of this section—

''(1) an S corporation shall be treated as a partnership,

''(2) the shareholders of such corporation shall be treated as partners of such partnership,

''(3) any reference to section 704 shall be treated as a reference to section 1366, and

''(4) no withholding tax under subsection (a) shall be required in the case of any income realized by such corporation and allocable to a shareholder which is an electing small business trust (as defined in section 1361(e)).''.

(4) CONFORMING AMENDMENTS.—

(A) The heading of section 875 of such Code is amended to read as follows:

''SEC. 875. PARTNERSHIPS; BENEFICIARIES OF ESTATES AND TRUSTS; S CORPORATIONS.''.

(B) The heading of section 1446 of such Code is amended to read as follows:

''SEC. 1446. WITHHOLDING TAX ON FOREIGN PARTNERS' AND S CORPORATION SHAREHOLDERS' SHARE OF EFFECTIVELY CONNECTED INCOME.''.

(5) CLERICAL AMENDMENTS.—

(A) The item relating to section 875 in the table of sections for subpart A of part II of subchapter N of chapter 1 of such Code is amended to read as follows:

''Sec. 875. Partnerships; beneficiaries of estates and trusts; S corporations''.

(B) The item relating to section 1446 in the table of sections for subchapter A of chapter 3 of such Code is amended to read as follows:

''Sec. 1446. Withholding tax on foreign partners' and S corporation shareholders' share of effectively connected income''.

(C) PERMANENT ESTABLISHMENT OF PARTNERS AND S CORPORATION SHAREHOLDERS.—Section 894 of such Code (relating to income affected by treaty) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) PERMANENT ESTABLISHMENT OF PARTNERS AND S CORPORATION SHAREHOLDERS.—If a partnership or S corporation has a permanent establishment in the United States (within the meaning of a treaty to which the United States is a party) at any time during a taxable year of such entity, a nonresident alien individual or foreign corporation which is a partner in such partnership, or a nonresident alien individual who is a shareholder in such S corporation, shall be treated as having a permanent establishment in the United States for purposes of such treaty.''.

(c) APPLICATION OF OTHER WITHHOLDING TAX RULES ON NONRESIDENT ALIEN SHAREHOLDERS.—

(1) SECTION 1441.—Section 1441 of the Internal Revenue Code of 1986 (relating to withholding of tax on nonresident aliens) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) S CORPORATION TREATED AS PARTNERSHIP, ETC.—For purposes of this section—

''(1) an S corporation shall be treated as a partnership,

''(2) the shareholders of such corporation shall be treated as partners of such partnership, and

''(3) no deduction or withholding under subsection (a) shall be required in the case of any item of income realized by such corporation and allocable to a shareholder which is an electing small business trust (as defined in section 1361(e)).''.

(2) SECTION 1445.—Section 1445(e) of such Code (relating to special rules relating to distributions, etc., by corporations, partnerships, trusts, or estates) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

''(6) S CORPORATION TREATED AS PARTNERSHIP, ETC.—For purposes of this section—

''(A) an S corporation shall be treated as a partnership, and

''(B) the shareholders of such corporation shall be treated as partners of such partnership, and

''(C) no deduction or withholding under subsection (a) shall be required in the case of any gain realized by such corporation and allocable to a shareholder which is an electing small business trust (as defined in section 1361(e)).''.

(d) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 1361(c)(2)(A)(i) of the Internal Revenue Code of 1986 is amended by striking ''who is a citizen or resident of the United States''.

(2) Section 1361(d)(3)(B) of such Code is amended by striking ''who is a citizen or resident of the United States''.

(3) Section 1361(e)(2) of such Code is amended by inserting ''(including a nonresident alien)'' after ''person'' the first place it appears.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 204. EXPANSION OF S CORPORATION ELIGIBLE SHAREHOLDERS TO INCLUDE IRAS.

(a) IN GENERAL.—Clause (vi) of section 1361(c)(2)(A) of the Internal Revenue Code of 1986 (relating to certain trusts permitted as shareholders) is amended to read as follows:

''(vi) A trust which constitutes an individual retirement account under section 408(a), including one designated as a Roth IRA under section 408A.''.

(b) SALE OF STOCK IN IRA RELATING TO S CORPORATION ELECTION EXEMPT FROM PROHIBITED TRANSACTION RULES.—Paragraph (16) of section 4975(d) of the Internal Revenue Code of 1986 (relating to exemptions) is amended to read as follows:

''(16) a sale of stock held by a trust which constitutes an individual retirement account under section 408(a) to the individual for whose benefit such account is established if—

''(A) such sale is pursuant to an election under section 1362(a) by the issuer of such stock,

''(B) such sale is for fair market value at the time of sale (as established by an independent appraiser) and the terms of the sale are otherwise at least as favorable to such trust as the terms that would apply on a sale to an unrelated party,

''(C) such trust does not pay any commissions, costs, or other expenses in connection with the sale, and

''(D) the stock is sold in a single transaction for cash not later than 120 days after the S corporation election is made.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

TITLE III—PENSION PLAN INCENTIVES AND PARITY

SEC. 301. CREDIT FOR QUALIFIED PENSION PLAN CONTRIBUTIONS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45N. SMALL EMPLOYER PENSION PLAN CONTRIBUTIONS.

''(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible employer, the small employer pension plan contribution credit determined under this section for any taxable year is an amount equal to 50 percent of the amount which would (but for subsection (f)(1)) be allowed as a deduction under section 404 for such taxable year for qualified employer contributions made to any qualified retirement plan on behalf of any employee who is not a highly compensated employee.

''(b) CREDIT LIMITED TO 3 YEARS.—The credit allowable by this section shall be allowed only with respect to the period of 3 taxable years beginning with the first taxable year for which a credit is allowable with respect to a plan under this section.

''(c) QUALIFIED EMPLOYER CONTRIBUTION.—For purposes of this section—

''(1) DEFINED CONTRIBUTION PLANS.—In the case of a defined contribution plan, the term 'qualified employer contribution' means the amount of nonelective and matching contributions to the plan made by the employer on behalf of any employee who is not a highly compensated employee to the extent such amount does not exceed 3 percent of such employee's compensation from the employer for the year.

''(2) DEFINED BENEFIT PLANS.—In the case of a defined benefit plan, the term 'qualified employer contribution' means the amount of employer contributions to the plan made on behalf of any employee who is not a highly compensated employee to the extent that the accrued benefit of such employee derived from employer contributions for the year does not exceed the equivalent (as determined under regulations prescribed by the Secretary and without regard to contributions and benefits under the Social Security Act) of 3 percent of such employee's compensation from the employer for the year.

''(d) QUALIFIED RETIREMENT PLAN.—

''(1) IN GENERAL.—The term 'qualified retirement plan' means any plan described in section 401(a) which includes a trust exempt from tax under section 501(a) if the plan meets—

''(A) the contribution requirements of paragraph (2),

''(B) the vesting requirements of paragraph (3), and

''(C) the distribution requirements of paragraph (4).

''(2) CONTRIBUTION REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if, under the plan—

''(i) the employer is required to make nonelective contributions of at least 1 percent of compensation (or the equivalent thereof in the case of a defined benefit plan) for each employee who is not a highly compensated employee who is eligible to participate in the plan, and

''(ii) allocations of nonelective employer contributions, in the case of a defined contribution plan, are either in equal dollar amounts for all employees covered by the plan or bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan (and an equivalent requirement is met with respect to a defined benefit plan).

''(B) COMPENSATION LIMITATION.—The compensation taken into account under subparagraph (A) for any year shall not exceed the limitation in effect for such year under section 401(a)(17).

''(3) VESTING REQUIREMENTS.—The requirements of this paragraph are met if the plan satisfies the requirements of either of the following subparagraphs:

''(A) 3-YEAR VESTING.—A plan satisfies the requirements of this subparagraph if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

''(B) 5-YEAR GRADED VESTING.—A plan satisfies the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

''Years of service:	The nonforfeitable percentage is:
1	20
2	40
3	60
4	80
5	100.

''(4) DISTRIBUTION REQUIREMENTS.—In the case of a profit-sharing or stock bonus plan, the requirements of this paragraph are met if, under the plan, qualified employer contributions are distributable only as provided in section 401(k)(2)(B).

''(e) OTHER DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE EMPLOYER.—

''(A) IN GENERAL.—The term 'eligible employer' means, with respect to any year, an employer which has no more than 25 employees who received at least $5,000 of compensation from the employer for the preceding year.

''(B) REQUIREMENT FOR NEW QUALIFIED EMPLOYER PLANS.—Such term shall not include an employer if, during the 3-taxable year period immediately preceding the 1st taxable year for which the credit under this section is otherwise allowable for a qualified employer plan of the employer, the employer or any member of any controlled group including the employer (or any predecessor of either) established or maintained a qualified employer plan with respect to which contributions were made, or benefits were accrued, for substantially the same employees as are in the qualified employer plan.

''(2) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' has the meaning given such term by section 414(q) (determined without regard to section 414(q)(1)(B)(ii)).

''(f) SPECIAL RULES.—

''(1) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed for that portion of the qualified employer contributions paid or incurred for the taxable year which is equal to the credit determined under subsection (a).

''(2) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year.

''(3) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person. All eligible employer plans shall be treated as 1 eligible employer plan.

''(g) RECAPTURE OF CREDIT ON FORFEITED CONTRIBUTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if any accrued benefit which is forfeitable by reason of subsection (d)(3) is forfeited, the employer's tax imposed by this chapter for the taxable year in which the forfeiture occurs shall be increased by 35 percent of the employer contributions from which such benefit is derived to the extent such contributions were taken into account in determining the credit under this section.

''(2) REALLOCATED CONTRIBUTIONS.—Paragraph (1) shall not apply to any contribution which is reallocated by the employer under the plan to employees who are not highly compensated employees.''.

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 (defining current year business credit) is amended by striking ''plus'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting '', plus'', and by adding at the end the following new paragraph:

''(31) in the case of an eligible employer (as defined in section 45E(e)), the small employer pension plan contribution credit determined under section 45M(a).''

(c) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 196 of the Internal Revenue Code of 1986 is amended by striking ''and'' at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting '', and'', and by adding at the end the following new paragraph:

''(14) the small employer pension plan contribution credit determined under section 45E(a).''

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 45M. Small employer pension plan contributions''

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions paid or incurred in taxable years beginning after December 31, 2006.

SEC. 302. DEDUCTION FOR PENSION CONTRIBUTIONS ALLOWED IN COMPUTING NET EARNINGS FROM SELF-EMPLOYMENT.

(a) IN GENERAL.—Section 1402(a) of the Internal Revenue Code of 1986 (defining net earnings from self-employment) is amended by striking ''and'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', and'', and by inserting after paragraph (16) the following new paragraph:

''(17) any deduction allowed under section 404 by reason of section 404(a)(8)(C) shall be allowed, except that the amount of such deduction shall be determined without regard to this paragraph.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

TITLE IV—HEALTH INSURANCE COSTS PARITY

SEC. 401. DEDUCTION FOR HEALTH INSURANCE COSTS ALLOWED IN COMPUTING NET EARNINGS FROM SELF-EMPLOYMENT.

(a) IN GENERAL.—Section 1402(a) of the Internal Revenue Code of 1986 (defining net earnings from self-employment), as amended by section 302, is amended by striking ''and'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', and'', and by inserting after paragraph (17) the following new paragraph:

''(18) any deduction allowed under section 162(l) shall be allowed.''.

(b) CONFORMING AMENDMENT.—Section 162(l) of the Internal Revenue Code of 1986 (relating to special rule for health insurance costs of self-employed individuals) is amended by striking paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

By Mr. FRIST (for himself, Mr. MCCONNELL, and Mr. INHOFE):

S. 3861. A bill to facilitate bringing to justice terrorists and other unlawful enemy combatants through full and fair trials by military commissions, and for other purposes; read the first time.

Mr. FRIST. In 5 days we will observe the fifth anniversary of the most vicious act of terror ever perpetrated on American soil. Nearly 3,000 fellow Americans lost their lives on September 11.

We have worked tirelessly to make America safer from terrorist attacks and to honor the sacrifices of the victims of 9/11 and their families. But the fact remains that we still have more to do.

That is why Senator MCCONNELL and I are proud to introduce legislation on behalf of the President to bring terrorists to justice. The bill authorizes military commissions to prosecute terrorist detainees and addresses the concerns raised by the Supreme Court in the Hamdan decision.

Today, we are a nation at war. Our enemies are terrorists who do not value democracy, freedom, or innocent life.

When we capture them on the battlefield, we have a right to prosecute them for war crimes. And we must establish a system that protects our national security while ensuring a full and fair trial for the detainees.

That is why it is imperative that we quickly move forward on this bill. By formally establishing military commissions to prosecute terrorist detainees, we are creating another tool in the war on terror—and providing a measure of justice to the victims of 9/11.

Under these commissions, terrorist detainees will get a fair trial. They will be tried before impartial military judges. They will have the right to be presumed innocent until proven guilty, the right to counsel, the right to present exculpatory evidence, the right to exclude evidence obtained through torture or coercion, and the right to appeal.

However, these procedures also recognize that because we are at war, we should not try terrorist detainees in the same way as our uniformed military or common civilian criminals. The procedures take great care to protect our national security interests by preventing disclosure of classified information to the detainees themselves.

I urge my colleagues to review this bill carefully. I will consult Chairman Warner and the Armed Services Committee members to ensure the Senate moves expeditiously to meet its responsibility to the American people.

I hope we can move forward in a spirit of bipartisanship even though we are in the middle of a partisan election season. And I hope we can remain focused on the goal of making America safer and continuing to honor the victims of 9/11.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

(The bill will be printed in a future edition of the RECORD.)

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 557—DESIGNATING SEPTEMBER 10 THROUGH SEPTEMBER 16, 2006, AS ''NATIONAL POLYCYSTIC KIDNEY DISEASE AWARENESS WEEK'' AND 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. DEWINE submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 557

Whereas polycystic kidney disease (known as ''PKD'') is the most prevalent life-threatening genetic disease 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 called 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 cure, is 1 of the 4 leading causes of kidney failure in the United States;

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 causes 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 (7 times the national average) 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 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 third week of September and such a week would be an appropriate time to recognize National Polycystic Kidney Disease Week: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 10 through September 16, 2006, as ''National Polycystic Kidney Disease Awareness Week'';

(2) supports the goals and ideals of a National Polycystic Kidney Disease Awareness 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 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.

SENATE RESOLUTION 558—HONORING THE LIVES AND MEMORY OF THE VICTIMS OF THE CRASH OF COMAIR FLIGHT 5191, AND EXTENDING THE MOST SINCERE CONDOLENCES OF THE CITIZENS OF THE UNITED STATES TO THE FAMILIES AND FRIENDS OF THOSE INDIVIDUALS

Mr. MCCONNELL (for himself and Mr. BUNNING) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 558

Whereas, on August 27, 2006, the Commonwealth of Kentucky suffered a tragic loss when Comair Flight 5191 crashed shortly after takeoff at Blue Grass Airport in Lexington, Kentucky;

Whereas 49 individuals perished in that tragic accident;

Whereas that event brought grief not only into the communities of Kentucky, such as Lexington, Georgetown, Somerset, London, Harrodsburg, and Richmond, but also to homes throughout the United States, Canada, and Japan; and

Whereas local volunteers and government officials responded quickly to rescue a survivor, James Polehinke, investigate the accident, and provide relief and recovery to the families and friends of the victims: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors the victims of the crash of Comair Flight 5191, including—

Rebecca Adams;
Christina Anderson;
Lyle Anderson;
Arnold Andrews;
Anne Marie Bailey;
Bobbie Benton;
Jesse Clark Benton;
Carole Bizzack;
George Brunacini;
Brian Byrd;
Jeffrey Clay;
Diane Combs;
Homer Combs;
Fenton Dawson;
Thomas Fahey;
Mike Finley;
Clarence Wayne (''C.W.'') Fortney II;
Wade Bartley (''Bart'') Frederick;
Hollie Gilbert;
Erik Harris;
Kelly Heyer;
Jonathan Walton Hooker;
Scarlett Parsley Hooker;
Priscilla Johnson;
Nahoko Kono;
Tetsuya Kono;
Charles Lykins;
Dan Mallory;
Steve McElravy;
Lynda McKee;
Bobby Meaux;
Kaye Craig Morris;
Leslie Morris II;
Cecile Moscoe;
Judy Ann Rains;
Michael N. Ryan;
Mary Jane Silas;
Pat Smith;
Timothy K. Snoddy;
Marcie Thomason;
Greg Threet;
Randy Towles;
Larry Turner;
Victoria Washington;
Jeff Williams;
Paige Winters;
Bryan Woodward;
JoAnn Wright; and
Betty Young;

(2) conveys the most sincere condolences of the citizens of the United States to the families, friends, and communities of the victims;

(3) recognizes the rescue and safety workers, medical personnel, and Federal, State, and local officials who—

(A) responded to the tragedy; and

(B) are working—

(i) to uncover the causes of that tragedy; and

(ii) to prevent future accidents; and

(4) commends the volunteers, counselors, and clergy who provided support to families during the difficult days that followed August 27, 2006.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4890. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table.

SA 4891. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4892. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4893. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4894. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4895. Ms. MIKULSKI (for herself, Mr. SARBANES, and Mr. DAYTON) proposed an amendment to the bill H.R. 5631, supra.

SA 4896. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4897. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4898. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4899. Mr. VITTER (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4900. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4901. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4902. Mr. CONRAD (for himself, Mr. DORGAN, and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4903. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 5631, supra; which was ordered to lie on the table.

SA 4904. Mr. REID (for himself, Mr. DURBIN, Mrs. BOXER, Mrs. FEINSTEIN, Mr. BAYH, Mr. KENNEDY, Mr. LAUTENBERG, Mr. CARPER, Ms. MIKULSKI, Mr. KERRY, Mr. SCHUMER, Mr. LEVIN, Mr. HARKIN, Mrs. CLINTON, Mr. ROCKEFELLER, Mr. OBAMA, Mr. DORGAN, Mr. MENENDEZ, Ms. STABENOW, Mr. DAYTON, and Mr. DODD) proposed an amendment to the bill H.R. 5631, supra.

SA 4905. Mr. STEVENS (for Mr. LEVIN) proposed an amendment to the bill H.R. 2066, to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes.

SA 4906. Mr. ROCKEFELLER proposed an amendment to the bill H .R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes.

TEXT OF AMENDMENTS

SA 4890. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2007 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) JANUARY 1, 2007, INCREASE IN BASIC PAY.—Effective on January 1, 2007, the rates of monthly basic pay for members of the uniformed services are increased by 2.7 percent.

SA 4891. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TRANSPARENCY IN FEDERAL FUNDING.

(a) SHORT TITLE.—This section may be cited as the ''Transparency in Federal Funding Act of 2006''.

(b) FINDINGS.—Congress finds that—

(1) our system of Government has checks and balances, and it has come to the attention of Congress that executive branch departments and their component agencies occasionally retain a portion of funds appropriated by Congress to non-Federal entities;

(2) Members of Congress are required to provide justification for earmarks and, likewise, the executive branch should provide justification as to why earmarked funds are used for another purpose;

(3) our constituents are entitled to know, in advance, whether they will receive the full amount of an appropriation, so they can plan accordingly;

(4) the practice of skimming results in increased and unintentional spending in the Federal bureaucracy;

(5) the practice of widespread and unaccountable skimming is likely to result in artificially inflated appropriations requests in order to account for this skimming;

(6) full transparency with respect to skimming will lead to better decision-making by Members and staff when allocating constituent request amongst departments, agencies, and accounts; and

(7) accountability and transparency are vitally important to the legislative process.

(c) EARMARK.—In this section—

(1) the term ''assistance'' means budget authority, contract authority, loan authority, and other expenditures; and

(2) the term ''earmark'' means a provision that specifies the identity of a non-Federal entity to receive assistance and the amount of the assistance.

(d) DISCLOSURE AND REPORTING.—

(1) IN GENERAL.—Not later than January 31 of each year, each cabinet-level department and independent agency that administers a program for which funds are provided by this Act that contained an earmark in the preceding year shall report to Congress disclosing whether any portion of the earmarked funds in the preceding year were retained by the agency or any other organization tasked with distributing them.

(2) CONTENTS.—A report required by this subsection shall include an accounting of all funds retained including—

(A) how much money and the percentage retained;

(B) the purpose for which these retained funds were used;

(C) a justification for the purpose for which these funds were spent; and

(D) the authority by which the agency retained the funds.

SA 4892. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', up to $1,000,000 may be available for the Nanotechnology Program (Pe #0601103).

SA 4893. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 206, strike lines 10 through 16.

SA 4894. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title III under the heading ''OTHER PROCUREMENT, ARMY'', up to $1,500,000 may be available for a Convoy Training Simulator for the Montana Army National Guard.

SA 4895. Ms. MIKULSKI (for herself, Mr. SARBANES, and Mr. DAYTON) proposed an amendment to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

On page 218, between lines 6 and 7, insert the following:

SEC. 8109. None of the funds appropriated or otherwise made available by this Act may be used to enter into or carry out a contract for the performance by a contractor of any base operation support service at Walter Reed Army Medical Hospital pursuant to a private-public competition conducted under Office of Management and Budget Circular A–76 that was initiated on June 13, 2000, and has the solicitation number DADA 10–03–R–0001.

SA 4896. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under

the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY'', up to $1,000,000 may be available for legged mobility robotic research.

SA 4897. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) ADDITIONAL AMOUNT FOR DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.—The amount appropriated by title VI under the heading ''DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES'' is hereby increased by $700,000,000, with the amount of the increase designated as an emergency requirement pursuant to section 402 of S. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

(b) AVAILABILITY.—Of the amount appropriated or otherwise made available by title VI under the heading ''DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES'', as increased by subsection (a), up to an additional $700,000,000 may be available to combat the growth of poppies in Afghanistan, to eliminate the production and trade of opium and heroin, and to prevent terrorists from using the proceeds for terrorist activities in Afghanistan, Iraq, and elsewhere.

(c) SUPPLEMENT NOT SUPPLANT.—The amount available under subsection (b) for the purpose set forth in that subsection is in addition to any other amounts available in this Act for that purpose.

SA 4898. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. (a) ADDITIONAL AMOUNT FOR DEPARTMENT OF DEFENSE.—The amount appropriated by this Act for the Department of Defense is hereby increased by $706,956,000, with the amount of the increase designated as an emergency requirement pursuant to section 402 of S. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.

(b) TRANSFER TO DEPARTMENT OF HOMELAND SECURITY.—The Secretary of Defense shall transfer the amount appropriated by the Act by reason of the increase made by subsection (a) to the Secretary of Homeland Security, who shall deposit the amount so transferred to the Research, Development, Acquisition and Operations subaccount of the Science and Technology account of the Department of Homeland Security. The amount so transferred shall be merged with amounts in that subaccount, and shall be available for the same purposes, and subject to the same conditions and limitations, as the amounts with which merged.

(c) AVAILABILITY OF CERTAIN FUNDS.—Of the amount transferred under subsection (b), not less than $100,000,000 shall be available for purposes of explosives detection and countermeasures.

SA 4899. Mr. VITTER (for himself and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SECTION .

''None of the funds appropriated in this Act, or any other Act, may be used for the modernization of Naval and Marine Corps manpower, personnel, and pay information technology systems, including legacy systems, until the Department of Defense and the Department of the Navy have certified and validated that such systems selected by the Department of Defense and Department of the Navy for modernization are certified and validated by the General Accounting Office, with notification to the Congressional defense committees, that the funding baseline and milestone schedules for each of these systems covered by such a certification and validation shall include, at a minimum, the following with respect to each system: (1) business process reengineering; (2) an analysis of alternatives, including a detailed cost comparison versus the use of the Defense Integrated Military Human Resources Systems (DIMHRS); (3) an economic analysis that includes a calculation of the return on investment; (4) performance measures; and, (5) an information assurance strategy consistent with the Department's Global Information Grid.''

SA 4900. Mr. GRAHAM submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amounts appropriated or otherwise made available by this Act, up to $2,000,000 may be available for infrastructure for the Afghanistan military legal system.

SA 4901. Mr. LIEBERMAN (for himself and Mr. DODD) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', up to $1,500,000 may be available for the development of a field-deployable hydrogen fueling station.

SA 4902. Mr. CONRAD (for himself, Mr. DORGAN, and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

On page 230, beginning on line 15, strike ''$19,265,000'' and all that follows through line 16 and insert the following: ''$39,265,000, to remain available until September 30, 2008: *Provided*, That $20,000,000 of such funds is available only for the establishment of a unit dedicated to bringing to justice Osama bin Laden and other key leaders of al Qaeda: *Provided further*, That the Secretary of Defense shall, not later than 60 days after the date of the enactment of this Act, and every 90 days thereafter, submit to the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate a classified report on progress made by the operations in the global war on terrorism for which funding is provided in this Act, including an assessment of the likely current location of terrorist leaders, including Osama bin Laden and other key leaders of al Qaeda, a description of ongoing efforts to bring to justice such terrorists, a description of the cooperation provided by the governments of any countries assessed as likely locations of top leaders of al Qaeda and by other relevant countries, a description of diplomatic efforts currently being made to improve the cooperation of any such governments, and a description of the status of, and strategy for bringing to justice, perpetrators of terrorism including the top leadership of al Qaeda: *Provided further*, That the Secretary of Defense shall prepare such reports in consultation with other appropriate officials with regard to funds appropriated under this chapter: *Provided further*, That the amount provided under this heading is designated as making appropriations for contingency operations directly related to the global war on terrorism, and other unanticipated defense-related operations, pursuant to section 402 of H. Con. Res. 376 (109th Congress), as made applicable to the House of Representatives by H. Res. 818 (109th Congress) and is designated as an emergency requirement pursuant to section 402 of S. Con. Res. 83 (109th Congress), the concurrent resolution on the budget for fiscal year 2007, as made applicable in the Senate by section 7035 of Public Law 109–234.''

SA 4903. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VIII, add the following:

SEC. 8109. Of the amount appropriated or otherwise made available by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', up to $6,000,000 may be available as follows:

(1) $3,000,000 for bioterrorism protection research (PE #0601384BP).

(2) $3,000,000 for advanced protective gear for small-arms threats (PE #0601101E).

SA 4904. Mr. REID (for himself, Mr. DURBIN, Mrs. BOXER, Mrs. FEINSTEIN, Mr. BAYH, Mr. KENNEDY, Mr. LAUTENBERG, Mr. CARPER, Ms. MIKULSKI, Mr. KERRY, Mr. SCHUMER, Mr. LEVIN, Mr. HARKIN, Mrs. CLINTON, Mr. ROCKEFELLER, Mr. OBAMA, Mr. DORGAN, Mr. MENENDEZ, Ms. STABENOW, Mr. DAYTON, and Mr. DODD) proposed an amendment to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

At the appropriate place insert the following:

SENSE OF THE SENATE ON THE NEED FOR A NEW DIRECTION IN IRAQ POLICY AND IN THE CIVILIAN LEADERSHIP OF THE DEPARTMENT OF DEFENSE

Findings

(1) U.S. forces have served honorably and courageously in Iraq, with over 2,600 brave Americans having made the ultimate sacrifice and over 20,000 wounded.

(2) The current ''stay the course'' policy in Iraq has made America less secure, reduced the readiness of our troops, and burdened America's taxpayers with over $300 billion in additional debt.

(3) With weekly attacks against American and Iraqi troops at their highest levels since the start of the war, and sectarian violence intensifying, it is clear that staying the course in Iraq is not a strategy for success.

Therefore it is the Sense of the Senate that:

(1) Our troops deserve and the American people expect the Bush Administration to provide competent civilian leadership and a true strategy for success in Iraq.

(2) President Bush needs to change course in Iraq to provide a strategy for success. One indication of a change of course would be to replace the current Secretary of Defense.

SA 4905. Mr. STEVENS (for Mr. LEVIN) proposed an amendment to the bill H.R. 2066, to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes; as follows:

At the end of the bill add the following:

SECTION 6. DISPOSAL OF FEDERAL SURPLUS PROPERTY TO HISTORIC LIGHT STATIONS.

Section 549(c)(3)(B) of title 40, United States Code, is amended—

(1) in clause (vii), by striking ''or'' after the semicolon;

(2) in clause (viii), by striking the period and inserting ''or''; and

(3) by adding at the end the following:

''(ix) a historic light station as defined under section 308(e)(2) of the National Historic Preservation Act (16 U.S.C. 470w–7(e)(2)), including a historic light station conveyed under subsection (b) of that section, notwithstanding the number of hours that the historic light station is open to the public.''.

SA 4906. Mr. ROCKEFELLER proposed an amendment to the bill H.R. 5631, making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; as follows:

On page 206, strike lines 10 through 16.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Wednesday, September 6, 2006, at 10 a.m., to receive a briefing on the Army Field Manual on Interrogation.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 6, 2006, at 10 a.m., to conduct a hearing on ''Stock Options Backdating.''

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. STEVENS. Mr. President, I ask unanimous consent that on Wednesday, September 6, 2006, at 9:30 a.m. the Committee on Environment and Public Works be authorized to hold an oversight hearing to examine Federal renewable fuels programs.

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

COMMITTEE ON FINANCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, September 6, 2006, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony at a hearing entitled, ''Executive Compensation: Backdating to the Future/Oversight of current issues regarding executive compensation including backdating of stock options; and tax treatment of executive compensation, retirement and benefits.''

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

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Examining Competition in Group Health Care'' on Wednesday, September 6, 2006, at 11 a.m., in Dirksen Senate Office Building room 226.

Witness List

Panel I: The Honorable Tom Coburn, United States Senator, R–OK.

Panel II: Mr. Bruce McDonald, Deputy Assistant Attorney General, Antitrust Division, Department of Justice, Washington, DC; Mr. David Wales, Deputy Director, Bureau of Competition, Federal Trade Commission, Washington, DC; Dr. Mark Piasio, President, Pennsylvania Medical Society, Harrisburg, PA; Ms. Stephanie Kanwit, American Association of Health Plans, Washington, DC; Dr. Edward Langston, Chair-Elect, Board of Trustees, American Medical Association, Chicago, IL; Professor David Hyman, Professor of Law, Gallowich-Huizenga Faculty Scholar, University of Illinois College of Law, Champaign, IL.

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

COMMITTEE ON THE JUDICIARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Judicial Nominations'' on Wednesday, September 6, 2006, at 2 p.m., in Dirksen Senate Office Building room 226.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 6, 2006, at 10:30 a.m., to hold a closed briefing.

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

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Brianna Rodriguez of my staff be granted floor privileges for the duration of today's session.

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

MEASURE READ THE FIRST TIME—S. 3861

Mr. STEVENS. Mr. President, I understand there is a bill at the desk, S. 3861, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 3861) to facilitate bringing justice to terrorists and other unlawful enemy combatants through full and fair trials by military commissions, and for other purposes.

Mr. STEVENS. Mr. President, I ask for a second reading, and in order to place the bill on the calendar under rule XIV, I object to my own request.

The PRESIDING OFFICER. The bill will receive its second reading on the next legislative day.

GENERAL SERVICES ADMINISTRATION MODERNIZATION ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 449, H.R. 2066.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2066) to amend title 40, United States Code, to establish a Federal Acquisition Service, to replace the General Supply Fund and the Information Technology Fund with an Acquisition Services Fund, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Homeland Security and Governmental Affairs, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 2066

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 ''General Services Administration Modernization Act''.

SEC. 2. FEDERAL ACQUISITION SERVICE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Section 303 of title 40, United States Code, is amended to read as follows:

"§ 303. Federal Acquisition Service

''(a) ESTABLISHMENT.—There is established in the General Services Administration a Federal Acquisition Service. The Administrator of General Services shall appoint a Commissioner of the Federal Acquisition Service, who shall be the head of the Federal Acquisition Service.

''(b) FUNCTIONS.—Subject to the direction and control of the Administrator of General Services, the Commissioner of the Federal Acquisition Service shall be responsible for carrying out functions related to the uses for which the Acquisition Services Fund is authorized under section 321 of this title, including any functions that were carried out by the entities known as the Federal Supply Service and the Federal Technology Service and such other related functions as the Administrator considers appropriate.

''(c) REGIONAL EXECUTIVES.—The Administrator may appoint [up to five] Regional Executives in the Federal Acquisition Service, to carry out such functions within the Federal Acquisition Service as the Administrator considers appropriate.''.

(2) CLERICAL AMENDMENT.—The item relating to section 303 at the beginning of chapter 3 of such title is amended to read as follows:

''303. Federal Acquisition Service.''.

(b) EXECUTIVE SCHEDULE COMPENSATION.—Section 5316 of title 5, United States Code, is amended by striking ''Commissioner, Federal Supply Service, General Services Administration.'' and inserting the following:

''Commissioner, Federal Acquisition Service, General Services Administration.''.

(c) REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, reorganization plan, or delegation of authority, or in any document—

(1) to the Federal Supply Service is deemed to refer to the Federal Acquisition Service;

(2) to the GSA Federal Technology Service is deemed to refer to the Federal Acquisition Service;

(3) to the Commissioner of the Federal Supply Service is deemed to refer to the Commissioner of the Federal Acquisition Service; and

(4) to the Commissioner of the GSA Federal Technology Service is deemed to refer to the Commissioner of the Federal Acquisition Service.

SEC. 3. ACQUISITION SERVICES FUND.

(a) ABOLISHMENT OF GENERAL SUPPLY FUND AND INFORMATION TECHNOLOGY FUND.—The General Supply Fund and the Information Technology Fund in the Treasury are hereby abolished.

(b) TRANSFERS.—Capital assets and balances remaining in the General Supply Fund and the Information Technology Fund as in existence immediately before this section takes effect shall be transferred to the Acquisition Services Fund and shall be merged with and be available for the purposes of the Acquisition Services Fund under section 321 of title 40, United States Code (as amended by this Act).

(c) ASSUMPTION OF OBLIGATIONS.—Any liabilities, commitments, and obligations of the General Supply Fund and the Information Technology Fund as in existence immediately before this section takes effect shall be assumed by the Acquisition Services Fund.

(d) EXISTENCE AND COMPOSITION OF ACQUISITION SERVICES FUND.—Subsections (a) and (b) of section 321 of title 40, United States Code, are amended to read as follows:

''(a) EXISTENCE.—The Acquisition Services Fund is a special fund in the Treasury.

''(b) COMPOSITION.—

''(1) IN GENERAL.—The Fund is composed of amounts authorized to be transferred to the Fund or otherwise made available to the Fund.

''(2) OTHER CREDITS.—The Fund shall be credited with all reimbursements, advances, and refunds or recoveries relating to personal property or services procured through the Fund, including—

''(A) the net proceeds of disposal of surplus personal property; and

''(B) receipts from carriers and others for loss of, or damage to, personal property; and

''(C) receipts from agencies charged fees pursuant to rates established by the Administrator.

''(3) COST AND CAPITAL REQUIREMENTS.—The Administrator shall determine the cost and capital requirements of the Fund for each fiscal year and shall develop a plan concerning such requirements in consultation with the Chief Financial Officer of the General Services Administration. Any change to the cost and capital requirements of the Fund for a fiscal year shall be approved by the Administrator. The Administrator shall establish rates to be charged agencies provided, or to be provided, supply of personal property and non-personal services through the Fund, in accordance with the plan.

''(4) DEPOSIT OF FEES.—Fees collected by the Administrator under section 313 of this title may be deposited in the Fund to be used for the purposes of the Fund.''.

(e) USES OF FUND.—Section 321(c) of such title is amended in paragraph (1)(A)—

(1) by striking ''and'' at the end of clause (i);

(2) by inserting ''and'' after the semicolon at the end of clause (ii); and

(3) by inserting after clause (ii) the following new clause:

''(iii) personal services related to the provision of information technology (as defined in section 11101(6) of this title);''.

(f) PAYMENT FOR PROPERTY AND SERVICES.—Section 321(d)(2)(A) of such title is amended—

(1) by striking ''and'' at the end of clause (iv);

(2) by redesignating clause (v) as clause (vi); and

(3) by inserting after clause (iv) the following new clause:

''(v) the cost of personal services employed directly in providing information technology (as defined in section 11101(6) of this title); and''.

(g) TRANSFER OF UNCOMMITTED BALANCES.—Subsection (f) of section 321 of such title is amended to read as follows:

''(f) TRANSFER OF UNCOMMITTED BALANCES.—Following the close of each fiscal year, after making provision for a sufficient level of inventory of personal property to meet the needs of Federal agencies, the replacement cost of motor vehicles, and other anticipated operating needs reflected in the cost and capital plan developed under subsection (b), the uncommitted balance of any funds remaining in the Fund shall be transferred to the general fund of the Treasury as miscellaneous receipts.''.

(h) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 322 of such title is repealed.

(2) The heading for section 321 of such title is amended to read as follows:

"§ 321. Acquisition Services Fund".

(3) The table of sections for chapter 3 of such title is amended by striking the items relating to sections 321 and 322 and inserting the following:

''321. Acquisition Services Fund.''.

(4) Section 573 of such title is amended by striking ''General Supply Fund'' both places it appears and inserting ''Acquisition Services Fund''.

(5) Section 604(b) of such title is amended—

(A) in the heading, by striking ''**GENERAL SUPPLY FUND**'' and inserting ''**ACQUISITION SERVICES FUND**''; and

(B) in the text, by striking ''General Supply Fund'' and inserting ''Acquisition Services Fund''.

(6) Section 605 of such title is amended—

(A) in subsection (a)—

(i) in the heading, by striking ''**GENERAL SUPPLY FUND**'' and inserting ''**ACQUISITION SERVICES FUND**''; and

(ii) in the text, by striking ''General Supply Fund'' and inserting ''Acquisition Services Fund''; and

(B) in subsection (b)(2)—

(i) by striking ''321(f)(1)'' and inserting ''321(f)''; and

(ii) by striking ''General Supply Fund'' and inserting ''Acquisition Services Fund''.

SEC. 4. PROVISIONS RELATING TO ACQUISITION PERSONNEL.

Section 37 of the Office of Federal Procurement Policy Act (41 U.S.C. 433) is amended by adding at the end the following new subsections:

''(i) PROVISIONS RELATING TO REEMPLOYMENT.—

''(1) POLICIES AND PROCEDURES.—The head of each executive agency, after consultation with the Administrator and the Director of the Office of Personnel Management, shall establish policies and procedures under which the agency head may reemploy in an acquisition-related position (as described in subsection (g)(1)(A)) an individual receiving an annuity from the Civil Service Retirement and Disability Fund, on the basis of such individual's service, without discontinuing such annuity. The head of each executive agency shall keep the Administrator informed of the agency's use of this authority.

''(2) SERVICE NOT SUBJECT TO CSRS OR FERS.—An individual so reemployed shall not be considered an employee for the purposes of chapter 83 or 84 of title 5, United States Code.

''(3) CRITERIA FOR EXERCISE OF AUTHORITY.—Polices and procedures established pursuant to this subsection shall authorize the head of the executive agency, on a case-by-case basis, to continue an annuity if—

''(A) the unusually high or unique qualifications of an individual receiving an annuity from the Civil Service Retirement and Disability Fund on the basis of such individual's service, [or

''(B) a special need of the agency for the services of an employee,]

''(B) the exceptional difficulty in recruiting or retaining a qualified employee, or

''(C) a temporary emergency hiring need,

makes the reemployment of an individual essential.

''(4) REPORTING REQUIREMENT.—The Administrator shall submit annually to the Committee on Government Reform of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the use of the authority under this subsection, including the number of employees reemployed under authority of this subsection.

''(5) SUNSET PROVISION.—The authority under this subsection shall expire on [December 31, 2011.] *December 31, 2011.*''.

[''(j) RETENTION BONUSES.—

[''(1) IN GENERAL.—The head of each executive agency, after consultation with the Administrator, shall establish policies and procedures under which the agency head may pay retention bonuses to employees holding acquisition-related positions (as described in subsection (g)(1)(A)) within such agency, except that the authority to pay a bonus under this subsection shall be available only if—

[''(A) the unusually high or unique qualifications of an employee or a special need of the agency for the services of an employee makes the retention of such employee essential; and

[''(B) the agency determines that, in the absence of such a bonus, it is likely that the employee would leave—

[''(i) the Federal service; or

[''(ii) for a different position in the Federal service under conditions described in regulations of the Office.

[''(2) SERVICE AGREEMENTS.—(A) Payment of a bonus under this subsection shall be contingent upon the employee entering into a written agreement with the agency to complete a period of service with the agency in return for the bonus.

[''(B)(i) The agreement shall include—

[''(I) the length of the period of service required;

[''(II) the bonus amount;

[''(III) the manner in which the bonus will be paid (as described in paragraph (3)(B)); and

[''(IV) any other terms and conditions of the bonus, including the terms and conditions governing the termination of an agreement.

[''(3) TERMS AND CONDITIONS.—A bonus under this subsection—

[''(A) may not exceed 50 percent of the basic pay of the employee;

[''(B) may be paid to an employee—

[''(i) in installments after completion of specified periods of service;

[''(ii) in a single lump sum at the end of the period of service required by the agreement; or

[''(iii) in any other manner mutually agreed to by the agency and the employee;

[''(C) is not part of the basic pay of the employee; and

[''(D) may not be paid to an employee who holds a position—

[''(i) appointment to which is by the President, by and with the advice and consent of the Senate;

[''(ii) in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a) of title 5, United States Code); or

[''(iii) which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.''.]

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

Mr. STEVENS. Mr. President, I ask unanimous consent that the committee-reported amendments be agreed to, the Levin amendment be agreed to, the bill as amended be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendments were agreed to.

The amendment (No. 4905) was agreed to, as follows:

At the end of the bill add the following:

SECTION 6. DISPOSAL OF FEDERAL SURPLUS PROPERTY TO HISTORIC LIGHT STATIONS.

Section 549(c)(3)(B) of title 40, United States Code, is amended—

(1) in clause (vii), by striking ''or'' after the semicolon;

(2) in clause (viii), by striking the period and inserting ''; or''; and

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

''(ix) a historic light station as defined under section 308(e)(2) of the National Historic Preservation Act (16 U.S.C. 470w–7(e)(2)), including a historic light station conveyed under subsection (b) of that section, notwithstanding the number of hours that the historic light station is open to the public.''.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2066), as amended, was read the third time and passed; as follows:

(The bill will be printed in a future edition of the RECORD.)

NATIONAL LIFE INSURANCE AWARENESS MONTH

Mr. STEVENS. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 448 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk report will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 448) supporting the goals and ideals of ''National Life Insurance Awareness Month''.

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 448) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 448

Whereas life insurance is an essential part of a sound financial plan;

Whereas life insurance provides financial security for families by helping surviving members meet immediate and long-term financial obligations and objectives in the event of a premature death in their family;

Whereas approximately 68,000,000 United States citizens lack the adequate level of life insurance coverage needed to ensure a secure financial future for their loved ones;

Whereas life insurance products protect against the uncertainties of life by enabling individuals and families to manage the financial risks of premature death, disability, and long-term care;

Whereas individuals, families, and businesses can benefit from professional insurance and financial planning advice, including an assessment of their life insurance needs; and

Whereas numerous groups supporting life insurance have designated September 2006 as ''National Life Insurance Awareness Month'' as a means to encourage consumers to—

(1) become more aware of their life insurance needs;

(2) seek professional advice regarding life insurance; and

(3) take the actions necessary to achieve financial security for their loved ones: Now therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of ''National Life Insurance Awareness Month''; and

(2) calls on the Federal Government, States, localities, schools, nonprofit organizations, businesses, and the citizens of the United States to observe the month with appropriate programs and activities.

ORDERS FOR THURSDAY, SEPTEMBER 7, 2006

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Thursday, September 7. I further ask that following the prayer and pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period for the transaction of morning business for up to 30 minutes, with the first 15 minutes under the control of the Democratic leader or his designee and the final 15 minutes under the control of the majority leader or his designee; further, that the Senate then resume consideration of H.R. 5631, the Department of Defense appropriations bill.

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

PROGRAM

Mr. STEVENS. Mr. President, speaking for the leader, he believes we had a full day debating the Department of Defense appropriations bill. Tomorrow we will finish this bill. Therefore, Senators should expect rollcall votes throughout the day. The managers should be consulted about any outstanding amendments Senators would like to have considered. Senator CONRAD will be here first thing in the morning to offer an amendment.

Again, we will finish this bill tomorrow, and Members should anticipate a long day if needed to complete our work on this spending bill.

ORDER FOR RECESS

Mr. STEVENS. Mr. President, it is my understanding that Senator ROCKEFELLER has an amendment and a statement. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess under the previous order, following the remarks of Senator ROCKEFELLER.

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

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2007—Continued

Mr. ROCKEFELLER. Mr. President, I thank the distinguished Senator from Alaska. It is late, and I understand that. I rise to address something which is very important to me, and that is the Defense appropriations bill that may appear to many to be insignificant boilerplate language, when, in fact, is not that at all. Unfortunately, the provision has an enlarged significance in

this Congress as a result of the inexplicable and unpardonable failure of the Senate to do something that it has never done before, and that is to fail to pass intelligence authorizations for either fiscal year 2006 or fiscal year 2007.

Section 8086 of the Defense appropriations bill waives section 504 of the National Security Act of 1947 until the enactment of the Intelligence Authorization Act for fiscal year 2007. What does that mean? Section 504 provides, with limited exceptions, that no appropriated funds available may be obligated or expended for an intelligence activity unless those funds were specifically authorized by Congress; therefore, by the two Intelligence Committees.

This waiver is a standard part of the Defense appropriations bill. Until this Congress, it has served the acceptable function of allowing intelligence communities to begin spending money if the authorization bill is not completed before the beginning of the fiscal year. Under this waiver, as soon as the intelligence authorizations for any given year are enacted, that authorization language would control.

In this Congress, however, the boilerplate language has become the substitute for legislative authorization of intelligence activities because the majority leader, to be honest, has refused to bring the intelligence authorization bill to the floor for the past 2 years—for the past 2 years.

The Senate's failure to pass this critical national security legislation is unprecedented. Last year was the first time since the establishment of the congressional Intelligence Committees that the Senate failed to pass an annual authorization bill. From 1978 through 2004, the Senate had an unbroken, 27-year record of completing its work on this critical legislation. The intelligence authorization bill has been rightly considered, always, must-pass legislation. Regardless of who controlled the Senate, regardless of who controlled the White House, there was an understanding that the programs authorized by this bill were too important to not have the input of the Congress through the Intelligence Committees.

Unfortunately, because of an anonymous objection by a Republican Senator, the majority leader decided to let this important national security legislation die on the vine last year, for the first time, and he appears intent on doing so this year again. The result of this decision by the majority leader will be diminished authority for intelligence agencies to do their jobs of protecting Americans. It also will result in less effective oversight, which was essentially the 9/11 Commission's No. 1 call, and all of this at a time when the intelligence community is undergoing the biggest restructuring in its 50-year history.

The annual intelligence authorization is the primary mechanism which the Congress, through the Intelligence Committees, uses to provide guidance and support to America's intelligence agencies, the heart of our effort to protect America's national security.

At a time when our security depends so heavily on good intelligence, when our national security has been endangered by not depending sufficiently on good intelligence—or maybe the intelligence wasn't good when it should have been—and we are in the midst of reforming and modernizing our intelligence community, the Senate's failure to act on this legislation is absolutely inexplicable to this Senator and to virtually all the Members of the Intelligence Committees.

In reporting the resolution to establish the Intelligence Committee in May 1976, since the first chairman on our side was the Senator from Hawaii, Mr. INOUYE, the Committee on Government Operations back then wrote the following:

> An essential part of the new committee's jurisdiction will be authorization authority over the intelligence activities of the Department of Defense, the Department of State, the Federal Bureau of Investigation, and the Central Intelligence Agency. Without this authority, the new committee would not be assured the practical ability to monitor the activities of these agencies.

They wrote that back then—and that is:

> . . . to obtain full access to information which the committees must have to exercise control over the budgets of agencies in order to reduce waste and inefficiency, and to impose changes in agency practices.

That is what they said.

The failure of the Senate to pass intelligence authorization for 2 years threatens to erode the ability of the Intelligence Committee to carry out the mission assigned to it by the Senate. This failure has consequences both immediate and long term. Our intelligence agencies can continue executing the funding made available through the various appropriations bills but without any guidance as to what they should do from the Intelligence Committees.

I do not understand this.

The Appropriations Committee does an excellent job at providing resources for the intelligence agencies, what they need to operate on. But the roadmap for how the Congress expects those sources to be executed comes from the authorization bill—which seems to no longer exist. The sensitivity and importance of our Nation's intelligence programs makes congressional direction essential every single year. But the creation of an Office of the Director of National Intelligence in 2004, and the ongoing development of that office, makes the guidance even more important now.

The fiscal year 2006 authorization bill contains 17 separate provisions enhancing or clarifying the authority of the DNI. Those provisions included additional authority to promote information sharing, clarifying the DNI's role in managing human intelligence—all of these, easy to say and difficult to do—providing flexibility in the financing of national intelligence centers, how those centers were to be set up, and elevating the DNI Inspector General to a statutory position.

Those important provisions are now included in this fiscal year 2007 bill, and we should act on them as soon as possible. I do not think we are going to, but we should.

In the longer term, the Senate's inability to debate and act on this critical legislation will have a more lasting effect on congressional oversight. Both the 9/11 and the Robb-Silberman commission on weapons of mass destruction highlighted the importance of improving oversight as a necessary component of reforming our intelligence capabilities. Oversight.

The 9/11 Commission wrote:

> Of all our recommendations, strengthening Congressional oversight may be among the most difficult and most important.

In December 2004, the Senate took steps to strengthen the Senate Intelligence Committee by eliminating member term limits. That had been a long time coming. People were limited to 8 years. They just began to get up to speed and then they were off. Now that has changed. It is at the discretion of the majority leader and the minority leader.

We increased our staff and strengthened other procedures. But these improvements were in a sense a hollow victory. Since enactment of the reforms, the majority leader has emasculated the Intelligence Committee by denying it the central tool to carry out oversight, and that is the annual authorization bill which is called for under the law.

The majority leader's unwillingness to consider these bills is even more puzzling because of the bipartisan effort that has gone into their development on both sides of this House. Both the fiscal 2006 and 2007 bills passed the Intelligence Committee unanimously. Both were referred to the Armed Services Committee where they were again approved unanimously. Last year, the bill was also referred to the Homeland Security and Governmental Affairs Committee, which suggested changes that would have been included had we been discussing the bill along with suggestions from the administration in a managers' amendment.

Last year's bill and this year's bill contain legislation focused on four important areas about which I am going to talk briefly. I have already mentioned the numerous provisions relating to the authority and the operation of the Office of the DNI, the Director of National Intelligence. The bill also contains additional provisions to foster and improve information sharing and information access. Easy words, hard to do.

Section 310 establishes a pilot program giving the Intelligence Committee access to databases of other

nonintelligence agencies for the purpose of collecting intelligence on counterterrorism or weapons of mass destruction. While this bill sits on the calendar, that information is now outside the reach of the intelligence community.

Many of my colleagues have decried the seemingly endless stream of leaks of classified information. I join them in denouncing the leaks of sensitive material. The authorization bill includes provisions strengthening the authority of the DNI and the Director of the CIA to protect intelligence sources and methods. It also includes a provision, authored by Senator WYDEN and adopted by the committee unanimously, to increase the penalties for the unauthorized disclosure of a covert agent.

Finally, the authorization bill contains numerous provisions intended to improve oversight of the intelligence community, both from within and from the Congress itself.

Section 408 is interesting. Section 408 of the bill proposes the establishment of a statutory inspector general for the intelligence community. I have said that. The Intelligence Reform Act of 2004 took a first step toward that end by authorizing the Director of National Intelligence to appoint an inspector general within the Office of the Director. The DNI has done that, and I applaud him for doing so. But the bill will strengthen that position and make it more accountable to the Congress.

Section 434 of the bill strengthens accountability further and oversight of the technical agencies by providing that the heads of the National Security Agency, the National Reconnaissance Office, the National Geospatial-Intelligence Agency are to be appointed by the President with the Senate's advice and consent.

This is in the authorization bill, and if we were to pass it, this would become effective. I think it actually comes as a surprise to many of my colleagues that the head of an agency with as central a role in the intelligence community as the National Security Agency is not appointed with Senate confirmation. In fact, heads of the National Security Agency have customarily only gone through confirmation in connection with their military rank but not for their appointment to the position of the Director of NSA. That is not considered.

Section 107 of the bill, sponsored in committee by Senators LEVIN and HAGEL, seeks to improve the timely flow of information to the congressional Intelligence Committees. Similar language was included in the intelligence reform legislation that passed in the Senate in 2004 but did not survive the conference. I applaud Senators LEVIN and HAGEL for their efforts with respect to this issue.

There are other provisions requiring specific information, including a report on the implementation of the Detainee Treatment Act and a separate report on the possibility of existence of clandestine detention facilities. I am at a loss to understand what the objection to this legislation is. Maybe somebody does not like the enhancement of oversight. That is our job. That is why the committees were formed. Maybe somebody doesn't want the DNI to have more authority or maybe somebody thinks the Congress should not be getting timely access to information about intelligence programs that are so important. But let me remind all my colleagues that the authorization bill passed the Intelligence Committee unanimously. If somebody has a problem with a provision, bring up the bill, offer an amendment, debate, and vote. That is the way the Senate works.

AMENDMENT NO. 4906

Because of the importance of getting the authorization bill enacted and because I and all the members of the Senate Intelligence Committee have been totally unable to make any headway on this at all now for 2 years, and because I have concluded that it will once again be ignored by the majority leader, I send an amendment to the desk to strike section 8086 of the pending legislation, the fiscal year 2007 Department of Defense appropriations bill.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER] proposes a amendment numbered 4906.

The amendment follows:

(Purpose: To strike the section specifically authorizing intelligence and intelligence-related activities)

On page 206, strike lines 10 through 16.

Mr. ROCKEFELLER. Mr. President, striking section 8086 would mean the following: that none of the funds in this bill could be spent for intelligence activities without an authorization bill. I do not know how else to do it. I am reluctant to take this step because I do not want our intelligence agencies to be caught without funding. But I see no other way to force the Senate to bring into the consciousness, the cerebral cortexes of the various Senators, that it is important to take up and pass authorization bills.

This legislation is too important to be allowed to languish in legislative limbo. I am at a loss to understand why the Senate cannot complete action. It would be in no one's interest to not complete this, not the Senate, not the Congress, not the intelligence community, nor would it be in the national security interest of the United States.

Democrats are more than willing to quickly debate and pass much needed national security legislation. Democrats know that it is essential that we permit the men and women of the intelligence agencies to continue their critical work on the front lines of the war in Iraq and the war on terror.

In the meantime, to the men and women of the intelligence agencies, I say that we stand with you. We are proud of your bravery and your patriotism, and we thank you for your sacrifice, working in silence, and in the shadows, against the threat that America faces.

(At the request of Mr. ROCKEFELLER, the following statement was ordered to be printed in the RECORD.)

FAILURE TO PASS AN INTELLIGENCE AUTHORIZATION BILL

• Mrs. FEINSTEIN. Mr. President, I join Vice Chairman ROCKEFELLER in calling for the Senate to take up and pass the Intelligence Authorization Act for Fiscal Year 2007. As has been said already, this legislation is the primary way in which the Congress directs the Nation's 16 intelligence agencies.

In writing this legislation, the Committee worked closely with the Director of National Intelligence, or DNI, to identify new authorities needed to protect our national security. The bill authorizes a pilot program to allow intelligence agencies to better share information that could help uncover and thwart a terrorist; empowers the DNI to build information-sharing systems across the Federal Government; and creates a strong inspector general for the intelligence community.

The bill also requires the intelligence community to explain how it is complying with the Detainee Treatment Act and provide Congress with information on any ''alleged clandestine detention facilities'' that it may be operating and continues the process of intelligence reform begun in 2004.

It is not surprising that the creation of the DNI and major organizational changes across the Government's national security apparatus left some things undone. This Intelligence authorization bill makes a number of small but useful changes to allow the DNI and the Nation's 16 intelligence agencies to operate on a day-to-day basis more effectively.

These are a few of the important provisions in this legislation. But here I would like to focus on language in the bill that was adopted on a bipartisan basis at committee. The provisions, sections 304 and 307 of the bill, ensure that the congressional Intelligence Committees are fully informed of all intelligence activities.

The National Security Act of 1947 requires the President to ''ensure that the congressional intelligence committees are kept fully and currently informed of the intelligence activities of the United States. . .''.

Even more than other committees, the Intelligence Committee relies on the executive branch to provide it with information. Without full and timely notification of intelligence programs, problems, and plans, the committee cannot judge whether agencies have adhered to the law, nor can we judge whether changes in authorities or resources are needed to better protect national security.

It was, in fact, Congress's lack of regular oversight that led to the creation

of the Senate Intelligence Committee in 1976. Following the Church Committee's report on Executive abuses, the Senate established the Committee to ''provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.''

Thirty years after the Senate Intelligence Committee was created, however, it is not living up to its charge. Members of the committee are not provided with sufficient information on intelligence programs and activities to legislate or oversee to intelligence community. Provisions in the stalled legislation—the Intelligence authorization bill—would fix this problem.

A good example of how the system fails to work is the so-called Terrorist Surveillance Program, which was publicly revealed last December but which had not previously been briefed to the committees.

According to the White House, this National Security Agency program was too sensitive to be briefed to the 15 Senators on the committee—the 15 Senators hand-selected by the majority and minority leaders for this assignment.

Instead, the President and Vice President decided to inform only 8 of the 535 Members of Congress: the party leadership in both houses and the leadership of the two intelligence committees.

The National Security Act does provide for limited briefings to these eight Members of Congress but only for especially sensitive covert actions. The NSA program is not a covert action.

The administration also points to statute saying that it must take ''due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters. . .''

The 1980 Senate report accompanying this ''due regard'' provision explained this provision more directly—and makes clear that it does not allow the administration to restrict information from the committee indefinitely as was done with the Terrorist Surveillance Program.

The report recognized ''that in extremely rare circumstances a need to preserve essential secrecy may result in a decision not to impart certain sensitive aspects of operations or collection programs to the oversight committees in order to protect extremely sensitive intelligence sources and methods.''

The ''due regard'' language that the administration cites was intended, at most, to limit briefings on the most sensitive aspects of operations, in extremely rare circumstances. It was also expected that withholding this sensitive information would be a temporary measure. This language was not intended to conceal the existence of entire programs from all committee members.

So in effect, the White House has broadly interpreted the National Security Act to void meeting its responsibility to inform Congress.

This Intelligence authorization bill's changes to the National Security Act close the loopholes but, in fact, are far more generous to the executive branch than many would like. The bill acknowledges that there are times when not all Members have to be ''fully and currently'' briefed on all intelligence matters. However, in those cases, it requires that all committee members receive a summary of the intelligence collection or covert action in question.

This arrangement would allow the intelligence agencies to protect the most sensitive details of sources and methods, but crucially, it would allow the full committee to assess the legality, costs and benefits, and advisability of an intelligence operation.

The authorization bill also changes a definition in the National Security Act to make clear that the requirement to keep the committees ''fully and currently informed'' means that all Members will be kept informed. Congress has allowed the intelligence community to brief only the chairman and vice chairman on too many programs for too long.

I do not need to remind my colleagues that full committees, not a single Democrat and Republican, vote to authorize programs and funding. All Members must be informed if they are to perform their Constitutional duties.

The pending authorization bill would make one additional change to what it means for an intelligence activity to be authorized by Congress.

Stemming from the wiretapping abuses in the 1970s and because of the special challenges to conducting oversight of classified programs, the National Security Act prohibits the use of appropriated funds for any intelligence activities unless they are authorized by Congress. The pending bill would specify that an activity can only be ''authorized'' if the members of the authorizing committees have been fully briefed on it—or given a summary in the especially sensitive cases I described before.●

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:30 a.m. tomorrow.

Thereupon the Senate, at 9:25 p.m., recessed until Thursday, September 7, 2006, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate September 6, 2006:

DEPARTMENT OF THE TREASURY

ROBERT K. STEEL, OF CONNECTICUT, TO BE AN UNDER SECRETARY OF THE DEPARTMENT OF THE TREASURY, VICE RANDAL QUARLES.