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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

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

Let us pray.

O Lord most holy, we confess to You our unworthiness. Grant that we may, every day, crave those dispositions which shall make us worthy to be called Your children.

Bless our Senators. Guide them so that in all getting, they will receive understanding. Whatever they lose, may they retain Your favor, growing in grace and in a deeper knowledge of You. Give them a hunger to know Your sacred word and a willingness to follow Your precepts.

Grant that those who seek the right way will be led by Your hand. May those who experience setbacks be lifted by Your mercy and know the restoration of Your joy. Consecrate, with Your presence, the road our lawmakers travel, and lead them to Your desired destination.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BENJAMIN L. CARDIN led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 1, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, today there will be 30 minutes of morning business, and it will all be under the control of the Republicans. Following that time, the Senate will resume consideration of the children's health bill and then conduct 30 minutes of debate with respect to the Ensign amendment. That time will be equally divided and controlled between Senators ENSIGN and BAUCUS. Upon the use or yielding back of that time, the Senate will vote in relation to the Ensign amendment. Following the disposition of the Ensign amendment, the managers hope to come to a short agreement with respect to the Gregg amendment and have a vote shortly thereafter. Senator BYRD is to be recognized to speak for up to 30 minutes at 12 noon. Other votes with respect to the bill are expected today.

Mr. President, we have two major amendments we have been told exist with respect to this children's health legislation. One will be offered by Senator KERRY, which is going to increase the amount of money we believe is needed in this legislation. The other is by Senators LOTT and KYL, which is a substitute amendment. I hope those Senators who are going to offer those amendments will come and do them quickly. We need these two amendments. That is what this legislation is all about. Other individuals also have a right to offer amendments, but I do hope those two amendments will be offered very quickly. We need to finish this bill. We are going to finish this bill before we leave.

Of course, everybody knows we have, in the morning, the cloture vote on ethics and lobbying. We will do that an hour after we come in in the morning. I very much appreciate the willingness of the minority to work with us and that we didn't have to go—because it was a privileged piece of legislation that came from the House, that we didn't have to waste time from last night until tomorrow morning. I appreciate very much the Republicans allowing us to work on this legislation today. It would have been a wasted day otherwise.

I hope we can get a lot of work done on SCHIP today. I will speak with Senator MCCONNELL as to when, if at all—and I hope it is not necessary—we will file cloture on SCHIP to finish it. I hope we don't have to do that. We had good luck last week on the first appropriations bill and not having to do that.

We have one other must-do item before we leave here, and that deals with the surveillance program that everybody has read about and knows about. That has to be done. I had a briefing meeting with Admiral McConnell this morning, and he has sent some proposed changes to the legislation up here. It is already here. We hope that will be enough to have that legislation pass quickly. I hope we can get it done. It is something on which we all acknowledge we should give it the old college try and do everything we can to complete that.

Those are the things we must do.

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

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There are other things we would like to do. One of them is the competitiveness bill, which is very important. It is such an interesting piece of legislation. In conversations with the most liberal members of my caucus, I find that they love this piece of legislation, as do moderates and conservatives in my caucus, and it is the same with the Republicans. They think this legislation is very good.

I see my friend from Tennessee on the floor who worked with Senator BINGAMAN on this early on. I hope we can do this before we leave. It is my understanding that the conference, if not completed, is virtually completed. It would be good to do that before we leave. It would show real bipartisanship.

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

Mr. REID. Yes.

Mr. DORGAN. Mr. President, I know others are waiting to begin morning business. Let me first add my hope with the majority leader that we will be able to move through these bills with some expeditious action this week. There has been so much delay in the Chamber. I know the majority leader wishes to move through and get these things done. I hope we can do that.

I want to mention to the Senator from Nevada that I have offered to the children's health insurance bill the Indian Health Care Improvement Act. I did that yesterday as an amendment. There are 3 million children benefitted by the children's health insurance bill, but there are 2 million American Indians who are subject to full-scale health care rationing. It is unbelievable what is happening.

We have had 11 separate bills introduced in the Congress since the authorization for the Indian Health Care Improvement Act expired some years ago, and none of them have moved. So I offered the amendment because I felt I had to do it to the Children's Health Insurance Program that is on the floor.

I indicated yesterday, however, in response to Senator BAUCUS, who said that he would mark up on September 12 in the Finance Committee the portions of the bill relevant to them, I indicated I would withdraw my amendment from the children's health bill if I could get a commitment to get the Indian health care bill to the floor of the Senate. I have already marked up the Indian health bill in the Indian Affairs Committee, my committee.

This is urgent. We have a problem with respect to rationing of health care with American Indians. I ask my colleague—and I know we have visited about it, and I know how strongly he supports American Indians and health care for them—can we have a commitment to get the Indian health bill to the floor of the Senate? If we can do that, I will withdraw my amendment here in anticipation of having that debate on Indian health in the next couple of months in the Senate.

Mr. REID. Mr. President, I say to my friend, the distinguished chairman of the Indian Affairs Committee, a tireless advocate for Native Americans his entire career, I have 22 different tribal organizations in the State of Nevada. You say ''rationing'' health care. I think that is even being too generous because there is no health care rationed, in many instances, in Nevada. We have gone from having two wonderful hospitals for Native Americans and now we have one that is closed. The other they don't use for acute care. It is a situation that, for our country, should be an embarrassment. It is an embarrassment. People just don't know how bad it is.

I say to my friend, through the Chair, that we are going to do this bill this year. If it is reported out of the Finance Committee, we will find a way to bring it to the floor. It is the right thing to do. We talk about people who don't have advocates for them. My tribal organizations in Nevada don't have people back here advocating for them. We need to advocate for them. I have to do that, especially on this issue of health care. They deserve the basic minimum; they deserve the ability to have some kind of health care. It is in such a state now that I, frankly, don't know what to tell the tribal organizations when they come to see me. There has been more than a decade waiting to do something about this.

So I support my friend from North Dakota and will do everything I can to move this forward and make a commitment that we will do something this session of Congress.

Mr. DORGAN. Mr. President, that commitment of the majority leader is welcome. I observe this: There are few places in this country where someone having a heart attack would be wheeled into an emergency room with a piece of paper attached to their thigh by masking tape that says:

> To the hospital: By the way, if you admit this woman, understand you are on your own because contract health care from the Indian Health Service has run out.

Very few places in this country will you see that. It describes how unbelievably urgent it is to pass this bill. The commitment from the majority leader is very welcome. It reflects his long-term commitment to deal with Indian issues.

The commitment from Senator BAUCUS to mark up his portion of the bill on September 12 is welcome. Therefore, when we are back on the children's health bill, I will withdraw my amendment as a result of the commitment to move it separately.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for 30 minutes, under the control of the Republican leader or his designee, with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, will the Chair let me know when 6 minutes has expired?

The ACTING PRESIDENT pro tempore. The Chair will so inform the Senator.

NOMINATION OF JUDGE LESLIE SOUTHWICK

Mr. ALEXANDER. Mr. President, when I was first elected to the Senate in 2002, I recognized the so-called maiden speech tradition, and I came here expecting to talk about U.S. history. I was so disappointed by the debate that I found going on in February of 2003 about the President's appointment of Miguel Estrada to the Supreme Court that I spoke for a long time one night about the unfairness that I felt about that. I thought he was a superbly qualified individual and that a case was being manufactured against him to try to prevent an up-or-down vote.

Then, along came the nomination of Judge Charles Pickering, of Mississippi, who in the 1950s and 1960s, while others were making speeches about civil rights, was living it out in the middle of Mississippi, testifying against someone who was described as the ''most violent living racist'' in Mississippi and putting his children into desegregated schools at a time when others weren't. There was a manufactured, unfair case against him.

The Senate came to its senses shortly thereafter and began to develop a procedure where judges could get an up-or-down vote, which brings me to the matter of Judge Leslie Southwick, of Mississippi, whom the President has nominated to serve on the U.S. Court of Appeals for the Fifth Circuit—the same position for which Judge Pickering was nominated. Yet, despite his excellent qualifications, his nomination has not been reported to the floor by the Judiciary Committee for a fair up-or-down vote. It seems that Judge Southwick may be the first target in a new round of character assassination by some in this body.

That seat has been vacant for 6 years. This is one of the most important courts in America. I was a law clerk on that court—actually a messenger, but I was treated like a law clerk—to the great Judge John Minor Wisdom, who served with Judge Tuttle, Judge Rives, and Judge Brown, all of whom presided over the segregation of the South. I value that court and the quality of judges who have been there.

Judge Southwick has that same quality. He has 11 years of service as a Mississippi State appellate court judge. He had military service in Iraq as a staff judge advocate. He has been a professor

at Mississippi College of Law. He has had service as a senior Justice Department official. He has had more than 20 years in private practice in Jackson. He is rated unanimously ''well qualified'' by the American Bar Association. He has been honored by the Mississippi State Bar with its Judicial Excellence Award.

What is it about the Democrats and Mississippi judges? This is an enormously well-qualified judge from Mississippi, and the Democrats, apparently because he is from Mississippi, do not want to give him a fair up-or-down vote. That is totally unfair and it is beneath the dignity of this body and I object to it strenuously. This judgeship has been labeled a ''judicial emergency'' by the nonpartisan Administrative Office of the Courts.

What is the manufactured case? The case that has been made against him, if a student were to send it in to any accredited law school, would be sent back with an F and the student would be told to prepare better.

First, it is said he participated in an opinion he didn't even write which put the first amendment ahead of a racial slur. That is always—always—a difficult decision to make, but the Mississippi Supreme Court said it was the correct decision. Judge Southwick reiterated his disdain for racial slurs. He said the racial slur in question is ''always offensive'' and ''inherently and highly derogatory.''

He did not even write the opinion. Yet for some reason that is thought to be inappropriate.

Then they said he joined in a case that used the words ''homosexual lifestyle.'' He didn't write the opinion. That phrase ''homosexual lifestyle'' may not be preferred by some, but it is very commonly used in American legal opinions by the U.S. Supreme Court, for example, in Lawrence v. Texas, striking down the Texas ban on sodomy. It was also used by President Bill Clinton when he announced his ''don't ask don't tell'' policy. That is the manufactured case.

So I ask my colleagues to remember the difficulties we had in 2003 and 2004, when the Senate did not look at its best, when it was manufacturing cases against otherwise well-qualified and distinguished men and women who had been nominated to the court.

I hope the Judiciary Committee will bring Judge Leslie Southwick's name forward to the full Senate so we can have an up-or-down vote. He deserves a vote. The Senate deserves to respect its traditions regarding nominees, and the American people deserve to be served by a man of such quality.

I yield the floor.

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

Mr. ISAKSON. Mr. President, I ask unanimous consent to speak for up to 7 minutes, and at 6 minutes, if I am still speaking, will the Chair please let me know.

The ACTING PRESIDENT pro tempore. The Chair will so notify the Senator.

IRAQ

Mr. ISAKSON. Mr. President, there have been some in the leadership of the majority, a few months ago, who declared the war in Iraq was lost. There have been others who have been invested in two significant debates we have had over withdrawing precipitously without any consideration for the consequences. I have steadfastly supported our effort in the global war on terror and, in particular, our effort in Iraq, cautious to understand we have had difficulties and we have made mistakes. But today I rise to ask those who have, in the past, declared defeat or withdrawal to consider the alternative should America win.

Yesterday, in the New York Times, Kenneth Pollack and Michael O'Hanlon wrote a significant editorial—neither one an advocate, per se, of the war and the surge—that said this is a war we might win. News that comes today from the Christian Science Monitor declares a precipitous decline in the number of deaths of U.S. soldiers and casualties and a tremendous decrease in IEDs.

On Monday night, the people of Iraq in every city, hamlet, and town turned out in the streets, and without a single injury, they celebrated the victory of the Iraqi soccer team in the Asian soccer games.

We must ask the question: What do we say if, in fact, the tide has turned and we are winning? I think there may be some who will try and redescribe what victory is, and for that purpose, I wish to describe and remind everybody of what we already declared victory would be.

When President Bush asked all of us, and I supported going into Iraq to enforce Resolution 1441 of the United Nations with 29 other partners, we declared three goals: One, to find the weapons of mass destruction and to depose Saddam Hussein; two, to allow the Iraqis the chance to hold free elections and write a constitution; and, three, to train the Iraqi military so it was capable of defending the people of Iraq.

Saddam Hussein is gone, tried by his people and gone from this planet. Weapons of mass destruction—no smoking gun was found, but all the components were Scud missiles buried in the sand, elements of sarin gas in the Euphrates River, some of the biological mobile laboratories we thought were there were found, and 400,000 bodies in 8 mass graves near Baghdad in Iraq. So that was accomplished.

Second, the Iraqis held three elections, wrote a constitution, and now meet in a parliamentary form of government. It may not be everything we like, but it is their Government and their progress, and America gave them the opportunity to do it.

Now today in Iraq on the ground, Shiites who fought against us have joined with us against al-Qaida. Sunnis who fought against us have joined us in fighting against al-Qaida. In Ramadi, the streets are clear. The people in Baghdad are happy the American soldiers are there and afraid American soldiers may leave precipitously.

We are on the cusp of meeting the third goal. Iraqi troops—it is being recognized now—Iraqi battalions have, in some cases—not all, in some cases—demonstrated the capability of holding the areas Americans have secured. America's soldiers are in the same camps with Sunni, Shia, and Kurdish soldiers of the Iraqi military.

This war is not over, but two-thirds of the goals we established are accomplished, and the third goal is within our reach. When we look in the next 6 weeks toward September 15—and I don't know what General Petraeus is going to say, but I know what the New York Times is saying, I know what the Christian Science Monitor is saying, I know what the Georgia soldiers I talk with or get e-mails from on the ground are saying, I know what the attitude and morale of the American soldiers is and the hopes and aspirations of the American people. Today I ask that as we get ready to break, as we wait for the report on September 15, we need to be prepared for victory, not invested in defeat.

This has been a tough battle. Some of my friends in Georgia have lost their children. They have fought for a dream Americans have fought for since this great Republic was founded, and that is the right to self-determine your future.

I hope the Government of al-Maliki will accomplish some reconciliation. I hope they will accomplish a hydrocarbon deal. I hope debaathification can work. But I hope we would not declare failure when, in fact, we have the opportunity it looks like to succeed. A lot of brave young men and women in America have invested their lives in the chance to win a victory, not for ourselves but for mankind, for civility, for peace, for democracy, and for all the principles upon which this country was founded.

So I hope for those who have been invested in the possibility that we will fail, that they will get equally invested in the probability or possibility that we will succeed and that together, as a Congress, we can reward those who fought so valiantly and see to it that one more democracy is born in the Middle East of this world.

Mr. President, I ask unanimous consent that an article that appeared this morning in the Christian Science Monitor and yesterday's article of Michael O'Hanlon and Kenneth Pollack in the New York Times be printed in the RECORD.

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

[From the Christian Science Monitor, Aug. 1, 2007]

U.S. TROOP FATALITIES IN IRAQ DROP SHARPLY

(By Gordon Lubold)

U.S. troop fatalities in Iraq have plummeted from near-historic highs just two months ago. The number of deaths attributed to improvised explosive devices is down by more than half. Violence is down in the four most dangerous provinces.

The decrease is an apparent sign that, by at least one indicator, the surge of American forces is doing something it set out to do: tamp down the violence.

But even if this positive trend were to continue for the next several months, the larger question remains unanswered: will the reduced levels of violence push Kurdish, Shiite, and Sunni groups to reach political reconciliation so that U.S. troops can withdraw? U.S. military officials are wary.

''Success does not hinge on the effectiveness or success solely of the security situation,'' says one senior official in uniform, who requested anonymity, echoing what many military officials have said. ''It really depends on political governance.''

As a single measure of success or failure in Iraq, the rate of American fatalities has its own limitations. But it does reflect the ability of the US to reduce insurgent-led violence. Two months ago, U.S. fatalities climbed to 128, making May the third deadliest month for US troops in Iraq since the war began in 2003. But since then, as the surge of 30,000 new U.S. forces has arrived, fatalities have fallen sharply. At press time, the toll for the month of July stood at 74, a decrease of 42 percent compared with May. That's the lowest fatality rate since last November.

When the surge was announced earlier this year, critics said adding more troops in one area would simply force insurgents to provoke violence in other areas. But according to an analysis by Pentagon officials, fatalities are down in July in all four of the most violent provinces of Iraq: Baghdad, Anbar, Salahaddin, and Diyala.

In Baghdad Province, for example, 27 Americans were killed as of July 24, down from 44 in May. In Diyala Province, six Americans were killed as of July 24, a decrease from 19 in May. Sunni-dominated Anbar Province to the west of Baghdad, where violence has been tamped down in part because Sunni sheiks have organized against Sunni extremism there, five American service members were killed as of July 24, down from 14 for the month of May. Salahaddin saw the same trend, where 12 were killed in May, six in July. The four provinces represent about 37 percent of the Iraqi population but nearly 80 percent of the violence that occurs in Iraq.

The toll from improvised explosive devices, or IEDs, has also decreased considerably in the last two months. As of July 24, 40 Americans had been killed in July, down from 95 in May.

Iraqis are also seeing a decrease in violence. The number of Iraqi security forces and civilian fatalities has declined since May as well, according to icasualties.org, a website that tracks such information. The site reports that there were 1,664 civilians and Iraqi security forces killed in July, down from 1,980 in May, but it notes that no such tallies are completely accurate and are probably much higher.

The reduction in violence doesn't appear to be the result of summer weather, when the intense heat might discourage insurgent attacks. According to an analysis by the Marine command in Anbar, violence trends upward from a low point in January, when it's coldest, through summer to October for each of the last three years. This year, according to Marine Maj. Gen. Walter Gaskin, commander of Multi-national Force West, the violence in Anbar has trended downward instead.

All this may be illustrating what to some is a new reality in Iraq even if much of Washington has yet to acknowledge it, says Michael O'Hanlon, a senior fellow at the Brookings Institution, a Washington-based think tank.

Mr. O'Hanlon has been critical of the war and has remained skeptical of the current strategy. But on Monday, he coauthored an Op-Ed in The New York Times titled ''A War We Might Just Win.'' In it, O'Hanlon says he is impressed with the improved security situation, the reasonably high morale of US troops, and the increasing competency of Iraqi forces. ''We are finally getting somewhere in Iraq, at least in military terms,'' O'Hanlon wrote, along with Brookings colleague Kenneth Pollack. ''As two analysts who have harshly criticized the Bush administration's miserable handling of Iraq, we were surprised by the gains we saw and the potential to produce not necessarily 'victory' but a sustainable stability that both we and the Iraqis could live with.''

Military officials are heartened by decreases in American fatalities but are reluctant to characterize it as a turning point.

''My initial thought is this is what we thought would happen once we got control of the real key areas that are controlled by these terrorists,'' Lt. Gen. Ray Odierno, the No. 2 American commander in Iraq, said on Thursday. ''It's an initial positive sign, but I would argue I need a bit more time to make an assessment of whether it's a true trend or not.''

In May, noting the high number of casualties among American forces, General Odierno said it was the result of taking the fight to the enemy, going into places like Diyala and Baquba to fight insurgents, and that he expected over time that the number of casualties would decrease, as it appears to have done now.

Odierno says he may need more time, but Congress is waiting for an assessment as early as next month. That's when Odierno's boss, Army Gen. David Petraeus, the top commander in Iraq, is expected to provide a comprehensive report of the security situation in Iraq. Military officials caution that General Petraeus's assessment may not make specific recommendations regarding a possible drawdown of the more than 155,000 US troops currently serving in Iraq.

''Petraeus is very, very cautious about how much success he is going to advertise,'' the senior uniformed official says. ''The culminating point is when the hearts and minds finally tip'' in Iraq.

[From the New York Times, July 30, 2007]

A WAR WE JUST MIGHT WIN

(By Michael E. O'Hanlon and Kenneth M. Pollack)

WASHINGTON.—Viewed from Iraq, where we just spent eight days meeting with American and Iraqi military and civilian personnel, the political debate in Washington is surreal. The Bush administration has over four years lost essentially all credibility. Yet now the administration's critics, in part as a result, seem unaware of the significant changes taking place.

Here is the most important thing Americans need to understand: We are finally getting somewhere in Iraq, at least in military terms. As two analysts who have harshly criticized the Bush administration's miserable handling of Iraq, we were surprised by the gains we saw and the potential to produce not necessarily ''victory'' but a sustainable stability that both we and the Iraqis could live with.

After the furnace-like heat, the first thing you notice when you land in Baghdad is the morale of our troops. In previous trips to Iraq we often found American troops angry and frustrated—many sensed they had the wrong strategy, were using the wrong tactics and were risking their lives in pursuit of an approach that could not work.

Today, morale is high. The soldiers and marines told us they feel that they now have a superb commander in Gen. David Petraeus; they are confident in his strategy, they see real results, and they feel now they have the numbers needed to make a real difference.

Everywhere, Army and Marine units were focused on securing the Iraqi population, working with Iraqi security units, creating new political and economic arrangements at the local level and providing basic services—electricity, fuel, clean water and sanitation—to the people. Yet in each place, operations had been appropriately tailored to the specific needs of the community. As a result, civilian fatality rates are down roughly a third since the surge began—though they remain very high, underscoring how much more still needs to be done.

In Ramadi, for example, we talked with an outstanding Marine captain whose company was living in harmony in a complex with a (largely Sunni) Iraqi police company and a (largely Shiite) Iraqi Army unit. He and his men had built an Arab-style living room, here he met with the local Sunni sheiks—all formerly allies of Al Qaeda and other jihadist groups—who were now competing to secure his friendship.

In Baghdad's Ghazaliya neighborhood, which has seen some of the worst sectarian combat, we walked a street slowly coming back to life with stores and shoppers. The Sunni residents were unhappy with the nearby police checkpoint, where Shiite officers reportedly abused them, but they seemed genuinely happy with the American soldiers and a mostly Kurdish Iraqi Army company patrolling the street. The local Sunni militia even had agreed to confine itself to its compound once the Americans and Iraqi units arrived.

We traveled to the northern cities of Tal Afar and Mosul. This is an ethnically rich area, with large numbers of Sunni Arabs, Kurds and Turkmens. American troop levels in both cities now number only in the hundreds because the Iraqis have stepped up to the plate. Reliable police officers man the checkpoints in the cities, while Iraqi Army troops cover the countryside. A local mayor told us his greatest fear was an overly rapid American departure from Iraq. All across the country, the dependability of Iraqi security forces over the long term remains a major question mark.

But for now, things look much better than before. American advisers told us that many of the corrupt and sectarian Iraqi commanders who once infested the force have been removed. The American high command assesses that more than three-quarters of the Iraqi Army battalion commanders in Baghdad are now reliable partners (at least for as long as American forces remain in Iraq).

In addition, far more Iraqi units are well integrated in terms of ethnicity and religion. The Iraqi Army's highly effective Third Infantry Division started out as overwhelmingly Kurdish in 2005. Today, it is 45 percent Shiite, 28 percent Kurdish, and 27 percent Sunni Arab.

In the past, few Iraqi units could do more than provide a few ''jundis'' (soldiers) to put a thin Iraqi face on largely American operations. Today, in only a few sectors did we

find American commanders complaining that their Iraqi formations were useless—something that was the rule, not the exception, on a previous trip to Iraq in late 2005.

The additional American military formations brought in as part of the surge, General Petraeus's determination to hold areas until they are truly secure before redeploying units, and the increasing competence of the Iraqis has had another critical effect: no more whack-a-mole, with insurgents popping back up after the Americans leave.

In war, sometimes it's important to pick the right adversary, and in Iraq we seem to have done so. A major factor in the sudden change in American fortunes has been the outpouring of popular animus against Al Qaeda and other Salafist groups, as well as (to a lesser extent) against Moktada al-Sadr's Mahdi Army.

These groups have tried to impose Shariah law, brutalized average Iraqis to keep them in line, killed important local leaders and seized young women to marry off to their loyalists. The result has been that in the last six months Iraqis have begun to turn on the extremists and turn to the Americans for security and help. The most important and best-known example of this is in Anbar Province, which in less than six months has gone from the worst part of Iraq to the best (outside the Kurdish areas). Today the Sunni sheiks there are close to crippling Al Qaeda and its Salafist allies. Just a few months ago, American marines were fighting for every yard of Ramadi; last week we strolled down its streets without body armor.

Another surprise was how well the coalition's new Embedded Provincial Reconstruction Teams are working. Wherever we found a fully staffed team, we also found local Iraqi leaders and businessmen cooperating with it to revive the local economy and build new political structures. Although much more needs to be done to create jobs, a new emphasis on microloans and small-scale projects was having some success where the previous aid programs often built white elephants.

In some places where we have failed to provide the civilian manpower to fill out the reconstruction teams, the surge has still allowed the military to fashion its own advisory groups from battalion, brigade and division staffs. We talked to dozens of military officers who before the war had known little about governance or business but were now ably immersing themselves in projects to provide the average Iraqi with a decent life.

Outside Baghdad, one of the biggest factors in the progress so far has been the efforts to decentralize power to the provinces and local governments. But more must be done. For example, the Iraqi National Police, which are controlled by the Interior Ministry, remain mostly a disaster. In response, many towns and neighborhoods are standing up local police forces, which generally prove more effective, less corrupt and less sectarian. The coalition has to force the warlords in Baghdad to allow the creation of neutral security forces beyond their control.

In the end, the situation in Iraq remains grave. In particular, we still face huge hurdles on the political front. Iraqi politicians of all stripes continue to dawdle and maneuver for position against one another when major steps towards reconciliation—or at least accommodation—are needed. This cannot continue indefinitely. Otherwise, once we begin to downsize, important communities may not feel committed to the status quo, and Iraqi security forces may splinter along ethnic and religious lines.

How much longer should American troops keep fighting and dying to build a new Iraq while Iraqi leaders fail to do their part? And how much longer can we wear down our forces in this mission? These haunting questions underscore the reality that the surge cannot go on forever. But there is enough good happening on the battlefields of Iraq today that Congress should plan on sustaining the effort at least into 2008.

Mr. ISAKSON. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, we all know and acknowledge that al-Qaida and other related terrorist groups are determined to strike at the U.S. homeland. But a precipitous U.S. withdrawal from Iraq would only serve to fuel that determination and, as a result, surrender Iraq to al-Qaida, which would directly threaten the security of the United States and its allies.

Yesterday, we had a visit from Henry Kissinger who warned us that such a precipitous withdrawal would be revisiting the nightmare of Vietnam, where our withdrawal there created genocide among those who had supported us and other innocent Southeast Asians. This time, however, al-Qaida would follow us back to America. Al-Qaida would use Iraq as a safe haven, as it once had in Afghanistan. Only this time with oil revenues, in addition to a safe haven, it would be well positioned and financed to launch further enhanced attacks against the United States. Yet we continue to hear from the other side calls for withdrawal, despite preliminary reports of progress resulting from the surge, as my colleague from Georgia has so eloquently explained.

We continue to hear calls for timelines that would embolden the morale of our enemies and dissuade the populace from cooperating with U.S. and Iraqi forces, and the latest and most recent development in the string of defeatism has come from the House majority whip. This past Monday in the Washington Post, he stated that a strongly positive report on progress in Iraq by General Petraeus would likely split Democrats in the House and impede his party's efforts to press for a timetable to end the war.

Now it appears some in the Democratic Party leadership are so invested in retreat and defeat politically that despite whatever the news is coming out of Iraq and regardless of the consequences, they are committed to defeat.

Why, I ask, is the majority focused not on our national security but on scoring political points? I guess we should pull out, cede victory for the terrorists in Iraq, in order to keep the Democrats united for the general elections in 2008.

What we, the Iraqi people, and all freedom-loving nations face is a fundamental threat from barbaric cowards misrepresenting the true nature of peaceful teachings of Islam. The terrorists of mufsidoon, as they should be called, are condemned evildoers distorting the Koran. They are not jihadists. Jihad is pursuing a moral superiority. These people who commit these acts are not insurgents or jihadists. The clearer we define the true enemy, the easier it will be to defeat them.

What we have seen for some time now is encouraging signs this has, in fact, happened, coupled with the surge that is showing progress. Sunni sheiks in Al Anbar have been working with us to take back their neighborhoods and villages, fed up with the mufsidoon al-Qaida committing atrocities.

My colleague referred to the Sunday New York Times article. Two men who are strong opponents of the war in Iraq said, referring to al-Qaida and other Salafist groups, as well as Moktada al-Sadr's Mahdi Army:

> These groups have tried to impose Shariah law, brutalized average Iraqis to keep them in line, killed important local leaders and seized young women to marry off to their loyalists. The result has been that in the last 6 months, Iraqis have begun to turn on the extremists and turn to the Americans for security and help. The most important and best-known example of this is in Anbar Province, which in less than 6 months has gone from the worst part of Iraq to the best. Today, the Sunni sheiks there are close to crippling Al Qaeda and its Salafist allies. Just a few months ago, American marines were fighting for every yard of Ramadi; last week we strolled down its streets without body armor.

I observed the same when my CODEL visited Iraq in early May. The authors said ''there is enough good happening on the battlefields of Iraq today that Congress should plan on sustaining the effort at least until 2008.''

So if two of the war's harshest, most longstanding critics admit we are making a difference, why can't the Democrats give victory a chance? Why can't they give millions of Iraqis a chance at freedom? Why can't they acknowledge the progress being made?

Pollack and O'Hanlon said that the soldiers and marines know they have a superb commander in General Petraeus.

> . . . they are confident in his strategy, they see real results, and they feel now they have the numbers needed to make a real difference.

It is time my colleagues in the other party who claim to support the troops actually do so in both words and deeds. Ignoring the progress being made by our troops because it does not suit the political ends of some Democratic leaders is an egregious outrage. Advocating for a precipitous withdrawal from Iraq would be a rallying cry for al-Qaida and other mufsidoon all over the world. What are we to say to the millions of Iraqis who have sided with us in taking back their country, only to see them slaughtered systematically after we leave the job before it is finished?

Our words should inspire our troops and those who are working with us. Rest assured our soldiers and marines are listening. A recent speech by Marine Corps Commandant Conway underscores the point:

> I sat this week and listened to a United States Senator who criticized the U.S. effort

in Iraq as being involved in an Iraqi civil war while ignoring the real fight against terrorism that was taking place in Afghanistan.

With due respect to the Senator, I would offer that he is wrong on two counts. The fact is that there is no civil war taking place in Iraq by any reasonable metric. There is certainly sectarian strife, but even that is on the declining scale over the past six months.

Ironically, this strife was brought about and inflamed by the very terrorists some claim do not exist in Iraq. The sectarian strife is a tactic aimed at creating chaos with little risk to the instigator while it ties down coalition forces.

Yet, Mr. President, the retreat-and-defeat crowd, despite encouraging signs the surge is working, despite the fact this new strategy has only been in place fully for just a couple of months, and despite the fact that the Democrats have failed to offer any constructive alternatives, other than the ones that would cede defeat, continue to push down that line.

It is a huge disappointment to me, to others, to those who support our troops and the efforts to protect our homeland from the al-Qaida attacks that would surely follow a precipitous withdrawal. It is a huge disappointment that this debate is not about how we can achieve victory but how quickly we can declare defeat. This has become a political debate. The focus of our national security has been sidetracked. As I have said time and time again, we should debate legislation which provides our troops with a clear path to victory, a victory which, sadly, many in this body are ready to award to al-Qaida and mufsidoon all over the world without ever having given the surge a chance.

Mr. GRAHAM. Mr. President, I ask unanimous consent that I be recognized for 7 minutes.

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

Mr. GRAHAM. Mr. President, I will say to my good friend from Missouri that was a well-done presentation. I know how important this topic is to him because of his family's commitment to our military, and he, like many other people in this country, definitely has a vested interest in the outcome in Iraq in terms of family members.

The point I would like to make this morning, to build on this theme, is that I passionately believe the outcome in Iraq will not be a neutral event in terms of the overall war on terror, that success in Iraq will not be confined to Iraq in terms of winning the war on terror, and a defeat in Iraq certainly will not be confined to Iraq. It will spill over and empower extremists in the region and throughout the world.

The reason I say that is this: Who is the enemy in Iraq? Is this really a civil war? Certainly there are aspects of sectarian violence and people trying to seize political power through militia groups and the use of violence, trying to destroy this democracy and win the day to control Iraq. There are Shia and Sunni groups trying to do that. But the vast majority of Iraqis want to go a different way. They want to live together and try to find some way to reconcile their past differences and not resort to the use of the gun. I do believe there is some hope this will happen—and not just blind hope but realistic progress in Iraq that can be seen if you are willing to look.

The challenges are real. The Iraqi central government has failed on many fronts to reconcile the country politically. But, as my colleagues have indicated, the surge, the additional combat power that started in February and has been in place now for about 3 or 4 weeks, has made a dramatic difference in certain parts of Iraq.

Mr. O'Hanlon and Mr. Pollack's article has been often mentioned by Republicans, and they have been critics of the war, but I would just like to say to them, if they happen to be listening: I appreciate your willingness to come back and report progress, and I also understand what you are telling us in your article, that we are a long way from having it right in Iraq and there are many challenges left. The political front has been stagnant, but the military front has moved forward in a very substantial way.

The surge, for me, is not so much that we have moved al-Qaida out of Anbar but that the people in Anbar, given a choice, have rejected al-Qaida. The ability to make that choice was provided by the additional combat power coming from the surge. An offensive strategy is now in place, and it has replaced a defensive strategy. The old strategy of training the Iraqi police and military and hiding behind walls simply wasn't working. The new strategy of going out in the communities and living with the Iraqi police and army is paying dividends.

Anbar truly has changed in a phenomenal way, as Senator BOND said. You can go to Ramadi now—someplace you couldn't go a few months ago. Again, the Iraqi Sunni residents of Anbar tasted al Qaida's lifestyle, had an experience in terms of what al-Qaida would impose upon their families, and said: No, thank you. And along comes American forces to help them reinforce that choice.

The biggest news in Anbar is that 12,000 people joined the local police force in 2007, where there were only 1,000 in 2006. So that means when we do leave—and it is all of our goal to withdraw from Iraq—the goal should be to withdraw with honor and security, and honor means you leave the country without those who helped you fight al-Qaida and other extremists getting slaughtered. I don't think we could leave that country with much honor if we left in a way that allowed those who bravely stepped out and embraced moderation to be killed by the extremists. From a security perspective, it is important that we leave Iraq in a stable situation and that the problems there do not spill over to the other parts of the region and the world at large.

Now, whom are we fighting? There are sectarian conflicts. There are power struggles to regain control of Iraq. That is part of the enemy. Al-Qaida is part of the enemy. And al-Qaida is really not limited in controlling Iraq. It is not their goal to take over central Baghdad and run Iraq; their goal, in my opinion, is to come into Iraq and make sure this attempt at moderation and democracy fails.

Is there a connection between al-Qaida in Iraq and bin Laden and his organization? About a week ago, President Bush came to Charleston, SC, and spoke at Charleston's Air Force Base. He made a very logical, reasoned case that there is a deep connection between al-Qaida in Iraq and the bin Laden infrastructure. To those who say that al-Qaida in Iraq is really a separate organization with a separate agenda, I think you are not understanding who the major players are and what their agenda includes.

No. 1, their agenda is to defeat us in Iraq and drive America out and be able to claim to the rest of the world that they beat us. If you don't believe me, ask Bin Laden or look at what bin Laden says. Bin Laden claimed, ''The Third World war is raging in Iraq.'' Osama Bin Laden says, ''The war is for you or for us to win. If we win it, it means your defeat and your disgrace forever.''

Well, I think he understands the consequences of a victory by al-Qaida. He also understands the consequences of a defeat by America. The question I have is, Do we understand that? Do we understand what would happen to this country and all forces of moderation in the Mideast and throughout the world if it were perceived that al-Qaida in Iraq was able to drive the United States out of that country and leave it to the warlords of terrorism?

Who is al-Qaida in Iraq? The founder of al-Qaida in Iraq was not an Iraqi, it was a Jordanian—al-Zarqawi. He was a Jordanian terrorist. Before 9/11, he ran a terrorist camp in Afghanistan. After joining Osama bin Laden, he left Afghanistan, after the fall of the Taliban, and went to Iraq. Zarqawi and his terrorist group formally joined bin Laden, pledging allegiance to Osama bin Laden, and promised to follow his orders in jihad. Soon after, bin Laden publicly declared that Zarqawi was the prince of al-Qaida in Iraq and instructed terrorists in Iraq to listen to him and obey him. Now, to me, that is a pretty serious connection.

Beyond Zarqawi, who was from Jordan, bin Laden sent an Egyptian, who was a member of al-Qaida's international infrastructure, to provide support to Zarqawi and leadership. And the President gave a laundry list of international terrorists tied to bin Laden who migrated to Iraq to build up al-Qaida in Iraq. They have the same agenda. The agenda is to defeat moderation where you find it, to try to control as much of the Mideast as possible. And their agenda doesn't just include Iraq. The Gulf States are next and after that Israel, and always us.

Now, that is not what I am saying; that is what they say. So I think the President made a very persuasive case that the infrastructure of al-Qaida in Iraq is very much tied to the bin Laden organization. If you don't believe that, come down and let's have a debate about it.

Who else is our enemy in Iraq? Iran. This body passed unanimously a resolution authored by Senator LIEBERMAN during the Defense authorization debate, and part of that resolution was a laundry list of activity by Iran, particularly the Quds Force, part of the Revolutionary Guard, in terms of trying to kill Americans in Iraq and destabilize the efforts of building a democracy in Iraq. On February 11, 2007, the U.S. military held a briefing in Baghdad at which its representatives stated that at least 170 members of the U.S. Armed Forces have been killed and at least 620 wounded by weapons tied to Iran.

This resolution which we passed was a damning indictment of Iran's involvement in Iraq about training, providing funds, providing weaponry, and bringing Hezbollah agents from Lebanon into Iraq to try to assist extremist groups whose goal it is to kill Americans and to destabilize this effort of democracy.

Now, why does al-Qaida come to Iraq? I said before that their biggest nightmare is a moderate form of government where Sunnis and Shias and Kurds and all different groups could live together, accepting their differences, where a woman could have a say about her children by being able to run for office and vote and have a strong voice in society. That is their worst nightmare.

Whether we should have gone to Iraq or not is a historical debate. We have made plenty of mistakes after the fall of Baghdad. But the biggest mistake would be not to recognize that Iraq is part of a global struggle. There are sectarian conflicts in Iraq; I acknowledge that. There has been a major failure of political reconciliation; I acknowledge that. The old strategy was not working; I acknowledged that 2 or 3 years ago. The new strategy is providing dividends in terms of defeating al-Qaida in Iraq. The Iraqi people in the Sunni areas have turned against al-Qaida in Iraq. That is good news. Political reconciliation is occurring at the local provincial level. I hope it works its way up.

Another aspect of Iraq, to me, which is undeniable—and I understand the challenges, and I think I see the successes for what they are—is that the Iranian Government's involvement in Iraq is major. It is substantial. It is designed to break our will. Their efforts include killing our troops, and they are there to make sure this experiment in democracy fails because Iran's worst nightmare is to have a functioning democracy on their border.

So this is part of a global struggle, and the outcome will create momentum one way or the other. I hope the outcome will be a success for moderation and a defeat of extremism.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. All time has expired. Morning business is closed.

SMALL BUSINESS TAX RELIEF ACT OF 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 976, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 976) to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

Pending:

Baucus amendment No. 2530, in the nature of a substitute.

Grassley (for Ensign) amendment No. 2538 (to amendment No. 2530), to amend the Internal Revenue Service Code of 1986 to create a Disease Prevention and Treatment Research Trust Fund.

Bunning amendment No. 2547 (to amendment No. 2530), to eliminate the exception for certain States to cover children under SCHIP whose income exceeds 300 percent of the Federal poverty level.

Dorgan amendment No. 2534 (to amendment No. 2530), to revise and extend the Indian Health Care Improvement Act.

Gregg amendment No. 2587 (to amendment No. 2530), to limit the matching rate for coverage other than for low-income children or pregnant women covered through a waiver and to prohibit any new waivers for coverage of adults other than pregnant women.

The ACTING PRESIDENT pro tempore. Under the previous order, there is now 30 minutes of debate equally divided prior to a vote in relation to amendment No. 2538.

Who yields time? The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, the bill before us today would reauthorize SCHIP for 5 years with a $35 billion expansion in spending. But because of the way the budget gimmicks were worked in this bill, it is actually an expansion of somewhere around $110 billion.

This expansion, or at least part of it, is going to be funded by an increase in the Federal tobacco tax by 61 cents per pack and up to $10 per cigar. The problem with the funding mechanism in this bill, the way I see it, is that for the funding to still be there, we actually need to encourage people to smoke. Today, in our health care system, smokers contribute to a lot of diseases and this imposes large costs. In the future, as we raise the price of tobacco, fewer people smoking will mean less revenue. The proposal to fund the SCHIP expansion will yield diminishing returns. In the future, the tobacco tax will not adequately pay for the spending that is provided for in this bill.

This bill greatly increases dependency on the Federal Government and the dependency of the Federal Government on this tobacco tax revenue. The expansions included in this bill will have little bang for the buck in terms of reducing the ranks of the uninsured. As more money is poured into expanding SCHIP, less of the new funds will go to providing coverage to low-income children who currently go without coverage. SCHIP expansion will only serve to coax individuals and families out of the private insurance market and into Government coverage.

Undermining private health insurance coverage by creating more Government dependence is not an effective way to address shortfalls in coverage. We should have more of a comprehensive approach. This approach should include fiscal discipline, not more taxes and higher spending. We should be working to strengthen private sector health insurance options and increase parental choice and responsibility.

My amendment, however, will not address taking a more comprehensive approach to coverage. We will have other amendments during this debate that will address more of a comprehensive approach to insurance coverage.

I strongly believe in the role of Federal Government plays in promoting basic research. Some have noted that an increase in the tobacco tax should be used to fund the costs that tobacco imposes on our society. I agree with that. My amendment would establish a trust fund that will be known as the Disease Prevention and Treatment Research Trust Fund. The revenue from increased tobacco tax rates in the underlying bill will be transferred to this trust fund. From there, the dollars will be made available to fund research on diseases that are often associated with tobacco use.

I also believe the chronic underfunding of research in areas such as pediatric cancer need to be addressed, so I have expanded the permissible use of these funds to cover research on other diseases as well. I urge my colleagues to support my amendment to help discover new knowledge and treatments that improve and save lives.

Our current health care system is a sick care system. We do not spend nearly as much money on prevention as we do on getting people healthy once they are sick. This trust fund will fund research into areas to keep people healthy, to make sure we are spending money on disease research that actually keeps people out of hospitals, that keeps people as healthy as possible for as long as possible throughout their lives. I think this is a better use of taxpayers' dollars, especially when we are going to be raising those taxes on people who smoke. Let's use that money to fund disease research instead of taking people from the private health market onto the Government-funded health market.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, it is important to look at what this amendment actually does. It is a remarkable amendment. What does it do? It would try to spend the same dollar twice, take a dollar from tobacco taxes, spend it in the trust fund and spend it on CHIP—doing two things at once. I don't think we can do that in the real world. It is too good to be true. We can't do it. That is what the amendment says, basically. I do not think the Senator wants to take money away from kids, from the CHIP fund, the CHIP program. The amendment doesn't say that. I am sure he doesn't intend to do that. But what the amendment does say is the same dollars are going to be spent twice—one way we spend it is for this trust fund, the other way is we spend it on kids. I don't know how we do that; how in the real world we can do that. It is fantasy land. We can't do it.

Again, surely the Senator does not want to repeal the entire Children's Health Insurance Program. I am sure he doesn't want to do that. He does not do that in this amendment. But he still sets up the tension between the two, between research and all the good causes the Senator talks about on the one hand, and children's health insurance on the other, pitting one against the other. I don't think he wants to do that. He does not do that directly but he does that indirectly by trying to spend the same dollar twice. That might be possible in Hogwarts; it might be possible in Harry Potter's world. But I don't think it is possible in the real world.

Back here in the real world I want Senators to know this amendment is a thinly veiled attempt to steal the funding from the children's health care program. It is an attempt to undermine children's health care coverage. That is what this bill does. It takes a dollar from the tobacco tax—it is amazing—and that dollar is going to be spent on this trust fund and that same dollar is going to be spent on children's health care. We can't do that.

I urge my colleagues to reject the amendment.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, our amendment clearly takes the money from the increase in the tobacco tax, and instead of dedicating to the expansion of SCHIP, puts it into a disease research trust fund. SCHIP is still authorized; we don't do anything to the underlying program that currently exists. We take the money out of the expansion, this is tobacco tax money out of the expansion, and we apply it to the trust fund to be used for disease research. That is what this bill does. That is what the amendment does.

Mr. BAUCUS. Will the Senator yield for a question on that one point?

Mr. ENSIGN. Yes, but let me explain it.

Mr. BAUCUS. I will take it on our time.

Mr. ENSIGN. Let me explain it to you and then I will yield for a question. It says:

> There are hereby appropriated to the Disease Prevention and Treatment Reserve Trust Fund—

which we are talking about here,

> —amounts equivalent to the taxes received in the Treasury attributable to the amendments made by section 701. . . .

That is the tobacco taxes. We are taking the tobacco taxes, which would fund part of the increase the SCHIP expansion, and apply it to the Disease Prevention and Treatment Research Trust Fund. We are not taking money out of the trust fund; it is the revenues generated from the expansion of the tobacco tax from which we are taking the money.

Mr. BAUCUS. So the Senator wishes to take all the tobacco taxes in the underlying amendment, take all those dollars away from kids?

Mr. ENSIGN. That is not exactly right.

Mr. BAUCUS. It is exactly right.

Mr. ENSIGN. As you heard in my statement, pediatric cancer research is underfunded.

Mr. BAUCUS. No, take it from the Children's Health Insurance Program.

Mr. ENSIGN. We are taking it from the expansion, which is not just children. We are going to have other amendments to make sure the prioritization is on low-income kids. Part of the expansion is in States where the folks being covered are not just those under 200 percent of the poverty level. The expansion of SCHIP has been part of the problem. I believe in actually covering everybody, but doing it in a way that is different than the approach in the bill. What we want to do is take the tobacco taxes and take those funds that are raised by the tobacco taxes and dedicate those funds to disease research. The budget gimmicks used in the SCHIP expansion are so phony that it is ridiculous, some of the worst I have seen around here. These gimmicks assume these folks are going away in a few years, that they are not going to be on the program at the end of the 5-year reauthorization. This is how they got the SCHIP expansion to meet pay-go requirements.

But we say let's take the money and put it in a trust fund and with those real dollars that are in the trust fund, we are going to fund disease research that will help children, that will help adults, that will help all Americans.

Mr. BAUCUS. Will the Senator yield for another question again, again on my time?

Mr. ENSIGN. Yes.

Mr. BAUCUS. I don't mean to be condescending here, but has the Senator read the CBO analysis? I am sure he has. And, having read that, isn't it clear that a large share of the dollars in this bill from the tobacco tax are to maintain current coverage? That is, if we do not provide the $35 billion in this bill, that is the funds from the tobacco tax, that many kids are going to lose coverage? In fact, isn't it true that CBO says about 1.4 million children will lose coverage—not just maintain, but lose coverage if we do not have this bill?

Mr. ENSIGN. That is exactly why I believe in a comprehensive approach to solve the problem we have in the country. You do not take care of all of the children in America in this bill.

Mr. BAUCUS. Of course not.

Mr. ENSIGN. I believe in taking a more comprehensive approach that actually doesn't increase the dependence on the Government. I am addressing something different with this amendment. What I believe is we should do this amendment to fund disease prevention research, but then do a comprehensive approach that takes care of kids, that takes care of those uninsured adults, that gets them into the private insurance market. The more people, especially a lot of younger people, healthier people who are currently uninsured, whom we get into the private health insurance markets—the more the better. There are several proposals out there, whether it is tax credits or tax deductions; there is a blend of the two that has been talked about. We need to explore those because if we are doing it in a way that will take care of the uninsured, we bring in the folks who are healthier which will bring down the cost of health care insurance for all Americans.

That is the direction we should be going. SCHIP will take people out of the private insurance market. The program, the expansion you have done—and this is according to CBO—will take children who are currently in the private health insurance market and it will move them to Government programs. There will be a great incentive in the future to do more and more of this.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I think it is important to talk about the amendment, not all these other very important points with respect to health care. The effect of this amendment, the way it is written, will be to spend the same dollar twice. If the effect is what the Senator says it is, and he intends it—although that is not the amendment—if he intends to have all additional tobacco taxes go to the trust fund, then the net effect of this amendment is about 1.4 million American low-income kids will lose coverage. That is CBO. They will lose it, if that is the intent of the amendment.

The actual effect of the amendment the way it is written is the dollars have to be spent twice. We can't do that. I don't know how we do that. But, again, if the intent of the amendment is dollars do not go to kids, then the effect of the amendment is about 1.4 million

children will lose health insurance coverage; that is 5.7 million fewer kids will be covered under insurance than under our amendment.

In the Senator's own statements, he admits it. He apparently does not want to add dollars, he wants to take away the $35 billion raised by the tobacco tax and the honest effect of that $35 billion is to help prevent about 1.4 million kids from losing coverage as well as adding additional coverage. It is both. If the amendment is what the Senator wants it to do and says it is, then about 1.4 million kids will lose coverage.

The ACTING PRESIDENT pro tempore. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, to be clear, this amendment funds cancer research, including:

. . . pediatric, lung, breast, ovarian, uterine, prostate, colon, rectal, oral, skin, bone, kidney, liver, stomach, bladder—

any kind of cancer you can think of.

Respiratory diseases . . . chronic obstructive pulmonary disease—

We hear so much about that today.

—tuberculosis, bronchitis, asthma and emphysema. All the related problems we see so much with smoking: ''Cardiovascular diseases''—a huge killer in the United States with huge costs to our health care system. We are going to fund a lot more research with this money. I think this money is going to some very good things in America, things that will benefit not just children but will benefit all Americans. It doesn't spend the money twice as I pointed out. It takes the money from the expansion and actually spends it, I believe, in more appropriate areas. Then, later in the bill, we are going to be offering some alternatives that will make sure the kids are covered and we will be looking at some other alternatives to do more comprehensive care.

I urge my colleagues to support this amendment.

Have the yeas and nays been ordered?

The ACTING PRESIDENT pro tempore. They have not.

Mr. ENSIGN. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ENSIGN. Mr. President, I ask unanimous consent to have a letter from Dr. Neal Birnbaum, president of the American College of Radiology, printed at the end of my remarks on amendment No. 2538. The letter expresses support for my amendment, which would use the tobacco tax increase to fund research on diseases that are often associated with tobacco use, including arthritis.

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

AUGUST 1, 2007

Hon. JOHN ENSIGN,
U.S. Senate,
Washington, DC.

DEAR SENATOR ENSIGN: The American College of Rheumatology greatly appreciates your leadership and amendment of the Internal Revenue Code of 1986 to create a Disease Prevention and Treatment Research Trust Fund (H.R. 976). This piece of legislation is of vital importance to the rheumatology community.

Arthritis currently affects over 46 million Americans, including 300,000 children. It is the nation's leading cause of disability and cost the U.S. economy approximately $128 billion annually in medical costs and lost productivity.

We appreciate your efforts in bring forth this amendment that would use the tobacco tax increase to fund research on diseases that are often associated with tobacco use such as arthritis. This is a disease that has been chronically underfunded.

We will send supporting materials in the coming days regarding the increased prevalence of Rheumatoid Arthritis in smokers.

Sincerely,

NEAL BIRNBAUM, MD,
President,
American College of Rheumatology.

Mr. ENSIGN. I am willing to yield back time so we can get back on schedule for a 10:30 vote, if that will be OK with the Senator?

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. I don't want to belabor the point. Some of the points the Senator makes are very good. Sure, he wants to do more research, but still the fact is the amendment takes dollars away from kids, away from the Children's Health Insurance Program.

In the children's health care program, 1.4 million American children will lose coverage under the Senator's amendment. That is CBO, that is not me. That is CBO. I do not think we want to take away our current coverage under the program.

One minor point that is not relevant to the amendment, but is relevant to the bill, is the Senator talks a little about something called crowd-out; that is, the number of kids who might not have private coverage who move to the CHIP program. That happens in every single program.

Do you know what the crowd-out estimate was with the Medicare Modernization Act, Part D? It was 75 percent. That was the estimate on how much crowd-out there would be for that legislation, which this body strongly supported. It actually turned out to be much less than that.

When this program was initially enacted in 1997, the Children's Health Insurance Program, CBO estimated crowd-out to be 70 percent. It was much less than that. We have asked the CBO Director to design this legislation to minimize crowd-out as well as we possibly can. And he, in testimony before the committee, said: You have done a very efficient job to minimize so-called crowd-out.

So we are cognizant of the point. But the main point is to get more health insurance coverage for kids. That is what the underlying bill does.

Mr. President, I yield back the remainder of our time.

The ACTING PRESIDENT pro tempore. All time is yielded back.

The question is on agreeing to the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. CARPER), the Senator from South Dakota (Mr. JOHNSON), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Michigan (Mr. LEVIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Missouri (Mrs. MCCASKILL), amd the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. CARPER), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Michigan (Mr. LEVIN), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Missouri (Mrs. MCCASKILL) would each vote ''nay.''

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from Oklahoma (Mr. COBURN), the Senator from Minnesota (Mr. COLEMAN), the Senator from Arizona (Mr. MCCAIN), the Senator from Alaska (Mr. STEVENS), the Senator from New Hampshire (Mr. SUNUNU), the Senator from Ohio (Mr. VOINOVICH), and the Senator from Virginia (Mr. WARNER).

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

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

The result was announced—yeas 26, nays 58, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—26

Allard	DeMint	Kyl
Barrasso	Dole	Lott
Bennett	Domenici	Martinez
Bunning	Ensign	McConnell
Burr	Enzi	Sessions
Chambliss	Graham	Shelby
Cornyn	Gregg	Thune
Craig	Inhofe	Vitter
Crapo	Isakson	

NAYS—58

Alexander	Feingold	Nelson (FL)
Baucus	Feinstein	Nelson (NE)
Bayh	Grassley	Obama
Biden	Hagel	Pryor
Bingaman	Harkin	Reed
Bond	Hatch	Reid
Boxer	Hutchison	Roberts
Brown	Inouye	Salazar
Byrd	Kennedy	Sanders
Cantwell	Kerry	Schumer
Cardin	Klobuchar	Smith
Casey	Kohl	Snowe
Clinton	Lautenberg	Specter
Cochran	Leahy	Stabenow
Collins	Lincoln	Tester
Conrad	Lugar	Webb
Corker	Menendez	Whitehouse
Dodd	Mikulski	Wyden
Dorgan	Murkowski	
Durbin	Murray	

NOT VOTING—16

Akaka	Coleman	Lieberman
Brownback	Johnson	McCain
Carper	Landrieu	
Coburn	Levin	

McCaskill	Stevens	Voinovich
Rockefeller	Sununu	Warner

The amendment (No. 2538) was rejected.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Ms. LANDRIEU. Will the Senator from Montana yield?

Mr. BAUCUS. I do.

The PRESIDING OFFICER. The Senator from Louisiana.

VOTE EXPLANATIONS

Ms. LANDRIEU. Mr. President, I missed the previous vote because we were in a markup in committee. About six other Members did as well. Could I please be recorded as having voted no? If I were here, I would have voted no on the previous amendment.

Mr. WARNER. I was likewise in the committee when we were informed by the chairman and ranking member that we had an extra minute to finish the markup. But the best I can do is add, if I were present, I would have voted no.

Mr. LEVIN. Mr. President, I was in a similar situation. I would have voted no had I been here. I was also in the same committee meeting.

Mr. VOINOVICH. Mr. President, I had the same problem the other Members had. If I were here, I would have voted no.

The PRESIDING OFFICER. Without objection, it will be so ordered.

Mr. COBURN. Mr. President, as a member of the Homeland Security Committee, we were advised that we would be given leniency on this vote through our chairman, through communication, I assumed, from leadership staff. We did not come on a timely basis. I would like to be recorded as aye. It will not make a difference in the vote.

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

Mr. COLEMAN. Mr. President, I was also in Homeland Security. We were advised by the chair that we would be able to make the vote. Obviously, we weren't. I would like to be recorded as voting no.

The PRESIDING OFFICER. The Senator from Missouri.

Mrs. MCCASKILL. I also was in the Homeland Security markup where we were informed that the vote would be held open so we could finish the markup. Had I been in the Chamber, I would have voted no.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I am the chairman of the Homeland Security Committee. I apologize to my colleagues for any misunderstanding. We had a very busy agenda, important matters that we needed to get done today. I did make a request that the vote be held open. It was the wisdom of the Chair not to do so. I particularly express my regret to my colleagues, for some of whom this was the first rollcall that they have missed. Anyway, for myself, had I been here I would have voted in the negative. It would not have altered the result.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. I also was detained. Were I here, I would have voted no.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I also was at the Homeland Security markup. I am sure that anyone observing this is surprised that so many Senators in one setting, having been notified by the cloakroom, were put in a position where they missed a vote. Had I been here, like all my other colleagues, I would have voted aye. As we see, given that so many of our colleagues have to make this point to the Chair, we have now exceeded by far any time that might have been saved by cutting off the vote in an atypically short way.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, as did my other committee colleagues, I missed the vote. Had I been present, I would have voted ''no.''

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am very happy to see the Committee on Homeland Security doing its work. I think the country is very pleased. Thank you.

Mr. BYRD. Mr. President, let us have order in the Senate. May we have order in the Senate, Mr. President.

Why all this consternation about this vote? Were Senators promised they would have a chance to vote? They were. And we did not hold the vote for them. Now, we ought to do what we promised Senators we will do. Shame.

Mr. GREGG. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Mr. President, I yield for a question.

Mr. GREGG. As one of the most leading Parliamentarians in the history of the Senate, would it be appropriate by unanimous consent to reopen that vote so that the——

Mr. BYRD. May I ask the Senator, what did he say?

Mr. GREGG. I ask the Senator if he feels it is appropriate to reopen the vote so that vote could be reconsidered and Senators could——

Mr. BAUCUS. I would object to that.

Mr. REID. Mr. President, can I be heard?

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I am very sorry people missed the vote. We waited almost 25 minutes for the vote. And I am sorry. Senator LIEBERMAN certainly did not do anything intentionally. He thought the vote would be held open. I have checked with the very loyal staff we have in the cloakroom, and there was a misunderstanding between the cloakroom and Senator LIEBERMAN.

But, regardless, I hope everybody understands we have to have some semblance of order around here. We are doing our very best to save people time. One of the things we are doing to save time is have a vote start on time and end on time. A 15-minute vote is a 20-minute vote. This vote was cut off approaching 25 minutes.

So I am sorry that people missed the vote. I had one Senator tell me it was the first one they missed. It is a favor to that person. I say the first vote I missed took a lot of the pressure off.

This vote passed, I think, 2 to 1. It is not a very difficult issue. I am so sorry that people are disturbed about following the rules here. That is what we are doing.

I appreciate my friend from Montana because if he had not objected, I would have.

Mr. HATCH. Mr. President, will the leader yield?

Mr. REID. Yes.

Mr. HATCH. Mr. President, apparently this was a sorry situation. Nobody's vote would be changed. Why can't we ask unanimous consent that these votes be counted?

Mr. REID. Because I will object to it.

Mr. HATCH. You would object to it?

Mr. REID. Yes.

Mr. BYRD. What was the Senator's request?

Mr. HATCH. I was requesting that we should consider unanimous consent that their votes be counted.

Mr. BYRD. No, Mr. President, we cannot do that.

Mr. HATCH. I understand.

Mr. BYRD. I thank the Senator. We cannot do that. I hope Senators will pay a little more attention.

Mr. President, who has the floor?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I had the floor, and I yielded to the Senator from West Virginia.

Mr. BYRD. I thank the Senator for yielding.

I was caught in this situation a while back, and I have cast more votes than any Senator in the history of this Republic, and it was called on me. I regretted that.

Sometimes I think we get a little bit too hung up. The Senate is a body in which we talk to one another, we talk with one another, we think about one another, and we think of one another's problems. We can get a little bit too hung up on the time on a vote. A vote is important. The people send me here, the people of West Virginia—who has the floor, Mr. President?

Mr. BAUCUS. Mr. President, I say to the Senator, you do.

The PRESIDING OFFICER. The Senator from Montana yielded time to the Senator from West Virginia.

Mr. BYRD. I thank the Senator from Montana.

Now, the people send me here to vote. That is my right. Of course, I ought to get here, be here on time. But the people expect ROBERT BYRD—the people of West Virginia expect ROBERT BYRD—to vote. So let's do not get hung up on 60 seconds or 30 seconds or whatever it is. Let's have a little bit of accommodations to one another.

I hope I am not speaking out of turn. I hope I am not saying too much or making too much of nothing. But I am sent here to vote, and I hope we will accommodate one another. We Democrats ought to accommodate one another, and we ought to accommodate the Republicans, too.

I thank the Senator.

Mr. REID. Mr. President, will the Senator from Montana yield?

Mr. BAUCUS. Mr. President, I yield to the Senator from Nevada.

Mr. REID. Mr. President, I say to all my colleagues, we have been in this session now for 7 months. This is something we all decided would be best for the institution. We all decided this. This is not something we put into effect yesterday. And I say to my dear friend, the senior Senator from Utah, I understand his compassion. He does not want to miss votes. But if we decide to change it this time, then we will be doing it every time people miss a vote.

Now, it would be different—I say to my friend, the ''Babe Ruth'' of the Senate, Senator BYRD, this was not 60 seconds, a few seconds off. We have a lot of work we need to do here. The vote was a 15-minute vote. We waited almost 25 minutes. So I think we have been fair.

The one I feel worst for is my friend JOE LIEBERMAN, because he felt they had the time to get here. I have checked with the cloakroom, and they emphatically said there was a misunderstanding, because they have a time, they know when the vote is going to end. When everybody calls, they say there is no extension, the time the vote will end is such and such a time. They have been instructed to do this because one Senator missed a vote Monday. So the cloakroom has instructions as to what to do.

I am sorry people missed votes, but remember, this is not anything that is new. It is something that has been going on for 7 months, and we have a lot of work to do. I respectfully suggested to one of my friends, who said: Well, we wasted all this time; we could have gone ahead and waited for everybody—but while we are waiting for everybody to come and vote, some people got here on time, and other people have work they want to do, waiting for people to get here on time.

So I think it is best for the body that we stick to our 15 minutes, plus 5 minutes. That is when the vote will be called. For those of us who have had service in the House—many of us have—you do not have any wiggle room in the House. That vote is over, and you are through. It is done mechanically, and you are all through. We do not want it to be like the House. This is the Senate, and we want it differently. That is why we have a 5-minute leeway.

I appreciate everyone's thoughtfulness, but I am certainly trying to do the right thing.

Mrs. HUTCHISON. Mr. President, will the distinguished leader yield for one observation?

I understand totally that the leader has to have a firm principle. And when it is one person who is late because they are off the Capitol grounds or something such as that, I think that is totally legitimate. This is something I have never seen since I have been here for 14 years, where a committee is meeting, with important business, and the committee chairman gives people the comfort that the vote is going to be held, and so you have around 12 people who have missed a vote.

I ask one more time for, just this once, a unanimous consent and will propose a unanimous consent that we reopen this vote.

Mr. REID. Let me say this. I have heard everyone loudly and clearly because we have spent a lot of time on this. Just so everyone has the total, absolute understanding, in the future—Senator LEAHY; Senator LIEBERMAN; Senator BAUCUS; Senator KERRY; Senator DORGAN; Senator BYRD, on Appropriations—if Appropriations chairmen tell you there is more time to vote, there is not any. Therefore, if the chairman is trying to keep you there, and the time is running, walk out of there.

I ask unanimous consent that those Senators who missed the vote because of the misunderstanding with Senator LIEBERMAN be allowed to cast their votes.

Mr. BYRD. No, Mr. President. That has never been done.

Mr. REID. Never been done. OK.

The PRESIDING OFFICER. That request is not in order and prevented by the rules.

Mr. REID. We tried, KAY.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I suggest we get back to business.

The PRESIDING OFFICER. The Senator from Montana has the floor.

AMENDMENT NO. 2587

Mr. BAUCUS. Mr. President, I understand Senator GREGG is ready for a vote with respect to his amendment, so I ask unanimous consent that there be 2 minutes equally divided in the usual form for debate prior to a vote in relation to the amendment, that no amendment be in order to the amendment prior to the vote, and that upon the use of time, the Senate proceed to vote in relation to the amendment, with no intervening action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GREGG. Mr. President, I understand this is a 45-minute vote?

Mr. BAUCUS. It may be.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Mr. President, can we have order.

The PRESIDING OFFICER. The Senate will be in order.

There are 2 minutes of debate equally divided on the Gregg amendment.

Who yields time?

Mr. GREGG. Mr. President, I will claim my time, but I want the Senate to be in order before I begin.

The PRESIDING OFFICER. May we have order in the Senate for the Senator from New Hampshire. Will the Senate be in order.

The Senator from New Hampshire.

Mr. GREGG. Mr. President, this amendment essentially says what the bill is titled and represents to be, which is that the funds will go to children, to help children get health insurance. This amendment says that adults can continue to be insured by States at the reimbursement rate, which is the Medicaid rate, should they so desire, but that a higher rate should not apply to adults by putting adults under a children's program.

The problem is very simple. States are gaming the system. They are using the SCHIP program, which gives a higher reimbursement rate, to bring into the system adults, and then they take that money and basically use it in their general fund. This is not appropriate. It is not appropriate, first, to have adults funded under a children's health insurance program. Secondly, it is not appropriate to give States the ability to game the system in this manner.

So I hope people will vote for this amendment, which essentially keeps the program for children and actually expands the number of children who can be covered by saving some money that is being spent on adults.

Mr. GRASSLEY. Mr. President, there are legitimate issues being raised about how adults are dealt with in this SCHIP bill. First of all, adding adults to SCHIP should have never been allowed. It was wrong when the Clinton administration started it. It was wrong when the Bush administration continued it. Stopping it is the right thing to do.

However, I think this amendment goes too far, too fast, and I encourage my colleagues to consider how the Finance Committee bill deals with adults. Let me be clear, in some States, the problem is extreme. Some States cover more adults than children. The even bigger problem is that several States that cover large numbers of adults have very high rates of uninsured children. This problem started under the Clinton administration but the Bush administration made it worse. Both the Clinton and the Bush administrations helped push Humpty-Dumpty off the wall. Now, it is our job to try to put the piece back together.

Advocates for parent coverage under SCHIP argue that in order to get kids covered, you have to cover the parents. I don't buy that argument; too many States that are covering parents are still among the worst in the country at covering kids. But the Congressional Budget Office does buy the argument that covering parents will get a few more kids covered. And they estimate that a reduction in parent coverage will lead to a reduction in children covered, so we have to be cautious. This amendment will lead to children losing coverage.

So what we have done in the Finance Committee bill is to say to States covering parents: put up or shut up. You either cover the kids or you get a far smaller Federal match for the parents you want to cover.

The bill before us eliminates coverage under SCHIP for childless adults by 2009. It eliminates the enhanced match for parents currently covered under SCHIP and prohibits new state waivers for parents. CBO estimates that it would reduce spending on adults by $1.1 billion. Furthermore, the easiest way to put the emphasis back on lower-income kids is to refocus the SCHIP program away from adults. The Finance Committee bill redirects States' efforts to low-income children.

Our bill covers 1.7 million kids in Medicaid who are currently uninsured. We are not talking about adults. We are not talking about middle-income kids. We are talking about 1.7 million of the poorest uninsured kids in this country.

As a former Governor, I am sure the Senator from New Hampshire can appreciate that concept. If your States will only get a lower matching rate for covering adults in SCHIP but significant financial incentives for covering low-income kids, where will you direct your energies? The parent policy in the Senate bill represents a reasonable compromise and I urge my colleagues to oppose the Gregg amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, four quick points. No. 1, we clearly want to bring this program down for kids, and this legislation does that. No. 2, the current expansion—not to point fingers anywhere—is basically as a result of the waivers this administration has given to States. That is the main reason for others. That is the main reason we have expansion to cover adults in States. No. 3, we are addressing this in this bill. We cut back on adults in this bill. But No. 4 is, we want to draw the line here a bit, and not totally cut adults off cold turkey, but, rather, childless adults would be cut back and zeroed out after 2 years, but then parents are phased down. But CBO has said when you do not cover parents, then you are also not covering some kids. The goal is to cover kids. I think the legislation is a fair, good, solid way to restrict coverage of adults, and I urge my colleagues, do not support this amendment, which is too draconian and goes too far.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment.

Mr. GREGG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON), the Senator from Illinois (Mr. OBAMA), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

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

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

The result was announced—yeas 42, nays 53, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—42

Alexander	Crapo	Lugar
Allard	DeMint	Martinez
Barrasso	Dole	McCaskill
Bennett	Dorgan	McConnell
Bond	Ensign	Nelson (NE)
Bunning	Enzi	Roberts
Burr	Graham	Sessions
Chambliss	Gregg	Shelby
Coburn	Hagel	Stevens
Cochran	Hutchison	Sununu
Conrad	Inhofe	Thune
Corker	Isakson	Vitter
Cornyn	Kyl	Voinovich
Craig	Lott	Warner

NAYS—53

Akaka	Feingold	Murkowski
Baucus	Feinstein	Murray
Bayh	Grassley	Nelson (FL)
Biden	Harkin	Pryor
Bingaman	Hatch	Reed
Boxer	Inouye	Reid
Brown	Kennedy	Salazar
Byrd	Kerry	Sanders
Cantwell	Klobuchar	Schumer
Cardin	Kohl	Smith
Carper	Landrieu	Snowe
Casey	Lautenberg	Specter
Clinton	Leahy	Stabenow
Coleman	Levin	Tester
Collins	Lieberman	Webb
Dodd	Lincoln	Whitehouse
Domenici	Menendez	Wyden
Durbin	Mikulski	

NOT VOTING—5

Brownback	McCain	Rockefeller
Johnson	Obama	

The amendment (No. 2587) was rejected.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

AMENDMENT NO. 2593 TO AMENDMENT NO. 2530

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

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for himself, Mr. MCCONNELL, Mr. KYL, Mr. GREGG, Mr. CORNYN, Mr. BUNNING, Mr. COBURN, and Mr. DEMINT, proposes an amendment numbered 2593 to amendment No. 2530.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. LOTT. Mr. President, I thank the managers of the legislation for allowing me to go forward with this alternative amendment at this time. I think it is important on an issue of this nature that we have a full discussion and amendments offered and debated and voted on. That helps us get to a conclusion on a major piece of legislation such as this without it turning into a late-night ugly session.

This alternative is intended to show we fully intend to be supportive of the SCHIP program—the program for children's health insurance—and we want it to be done in a responsible way and in a way that actually increases funding to make sure the children it wants to cover are actually covered.

This is an effort of good faith to come up with an alternative that I think is better, in many ways, than the underlying Baucus and others legislation. I have, on two previous occasions, indicated that part of my big problem is the pattern of the coverage going up and up, to the point where States that have waivers now, and under the underlying bill, middle-income children would be covered, and that we are on a steady march to say all children ought to be covered regardless of income.

I think that is a mistake. I think it is unaffordable. It will lead to disruptions, and it will lead to significant tax increases, or it will start to put our children against the parents. The way the House proposes to pay for this underlying bill is to go after funds in the Medicare Program. At least this bill doesn't do that, but it does pay for the increases with tax increases—yes, tobacco tax increases, but still tax increases which, in my opinion, are not going to be achievable and which will leave a huge hole in the funding.

So what we do in the alternative is to direct our attention at the core mission, which is low-income children—not adults, not middle-income children. We pay for it in a way that would equalize this Medicaid coverage in our States. So I think overall it is a very good alternative.

We have a number of Senators who are cosponsors of the legislation and would like to speak on it as we go forward this morning and into the afternoon.

Again, we all support reauthorization of the so-called SCHIP program, and we want to ensure that children have access to good, quality health care insurance. How you do it is the difference. We have come up with a different alternative that does it better because it puts kids first. It makes sure we take care of the kids, not an ever-growing list of kids and not a lot of adults. I

think you have to do it in a fiscally responsible way so we don't have huge holes develop in the outyears. One of the problems in the underlying bill is that down the road, in 6 years or so—and before that, in my opinion—the numbers are not going to add up. We will not have the income we were going to have, and there will be an explosion of the costs that are involved. So I think we should pay attention to the impact not just next year, or in 5 years, but it will be the situation in 7 or 8 years. That is what this bill does.

We have heard talk in the last couple of days from our friends on other side of this issue that they are concerned about the insurance for kids. I believe that, but that will be done in this bill. Let me tell you why. Under the Kids First amendment we sent to the desk, 1.5 million more children will be covered under SCHIP in 2017 than under the Baucus bill. Yes, that is a long way down the road, but the truth of the matter is we need to look at these programs over a 10-year period, not just the 5 years, because the commitments we make in that 5 years will continue to go up. We need to think about what is going to be the impact. You heard it right. It would cover actually more children in 2017. The Kids First bill will cover 3.6 million children. The Baucus bill will cover 2.1 million children in the SCHIP program.

The Kids First bill actually spends more money than the Baucus bill. You heard that right. We increase SCHIP spending by $9.3 billion over the next 5 years, expanding coverage to 1.3 million new children. Because the Kids First Act doesn't rely on any kind of budget gimmicks, as the underlying bill does, we can actually spend more on SCHIP over the budget window than the underlying bill does. I think it is important we focus on honest budgeting.

I realize honest budgeting is quite often in the eye of the beholder, but I don't think anybody would deny there are budget problems with the underlying bill. The Baucus bill has a long-term budget point of order against it, meaning that over the long-term it will significantly increase the budget deficit. The reason for this is the budget bill relies on the declining revenue. When you have the amount of increase on tobacco products included in the underlying bill—61 cents a pack for cigarettes and, of course, the same application to other tobacco products, including cigars—you are going to get less revenue than you project. People will not be able to afford it. They are going to change their habits. Some people would say that is going to be good for health. OK. I am not a big advocate of smoking, even though I smoke a pipe privately. Nobody here has ever seen me do that.

I think we have to be honest about what is going to be the impact the next 5 years. This will also contribute to an increase in Medicaid costs because the Baucus bill reduces SCHIP funding in those outyears, and CBO assumes those kids will have to be moved to Medicaid. That is part of what is going to be happening. More children will be under SCHIP under the bill and more children will be on Medicaid and more children will be coming off private health insurance. I don't think we want to do at least two out of those three things.

So I think it is important we cover the children in the low-income area and that we cover more children. That is what this alternative does. This amendment doesn't have a dime in tax increase to pay for it. It would not be subject to a point of order. Then it does a couple of other very important things. Unfortunately, last year, we never could get action on the associated health plans, the small business health plans.

We were so close, and yet because of some objections, perhaps legitimately, that the sponsors could not agree on, we did not give this opportunity to small business women and men to cover more of their employees, and they would like to. I talk to small business men and women. They don't understand why they cannot form groups and provide coverage to these low-income, entry-level workers, a lot of times unwed mothers, high school dropouts.

For the life of me, I cannot understand why we do not give that option. It would probably be a way that 10 to 20 million more working adults could get coverage. We do include in the bill the small business health plans.

We also include important health savings accounts reforms and provide for a study of ways to increase health insurance coverage through reforms to our Tax Code to enhance tax equity.

The Kids First Act is an amendment that all my colleagues, Republicans and Democrats, should support. The amendment enrolls millions more kids in SCHIP than the underlying bill and does it in a fiscally responsible way and avoids budget points of order. It will not expand Medicaid spending.

I urge my colleagues to actually take a look at this legislation. We have spent a long time coming up with it. I actually thought this was probably the bill that would come out of the Finance Committee when we started. We had bipartisan meetings. We talked about, OK, do we want to do this health insurance program for children? Yes, we do. How much do we want to do, and how are we going to pay for it? Of course, there were those in the beginning who said: No, we need a lot more than this. We need an increase of $50 billion or more.

I know the Senator from Massachusetts, Mr. KERRY, feels strongly about that point. He made his point legitimately. He said: Should we just decide how many we want to cover and don't worry about the cost and just do it? No, I think we also have to worry about the cost of these programs and how it is going to be paid for, who pays for it.

One of the things that worries me because we have this gap in the outyear funding—we have had pictures of children on the floor of the Senate. I have some grandchildren I worry a lot about—a 9-year-old grandson and two little girls, just under 6, and one 3. My daughter is a working mom full time, partially so her family can have insurance coverage, and her husband is a small businessman, an entrepreneur. It is not easy working full time as a mom, having two children, and dealing with other issues she really cares about, such as charitable activities. I worry about them. She is working to make sure they have this coverage, but I am worried they are going to be saddled with the cost of this extra coverage.

So let's do what we can affordably while complying with the underlying core mission of making sure that low-income children have access to this coverage. Generally speaking, my daughter and her husband would be considered middle-income Americans. That is what they would consider themselves. Yet they are having to work to get the coverage they want and barely making it so that others can have coverage who are making probably almost as much money as they are. I don't know, the way things are going, they might be eligible for this program. I don't think they should be.

Common sense is what is called for. We have a long way to go. There is no question the House bill is going to be much larger and funded in a much worse way. By putting down this marker, giving Members a legitimate alternative that a lot of Senators have been involved in, is a good way to go.

I urge Members to support this alternative.

I yield the floor.

Mr. MCCONNELL addressed the Chair.

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

The PRESIDING OFFICER. The Republican leader is recognized.

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

Mr. MCCONNELL. Mr. President, have I been recognized?

The PRESIDING OFFICER. I recognize the Republican leader.

Mr. LEAHY. Will the Republican leader yield for a moment?

Mr. MCCONNELL. Would the Senator from Vermont like to ask the Senator from Kentucky a question?

Mr. LEAHY. I said, will the Senator from Kentucky yield for a question?

Mr. MCCONNELL. I will be happy to yield.

Mr. LEAHY. Mr. President, the distinguished majority leader wishes to be on the Senate floor, and I ask the Senator from Kentucky if he will yield for a brief quorum call so that the distinguished majority leader can be on the floor.

Mr. MCCONNELL. Mr. President, I will be happy to accommodate that request. It was my understanding that

the majority leader was on the way, and I thought I would get started. But I will be happy to wait until he walks through the door, if that is the request of my good friend from Vermont.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, is the Lott amendment the pending question?

The PRESIDING OFFICER. It is the pending question.

Mr. MCCONNELL. I ask unanimous consent that it be temporarily set aside.

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

AMENDMENT NO. 2599 TO AMENDMENT NO. 2530

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself and Mr. SPECTER, proposes an amendment numbered 2599 to amendment No. 2530.

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

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

The amendment is as follows:

(Purpose: To express the sense of the Senate Judge Leslie Southwick should receive a vote by the full Senate)

At the end of the substitute, insert the following:

SEC. _____. SENSE OF THE SENATE REGARDING THE NOMINATION OF JUDGE LESLIE SOUTHWICK.

(a) FINDINGS.—The Senate makes the following findings:

(1) Judge Leslie Southwick served on the Mississippi Court of Appeals from January 1995 to December 2006, during which time he was honored by his peers for his outstanding service on the bench.

(2) The Mississippi State Bar honored Judge Southwick in 2004 with its judicial excellence award, which is awarded annually to a judge who is ''an example of judicial excellence; a leader in advancing the quality and integrity of justice; and a person of high ideals, character and integrity''.

(3) The American Bar Association has twice rated Judge Southwick well-qualified for Federal judicial service, its highest rating. As part of its evaluation, the American Bar Association considers a nominee's ''compassion,'' ''open-mindedness,'' ''freedom from bias and commitment to equal justice under law''.

(4) In 2006, the President nominated Judge Southwick to the United States District Court for the Southern District of Mississippi.

(5) Last fall, the Senate Judiciary Committee unanimously reported Judge Southwick's nomination to the full Senate for its favorable consideration.

(6) In 2007, the President nominated Judge Southwick to the United States Court of Appeals for the Fifth Circuit.

(7) The Administrative Office of the Courts has declared the Fifth Circuit vacancy to which Judge Southwick has been nominated a ''judicial emergency'' with one of the highest case filing rates in the country.

(8) Judge Southwick is the third consecutive Mississippian whom the President has nominated to address this judicial emergency.

(9) Both Senators from Mississippi strongly support Judge Southwick's nomination to the Fifth Circuit, and they strongly supported his 2 predecessor nominees to that vacancy.

(10) The only material change in Judge Southwick's qualifications between last fall when the Senate Judiciary Committee unanimously reported his district court nomination to the floor, and this year when the Committee is considering his nomination to the Fifth Circuit is that the American Bar Association has increased its rating of him from well-qualified to unanimously well-qualified.

(11) While on the State appellate bench, Judge Southwick has continued to serve his country admirably in her armed forces.

(12) In 1992, Judge Southwick sought an age waiver to join the Army Reserves, and in 2003, he volunteered to serve in a line combat unit, the 155th Separate Armor Brigade. In 2004, he took a leave of absence from the bench to serve in Iraq with the 155th Brigade Combat Team of the Mississippi National Guard. There he distinguished himself at Forward Operating Base Duke near Najaf and at Forward Operating Base Kalsu.

(b) SENSE OF SENATE.—It is the sense of the Senate that the nomination of Judge Leslie Southwick to the United States Court of Appeals for the Fifth Circuit should receive an up or down vote by the full Senate.

Mr. MCCONNELL. Mr. President, in 1992, a Mississippi lawyer named Leslie Southwick wanted to serve his country in the Armed Forces. At 42, he was too old to do so, but service to others is a duty that Leslie Southwick has always taken very seriously, whether in the Justice Department or on the State bench or with Habitat for Humanity or in doing charity work for inner-city communities. So in 1992, 42-year-old Leslie Southwick sought an age waiver to join the U.S. Army Reserves. The country had the good sense and the good fortune to grant his request.

Leslie Southwick continued to serve in the Armed Forces after he was elected to the State court of appeals in 1994. He conscientiously performed his military and judicial duties, even using his vacation time from the court to satisfy the required service period in the Mississippi National Guard.

In 2003, Lieutenant Colonel Southwick volunteered for a line combat unit—this is 2003—a line combat unit, the 155th Separate Armor Brigade. His commanding officer, MG Harold A. Cross, notes that his decision ''was a courageous move, as it was widely known at the time that the 155th was nearly certain to mobilize for overseas duty in the near future.''

Colleagues such as attorney Brian Montague were not surprised. This is what Brian Montague had to say: ''Despite love of wife and children,'' Leslie Southwick volunteered for a line combat unit over a safer one ''because of a commitment to service to country above self-interest.''

In August of 2004, Leslie Southwick's unit mobilized in support of Operation Iraqi Freedom. His commanding officer states that he distinguished himself at forward operating bases near Najaf. Another officer, LTC Norman Gene Hortman, Jr., describes Southwick's service in Iraq as follows:

Service in a combat zone is stressful and challenging, oftentimes bringing out the best or the worst in a person. Leslie Southwick endured mortar and rocket attacks, travel through areas plagued with IEDs, extremes in temperature, harsh living conditions—the typical stuff of Iraq. He shouldered a heavy load of regular JAG officer duties, which he performed excellently. He also took on the task of handling the claims of the numerous Iraqi civilians who had been injured or who had property losses due to accidents involving the U.S. military. . . .This involved long days of interviewing Iraqi civilian claimants, many of whom were children, widows, and elderly people, to determine whether the U.S. military could pay their claims. Leslie always listened to these Iraqi claimants patiently and treated them with the utmost respect and kindness. He did this not just out of a sense of duty, but because he is a genuinely good and caring person. His attitude left a very positive impression on all those that Leslie came in contact with, especially the Iraqi civilians he helped. This in turn helped ease tensions in our unit's area of operations . . . and ultimately saved American lives.

Lieutenant Colonel Hortman concludes that Leslie Southwick ''has the right stuff'' for the Fifth Circuit Court of Appeals—''profound intelligence, good judgment, broad experience, and an unblemished reputation.'' Lieutenant Colonel Hortman added:

I know him and can say these things without reservation. Anyone who says otherwise simply does not know him.

Stuart Taylor writes in the National Journal that Leslie Southwick ''wears a distinctive badge of courageous service to his country,'' and that he ''is a professionally well-qualified and personally admirable'' nominee for the Fifth Circuit Court of Appeals.

Judge Southwick does not seek thanks or notoriety or charity for his military and other civic service. He asks to be judged fairly—to be judged on the facts, to be judged on his record. It is the same standard he has applied to others as a judge, a military officer, a teacher, and a mentor.

It is a standard for which he is well known and admired. By that standard, he is superbly fit to continue to serve his country, this time on the Fifth Circuit Court of Appeals.

His colleagues know this, as do his home State Senators. His peers within the State bar know this. They honored him as one of the finest jurists, declaring him ''an example of judicial excellence; a leader in advancing the quality and integrity of justice; and a person of high ideals, character, and integrity.''

The American Bar Association knows this as well. It has twice given him its highest rating, ''well qualified,'' and in so doing found him to be exemplary in

the areas of compassion, open-mindedness, freedom from bias, and commitment to equal justice under law.

Even Democrats on the Judiciary Committee know this because just last fall, all of them—again, all of them—looked at his record and approved him for a lifetime position on the Federal bench.

But it appears that Democrats on the committee may now apply a different standard to Judge Southwick. A member of the Democratic leadership who serves on that committee states that what is ''determinative'' is whether a judicial nominee is perceived to be fair.

The notion that perception, rather than reality, will be dispositive in evaluating a nominee is at odds with the principle of the rule of law. And it is not fair to manufacture a false impression of someone through insinuation and innuendo, and then use that falsehood to defeat him. In the case of Judge Southwick, the sudden ''perception'' about his fairness is driven by those who do not even know him, and it is disproved by his long record by those who know him very well.

All nominees deserve to be treated with dignity, but a selfless public servant and veteran such as Leslie Southwick deserves to be treated with respect as well. It is disrespectful for the same members of the Judiciary Committee who unanimously supported his nomination last fall to now turn around and unanimously oppose him. There is only one change in Judge Southwick's credentials between last year and now. The ABA, hardly a bastion of conservatism, has actually increased—increased—its rating for him from ''well qualified'' to ''unanimously well qualified.'' Now what that means is that every single member of the ABA committee evaluating Judge Southwick's credentials for the Fifth Circuit, every single one of them gave him the highest possible rating—a unanimous ''well qualified'' rating.

A party-line committee vote would not be a ''perceived'' flipflop or a ''perceived'' injustice but an actual one. This is not a question of perception; this is a question of actually ignoring the reality of this man's record. It would make clear that despite the promise of a new start on judicial nominations that the Senate majority leader and I have been hoping for all year, when push comes to shove, we will treat nominees unfairly based upon a manufactured perception.

This sad standard is not only unjust, but it is actually unwise. As we all know, once established, precedents in the Senate are extremely difficult to undo. Establishing a third-party perception standard on the Southwick nomination will be bad for this Congress and really, more importantly, I will say to our colleagues on the other side of the aisle, bad for future Congresses regardless of who is in the White House and which home State Senators support a nomination. The standard we set now with a Republican in the White House and a Democratic Senate might well be the standard applied in a future Congress if, for example, it were a Democrat in the White House and a Democratic Senate.

Because such a decision will affect us all, and for the worst, it is appropriate for the Senate collectively to express its view on whether it wishes to go down this path, whether it wishes to undo the good work and good will that brought us back from the precipice just a few years ago. It is for that purpose that I have offered the sense of the Senate on the Southwick nomination. I encourage my colleagues to review it, to review the record, and to think long and hard about whether we want to deny this good man an opportunity for a vote here in the Senate.

Again, Mr. President, at the risk of being redundant, let me just say that the majority leader and I have been working hard all year to try to improve the confirmation process. I think that is a very wise thing for the majority to do because someday they may have the White House again, in spite of the best efforts of people like me. Once we establish an unrealistic standard for the treatment of qualified judicial nominees for the circuit court, there will be a great temptation on the part of the other side of the aisle to apply the same standard in the future.

There are plenty of grievances from the past. We have had Republican complaints about Democrats and Democratic complaints about Republicans. I guess the fundamental question is, When do we stop it? When do we stop it? For the sake of the institution, for the sake of the country, and for the sake of the party that may not currently occupy the White House, when do we stop?

It strikes many of us that the Leslie Southwick nomination is a good time to stop it because we all know he is extraordinarily well qualified. There is really no serious argument otherwise. And if we can't stop it now, Mr. President, when will we stop it?

So I think this will give us an opportunity to let all of the Senate express themselves, rather than just a few in one committee, on the appropriateness of this nominee.

With that, I yield the floor.

Mr. REID. Mr. President, it is my understanding the distinguished Senator from West Virginia is going to be recognized now; is that right?

The PRESIDING OFFICER. That is correct.

Mr. BYRD addressed the Chair.

Mr. REID. Mr. President, if I can interrupt my friend for a minute, will the Senator yield to me to make a brief statement regarding the statement made by the distinguished Republican leader, to be followed by 5 or 6 minutes by the Senator from Vermont, the chairman of the Judiciary Committee, and then the Senator from West Virginia would, of course, have all of his time?

Mr. BYRD. Yes. Yes, I will do that.

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

Mr. REID. Mr. President, it appears at this time that we will move to table this sense-of-the-Senate resolution offered by my friend, the distinguished Republican leader. I appreciate his advocacy for Judge Southwick. Some of us have a different opinion about Judge Southwick, and that has been made a part of the record already. I would refer to the CONGRESSIONAL RECORD of July 20, where I gave an extended statement on Judge Southwick and why I thought he should not be confirmed, but there will be more time to talk about this.

We have done a very good job, working with Senator LEAHY, in clearing judges. We have a bump in the road with this one, there is no question, and the bump is still there. I admire and appreciate the work done by the Senator from Vermont because we have been through some difficult times in recent years with the Judiciary Committee. Senator LEAHY will make a brief statement about some of the travails we have had.

Judge Southwick has had a hearing. It is up to the Republicans—namely, Senators Lott and Cochran—whether they want to vote in that committee. That is so much more than was given to Senator CLINTON's nominees, where about 70 never even had a hearing.

So we will have more time to debate this at a subsequent time, and sometime later today I will confer with my distinguished Republican colleague, the minority leader, to determine when I will offer a motion to table or Senator LEAHY will offer a motion to table.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. First, Mr. President, I thank the distinguished Senator from West Virginia for his usual courtesy and giving me some time to speak. I have had the privilege of serving almost 33 years—a third of a century—with the distinguished Senator from West Virginia. Of course, I know my 33 years pale in comparison with the time he has served.

While the distinguished Republican leader is on the floor, he and I have worked closely together on many things. I will not make comments about crocodile tears and all that, but it is interesting that he spoke of Judge Southwick being passed out unanimously last year. He forgot the fact that when he was being cleared for a vote by the Republican-controlled Senate, a Republican objected.

The Republican leader has forgotten that the Senate has confirmed 25 nominations for lifetime appointments this year—more than were confirmed, for example in all of 2005 with a Republican chairman and a Republican majority.

The leadership over there has forgotten that we Democrats—we Democrats—have confirmed more of President Bush's nominees for any given period of time while we have been in

charge than the Republicans did. We have had three different leaderships in the Senate Judiciary Committee and the Senate itself during the time President Bush has been in office. During the time that the Democrats have been in charge, we have actually confirmed more of President Bush's nominees than the Republicans did.

The weeping and gnashing of teeth going on makes me think that congressional Republicans love to shut down the Government and seem intent on manufacturing excuses to do so. In 1995 Newt Gingrich was so upset by the door he had to use on Air Force One—most people would be thrilled to fly on Air Force One—that he shut down the Government. When they were in the Senate majority a few years ago, Senate Republicans insisted on a 40-hour debate on their own President's court-packing scheme. And then we found out that during that time they were stealing our computer files. The then Republican leader had to fire one of his own aides for stealing computer files from the Democrats. So the weeping and gnashing of teeth that is going on leaves a little bit to be thought about.

The Senate has confirmed 20 circuit court nominations and 125 Federal judicial nominees during the 2 years I have been Judiciary Committee chairman. Compare that to the numbers of the Republicans. During the Bush presidency, more circuit judges, more district judges and more total judges have been confirmed, in less time, while I served as Judiciary Chairman than during the longer tenures of either of the two Republican Chairmen working with Republican Senate majorities. Yet you would think that somehow we are holding up everybody.

I would point out that it was the Republicans who pocket-filibustered over 60 of President Clinton's nominees. I think we have stopped two or three of President Bush's. Sixty-one. The distinguished Republican leader said he hoped all this would stop. Well, we are not going to do what they did. Incidentally, 17 of those were circuit nominees. Let me mention their names for those that have short memories: Barry Goode, Helene White, Alston Johnson, James Duffy, Elena Kagan, James Wynn, Kathleen McCree Lewis, Enrique Moreno, Allen Snyder, Kent Markus, Robert Cindrich, Bonnie Campbell, Stephen Orlofsky, Roger Gregory, Christine Arguello, Andre Davis, and Elizabeth Gibson. These are just some of the ones they pocket-filibustered.

Now, on Judge Southwick, I had him on the agenda. I took him off the agenda at the request of the Republicans. We actually had him on one time, and we did not get enough Republicans to show up to make a quorum to vote on him. I took Judge Southwick's nomination off the agenda at the request of Republican Senators. Neither the junior Senator from Mississippi nor the senior Senator from Mississippi nor the distinguished Republican leader has asked me to put him back on the agenda.

I am growing somewhat tired of the statements being made publicly about delay, many of which I do not attribute, of course, to my colleagues, so I put Judge Southwick's nomination back on the agenda for tomorrow.

I must say—and I will close with this—this makes me think about the first time I was chairman of this committee in the first Bush administration, knowing that we come from a time when the Republicans had pocket-filibustered 61 of President Clinton's nominees and one they had voted out almost unanimously from the committee whom they then ambushed on the floor, the distinguished James Graves, an African American who then became chief justice of the Missouri Supreme Court, the distinguished African American whom they humiliated by voting him out of committee, with no real objections, and then, in lockstep, with no notice, voted him down on the floor of the Senate. One of the most distinguished African-American jurists in the country, the Republican leadership decided to vote him down. But notwithstanding that, I tried to change that.

I remember when the Republicans asked me to have a hearing on a controversial nominee of theirs. They were very concerned about it. I actually came back from Vermont, which is not an easy thing to do in August, to leave that beautiful State—it is like leaving the beautiful State of West Virginia during the month of August, one of our prettiest times—but I left Vermont, came back, and held a hearing on that nominee so we could arrange in the first week of September to get him passed. Do you know what happened, Mr. President? Do you know what the reaction of the Republicans was? They trotted out a member of their leadership to tell the press how terrible it was that I held a hearing during August, even though that was the only way they were going to get their nominee through. That was hypocrisy.

Mr. President, with that, I will just point out again that there is no question of the numbers. The Democrats have moved more of President Bush's nominees more quickly than his own Republicans have when they have been in charge. If we are able to confirm just the five nominations for lifetime appointments to the federal bench currently on the Senate's executive calender, I will have presided over the most productive 2-year period for judicial confirmations in the last 20 years, with 130 confirmations. Let us stop the crocodile tears. Let us stop the hypocrisy. Let us stop the grandstanding and worry about what is best for the courts. This administration has played politics with the judiciary more than any of the six administrations I have served with—not for but with—and I think one example of their knowing what is best for law enforcement, what is best for the judiciary, is this administration's strong support of the current Attorney General.

With that, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

IRAQ

Mr. BYRD. Mr. President, it was 122 degrees in Baghdad today. The Iraqi Parliament thinks it is too hot to work and has gone on vacation. Our soldiers don't have that luxury. Our brave men and women continue to patrol the hot streets of Baghdad in full battle gear. They will get no vacation. They continue to risk their lives in the sand and in the heat, supposedly to give the Iraqi politicians ''breathing room'' to build a political consensus. Those politicians are now on vacation.

A majority of Iraqis now say that we are doing more harm than good by staying in their country. Perhaps I should say that again. A majority of Iraqis now say that we are doing more harm than good by staying in their country.

Every day brings more terrible news of American casualties. What has the response from this administration been? ''Wait. Wait. Give us more time.'' Our President has been saying that for the last 4 years, and it is clear that he will keep on saying it for as long as we keep on accepting it. So I am angry. This is my 49th year in the Senate. I believe it is the first time I have said that. I am angry. Every Member of this body should be angry, angry that the Iraqi Government is on vacation while our troops, American troops, U.S. troops—your troops, my troops, our troops—fight and die in their civil war.

Everyone, including General Petraeus, agrees that there is no military solution in Iraq. None. Iraqis will have to make the hard political compromises necessary to force a national consensus. Nothing the U.S. military does can force them to make those compromises. But, rather than work to craft a political solution, the Iraqi Government decided to take the entire month of August off.

And where has our Congress been? I am deeply disappointed that the Senate has once again failed to have a real debate on the issue of the war in Iraq. There is no issue currently facing our Nation that more deserves the attention of this body, and yet we continue to have empty procedural votes instead of passing legislation that would mandate a change of course, as a large majority of Americans want. We are, in fact, charged by the Constitution to have that debate, and yet we wait. ''Wait until September,'' the critics say. ''Wait until the new report.'' How many reports must this Congress read before we see the handwriting on the wall? I, for one, am tired of waiting. The American people are tired of waiting. Our brave soldiers and their families are tired of waiting.

The President and his supporters in Congress are fond of painting a picture of what would happen following a precipitous withdrawal from Iraq, and they paint with a pallet of fear. But

their picture is not reality. It is easy to win an argument against a straw man, but we are not calling for a precipitous withdrawal. The proposal that 53 Senators voted in favor of recently called for a phased redeployment of troops to focus on the threats that truly face us, not a hasty and radical complete pullout.

I opposed this terrible war from its beginning, but I recognize we are there now and some actions can't be so simply undone. Our first priority must be that of protecting U.S. interests, and the simple truth is that we do have vital interests in the region. The question is how to best protect those interests.

The President of the United States, President Bush—and I say this most respectfully—the President says that al-Qaida wins if we leave and that if we pull out the terrorists will follow us home. Let me say that again. The President says that al-Qaida wins if we leave and that if we pull out the terrorists will follow us home. Al-Qaida is our enemy, but are we really defeating them by trying to referee a sectarian civil war between Shia and Sunni that has been going on for over 1000 years? The President's own advisers now admit that al-Qaida is as strong today as it was before 9/11.

Al-Qaida is resurgent in Pakistan and Afghanistan. When the President of the United States took his eye off the ball and diverted our national attention from Osama bin Laden and his terrorist training operation in Afghanistan, the President dealt the security of the people, the American people, a major blow.

Iraq did not attack the United States on 9/11. No Iraqi, not one—not one—was involved in those attacks. Al-Qaida may now be in Iraq. But it was not there before we went in and handed them a new training ground for fresh recruits.

More importantly, al-Qaida is not the core of the problem in Iraq. Al-Qaida is not the core of the problem in Iraq, no matter how often the President says that it is. Former Secretary of State Colin Powell said recently that al-Qaida was only 10 percent of the problem in Iraq. The real problem in Iraq is not al-Qaida, the real problem is the multiple civil wars that are raging: Shiia versus Sunni, Shiia versus Shiia, Sunni versus Kurds.

The argument that if we lose in Iraq, they will follow us here is pure hogwash. Nonsense. Did you hear me? I say, did you hear me? Let me say it again. The argument that if we lose in Iraq, they will follow us here is pure hogwash. H-o-g-w-a-s-h. Hogwash.

I have heard that time and time again. If we lose in Iraq, they will follow us here. That is absolutely hogwash. Nonsense. What is keeping terrorists from coming here now? Tell me. So we heard the argument: If we lose in Iraq, they will follow us here. Well, what is keeping the terrorists from coming here now? Certainly not the fact that our military is in Iraq. Our military was not in Iraq when hijackers with box cutters flew planes into the Pentagon and the World Trade Center. Have we such short memories? I saw those planes attack the World Trade Center. I have not forgotten it.

Keeping our troops in Iraq is not what is going to keep a terrorist attack from happening again. So I repeat that. Keeping our troops in Iraq is not what is going to keep a terrorist attack from happening again. The real threat, the real threat, the real threat is in Pakistan and Afghanistan, as the President's own advisers admit.

Principled people in this country, let me say that again, principled people—in other words, people of principle in this country and in the Congress are calling for a change in strategy, not because they are weak, not because they are scared, not because they are callously political, they are calling for a change because it has become patently obvious that what we are doing is not making us safer, it is making us less safe.

They are calling for a change because it has become patently—p-a-t-e-n-t-l-y—obvious that what we are doing is not making us safer, it is making us less safe.

Now, as U.S. officials absolutely wake up to the resurgence of al-Qaida in Afghanistan and urge President Musharraf's Government to crack down in Pakistan, we confront great anger in the region. I think that statement is entitled to a rehearing.

Now, as U.S. officials slowly wake up to the resurgence of al-Qaida in Afghanistan and urge President Musharraf's Government to crack down in Pakistan, we confront great anger in the region.

Our continuing occupation of Iraq has damaged our credibility and aroused suspicions about the depth of the U.S. commitment to the sovereignty of other nations. There is a lesson here. It is this: If you are marching in the wrong direction or if you are fighting the wrong fight, unflinching persistence is not a sign of strength, it is a sign of stupidity.

If you are marching in the wrong direction or fighting the wrong fight, unflinching persistence is not a sign of strength, it is a sign of stupidity. Yet amazingly we hear plans of continuing for 2 more years our pointless, senseless occupation in Iraq.

I said it was wrong in the beginning. It was wrong from the start. It amazes me when we hear plans of continuing for 2 more years our pointless, costly, senseless occupation in Iraq.

The seas are rising and our present course is headed for an iceberg. Turn around. Turn around, Mr. President. Turn around.

I yield the floor.

The PRESIDING OFFICER (Mr. MENENDEZ). The Senator from Florida is recognized.

Mr. MARTINEZ. Mr. President, I wish to speak on the current health care discussion on the floor and take a few minutes to address this very important issue.

SCHIP is a great program that is called Kid Care in the State of Florida, where it has very successfully, over the past many months, been a good program in reducing the amount of children without health insurance.

I support its reauthorization as proposed in the McConnell-Lott amendment. I support a straight reauthorization because the alternative, the Democratic bill before us, greatly steers the program away from the original intent. The intent of this program is to provide health care for low-income children.

Instead, the underlying bill redefines SCHIP. It redefines the program to make SCHIP cover more adults and people well outside poverty. This bill will make families make a choice. A family of four making $82,000 a year could remain on private insurance, paid out of pocket, or they could take public-funded insurance.

That kind of choice will cost Americans about $37 billion a year by the year 2012. This kind of expansion of Government-controlled health care is counter to any effort to reform our health care system. The question comes: Why are we considering this expansion? Why take the focus away from the children SCHIP was intended to serve? SCHIP has successfully achieved what it set out to do and has significantly reduced the number of uninsured children.

Last year, 6.6 million children received health insurance through SCHIP. Rather than change the purpose of the program, as Democrats have proposed, we should refocus SCHIP on finding and covering the low-income children who are eligible for the program but are not yet enrolled.

The McConnell-Lott bill turns the focus to the original purpose, helping ensure children from low-income families have health insurance.

Instead of an expansion toward Government-run health care, the Republican alternative authorizes the program to keep the focus on children and invests an additional $14 billion into the program.

Additionally, the Republican alternative provides important practical and easily implemented reforms to make health insurance more affordable for the uninsured. Part of the problem with SCHIP right now is we can't find all the kids who need it. The Republican alternative commits $400 million over the next 5 years for improved outreach programs. This money targets enrolling low-income children. These funds target the low-income children SCHIP was meant to help. We have a problem when we have children who have no health insurance but yet we have not reached out and touched them. This new reauthorization will put the funds behind going out and doing the outreach necessary to ensure that all children who are uninsured

who could be covered under this program are reached.

The Congressional Budget Office projects that the Baucus plan will cover 600,000 new uninsured individuals at higher income levels, but then the plan would also cause 600,000 privately insured individuals at these income levels to drop their private coverage. Ironically, the Baucus bill drives people out of private insurance and into Government-sponsored health care. Under the Baucus plan dependency on government health care will increase significantly. In total, CBO says that 2.1 million individuals will move from private coverage to Government dependency if the Baucus plan is implemented. This isn't the health care reform Americans want. This isn't in the best interest of our country.

Before we take this step of moving people on to Government plans, let's have a broader debate. Let's think about the ramifications and the opportunities. We can do better by providing Americans with more individual freedom and more choice while increasing health care coverage and security. We can help more Americans to own their own health care, take it with them from job to job, and partner with States to make that policy more affordable. That is why some of my colleagues and I have introduced the Every American Insured Health Act.

The principles for health care reforms our bill addresses include tax equity. It is indefensible that Americans who buy insurance on their own are treated differently than those who buy insurance through their employer. Our bill amends the Tax Code to treat all Americans equally when it comes to the purchase of health insurance. The effect will be that health care will be accessible and affordable whether an employer offers coverage. As the name implies, the Every American Act provides everyone in America, regardless of income or employer, refundable flat tax credits—$2,160 per individual or $5,400 per family. The Wall Street Journal wrote in a recent editorial that restoring the tax parity of health in dollars would go a long way to improving the system and increasing access and affordability for everyone, including the 16 percent or so who today find themselves uninsured. It would also allow individuals to buy policies themselves rather than rely on their employers and take those policies with them wherever they work.

The flexibility the bill we propose is founded on the belief that Government's role should be to organize the health care marketplace and then let consumers make choices. We provide the opportunity for every individual family to choose the health care policy that best meets their needs. When you have a competitive marketplace, you get more choices, better care, and lower prices.

To get that market, our bill improves health insurance affordability in State marketplaces. It gives incentives, not mandates, for State insurance marketplace reform to create more options and more competition. The bill provides States the incentive to make health insurance more affordable and accessible by establishing a process to assist States in ensuring competitiveness. States will be given a menu of choices such as the incentive to establish a statewide insurance pool or establish high-risk mechanisms such as high-risk pools or reinsurance and improve their markets to enable insurance plans to offer at least one affordable policy valued at 6 percent of median income. This approach achieves the goals of universal coverage in a way that is truly American, by decreasing the number of uninsured Americans, thereby lowering health care costs for all Americans. This provides every American the right to choose their own health insurance plan.

Finally, our approach authorizes incentives for States to reform their health insurance markets to ensure the availability of affordable, high quality health insurance for individuals and for families. For too long Congress has skirted the real issue that affects Americans and their health insurance. It is time to start finding solutions to the problems instead of putting Band-Aids on programs and systems that are truly failing all Americans.

I ask my colleagues to reject the Baucus amendment, reject efforts to redefine and socialize our health care system. I ask my colleagues to support the McConnell-Lott amendment because it helps ensure that children in SCHIP continue to be served by the system and the program that was intended to serve them, broadening those who today could benefit from the program but are not there utilizing the opportunity before them because we have not reached out to them, and then also, as we do this, let's broaden the debate over fixing our entire health care system. It is a debate that is long overdue. It is a debate America yearns for. I look forward to engaging in that debate, how we continue to provide America the best and most sophisticated health care in the world but to make sure that every American participates in the opportunity to receive that best of health care we have to offer anywhere in the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, Senator CANTWELL is on her way to speak. She is not here. I see the Senator from Pennsylvania on the floor. I know he desires to seek time. I urge the Chair recognize the Senator from Pennsylvania who I think is going to speak about 8 to 10 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the distinguished chairman.

AMENDMENT NO. 2599

I have sought recognition to speak briefly on the nomination of Judge Leslie Southwick to the Court of Appeals for the Fifth Circuit. I have spoken extensively about Judge Southwick in the past, but I do want to address a few remarks on the pending amendment offered by Senator MCCONNELL and myself on the sense of the Senate that Judge Southwick ought to have an up-or-down vote on the floor of the Senate. It is my hope that we will proceed on judicial confirmations in a spirit of bipartisanship. Senator LEAHY, chairman of the Judiciary Committee, and I have worked very closely on that in this Congress, as he and I did in the 109th Congress when I was chairman and he was ranking member.

This body has seen some very controversial moments: in 2005, with filibusters against President Bush's nominees and the threat at that time to invoke the ''nuclear'' or ''constitutional option'' which would have brought the Senate to a standstill. We avoided that showdown and then worked harmoniously, in a dignified way, with Supreme Court nominations in 2005 and 2006. It is my hope we will find a way through on the Southwick nomination. I hope we do not have this vote degenerate back to a party-line vote without the kind of independent thought the Senate ought to exercise in evaluating the question which is whether Judge Southwick ought to have an up-or-down vote.

Judge Southwick has an extraordinary record. I do not use that word lightly. He served on the Mississippi State appellate court for some 12 years. He has been a party to some 8,000 decisions. He has written 985 opinions himself. He is rated unanimously well qualified by the American Bar Association. He passed out of the Judiciary Committee, unanimously, for a district court judgeship. He has been an adjunct professor at a law school. He was clerk of the Court of Appeals for the Fifth Circuit, so he has experience there. In a very unusual way, in his fifties, he volunteered for the Judge Advocate General's Corps, volunteered to go to Iraq and served there in a heavy combat zone.

I have had occasion to talk to him at great length, and he is a scholarly, intellectual, experienced lawyer, an experienced jurist. I have put into the RECORD detailed statements about many of his decisions where he has found in favor of the so-called little guy, finding in favor of people who have tort claims for injuries sustained, in favor of employees in employment cases.

The only two situations which have been brought up in opposition to Judge Southwick are two cases where he concurred in an opinion, two opinions which he did not write. In one of the opinions, it was a custody case, and the court found in favor of the father. There was a reference to the ''homosexual lifestyle'' of the mother which is a term that is used with some frequency. I think there could be more discretion in that language, but the

court found in favor of the father because of his community roots, because of the home he could provide for the child, and because of the father's income. The important thing about that case was its procedural posture. That was the sum and substance of that matter.

There was a second case where the issue involved a racial slur which admittedly was reprehensible. It was said by an individual, a public employee, about a fellow worker who was not present at the time. The subject did not hear the slur. There was an immediate apology. There was no workplace disturbance. The issue then came before an administrative review board that found that although the comment was reprehensible, under these facts it was not sufficient to support termination of employment. That issue then came back before the appellate court on a very narrow question. The question was whether the decision by the administrative board was arbitrary and capricious, which is lawyer talk for whether there was any evidence to support the board's ruling. The court felt that there was evidence to support the conclusion that there was not sufficient grounds for firing. The case then went to the State Supreme Court, and the State Supreme Court remanded on the limited question about having more detailed factual findings. But the Supreme Court of Mississippi agreed that the incident was not sufficient to warrant a permanent firing.

That is the sum and substance of the objections. When you look at the full record, you see that Judge Southwick ruled in a case where the trial judge had excluded evidence that the victim of a crime was gay, and Judge Southwick upheld the ruling that that would have been prejudicial, defense counsel should not have been permitted to ask that of a victim, seeking only to prejudice the jury. It did not having any bearing on the issue involved in the case. This supports the conclusion that Judge Southwick, in the custody case to which I referred, did not have any demonstrate traits or indications that he was biased or prejudiced or unjudicial in his approach to that particular issue.

It is my hope we will take a careful look at Judge Southwick's record before casting votes. I understand there will be a tabling motion. We should look at the underlying merits.

When we had the controversy in 2005, I urged my colleagues in the strongest terms to take a look at whether they thought individually filibusters were warranted against Priscilla Owen and Bill Pryor and Janice Rogers Brown. I asked my Republican colleagues to take a look on the merits as to whether it was warranted to talk about a ''nuclear'' or ''constitutional option.'' I make the same plea here today. Let's not be bound by a party-line vote, ignoring the merits.

There have been comments on the floor today, as there have been in the past, about President Clinton's nominees being improperly treated. I agree with that today, and I agreed with that when it happened, and I crossed party lines. I have crossed party lines to vote for President Clinton's judicial nominees when they were qualified. I hope we will come in the Senate, take a look at the individuals, take a look at the merits, and not move for a party-line consideration, and not avoid a vote, to have the man bottled up in committee. That smacks of the days of Senator Jim Eastland, when the Judiciary Committee bottled matters and prevented the Senate from voting on them.

I can understand there are some Senators who do not want a vote on Judge Southwick, but that is what we are here for. That is the pay grade—to vote. So I urge my colleagues to look at this matter on the merits. I hope we do not have our actions disintegrate to the kind of controversy we had a couple years ago, but that we can move beyond this to the kind of bipartisanship which Senator LEAHY and I have been able to muster for the Judiciary Committee.

I thank the Senator from Montana for allowing me to speak. I know the Senator from South Carolina, Mr. LINDSEY GRAHAM, has a few comments. I expect he will be very brief on the subject.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I might inquire of the Senator from South Carolina, how long does he wish to speak? We have been trying to go back and forth.

Mr. GRAHAM. Mr. President, I say to the Senator, about 5 minutes.

Mr. BAUCUS. Because that will be three on your side in a row before we go back to this side. Is the Senator speaking on the same subject?

Mr. GRAHAM. Yes.

Mr. BAUCUS. I urge the Presiding Officer to recognize the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I will try to be brief. I appreciate the recognition. I wish to speak very briefly on the matter pending before the Senate.

The whole idea of the confirmation process of judges has taken a kind of wrong turn for many years now. There is plenty of blame to go around from both parties. But one thing I wish to have happen in the Senate—for the good of the country—is to make sure when well-qualified people come before this body, they are put through their paces about their qualifications, their abilities, their disposition, their demeanor, inquiring as to how they think and what drives their thinking, but, at the same time, understanding that our job is to confirm people who are sent over by the President—elections do matter—and that when we look at a nominee, we part the politics of the last election, of the next election, and focus on the individual who will serve for a lifetime.

It is important to understand the nominee before this body, Mr. Southwick, has been serving as a judge in Mississippi since 1995. As Senator SPECTER indicated, he has been involved in thousands of decisions in a concurring role, and he has offered hundreds of decisions.

He joined the military, and volunteered, as a lieutenant colonel to go serve in Iraq at the age of 52.

The American Bar Association unanimously considered him well qualified, saying very glowing things about his temperament, his disposition. This is someone who has been looked at by people outside of politics and found to be extremely well qualified.

Mr. DURBIN. Mr. President, will the Senator from South Carolina yield for a question?

Mr. GRAHAM. Yes, sir.

Mr. DURBIN. I want to ask the Senator two or three questions about this nominee after he completes his remarks. I would be glad to wait until the Senator finishes.

Mr. GRAHAM. Absolutely. I will be glad to.

I do not want to infringe on the 5 minutes. But the bottom line, I guess to my good friend from Illinois, is, I do not think this is about qualifications at all. I think this man has lived a good life in the law and seems to be a good person, from what I understand from everyone who has spoken on his behalf. It is not a question about a character flaw or a lack of legal ability. It is about two cases.

As Senator SPECTER said, one case involved a racial slur that is a horrible term. The administrative review board, which took up that matter—should the person be fired because of this racial slur—found it was not a repeated event—under Mississippi law, it has to be more than an isolated event—it did not disrupt the workplace, there was an apology made and accepted, and the board found that this was not sufficient to terminate the person.

It went to the Mississippi Court of Appeals, and they, under Mississippi law, had to determine whether the administrative review board made an arbitrary and capricious decision, whether there is any evidence to support the court's finding, and they upheld the court's determination.

Judge Southwick, in that case, commented many times about how offensive the word was, and there is no place in society for this word to be used without it being considered to be offensive. But judges have to apply the law, not emotions.

I guess the question I have is, is there any belief on anyone's part that his concurrence in this upholding of the administrative review board suggests that he, as a person, is racially biased? Does this suggest he is defective as a person, that he harbors animosity against one group or another? I

do not think anybody can reasonably conclude that.

Judges sometimes have to be involved in emotional decisions. If people want to march through Jewish communities holding the Nazi flag, that is horrible, but under the law that is allowed on certain occasions.

The second case is about the term ''homosexual lifestyle.'' It was a custody case, and he was in an appellate review situation. That term was used in the underlying decision by the judge in terms of custody, but that term has been used in many other cases throughout the country in different jurisdictions.

I guess my question is, do you take these two cases, where he concurred, to say there is something wrong with him? Did he do something out of the mainstream of the law? And does it show that he, Judge Southwick, is somehow not the type person you would want to sit in judgment of your case or your family?

I think what we are doing to him is incredibly unfair. There is no real evidence at all this man, as a person, harbors animosity against one group versus the other. Quite to the contrary, from everything I see in the record, he has been a very decent, scholarly man who has applied the law in an admirable fashion.

So I wish we could allow an up-or-down vote on this fine fellow.

I will yield for a question.

Mr. DURBIN. Mr. President, if the Senator from South Carolina will yield for a question.

Mr. GRAHAM. Yes.

Mr. DURBIN. Under the previous administration of President Clinton, there was considerable controversy in the Judiciary Committee about whether President Clinton's nominees would receive a hearing and a vote. In scores of instances, nominees were given neither.

Can the Senator from South Carolina put in the RECORD now whether Judge Leslie Southwick was given a hearing before the democratically controlled Senate Judiciary Committee?

Mr. GRAHAM. I believe he was, yes. I believe so.

Mr. DURBIN. I say to the Senator, he did receive such a hearing.

Mr. GRAHAM. Yes.

Mr. DURBIN. I attended the hearing. I thought it was very fair at allowing both parties to ask Judge Southwick questions.

Mr. GRAHAM. All right.

Mr. DURBIN. Since the sense-the-Senate resolution before us suggests Judge Southwick's name be removed from the Senate Judiciary Committee and brought directly to the floor, I wish to ask the Senator from South Carolina, has there been any effort by any Democrat on the committee to stop Senator SPECTER or any Republican from calling Judge Southwick's name for a vote in the committee?

Mr. GRAHAM. As I understand it, the problem with Judge Southwick is that it appears there has been some effort to try to get the Mississippi Senators to nominate someone else. And there has been the suggestion he could be a district judge but we want someone else to be the court of appeals nominee. I do not think that is a process we should engage in. So there are a lot of politics behind this nomination. We should not allow that to happen. We should not basically hold hostage the ability of the Senators from Mississippi and the President to put someone forward. If we think they are not qualified, vote them down. But playing politics, trying to change the nominating process, I do not think is kosher. And I think that is what is going on.

Mr. DURBIN. My question directly is this: Is the Senator aware of any effort to stop Senator SPECTER or any Republican Senator from calling Judge Southwick's nomination for a vote in the Senate Judiciary Committee?

Mr. GRAHAM. No. But I am aware of an effort to get Judge Southwick replaced with another person more acceptable to the Democratic majority and, basically, to take away from the President the ability to nominate a well-qualified person for this slot and, basically, neutralize the two Mississippi Senators, who I think have chosen wisely. I think that is politics that is dangerous for us to play, and I wish we would not do it.

Mr. DURBIN. I am going to ask the Senator to yield for a question. I see Senator LEAHY has come to the floor.

I can say for the record—he can back me up—not only was Judge Southwick given a hearing—which many nominees in the previous administration were not given a fair hearing, I believe; and I think all present would say—there has been no effort to stop Senator SPECTER or any Republican from calling this nomination for a vote.

I wish also to ask the Senator from South Carolina, is he aware of the fact that the only African-American Congressman from the State of Mississippi, the Magnolia Bar Association, which represents most African-American attorneys in Mississippi, and the major civil rights group have expressed their opposition to the nomination of Judge Southwick?

Mr. GRAHAM. Yes, I understand there is some opposition from African-American elected officials. What I would say to that is, being a son of the South, I am very sensitive to all of this. I have lived all my life in South Carolina, and I understand the sins of the past. They are very real. I can remember growing up. My dad owned a bar where African Americans came into our bar and they had to buy their products to go. I remember that very well as a young man. I see things changing for the better, and we have a long way to go.

But what I see here, I say to my good friend from Illinois, is a man who has lived his life very well, who has been part of the solution, not the problem, who has never used the robe to impose arbitrary justice, who is trying to be a constructive member of the Mississippi judicial community, who has worked hard to make something of himself, and he is being accused of something he is not.

I do not care where the criticism comes from. What I am going to evaluate is what the facts are about this man. This is a good man, who has been a good judge, who is well qualified, and who is being unfairly labeled based on two cases that are being turned upside down. We are going to ruin the judiciary if we continue to play this game.

Mr. LEAHY. Mr. President, will the Senator yield for another question?

Mr. GRAHAM. Absolutely.

Mr. LEAHY. Mr. President, is the Senator aware of the fact that, formerly, when Judge Southwick was on the calendar as a nominee to be a district judge—Republicans were in charge—that when he was up for a vote, agreed to by the Democrats, he did not get a vote because of a Republican objection to a slate of judges? Is he aware of that?

Mr. GRAHAM. No, I was not. It is my understanding there was no objection on your side about him being a district court judge. Is that correct?

Mr. LEAHY. To answer that question, he was voted out for a district court judgeship, an entirely different type of judgeship than a court of appeals judgeship. It was in a package to be confirmed, I guess by unanimous consent, with the Republicans in leadership, and a Republican Senator from Kansas objected to one of the nominees, and, of course, it brought down the package.

If I understood the Senator correctly, he was worried about political actions. Was he aware—I know he was not able to make a couple recent markups of the Senate Judiciary Committee, although he is a member. Is he aware of the fact that Mr. Southwick is on the agenda for tomorrow's markup?

Mr. GRAHAM. Yes, I believe I am aware of that.

Mr. LEAHY. Was he aware of the fact that he was taken off the agenda earlier at the request of the Republicans?

Mr. GRAHAM. Yes, I am, because it is my understanding, if I could reclaim my time—and I am sorry to run over, I say to my good friend from Ohio—here is what I think is happening. I think everybody was OK with him being a district court judge, except maybe somebody on our side, and if the problem with this man is he has associated himself in a way that disqualifies him because of a racial problem, why should he be a district judge? If his problem is that he is against people because of sexual orientation unfairly, why would he ever be a district judge? So the point is that if he was good enough for a district judge based on his qualifications, why shouldn't we give him an up-or-down vote in a fair way in terms of the court of appeals?

So I think what is going on here is that we are trying to replace the discretion of the President and the two

Senators from Mississippi to play with a court of appeals nomination of Mississippi in a way that will come back to haunt all of us, and I just wish we wouldn't do it. Give this man an up-or-down vote on the floor.

Mr. LEAHY. Mr. President, if the Senator would yield on that point, when the Republicans were in charge of the responsibility of bringing forth his record, they never brought forth either the sexual or the racial issues that have been raised when he was up for district court judge. But we will discuss this tomorrow. I hope the Senator will be able to join us at the markup tomorrow. We have had a couple of occasions when the President's nominees for judges have been on our agenda and Republicans did not show up to make a quorum. I don't know if this helps to keep their numbers—I remind the Senator, however, that with the Democrats in charge, the time the Democrats have been in charge, President Bush's judges have been confirmed at a far more rapid pace and in greater numbers—in greater numbers—than they have been under a Republican-controlled committee or Senate.

Mr. GRAHAM. Mr. President, we will be there at the committee tomorrow, and I will yield the remainder of my time so we can get on with other business.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, we now have had three speakers from the Republican side of the aisle, three in a row, so I ask unanimous consent that the following speakers be recognized: Senator HARKIN immediately, and following Senator HARKIN, Senator CANTWELL will speak, and that would be the request at this point.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BAUCUS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, in the decade since it was first authorized, the Children's Health Insurance Program has been an extraordinary success story. It has reduced the number of uninsured low-income children by a third, providing basic health insurance to 6.6 million children whose parents cannot afford private insurance but who do not qualify for Medicaid.

In my State of Iowa, the Children's Health Insurance Program has brought health insurance to nearly 50,000 children. Think about that: 50,000 kids who otherwise have had no health insurance have had access to regular checkups and prompt treatment of illnesses and injuries. By any measurement, this is a stunning success.

Let me introduce to my colleagues one of those 50,000 success stories. Her name is Jenci Ruff. She lives in Knoxville, IA. When she was in the third grade, she began having trouble seeing the blackboard. The school nurse recommended that she have her eyes tested, but her parents couldn't take her to a doctor; they were living paycheck to paycheck; they had no health insurance. By fourth grade, Jenci still couldn't see the blackboard and she began having headaches.

Fortunately, Mrs. Ruff learned about the Children's Health Insurance Program. She enrolled Jenci and her little brother. Jenci was referred to an eye specialist and received treatment. A year and a half later, her vision has greatly improved and her headaches have gone away. Mrs. Ruff believes that the treatment made possible by the Children's Health Insurance Program saved her daughter from going blind. In addition, Jenci's brother, prior to starting school, was able to get the necessary shots and physicals he needed.

As Mrs. Ruff told the Des Moines Register:

> Before, Jenci was having such a hard time to get through her reading. Her grades have improved. Her attitude about school has improved. But if she hadn't had this program—

The Children's Health Insurance Program—

> we never would have made it to a specialist.

I am very happy for Jenci Ruff and her brother and her family. But I have to ask, Don't we owe it to all of America's kids? Surely, in a humane, decent society, no child should go uninsured. No child should go without regular checkups and prompt treatment of illnesses and injuries.

That is why it is incomprehensible—incomprehensible—to me that President Bush is pledging to veto this bill because it would extend coverage of the CHIP program to too many kids. How could we extend it to too many kids? Instead, the President proposed $4.8 billion in additional funding over the next 5 years. That is less than what is needed just to maintain current enrollments. According to the Congressional Budget Office, the President's proposed funding would cut 1.4 million children and pregnant women from the Children's Health Insurance Program. How could anyone say that Jenci Ruff should have been cut from the children's health program? It saved her. It saved her from going blind. Yet we are told we don't have the money for this? Nonsense. Just think what it would have cost society if Jenci had gone blind, God forbid. What would the cost to society have been for her lifetime of special education, special schools, seeing-eye dogs, and all of the other things? How much more productive is she going to be now? Talk about penny wise and pound foolish.

The President just doesn't get it. Sometimes, when people are born with a silver spoon in their mouths and they have had all the accoutrements, they have had all the wonderful hospitals and doctors all their lives, they somehow—and I don't say this of everyone, but some people just can't imagine that everyone is not like them. Well, there are a lot of people who do not have the kind of wherewithal you may have had growing up.

So it is not just a public policy choice. I think the choice we have is a very moral choice: Do we go forward and extend health insurance to more kids from low-income families or do we cut these children from the rolls, condemn them to a childhood without checkups, without decent health care, without necessary medical treatment—that is, until they show up in the emergency room.

We all know too well what it means when a child does not have health insurance, when they don't even have access to basic medical care. Earlier this year, the Washington Post reported on 8-year-old Deamonte Driver of Prince George's County, MD. Deamonte was suffering from an abscessed tooth, but his mother could not afford to take him to a dentist. Eventually, the abscess spread to Deamonte's brain. He was taken to an emergency room, but tragically, after two operations and more than 6 weeks of hospital care costing upwards of $250,000, Deamonte—this young guy right here, Deamonte Driver—died. He died from an abscessed tooth. In the 21st century in the United States of America, this child died because he had an abscessed tooth because he is so low-income, he didn't have health care and mom didn't have any money. Not until he got so sick that they rushed him to the emergency room, and he died.

Why in the world would President Bush want to cut more than a million children from the rolls of the Children's Health Insurance Program and put them in jeopardy—the kind of jeopardy that took Deamonte's life? What is the real cost of denying children access to basic health care? Well, in the case of Deamonte Driver, if you want to know just in money terms, a quarter of a million dollars in emergency hospital bills, and, most importantly, it deprived Deamonte of his life and a very happy future.

So you compare the positive fate of Jenci Ruff, who is covered by the Children's Health Insurance Program, to the tragic fate of Deamonte Driver, who was not. This is not just a tale of two kids and two very different outcomes; it is the tale of two choices, the two choices we have to make. So we must make the right choice. Surely some things are beyond partisan disputes and ideological obsessions. Surely we can come together here to support extending health insurance to more kids in low-income families.

Some have argued that the President's pledge to veto this Children's Health Insurance Program is the death knell of compassionate conservatism. We have all heard about compassionate conservatism. Well, I would just point out that the President's threat of a veto is disappointing. But I would like to note on the positive side that this bill enjoys the strong support of a large number of conservatives, moderates, and liberals here in the Senate and in

the other body, and it has no more outspoken champion than my distinguished senior colleague from the State of Iowa, Senator GRASSLEY, who I see just arrived on the floor. So, as I said, this cuts across ideological lines. This is no conservative, liberal, moderate, up, down, sideways kind of issue; it is a basic moral issue that we have to confront.

I would say on behalf of my colleague from Iowa and so many Republicans who are supporting the Children's Health Insurance Program that compassion and common sense is alive and well with these Republicans. I applaud them for it. With their support, we intend to move forward with a bill that is not only strongly bipartisan but that, according to a recent Georgetown University poll, is supported by 9 in 10 Americans, including, I might add, the poll said 83 percent of self-identified Republicans. So again, this is not a partisan issue. Now, it may be an issue with this President and his ill-conceived notions, but it is not a partisan issue.

Lastly, this program has been a Godsend to my State of Iowa. As I said earlier, 50,000 kids in Iowa are covered who obviously would not have been. We call it the HAWK-I Program in Iowa, the Healthy and Well Kids in Iowa—the HAWK-I Program. The top income limit for Iowa families is 200 percent of the Federal poverty level, which comes to about $34,000 for a family of three, and, along with Medicaid, provides primary and preventive services to 3 out of every 10 Iowa kids. Yet, even with these programs I am talking about—Medicaid and HAWK-I—even with those two, an estimated 30,000 to 55,000 Iowa children remain uninsured. With the new funding provided in this bill, Iowa could cover nearly 15,000 more children over the next 5 years.

Expanding this program to cover more low-income kids is not only the right thing to do, it is the smart and cost-effective thing to do. We know when children get access to preventive and primary care services, good things happen. Kids get better health outcomes. They stay out of the emergency room. They get better grades. They do better in school. One dollar spent on the CHIP program can save many more dollars in health care expenses.

When an asthmatic child is enrolled in the program, the frequency of attacks declines by 60 percent and the likelihood that they will be hospitalized for that condition declines by more than 70 percent. If anybody has been paying attention, you know that kids' asthma has been on a huge increase in this country, especially among poor kids. Well, this is one way of keeping them out of the hospital. It is providing them with this kind of preventive coverage.

I might also add that the Children's Health Insurance Program is vitally important to rural Americans—rural States such as Iowa. The simple fact is that rural kids are more likely to be poor. In the most recent survey, 47 percent of rural children—47 percent—live in low-income families. So they are not only more likely to be poor, their parents are less likely to have any access to an employer-based health insurance program. So in the absence of the CHIP program and Medicaid, millions of low-income rural families have no other health insurance option, period. They live in small towns. They work for small employers,—mom-and-pop places that employ two or three or four or five people. They don't have the wherewithal to provide employer-based health insurance. They don't pay a lot of money. But these people are hard-working. They go to work every day and they work hard; they just don't make a lot of money. They live in a rural area, so they don't qualify for Medicaid, but they don't have enough money to buy health insurance. That is why this program is so important to rural America.

Experience shows that rural children are also difficult to enroll in the Children's Health Insurance Program, even when they are eligible. Again, low-income parents are often required to travel long distances to enroll their kids. In addition to high travel costs, there are language and sometimes cultural barriers. For these reasons, I am pleased that this bill would establish a new grant program to finance outreach and enrollment efforts targeted to rural areas.

So not only has the Children's Health Insurance Program been a great success, it is more important today than ever. In the decade since the program was created, we know the cost of insurance has skyrocketed and the number of Americans covered has fallen dramatically. But this has been a safety net for millions of low-income American families.

The bill before us would maintain coverage for the 6.6 million children currently covered and would extend coverage to more than 3 million more low-income, uninsured children over the next 5 years. That is a good and noble goal.

Obviously, if I had my druthers, I would say we ought to cover all kids—every child in America whose family does not qualify, does not have employer-based insurance, and whose income is such that they cannot afford private insurance. They ought to be covered by this program. They said this would cost $50 billion over the next several years. Well, then they made an agreement to make it $35 billion instead of $50 billion. OK, fine. I understand compromise around here. But that doesn't remove the fact that, even with this bill, millions of low-income kids will still be left without health insurance coverage. That is our task—to fill that gap. We may not get it done this year, but at least we can get this done this year and, hopefully, we can finish the job next year and cover every kid in America with health insurance.

It is time to put partisanship, ideology, and politics aside and pass this bill. Hopefully, the President will see more clearly his obligation to sign it and not veto it.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Ms. CANTWELL. Mr. President, I rise to talk about the Children's Health Insurance Program and why we need to reauthorize the program that is about to expire in September. I thank Chairman BAUCUS and Senators GRASSLEY, ROCKEFELLER, and HATCH for their countless hours of meetings before the Senate Finance Committee, which met to mark up this bipartisan package. The fact that the bill passed out of committee with such a bipartisan effort shows people are working on both sides of the aisle to make children's health care a priority.

While my colleagues have talked a lot about what the administration has threatened to do in vetoing this legislation, in fact, as my colleague from Iowa mentioned on the floor, the President's own budget request doesn't put enough money on the table to take care of those currently enrolled in the Children's Health Insurance Program. In a bipartisan effort in the Senate, we are working across the aisle to say we want to do more, we want to cover about 3.2 million more children.

I thank my colleagues and their staff for coming up with this comprehensive bill and moving us further down the way to covering more children in America, as it is such a priority.

Some of my colleagues have mentioned why this is such important timing, and many have mentioned the fact that the bill's authorization is expiring in September. I think there is a more important reason. The important reason is we are seeing the cost of health care continue to rise; the fact that premiums have doubled, probably, in the last 5 to 6 years; the fact that insurance now is somewhere between $12,000 and $14,000 a year. A family who is at an income of $40,000 a year for a family of four is finding it very hard to keep pace. Those premiums may have doubled, but I guarantee you their wages and salaries have not doubled. So more and more people are finding themselves in the unfortunate situation of not being able to provide health care for their children.

I can tell you, in talking to people from all over Washington State, there is nothing more concerning to the parents than the health of their child and nothing more scary than to think they may not be able to get the health care attention their child needs.

So for us, we have a choice—a very smart choice. This is a cost-effective bill. If you think about the costs of providing children's health insurance under this proposal, we are helping families who cannot afford private insurance, or cannot find it available in the marketplace, or maybe their employer is not providing it. Now, under this program, with State and Federal

matching dollars, these families can provide health insurance for roughly $2,000 a year per child—maybe a little more or a little less, in some instances, for those currently on the program to the new enrollees.

Think about that. Think about the fact that if you don't have health insurance and a child is delayed in getting that health care or has to wait until the last minute to go into an emergency room, I guarantee the cost of a child's visit to an emergency room is probably going to be at least $3,000. The fact that we can make this prudent investment for 3.2 million more children; not only is this about their health and safety for the future, but it is about a plan that helps us in making sure we have an efficient health care system, giving those children their due need.

Too many families, as I said, are being forced to go without this coverage. What does that mean? We talk about preventive care and maintenance care. It means that these children are going without regular checkups, that they are missing more school than other children, and that they have to wait in the emergency room to get an answer about something that is a basic illness. It means that if simple infections—such as an ear infection or cavities or asthma or diabetes—go untreated and they spiral out of control, that child may fall further and further behind in their academic career. I believe no child should be forced into a special education program because their health care needs haven't been provided for.

This bill provides better coverage so we can treat things such as injuries and infections, detect far worse things such as chronic illnesses and make sure we are managing the conditions of children before they get out of control.

I know it is upsetting to my colleagues to read things such as: Uninsured children are four times more likely to delay their health care or that uninsured children are four times more likely to go without a doctor visit for 2 years or that uninsured children admitted to hospitals due to injuries are twice as likely to die while in the hospital as their insured counterparts.

Those are horrible statistics that point to the dilemma of not providing health care coverage for children.

I know my colleagues have been out here on the floor debating this issue as it relates to fairness and geography. I tell you, no child knows they are somehow prohibited from getting access to health insurance because of geography. Nor should the Senate make the mistake in thinking we are making geographic choices.

This bill is about flexibility. It starts with the flexibility of individual States because this is a partnership between the States and Federal Government in deciding what percentage of the Federal poverty line they are going to cover.

You can see on this chart the States in white have been more aggressive in covering a higher percentage of the Federal poverty line, and those in the gold color are obviously below 200 percent of the Federal poverty line. It doesn't take a genius to figure out why certain States are more aggressive or active in covering their area. If you look at the income and cost of living in these areas, they are challenged by what it takes to maintain a household, to put their children in school, and to take care of their health care needs. For example, there are parts of the country such as New Jersey, which the Presiding Officer is from. If you look at what it takes to provide the same goods and services in New Jersey and compare that with someplace like Arkansas, you are talking about a $13,000 difference in what it costs to provide the same services. In Little Rock, it may cost $30,000 for those goods and services, compared to $43,000 in New Jersey. That is why this flexibility is so important in the program. The fact that we allow States to determine its costs and we match that with Federal dollars.

The second thing we have not focused enough on is the fact that we also have disparity in insurance costs. Look at what it costs to provide insurance. For example, it is expensive to provide health insurance in Seattle, which costs about $13,000 a year. If you look at New York, it is $16,542. So the notion that somehow New York or New Jersey are getting a better deal because they live in a high-expense area of the United States and somehow, even with that extra cost of insurance, we should prejudice legislation from serving those children, I say that is a mistake. Every child in America who is covered by this health insurance program will be healthier, and every child who is covered and healthy will not only be a more contributing citizen to our society, but also we are going to reduce our own health care costs in the future.

So it is a wise and prudent plan to have such diversity in this proposal. I ask my colleagues, before they come out and look at formulas and offer amendments that basically cut States from having the flexibility in these formulas, to consider the geographic disparity and the challenges those individual States face.

I believe the Children's Health Insurance Program provides a critical backstop to families. They would rather be in a situation where they could provide the health insurance and care, I am sure, for themselves. I have certainly met Washingtonians who have given up their own health insurance to provide health insurance for their children.

We need to prevent the number of uninsured children in this Nation from growing, and this bill, the Children's Health Insurance Program, should be reauthorized and expanded to make sure we do stop the number from growing and that we attach our principles of covering at least 3.2 million now and, as we see brighter budget days coming back, covering the rest of the children in America.

I yield the floor.

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

Mrs. CLINTON. Mr. President, I thank my colleague from Washington for her usual very thorough and persuasive statement on the floor about the need for flexibility in this important program and the recognition that health care, similar to everything else, costs differently depending upon where you are in the country. I thank the Senator from Washington for reinforcing that important point.

The larger point is that today, in this Congress, we are on the verge of providing the greatest expansion of health coverage for our children since the creation of the Children's Health Insurance Program a decade ago. I believe—and I don't imagine anybody in this Chamber would argue with this belief—that every child deserves a healthy start in life. Certainly, we try to provide that healthy start for our own children, and we give a lot of lip service to the idea that we should provide it for all children. Yet far too many children in our Nation—more than 9 million—do not have health care.

I was very proud to help create the State Children's Health Insurance Program during the Clinton administration, working on this legislation during my time as First Lady. After the bill passed, I worked to get the word out to try to help more children and their parents understand what this new program could mean for them and encourage them to sign up in the first few years. In the Senate, I have continued that effort, fighting to ensure that health care for children has the priority in our budget that it deserves.

Today, thanks to the work of so many, CHIP provides health insurance for 6 million children. In New York alone, almost 400,000 children benefit from this program every month. With the legislation that Chairman BAUCUS and Senators GRASSLEY, ROCKEFELLER, and HATCH helped to craft, an additional 50,000 children in my State of New York will have access to health insurance coverage.

This legislation will also help enroll many of the 300,000 children in New York who live in families who are already eligible because their families make less than $52,000 a year, 250 percent of the poverty level for a family of four.

In total, across our country, 3.2 million children who are uninsured will gain coverage. That will reduce the number of uninsured children by one-third over the next 5 years.

If we can afford tax breaks for companies that ship jobs overseas and tax cuts for oil companies that are making record profits, I certainly think we can find it in our hearts and our budget to help cover millions of children who deserve a healthy start.

I want to be clear. If the President vetoes this bill, he will be vetoing

health care for more than 3 million children. And, once again, the President will have put ideology, not children, first.

Earlier this year, I was proud to introduce legislation with Congressman JOHN DINGELL to reauthorize and expand CHIP, and I am very pleased that a number of the ideas in our bill are included in this legislation, such as cutting the redtape and bolstering incentives to get eligible children into the program.

The legislation also improves access to private coverage and expands access to benefits, such as mental health and dental coverage.

This is so important, and I applaud the Finance Committee, under Chairman BAUCUS's leadership. Mental health and dental coverage are too often left out when we talk about health care.

Not far from where I am standing, in the State of Maryland last year, a young boy, Deamonte Driver, had a toothache. His mother sought help for him to get dental care. She called dentists, but they were not taking any more children on Medicaid or on CHIP. Then she got help from a legal aid group that helped poor families. They called around. I think they called 27 or 28 dentists who said: Look, our quota for poor kids is filled.

Deamonte Driver's toothache turned into an abscess, and the abscess burst, infecting his bloodstream, and he ended up in the hospital where doctors valiantly tried to save his life from the brain infection that resulted from the abscessed tooth that had not been treated. This young man died.

When one thinks about the loss of a child over something that started as a toothache, it is heartbreaking, but it is not by any means an isolated case. At the end of Deamonte's life, the State of Maryland and the U.S. Government ended up paying hundreds of thousands of dollars for emergency care, for intensive care, for life support, to no avail, for want of $80 to $100 to find a dentist who would care for Deamonte.

I commend the authors of this bipartisan bill for their work and for bringing forward a practical, fiscally responsible compromise that will allow us to reauthorize this important program and expand coverage. I am eager to see that it is signed into law.

I am disappointed, however, that the bill we are considering this week fails to include the Legal Immigrant Children's Health Improvement Act, which I introduced with Senator SNOWE. Senator SNOWE and I have been working on this legislation for a number of years. This bipartisan bill would give States the flexibility to provide the same Medicaid and CHIP coverage to low-income legal immigrant children and pregnant women as is provided to U.S. citizens. I underscore that. We are talking about legal immigrant children and legal pregnant women.

I believe we should provide this flexibility to States because the current restrictions prevent thousands of legal immigrant children and pregnant women from receiving preventive health services and treatment for minor illnesses before they become serious. Families who are unable to access care for their children have little choice but to turn to emergency rooms, and this hurts children and pregnant women, plain and simple.

I urge my colleagues to support my amendment to lift the ban on Medicaid and CHIP coverage for low-income legal immigrant children and pregnant women.

I also am disappointed that some of my colleagues have expressed concern about States, such as New York, New Jersey, and others, that have chosen to cover children above 300 percent of the poverty level. The legislation we are considering on the floor of the Senate would allow New York to continue doing this and receive the CHIP matching rate. We should not punish children and their families who live in high-cost areas and who need health care coverage.

I encourage my colleagues to vote against any effort to undermine the extension of health care in high-cost States where it costs more, as we heard from Senator CANTWELL in her statement on the floor, to provide the same coverage and treatment one would get elsewhere in our country.

I am proud we are debating a bill to expand health care to 3.2 million children, but the fact is, there should be no debating the moral crisis of 9 million children without health care, no debating the moral urgency of strengthening our health care system for children and all Americans.

Ultimately, the answer will be in a cost-effective, quality-driven, uniquely American program that provides health care to every single man, woman, and child in our country. But until we get to that point, it is imperative that the Congress pass this bill before we go out for recess and send it to the President, with the hope that he will sign it into law.

I also wish to mention another issue we urgently need to address. Last week, the bipartisan Commission on Care for America's Returning Wounded Warriors, chaired by former Senator Bob Dole and former Secretary of Health and Human Services Donna Shalala, issued its final report on the need to reform the medical care that our troops and veterans receive.

The Commission found in an excellent report—it is not one of these commission reports that just takes up a lot of space on the shelf. It is very pointed, with six specific recommendations, and it found that one of the most important ways to improve care for injured servicemembers is to improve support for their families. That is why I introduced a bipartisan bill, the Military Family and Medical Leave Act, with Senators DOLE, MIKULSKI, GRAHAM, KENNEDY, and BROWN, to implement a key recommendation of the Commission. We have offered this as an amendment to the CHIP legislation.

The Family and Medical Leave Act was the first bill signed into law under the Clinton administration. It came about because of a lot of hard work, led by Senator DODD in the Senate, and others, and it has proven to be enormously successful, helping more than 60 million men and women who try to balance the demands of work and family.

I believe it is time to strengthen the act for military families who find themselves in a very difficult situation. They should be given up to 6 months of leave to care for a loved one who has sustained a combat-related injury.

Currently, these spouses, parents, and children can receive only 12 weeks of leave under the Family and Medical Leave Act. All too often, this is just not enough time, as injured servicemembers grapple with traumatic brain injuries, physical wounds, and other problems upon returning from Iraq, Afghanistan, and elsewhere. In fact, 33 percent of active duty, 22 percent of reservists, and 37 percent of retired servicemembers reported to the Commission that a family member or close friend had to leave their home for extended periods of time to help them in the hospital. About 20 percent said family or friends gave up jobs to be with them to act as their caregiver. This is a step that we can take immediately that will make a real difference.

Many of us have been to hospitals in our own country—Walter Reed, Brook Army Medical Center—and other places in the world, such as Landstuhl in Germany, where we have seen our wounded warriors. There is absolutely no doubt that having the support, assistance, and comfort of a family member during that process when a young man or woman who has served our country is brought from the battlefield to the hospital makes a big difference in recovery and rehabilitation.

I think all of us agree that not only do our men and women in uniform make tremendous sacrifices on our behalf, so do their families. As a nation, we have a duty to provide them with the support they deserve.

Expanding access to health care for children and providing better support for our military families comes down to basic values that we as Americans hold dear. I think we all agree every child deserves a healthy start and every man or woman who wears the uniform of our country deserves more than words of support. The promise of America is rooted in these values, and I am very proud to support the bipartisan legislation expanding health care for children, and I urge my colleagues to join me and Senators from both sides of the aisle who are supporting our military families who are caring for those who have been injured in service to our country.

Finally, we hope on the other end of Pennsylvania Avenue there will be a

change of heart; that the President will decide to sign this legislation and relieve the burdens of ill health and inadequate access to health care that haunt the lives of so many American families.

Mr. President, please support this effort in every way possible by signing the legislation that will be sent to you.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I know Senator HATCH wishes to speak on the underlying bill, the Children's Health Insurance Program. He is on his way to the floor. In the meantime, I see the Senator from Michigan is here, a very valuable member of the Finance Committee. She works very hard. She would like to speak on this bill. I thank her for coming to the floor. I urge the Chair to recognize the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, again, as I said when we first took up this bill on Monday evening, I thank the chairman of the committee for his passion in bringing us to this point, he and the ranking member, Senator GRASSLEY, as well as, of course, Senator ROCKEFELLER with his deep commitment, and Senator HATCH as well.

This is a truly bipartisan effort. It is the way we should be legislating—coming together. It is a compromise. If I were writing a bill by myself, I would add more dollars. There are Members on the other side of the aisle who would, in fact, do less. But it is a real compromise.

I start out today speaking to the fact that it is a compromise. As a member of the Budget Committee, having worked with our chairman and members very hard to produce a budget resolution that really does reflect a new direction in values and priorities, I worked very hard to have us achieve a set-aside of $50 billion for children's health care in the budget resolution.

In my heart of hearts, that is where I want to be. I also know that any significant expansion is a victory not only for us and for the Senate but, most importantly, for children and their families.

I know there will be an effort to expand to the full amount that we all wish to do—I think on this side of the aisle, certainly, that is where we want to be, and our House colleagues have focused on that as well. But I also know that we have a President of the United States who shockingly has said that he will veto providing children's health care, an expansion of more than 3.3 million children to receive health care, children of working parents. The vast majority of them have a mom or a dad working one job, two jobs, maybe three jobs trying to make ends meet, but who can't afford health insurance, don't qualify for Medicaid, but find themselves desperately wanting to make sure their children have all that they need, as all of us want as parents.

So we are in a situation where the President of the United States has indicated he does not share that view. His budget, in fact, is a budget that he proposed to us that would cut children. It would cut children who are currently being provided health insurance. It would eliminate their health insurance. So on the Finance Committee, we came together under very strong bipartisan leadership to find a common ground, the middle ground, to be able to increase the number of children who receive health insurance and be able to make sure that the 6 million children who currently have health insurance are allowed to maintain that insurance. We have come to a compromise, and it is a compromise I support.

As we face a potential veto from this President, it is critical that we have the strongest possible bipartisan vote coming from the Senate. If in fact the President follows through and vetoes this, I hope we will have enough votes to override that veto in a strong bipartisan spirit, the spirit that brought us together originally when the Children's Health Insurance Program was originally passed. I urge colleagues to support the Finance Committee version and what we have done as the best way to get us real health care expansion for children.

Then we will come back, and I will be right back as a member of the Budget Committee next year, proposing again that we expand what we are doing to make sure that every child who does not have health insurance, whose family is working hard but doesn't qualify for Medicaid and doesn't have the ability to get private insurance, has the health care they need.

We have, I understand, another proposal in front of us, an amendment that would take us backward. I understand Senator LOTT has offered an amendment that has actually been dubbed the CLIP amendment, instead of CHIP—Children's Health Insurance Program—CLIP meaning ''Children Losing Insurance Program.'' Again, we don't need anything that is going to take us backward and have fewer children receiving health insurance.

I want to see us make a major commitment to universal health insurance in the greatest country in the world so that everyone has the opportunity to be able to receive the health care they need. We should be striving to achieve nothing less than that.

The Lott amendment, first, will cut children's health care and take us down the road of debating the number of policies individually that Members may support, policies I find great concern about, and policies that will actually increase the number of uninsured, such as expanding the health savings accounts. I urge colleagues to oppose the Lott amendment because it takes us in absolutely the wrong direction if we want to cover children of low-income working families, and if we want to make sure they have what they need to be able to grow up and be successful in America.

I have also heard debate about the cost of this legislation, and it is important to look at what we are talking about in terms of our values and priorities when we debate any piece of legislation. Everything we do here is about values and priorities. Right now, every month, we are spending $12 billion in Iraq—$12 billion. Regardless of how any one individual feels about the war in Iraq, we are spending $12 billion—not paid for, not a part of the budget—$12 billion a month. This bipartisan effort to provide health insurance for more than 3 million more American children in this country is a cost of $7 billion a year—a year; less than what we are spending in 1 month in Iraq. That is the right value and the right priority. This is paid for, it is responsible and, most importantly, it is the moral thing to do in the greatest country in the world, in my opinion. This is not too much to invest in the future generation of America.

Yesterday, the chairman and I, a number of us, had an opportunity to be with a wonderful woman, Kitty Burgett, from Ohio, who spoke about the importance of children's health care in her family. I know it was a very moving experience to hear her, and I wanted to share her story. I have certainly other stories from Michigan as well, but Kitty came to the Nation's capitol to share what the Children's Health Insurance Program has meant to her and to her family.

Kitty is a widow whose husband died in 1990, leaving Kitty and her two young children without income or insurance. She had Social Security survivor's benefits, but even that little income put her and her children over the Medicaid eligibility levels, so they didn't qualify for low-income health insurance because of their survivor benefits. She started working but earned very little. Nonetheless, she purchased insurance for her children, because like all of us who are parents, she wanted to make sure her children had what they needed. She wanted to make sure if they were sick, she was able to care for them with health insurance. So she purchased that insurance, but the cost rose every 6 months, and she finally had to drop it because of the cost. That is an uncommon story in America today.

Then along came the Children's Health Insurance Program. Kitty immediately enrolled her children. She had a daughter who was 12. Her son was a bit younger. Her daughter then began to develop problems, and, ultimately, at age 15, was diagnosed with bipolar disorder. She was ill. She was hallucinating and she had major mood swings—as those of us who are familiar with that disease understand—from depression to highs and hallucinations. She couldn't concentrate at school. The Children's Health Insurance Program was there so Kitty could get her daughter some help. It covered her medications and therapy and eventually some new medicines that brought

her illness under control. Her daughter is now 22 years old. She is married, she is working, and she is insured. She has an 18-month-old daughter named Scarlet. Kitty says the Children's Health Insurance Program kept her daughter from a lifetime of institutionalization, and, instead, she is a productive, contributing member of society and a loving mother to Scarlet.

That is what this is all about, giving people in America—parents, the vast majority of whom are working—the ability to provide their children with the health care they need so they can go on to be successful, thriving, contributing adults in America.

I might also mention I am very pleased that the bill in front of us expands the opportunity for what is called mental health parity, so that if there is insurance provided, mental health care will be a part of that. I congratulate Senator KERRY and Senator SMITH, who have led that effort to expand us into the area of more adequately covering mental health care for children.

This program covers children all over the country. It is interesting to note that there are more children uninsured in rural areas than in urban areas. This will make sure that, in fact, all of the children who qualify under this program are able to receive the health care they need. Right now, in Michigan, we have about 60,000 children who are on the Children's Health Insurance Program and another 90,000 who are eligible—who qualify right now under the program we wrote—but because funds aren't available for outreach, funds aren't available to do what is necessary, we are not able to provide those families, those children, with health insurance. This bill goes a long way to making that happen.

I have heard so many stories from Michigan, and it touches your heart when you think about the way families are struggling to be able to care for their children at the same time costs are going up at every turn. We have folks who are working harder than ever: They turn around and gas prices go up; they turn around and their insurance premium goes up; they turn around again and look at the cost of college, and those costs have gone up. We addressed the cost of college last week. Those things go right to middle-income families—student loans and Pell grants and those programs that allow more people to have the opportunity to go to college and send their children to college.

The reality is that on every side families are feeling squeezed—working harder and costs going up and up and up. Children's health care is one way, another critical way, we can help families. I think of Chad, a gentleman in Michigan. He and his wife have two young children. He works for a small landscaping business with an ''off season'' of 3 to 4 months in the winter when he is not working. If the couple purchased insurance through Chad's employer, it would be an additional $300 a month, which for them is not affordable. Through MIChild, which is our children's health program, both his sons are able to get the inhalers they need for their asthma. How basic, in America, in the greatest country in the world, to make sure that children can handle their asthma.

I also heard from Pam, who is a full-time preschool teacher and mother. Her monthly premiums of $384 a month, or over $4,500 a year, take up over one-fifth, or 20 percent, of her pay. Through the MIChild program, she was able to get the specialized care she needed for her youngest daughter, who suffers from a rare seizure disorder.

I could go on and on, but I will not. We all have stories of families who are wanting the best for their children, who want the American dream. They do not want to go to bed at night and have to say, please, God, don't let the kids get sick, don't let something happen tonight or tomorrow because I don't know what I am going to do—we don't have health insurance. We are the greatest country in the world and there is no excuse for any family finding themselves in that situation.

We have in front of us a bill that is a true bipartisan compromise. For me, it is a step in the right direction to universal care, and an opportunity to come up with a uniquely American way to provide universal health care for everyone in America. I believe health care is a right, not a privilege, in the greatest country in the world, and we should act like that. This important legislation is part of keeping that promise.

We started down the road with covering children whose parents are working, who do not qualify for low-income help through Medicaid because they are just above that limit, but aren't able to get the insurance they need for their families. We have children who qualify today but, because the resources aren't there, they are not able to get the health insurance they need. This legislation will say that more than 3 million more children—families—in this country will not have to go to bed at night worrying about whether their kids are going to get sick tomorrow.

Finally, I say again that this is about values and priorities. Always it is about values and priorities. This is the right thing to do. It is the moral thing to do. When we find ourselves in the situation of spending $12 billion a month on the war in Iraq, not paid for, and in front of us we have the ability with $7 billion a year to cover over 3 million more children with children's health care, the 6 million who have insurance now and over 3 million more in America, responsibly done and paid for, this is the right thing to do. It is the moral thing to do.

This is a great success story, and I am very hopeful we will see a very strong bipartisan vote when this comes before the Senate for a vote.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mrs. DOLE. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside in order that I may offer an amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator may proceed.

AMENDMENT NO. 2554 TO AMENDMENT NO. 2530

Mrs. DOLE. Mr. President, I call up amendment No. 2554, now pending at the desk, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mrs. DOLE] proposes an amendment numbered 2554 to amendment No. 2530.

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

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

The amendment is as follows:

(Purpose: To amend the Congressional Budget Act of 1974 to provide for a 60-vote point of order against legislation that includes a Federal excise tax rate increase which disproportionately affects taxpayers with earned income of less than 200 percent of the Federal poverty level)

On page 217, after line 25, add the following:

SEC. ___. BUDGET POINT OF ORDER AGAINST LEGISLATION THAT RAISES EXCISE TAX RATES.

Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

''POINT OF ORDER AGAINST RAISES IN EXCISE TAX RATES

''SEC. 316. (a) IN GENERAL.—It shall not be in order in the Senate to consider any bill, resolution, amendment, amendment between Houses, motion, or conference report that includes a Federal excise tax rate increase which disproportionately affects taxpayers with earned income of less than 200 percent of the Federal poverty level, as determined by the Joint Committee on Taxation. In this subsection, the term 'Federal excise tax rate increase' means any amendment to any section in subtitle D or E of the Internal Revenue Code of 1986, that imposes a new percentage or amount as a rate of tax and thereby increases the amount of tax imposed by any such section.

''(b) SUPERMAJORITY WAIVER AND APPEAL.—

''(1) WAIVER.—This section may be waived or suspended in the Senate only by an affirmative vote of three-fifths of the Members, duly chosen and sworn.

''(2) APPEAL.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.''.

Mrs. DOLE. Mr. President, nearly every Senator in this body agrees we should not increase the tax burden on low-income individuals and families. Unfortunately, the bill before us would do that by raising the tobacco tax by 156 percent. No other Federal tax hurts the poor more than the cigarette tax, according to the Tax Foundation. Of

the 20 percent of the adult population that smokes, around half are in families earning less than 200 percent of the Federal poverty level. Furthermore, a massive and highly regressive tax increase on an already unstable product is a terribly irresponsible way to fund the State Children's Health Insurance Program.

My amendment is very simple. It creates a 60-vote point of order against legislation that includes a Federal excise tax increase that would disproportionately affect low-income individuals, defined as taxpayers with earned income less than 200 percent of the Federal poverty level.

A majority of my colleagues say they oppose increasing the tax burden on lower income families, or even oppose tax increases outright. I, therefore, would expect that this commonsense amendment would receive tremendous support in the Senate.

I ask unanimous consent that my amendment now be laid aside, with the understanding we will return to it at a later time.

I yield the floor.

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

The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I understand the Senator from Massachusetts, Mr. KERRY, is about to speak. As he gets ready to speak, there are a couple of points I wish to make. We are still working the numbers on the McConnell-Lott amendment. I wish to point out a couple of points.

No. 1, the McConnell-Lott amendment, although it is advertised to do this, does not put kids first. Despite prohibiting coverage of nonpregnant adults and limiting all State income disregards, this legislation does not cover substantial numbers of additional children.

On the surface, they think they may cover 700,000 additional kids, but we are trying to get the numbers from CBO and trying to determine the actual effect; whereas, the Finance Committee bill the CBO has analyzed very carefully it will cover an additional 4 million children. About two-thirds of those will be on Medicaid, and roughly a million will be under the Children's Health Insurance Program.

The big difference is the different effects between the Finance Committee-passed bill and the McConnell-Lott bill on uninsured Medicaid-eligible children; that is, children today who are not on Medicaid but are eligible—what is the effect of the two various approaches on those low-income kids.

Again, I give the caveat we do not have all the actual language and do not have all the numbers exactly crunched by CBO, but a first analysis essentially looks like this. It looks basically like the McConnell-Lott bill will not add many new kids to be covered under Medicaid; whereas, the Finance Committee bill has about 1.7 million children now not covered under Medicaid who will be covered.

It is complex legislation we are considering. This is a Children's Health Insurance Program. But as we work to get more kids covered under the Children's Health Insurance Program, by definition there are going to be more kids also covered under Medicaid—that is children whose income levels are so low they are covered under Medicaid as opposed to the Children's Health Insurance Program.

There is a huge difference there. It looks like the McConnell-Lott bill will not help the very low-income kids who are currently eligible under Medicaid to be covered. In fact, the Finance Committee bill covers at least five times more.

I might say a word about the so-called crowding out. Senators are concerned this legislation will have the net effect of encouraging some children, now under private health insurance, to drop their private health insurance coverage to take advantage of the Children's Health Insurance Program expansion. There are a couple of points about that.

No. 1, under the McConnell-Lott amendment, it looks like their so-called crowd-out ratio is even more adverse from their perspective than the crowd-out ratio under the Senate Finance Committee bill. I don't wish to belabor the point. It is roughly the same, roughly 30 percent, but their crowd-out rate is a little greater on a percentage basis as to how many kids are there who will drop private health insurance for the Children's Health Insurance Program. But theirs is no better in fact a little worse, from that perspective.

Also, it is important and worth noting that when Congress passed the Medicare Modernization Act a few years ago and it provided for the Part D benefits for senior citizens, CBO said the crowd-out rate for that program would be much higher—and it was. I think there is one estimate beginning at 75 percent. I think it dropped to around 40 percent. I might not be entirely accurate on those numbers, but it is much higher than the 30 percent predicted under the Finance Committee CHIP bill and also about the same under the McConnell-Lott substitute.

In addition to that, we on the Finance Committee wanted to reduce the so-called crowd-out as much as we possibly could. We asked the Congressional Budget Office, especially the Director of the Budget Office, Peter Orszag, to tell us on the committee what did we have to do on this legislation; tell us how we should write it to minimize crowd-out as much as we possibly can, be as efficient as we possibly can. He told us what to do and we did it.

In the Finance Committee markup, when asked about crowding out; that is, kids moving from private health insurance coverage over to the Children's Health Insurance Program, he said you have done it efficiently. You have done it as well as you can do it.

I wish to make the point very clear. While we are helping children, while we are helping low-income kids get health insurance—as we clearly should—we also do not want to disrupt the private industry any more than need be.

It is important to remember that States are given power to decide how they want to administer the Children's Health Insurance Program. It is up to the State. Some States add it to Medicaid. Some States have separate programs. Most States use health insurance companies to administer the health insurance program, the Children's Health Insurance Program, with copays and deductibles, and so forth. So those who on the surface might be concerned if their ideology is it should be private health insurance, not the Children's Health Insurance Program, should not be too concerned, frankly, because we have gone the extra mile to make sure that so-called crowd-out is minimized as much as we possibly could.

I will have other points to make later on about the McConnell substitute. Basically, I wish to say it states that if you are at 200 percent poverty or a little above 200 percent of poverty, despite what we anticipated when we passed this legislation in 1997, I am sorry, you can't go above 200 percent if you want to have the benefit of the Children's Health Insurance Programs match rate, which is a little more beneficial to the States than the Medicaid match rate. That is not right. So many States are at least above 200 percent of poverty. I think that is wrong.

The other major thrust of the McConnell substitute is if you are above 200 percent of poverty, you have to go into the private market. That encourages them very strongly. That is not right either. Fundamentally, the Children's Health Insurance Program was written first, in 1997—again, it is a block grant program that gives States flexibility and recognizes that every State is different.

So often Senators say we should not enact one size fits all. I have heard that 100 times around here. Basically, that is correct—not always but basically. Senators who are advocating McConnell-Lott say one size fits all, basically, not recognizing that different States have different costs of living, some States are much more expensive to live in than others.

I saw a chart the other day that showed if you take 200 percent of poverty and matched that against the cost of living in various States in our country, in some States, the parity level would be maybe down around, oh, say, 150 percent of poverty. But there is one State that was 300 percent. If you translate the 200-percent nationwide figure to what the cost of living is in that State, it comes out to 300 percent. I think that is fair because different States are so different.

I ask unanimous consent, now, that the pending amendment also be temporarily laid aside so Senator KERRY may offer an amendment.

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

The Senator from Massachusetts is recognized.

AMENDMENT NO. 2602 TO AMENDMENT NO. 2530

(Purpose: To provide sufficient funding and incentives to increase the enrollment of uninsured children)

Mr. KERRY. Mr. President, I call up amendment No. 2602.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. BINGAMAN, Mr. SANDERS, Mr. CASEY, Mr. MENENDEZ, Mr. DURBIN, Mr. REED, Mr. BROWN, and Mr. WHITEHOUSE, proposes an amendment numbered 2602 to amendment No. 2530.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. KERRY. Mr. President, let me begin first of all by thanking the distinguished chairman of the finance committee on which I have the pleasure of serving, whose leadership has been critical in bringing this bill to the floor. He and Senator GRASSLEY, Senator ROCKEFELLER, and Senator HATCH deserve the thanks of children all across America, of all those advocacy groups fighting for children's health care, and certainly of our colleagues who care about it and have been fighting for it for a long time. They have shown real leadership in bringing about an important compromise by fashioning a bill that was reported out of committee with bipartisan support.

We all understand how difficult that can be, sometimes. Sometimes the negotiations in our committee are out of balance because of the membership of the committee and you may have a different feeling when you finally get to the floor. So I applaud the Senator from Montana. I will say up front, I know that if he had his druthers, he would vote for this on the floor of the Senate now. I also know when you are the chairman and you fashion a compromise in your committee, you have to stick with your compromises. Everybody here understands how that works. So I recognize that this is an amendment that is difficult for him in the context of this overall bill.

But I ask my colleagues to think about this amendment outside of the inside game of the Senate. I ask my colleagues to think about this amendment outside of the parliamentary agreements that have to be made in order to get something out of the committee and actually get it to the floor so we can all consider it. But I also ask my colleagues to remember that when it gets to the floor, we have a chance to vote as Senators, all of us—not as members of the committee. Certainly, the vast majority of the Senate is not bound by what happened in a committee. We are bound by our responsibility, each and every one of us, to our constituents in our States and to our beliefs about what is best for the country.

I believe, first of all, the legislation that the Senator from Montana and the Senator from Iowa, Senator GRASSLEY, have brought to the floor is important for the country. I think everybody agrees on that. I think this bill is going to pass with a pretty significant vote, ultimately, at its current $35 billion level. But as we debate the future of health for our children, I think we have a responsibility to think about it above and beyond the compromising process of the Senate.

I believe we have to think about it in macro policy terms and also—I know the word gets bandied around here on the floor, and it doesn't always have a lot of meaning anymore—in ''moral'' terms. We have a lot of difficulty sometimes translating what is moral in most people's eyes into legislation. But the fact is I heard Senators on both sides of the aisle, and particularly some of those most responsible for helping to negotiate this on the other side of the aisle—I have heard them say we have a moral imperative to take care of children's health care. I have heard them say we ought to be covering all children.

Of course, we ought to try to cover all children, but isn't it a shame that we can't seem to do that because it costs too much. The Senator from Mississippi came to the floor and spoke about this. He talked about how some want an increase of $50 billion or more and suggested that I approach this purely with an attitude where I say let's decide how many kids we ought to cover, and it does not matter what it costs, let's go pay for it. Well, that is a little bit of a misinterpretation of what I have actually said about it. I have said we ought to decide if we think it is worthwhile to cover all children, and then see if we can pay for it. I did not say pay for it no matter what. See if we can pay for it, but at least decide what your priority is.

If your priority is to cover children which is an important moral imperative, it has a value to our society, it makes a difference to the lives of children, to the lives of the community, the cost of hospitals, the cost of health care, the ability to learn, the ability to grow up and be a full citizen, you measure those and you come to the conclusion hey, this is a good idea, we ought to do this for all kids. Then, you have an obligation to begin to weigh where the money comes from and what the choices are with respect to what you spend money on.

The Senator from Mississippi suggested we have to worry about the cost of the program and who pays for it. Yep, we do, I say to my friend. And he is a good friend, the Senator from Mississippi. We do have to worry about it. But let's measure what people appear to be worried about. Let's measure about why children's health care is a priority.

First, I want to do the ''why.'' What we do here with respect to children is not a Democratic priority or Republican priority. It ought to be the priority of every single Senator. I know most of the Senators here have families, have children, and are deeply concerned about kids and understand these issues.

The real face of this debate does not belong to Senator BAUCUS or Senator GRASSLEY or Senator ROCKEFELLER or Senator HATCH or anyone else who is here arguing about this. The real face of this debate belongs to young kids all across our country who suffer enormous debits on a lifetime basis because they do not have health care.

The face of this is somebody like 9-year-old Alexsiana Lewis and her mother, Dedra, who come from Springfield, MA. Senator KENNEDY—incidentally, I honor Senator KENNEDY's work in this, as we all ought to, because it was his visionary leadership that helped to create the S–CHIP program in 1997. He has constantly been working to build bridges to bring people together to try to sustain and expand the program ever since.

Senator KENNEDY and I went to the Children's Hospital in Boston, a famous hospital where kids come from all over our country. And the stories of curing and caring that are exhibited in that hospital on a daily basis are just extraordinary. Well, we met there Alexsiana Lewis and her mother. Alexsiana, 9 years old, was losing her vision due to a very rare eye disease. Her mother, Dedra, had lost her health insurance, like millions of Americans. We have about 45 to 47 million Americans who have no health care at all right now; 9 million of them are children.

Dedra lost her health insurance. Why did she lose her health insurance? She lost her health insurance because she cut back on the hours she was working in order to be able to take care of her child who had this rare disease. And here is what she said at that meeting with Senator KENNEDY and myself.

She said: ''If I did not have Mass Health right now''—that is the Massachusetts health program we have in place now funded by S–CHIP—''my daughter would be blind.''

So my question to my colleagues in the Senate is very simple: Somewhere in your States all across this country there is another Alexsiana Lewis, or there is another Dedra who is cutting back on her job. There are going to be about 5.7 million children who do not get any coverage when we finish passing this legislation.

Now, my question is, is that the choice of the Senate measured against

the other choices that we could make? Is it our choice that it is OK for an Alexsiana to go blind? Is it OK in your State for some child to have a chronic ailment who will not get the early intervention, the early care, and as a result will probably wind up with a lifetime impairment that will require that child to have special needs education for the rest of their life?

I went out to the State of Washington a couple of years ago. I had recently introduced my Kids First Health Care Plan. And we had about 1,200 people show up. The chief pediatrician for the State of Washington came to this event in Seattle. She stood up and told the story of a 12-year-old child who was disruptive in the classroom. Ultimately, they kicked the child out of the classroom because the child was disruptive. They thought the child was just acting out. Ultimately, that child finally, for the first time, got to a doctor and they found that the child was suffering, not acting out. The child had a chronic infection which spread to the eardrum, and this chronic infection was creating such pain that the child was acting out due to the pain. Now, at the final moment where they diagnosed what was wrong, they found out that child indeed would have a hearing impairment for the rest of that child's life. No health insurance and acting out in class leads to teacher responding and the child finally gets diagnosed as hearing impairment and will require special needs education. What is the rationale? What is the rationale for saying all we can afford is $35 billion over five years, at a moment when people across this country are losing faith in the ability of Washington to be responsible and make responsible choices on their behalf?

I think it is important that we answer that question properly. And I will tell you, when I look at some of the choices we have, it is pretty hard to answer how we are answering it properly. Let me give a few examples to my colleagues. This is a choice the Senate is going to make. If the alternative minimum tax relief is extended, as everybody expects it will be, tax cuts for those earning over $1 million a year will cost $43 billion in 2007 alone. Think about that.

We are saying we cannot afford to cover children to the tune of an additional $15 billion over 5 years, but we can give $43 billion of tax cuts next year to people earning more than $1 million a year. That is obscene. It is ridiculous. It has absolutely no basis in economic argument, and it certainly has no basis in any kind of moral or decent argument.

If you were simply to restore the tax cut to the level before 2001, to only taxable income above $1 million, you would have $44 billion and you could insure children. You would be affecting 0.21 percent, of all taxpayers with positive tax liability in the United States. That is one choice.

Here is another choice Congress seems to be content to make. Currently, major integrated oil and gas companies are eligible for the domestic manufacturing deduction, which reduces their corporate tax rate. In other words, we know fossil fuel is contributing to global warming, but we nevertheless are willing to continue our own dependency on it and give a tax break that encourages people to be able to do what they are going to do anyway because the marketplace is showing that the price of energy is such. These are some of the most profitable companies in the world.

But oh, boy, give them a tax break instead. There is absolutely no valid reason whatsoever that the most profitable oil companies in the world ought to be receiving a subsidy, a deduction, at this time when they are reaping record profits. But guess what, the Finance Committee tried to repeal it and the rest of the Senate did not agree. This deduction cost $9.4 billion over the next 10 years, but we do not have enough money for children.

We didn't close a loophole in our Tax Code for the poor fuel economy—we actually reward gas-guzzling SUV manufacturers. They get $13 billion worth of tax breaks to produce the most gas guzzling cars on the road, the worst fuel efficiency of any car, and we are subsidizing that over children. I do not get it.

I think most Americans, if they had a list of the things that the U.S. Congress gives to big business over children, would laugh at the language they hear when they hear people say: Oh, we have to cover children. There is a real value to covering all of these children.

Here is another one. Most American families do not get this one. If you are a company, you can defer paying U.S. taxes on any foreign income. So you can be an American company and just keep your income drawing offshore, and you do not pay any tax. It can accrue year to year. And repeal of this provision is about $53 billion over 10 years. Also, it is a huge incentive for companies to take their, you know, subsidiaries and other companies offshore and just grow their profits offshore at the expense of American jobs.

There is a long list of choices, similar choices: $12 billion a month in Iraq, going into the sixth year of the war in Iraq; now we are in the fifth year of the war, now a policy that everyone in the world understands is not working. I believe there is a better proposal.

Now, again, I say $35 billion, of course, is better than nothing. But it is incredible to me that we are in this position where the administration is talking about vetoing $35 billion, and we are not willing to do what is necessary to really get the job done.

Let me say that I am pleased that there is a provision that I authored with Senator SMITH and Senators KENNEDY and DOMENICI to ensure that there is mental health parity in this State Children's Health Insurance Program. And parity for mental health treatment is a very significant and very much needed improvement in SCHIP.

Instead of discriminating against mental health, which is effectively what we are doing today, we can offer services that actually improve children's performance in school, that keeps them out of trouble in the juvenile justice system, and helps them lead better lives, filled with a lot more opportunity and promise.

But $35 billion over 5 years, let me ask colleagues to measure that. Why have we decided to spend $35 billion at all? Why do we have a program called the Children's Health Insurance Program? If it is worth spending $35 billion, doesn't the same rationale apply to the rest of the children who do not have health insurance?

Where is the big hand of God coming down and saying: You all over here, you get health insurance; and you over here, you do not because we think it is more important that millionaires get a tax cut. We think it is more important that gas-guzzling vehicles get a tax break, and we think it is more important that oil companies with the biggest profits in the country get their money. That is the choice. That is what is happening.

We have some colleagues who just do not want to bend. That is why this agreement had to be reached. I understand the Senator from Iowa—I am not blaming Senator GRASSLEY from Iowa. I respect what he has tried to do. He held the line to get the $35 billion.

I respect what Senator BAUCUS had to do because we are struggling to get votes. If you don't get over 60 votes, you can't do something. But I think some of those folks who are reluctant to sort of embrace reality ought to step back and question this.

Let me come to another point. I have told my colleagues how we pay for this. First of all, the $35 billion is paid for with a cigarette tax. The cigarette tax I am in favor of, but we know, unfortunately, it is also regressive in a certain way, though hopefully it deters people from smoking. But a whole bunch of poor folks and folks moving to the middle class or folks in the middle class are stuck with their habit and smoke, and they are going to pay a lot of that tax. We would love it if it stopped them from smoking, but we all know that is not going to happen automatically. So here we are looking at how else could you get more kids covered.

What is important about my amendment is that it covers the kids who are eligible for Medicaid. It has a more efficient avoidance of the topic we have heard debated, the crowd-out. People are talking about not encouraging people who currently have private insurance to drop the private insurance to get covered by the State insurance. We obviously don't want that to happen. The fact is that my amendment targets the coverage toward those at 200 percent of poverty or below. So you are mostly targeting Medicaid-eligible children. It is astonishing to me that those are the kids most in need of it, and they are still left out if we don't

pass this amendment. We are trying to get the poorest of the poor. We are trying to get the kids on Medicaid. We still don't fully cover the kids on Medicaid with the $35 billion, even though, obviously, it is an improvement. I will vote for the improvement, and I will vote for the bill. But I still believe we ought to be doing more.

I just went to Fall River, MA, the other day to visit a bunch of workers. We have 900 workers there who have been laid off permanently, let go from a plant, Quaker Fabric, that closed. It closed, incidentally, on a weekend's notice, despite the fact that we have a law about plant closings. They are supposed to let workers know ahead of time what is happening. I went to visit with these people. The biggest single question on their minds was: What am I going to do about my health care? How am I going to cover my kids? What am I going to do? I met people who worked there for 35 years, 27 years, 25 years, all at the same place. They were loyal to the plant, and their 2-week vacation started on a Friday. On Monday, they got a call and they were told: The plant is closing. Sorry. That is it. What is more important—covering their children or making sure people who earn more than $1 million a year get $43 billion worth of tax cuts?

Astonishingly, the President of the United States is threatening to veto new money for this program. Even at $35 billion, he is threatening that. That means the choice the President wants to offer is either Congress can do not enough or do nothing at all. I don't think that is the appropriate choice.

The President has also initiated a disinformation campaign—I guess disinformation campaigns are not new, but it is another disinformation campaign—to denounce this bill as a larger Democratic strategy or plot to somehow massively federalize medicine. I understand the President offered to veto it before he had even read it. Confronted with a bipartisan compromise to extend health coverage to half of the 9 million American children without insurance today, the President apparently only sees some sort of a leftwing conspiracy to try to federalize health insurance. It is almost laughable. I don't think anybody really believes that is what is about to go on, but it sure is one of those scary phrases that create a knee-jerk response in certain sectors of the body politic.

The SCHIP program is, like Medicaid before it, a Federal-State partnership. It is not a Federal program; it is a Federal-State partnership. Ironically, it happens to use private providers as the principal people involved to provide the service. So it is a Federal-State-private sector partnership. It is very hard to understand how the specter of ''federalism'' somehow can get in the way of that.

Another misleading statement we have heard is that SCHIP is a Democratic Trojan horse for socialized medicine. I have to laugh at that. I was here when we did the 1994 debate on health care. I did not sign on to the plan that was offered by the White House in 1994. There were a number of problems. It doesn't matter what they were. I didn't sign on. I worked hard with Senator Bill Bradley, with Senator John Chafee, Senator Bob Dole, and others. We had a compromise that, in fact, if it had been adopted, it had a back-end mandate with the private sector being tapped to provide additional health insurance to Americans. I believe we could have passed it, but there wasn't the mood for a compromise at that point in time. Had it passed 4 years ago, we would have been at about 99 percent of Americans covered by health insurance. That was the opportunity which was missed.

But one thing I learned, you ain't going to see socialized, Government-run health care in America probably during our lifetimes. It is just not in the makeup. There are plenty of ways to put health insurance out there that are more affordable. I offered one of those ways in 2004. That is as viable and as urgent today and, frankly, as compelling today as an approach where you can reduce the cost of all premiums, take catastrophic health insurance off the backs of businesses and Americans, and lower the cost of health insurance, provide unbelievable streamlining of the delivery of the system, and let every American choose where they want to go. It is far more efficient than what we have today.

This red herring, phony debate, straw debate is inappropriate to the cause of children. It doesn't do justice to any of us.

It also is ironic that some of the most significant efforts to expand the Children's Health Insurance Program have come from Republican Governors. The President's former budget director, Mitch Daniels, the current Governor of Indiana, has recently expanded eligibility for children's health insurance to 300 percent of the Federal poverty level or roughly $60,000 for a family of four. Something is seriously wrong when as good a numbers-cruncher as Mitch Daniels and as tough a budget critic, as we all know, can go out to Indiana, which is a pretty centrist conservative State, and wind up expanding health insurance for kids up to 300 percent of poverty. There is a real disconnect in this debate.

The President likes to claim the new program is somehow going to push families like those from private insurance to government health care. But Governor Daniels and a lot of Governors like him understand that is not the case. With the cost of private insurance for that same family approaching $12,000 a year, the real choice for most American families today is either SCHIP or no health care at all because of the current rise in costs. In fact, the National Governors Association this past week sent yet another bipartisan letter to the President stating their support for the bipartisan reauthorization bill that provides increased funding for SCHIP now moving through the Senate.

Finally, SCHIP is not Government run. The vast majority of SCHIP and of Medicaid enrollees receive their coverage through private insurance plans working under contract with the States to administer benefits. So, far from socialized medicine, it represents the kind of commonsense public-private partnership that ought to be a model for greater health care reform.

A lot of families I have met all across the country are scared they will not have adequate health care for their kids. The President's response to that was—I think about a week ago—Well, they have health care. They can just go to the emergency room. I don't know how many Senators have been to emergency rooms lately. First, they are all overcrowded. I know that at Mass General, which is one of the best hospitals in America, in Boston, sometimes it is so crowded it takes hours to get people processed except for the most traumatic who come in. You have people on gurneys in the halls of hospitals all across America, different waiting periods. It is extraordinary what has happened. The degree to which emergency rooms have become the primary care facility for Americans is shocking. Hospitalized children—this is important—without health insurance are twice as likely to die from their injuries as those with coverage. Uninsured kids are only half as likely to receive any medical care in a given year.

We all go to schools and talk to teachers, and we go into communities. We have townhalls, and we listen to voters. I can't tell my colleagues how many times I have heard a teacher tell me how difficult it is to teach a whole class of kids, which is usually an overcrowded class of kids, where many of those children don't have health care. We know that kids who have health care do 68 percent better in school. Here we are, a country that is struggling with an education system that is not keeping up with competitors around the world. We don't graduate enough scientists or engineers, researchers, and so forth. One of the things it is related to, in terms of the choices children have in their long-term education, is whether they get health care and screening early.

Someone who has health care is more likely to get an early diagnosis of whatever the problem is. If you are a child and you have an irregular heartbeat or a hole in your heart or you have some other disorder, early diabetes onset or even autistic tendencies, if you don't get to a doctor and the parent doesn't see those indices and isn't able to understand them for what they might be and get somewhere to get the care, the odds are that child is going to wind up costing everybody a lot more, not to mention what is going to happen to that child's life.

I hope my colleagues will take a hard look at this. I hope the President will

reconsider his decision to veto it. I know Senator BAUCUS and Senator ROCKEFELLER have negotiated the best bipartisan package they could. Again, I commend them for doing so. But here on the floor of the Senate, we have an opportunity to work our will as a Senate. We have an opportunity to make a different statement. I believe we ought to be investing at least $50 billion. The Senate passed in its budget—this is in the budget today—$50 billion for children's health care. The only reason it has come to the floor at $35 billion is because some people refuse to let it come out of committee or take any shape other than that at this moment in time.

The best way to finance that $15 billion is to do what is fair and to make one of those choices we are called on to make. There are countless choices in this budget. We have 27,000 pages or so—I think more than that now—of Tax Code that fill volumes. Most of those pages do not apply to average Americans. Most of those pages apply to those who have been able to lobby Washington, to those who have been able to bring their cause to this city.

These are children. Children's lobbies reflect a lot of different organizations, but it seems to me we have an opportunity to enroll the lowest income of uninsured children by increasing the bonus payments available to States so they meet or surpass their targets. We don't mandate them to do so. We leave the discretion up to the States. They have wide discretion with the waivers they have today as to how they administer the programs. They have proven themselves very capable and very creative in doing so.

I hope, as a matter of priority, we make a bipartisan down payment of no less than $50 billion toward health care coverage for all our children. The only excuse for not spending more is saying: Oh, we cannot afford that. When somebody says we cannot afford that, then you have to look at what we are choosing to afford. That is the real test of the balance of what we care about and of where we are willing to put our votes.

I yield the floor.

The PRESIDING OFFICER (Mr. SANDERS). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise for two reasons: one, to give the compromise that is before the Senate a defense against Senator KERRY's amendment; and then to comment on the bill generally, and mostly to comment to some of my fellow colleagues on the Republican side of the aisle in relation to what I consider unfair criticism of this compromise.

I do not rise to find fault with the goals Senator KERRY has put forth. I do not even find fault with some of his arguments about loophole closings. I might feel compelled to argue against the marginal tax increases he might want to have, but right now I will concentrate on his view of expanding this compromise, not questioning his motives, and not raising any question about the sincerity of his wanting to do more—except reflecting on the 4 or 5 months Senator BAUCUS and I have been putting this bill together, we have all had some rude awakenings.

Those rude awakenings are that what we put together as a $50 billion package, when it was first scored came back much higher than $50 billion. So to get everything everybody wants in $50 billion is very difficult. The other thing is a philosophy I had, that somehow with something less than $50 billion we would be able to cover every kid under 200 percent of poverty, and we found out that was not possible.

I am sure we both—from Senator KERRY's point of view and from my point of view—went into this whole discussion with a great deal of good intent and finding out that it may be a little more difficult than we anticipated.

So only with that caveat I ask Senator KERRY to consider, I now want to say why we ought to defend the compromise that is before the Senate.

I appreciate Senator KERRY's goal of covering more kids. The bill we have today insures 3.2 million kids who do not have coverage today. I am very proud of that effort, and I am not going to warm to any suggestion that we have not done enough. The Finance Committee bill does so through a new incentive fund, and it is a proposal both sides of the aisle support. It is a compromise.

The incentive fund is a product of months of work. We built on ideas that were formed by another bipartisan couple—Senator ROCKEFELLER on one hand for Democrats, Senator SNOWE on the other hand for Republicans. We took those ideas that Senator ROCKEFELLER and Senator SNOWE had and reshaped them into what we think represents a very efficient and cost-effective way to increase coverage for children.

As Senator KERRY may recall, during the markup of the Senate Finance Committee, the Congressional Budget Office Director Peter Orszag characterized the incentive fund ''as efficient as you can possibly get per new dollar spent.''

Simply throwing money at States is not an effective strategy for covering more kids. Cost is an object. The bill that is moving in the House does cover 1 million more kids who are not currently covered than the Senate bill. But they do so while spending $12.2 billion more than we do—getting back to the efficiency and effectiveness statement of the CBO Director Peter Orszag. I will leave it to my colleagues to decide for themselves whether they think $12.2 billion for a million kids is cost effective. But I can assure you, the cost will leave us then—if we do that—without a bipartisan bill, and maybe not the chance of getting anything through, other than an extension. It has been stated, even from our Republican colleagues who do not like the waiver process, that is bad policy.

The Finance Committee bill then—I am begging Senator KERRY to understand—is the best of the possible. The left wants more; the right wanted a lot less. We can make speeches or make legislation. Making speeches does not get any kids covered. Making legislation does. Our compromise does that.

I urge my colleagues to keep on the right track for making legislation; that is, doing the art of the possible. I oppose this amendment and urge my colleagues to do the same.

Now, Mr. President, I would like to speak on the bill. I start out by referring to a chart that I hope we have in the Chamber that has been used by a lot of Republican colleagues over the last 2 or 3 days. This was in relation to speeches that were given yesterday by many of my colleagues who are sincere in their approach.

They refer to this as the ''cliff chart.'' Everything to the right of the green is after this legislation expires. They want you to believe we do not take into consideration anything about the future. They are making out this is an unrealistic proposal we have before you, because following that red line up into the future, they maintain it is going to cost more than we can afford. I want to say how this approach is intellectually dishonest.

I have a tremendous amount of respect for the Senators who have been giving these speeches, and I can identify a couple. There are probably more who have been giving these speeches, but I want my colleagues to know I respect Senator GREGG, the ranking Republican on the Senate Budget Committee. The Senator from Mississippi, Mr. TRENT LOTT, our assistant minority leader, I think has referred to it. I respect his views. But I think everybody ought to take into consideration what we are going to do. I have a chart that is going to lay this out.

In this particular instance, we clearly are on different sides of this argument. There has been a lot of talk around here about how the Senate Finance Committee bill is funded. This chart was used in that discussion. Taking a hard look at how bills are financed is a good thing. Maybe we do not do that often enough. So let me focus on the criticism that has been made about how this SCHIP bill is financed. We need to step back and look at the whole picture. That is what I am begging my colleagues to do. The SCHIP program is a pretty small part of that picture.

The thing about SCHIP is that it is not like Medicaid or Medicare. How many times have you heard the people using this chart refer to it as if it is an entitlement? It is not an entitlement we are discussing today. Or maybe if people do not understand the term ''entitlement''—it is not a permanent program, such as Medicare and Medicaid because they are entitlements. SCHIP is not. So when the program expires, it truly ends. The day after the authorization ends, poof, there is no more SCHIP program. That is true of any program that sunsets. But Medicare

and Medicaid do not sunset. They are entitlements. SCHIP is reauthorized for 5 years. That is 5 years on top of the original 10 years it was authorized. So this year it is sunsetting. That is not an entitlement. It is an expiring program.

While I know most of us in this Chamber would no sooner let the Department of Defense expire than we would let SCHIP expire, that is a simple fact. And because it is an expiring program, it is subject to a very particular budget rule. That budget rule does not fit this chart. That budget rule says the Congressional Budget Office must score future spending for the program based upon the last year of the program's current authorization. So the baseline for SCHIP for the next year is $5 billion. That is under existing law. If we pass this legislation, that would not be true. But for what is law right now, in the future, they are going to score that at $5 billion. For the next 5 years, the baseline—let me say again—is $5 billion. For the next 10 years, the baseline for SCHIP is $5 billion. It is actually $5 billion a year forever.

Does anyone in this Chamber think the budget rule governing SCHIP is realistic? Well, of course it is not realistic. But that is the way the budget process and the Budget Office must work under existing law. So I am not here to kid anybody.

According to the Congressional Budget Office, 1.4 million children would lose coverage if we simply reauthorized SCHIP at the baseline of $5 billion into the future. Who among us would go home and tell our constituents that we individually voted to reauthorize the SCHIP program—reauthorize it, yes. If you stopped there, they would think: Well, you did a good thing. What you are doing right now, you continue to do. But if you did that, what you would be doing, without telling them—but they would soon find out; you do not fool the American people—1.4 million kids would lose coverage.

So when the Finance Committee went to work to reauthorize this bill—Senator BAUCUS and I, with the help of Senators HATCH and ROCKEFELLER—we had this problem: The baseline only assured $5 billion a year in spending into the future. It was unrealistic.

Let me digress and point to a problem the Agriculture Committee has this year exactly the same way. We did not spend all the money in the agriculture bill last year, so we are working on a baseline that is $15 billion less than it was in 2002, the last time we wrote a farm bill. So this is not just the case of health care for kids. A lot of committees get caught this way.

But we do have the realistic fact that costs continue to increase in SCHIP, even though the $5 billion was frozen in the baseline because of the budget rules.

So what did we have to do? We had to come up with the money to keep the current program afloat. That meant we had to find at least $14 billion to keep the current program afloat. That is right, of the $35 billion in funding in this bill, $14 billion is put into SCHIP to maintain the current program. That is $14 billion to maintain coverage for kids who are currently enrolled.

Do you know what the White House wanted us to believe all this year since they submitted their budget? That you could do that $14 billion—maintaining the current program—for the $5 billion they put in their budget.

Now, those people down at OMB have to be smart enough in advising the President that you cannot do for $5 billion a policy of doing what we are doing now, and even expanding a little bit, for $5 billion when, in fact, it costs $14 billion. To a very real extent, this is the same kind of situation my good friend from New Hampshire, Senator GREGG—when he was speaking—was complaining about. The current baseline was not realistic. That created a hole in the budget we had to fill. In our case, it was a $14 billion hole to fill, if you want to maintain current policy.

So what did we do? Well, we did what you have to do if you are responsible and deliver on what you say you are going to do. We filled it. It is that simple. We had to comply with the budget rules.

What people forget around here is the Director of the Congressional Budget Office is like God, and everybody who works in the Budget Office can also be little Gods because what they say has to be followed, and if you don't follow it, you know what you have to do? You have to do almost the impossible around here. You have to have 60 votes to get around it. Should they have that much power? Well, if you are going to have any budget discipline, they have to have that kind of power. But it is that simple. We had to fill that hole. We had to comply with the budget rules, so we did. Do those budget rules make sense? Well, I think I have indicated they probably don't, but that is a question for the Budget Committee to answer, Senator GREGG's committee, Senator CONRAD's committee, not the Finance Committee. We have to abide by it.

There is another budget rule that the Finance Committee was required to follow. That rule is called pay-go, which people around here know is short for pay-as-you-go financing. It means the bill needs to cover its 6-year costs and 11-year costs, and that makes sense after all. This bill proposes new spending, and because it proposes new spending, you have to pay for it, or have 60 votes. This bill does pay for it. This bill complies with the budget rules. It complies with the pay-go requirements.

Now, the SCHIP reauthorization we are debating is only a 5-year authorization. That means 5 years from now it will sunset. Congress will have to go through the process of reviewing it. To remind people it is not an entitlement, Medicare and Medicaid doesn't get a review every so often forced upon them. They may get a review by Congress but instituted by Congress, not forced upon Congress by a sunset.

As I think everyone knows, this bill is paid for with an increase in the tobacco tax. This is similar to the original SCHIP bill when it was created under the Republican-controlled Congress in 1997. Now, similar to 1997, when the Republicans did it, we had a problem with how the tobacco tax works. The revenue from the cigarette tax is not growing as fast as health care costs, so that means the revenue-raiser is not going to grow as fast as the cost of health care, generally, and specifically in this instance, the costs associated with the Children's Health Insurance Program.

So the Finance Committee did what was required to do to comply with the pay-go budget rule. The Finance Committee bill reduces SCHIP funding to just below the funding that is in the current baseline. That means the Finance Committee in 5 years will have the same problem we face in putting this bill together today. They will have to come up with the funds to keep the program running because the tobacco tax over the years is not going to bring in enough revenue to keep up with the increased costs of health care. That is just like the $14 billion we had to keep and find to keep the current program running with no changes.

It is true we are covering even more low-income kids in this bill. That is a good thing. But it also means the Finance Committee in 5 years will have a bigger job to keep the program running at that rate. They will have more kids to keep covering and health care costs will be even higher than they are today. This is for the Finance Committee to face in the next 5 years. Of course, during that 5-year period of time, I hope we get a lot of reform of health care in the United States that reduces costs, gets the uninsured covered, so we are not just dealing with SCHIP. Of course, what we have to face in 5 years is similar to the job the Finance Committee had today to continue the SCHIP program. So it is nothing new. But I think some are getting the impression from some of my colleagues who use this chart that this is something new—some gimmick to get around budget rules. But my good friend from New Hampshire, Senator GREGG, has expressed serious concern about the bill, and I think we should at least take a moment and look at his concerns in proper perspective.

So I go back to one of the charts Senator GREGG has used. Here is the chart used to raise the issue. It shows only the funding in the Finance Committee bill. I think looking at it like this paints a distorted picture. As we all know, the SCHIP program was created to supplement the Medicaid Program. The goal of the program was to encourage States to provide coverage to uninsured children with incomes just above Medicaid eligibility. So to put my colleagues' concerns in perspective, we

should look at SCHIP spending as it relates to Medicaid spending. So I would like to draw my colleagues' attention to a new chart that represents figures for the future from SCHIP, as well as from Medicaid, so everyone can fully appreciate the consequences of our SCHIP bill in the context of the Medicaid Program, which SCHIP supplements. So take a closer look.

Let's start with this little green line at the bottom. That is current law, the green line that goes along the very bottom of the chart. It is a pretty straight line across the chart. The green line represents the SCHIP baseline under current law. As I have already discussed, it is $5 billion each year for the next 10 years and as far into the future as you can go. If you don't change the law, that is the way it is.

Now let's look more closely and honestly at the actual problems we are facing. The massive orange area, as indicated, above the green line is Medicaid. This is the projected Medicaid spending for the next 10 years. It is a lot bigger than SCHIP. Then, on top of that, we are looking to add new spending for the SCHIP bill, and that is the blue line above the Medicaid indicated by the orange. Again, it is not very big. It is quite obvious it is not very big. As you can clearly see, costs are growing at a rapid pace overall. The overwhelming driver of the costs is what? It is Medicaid. We have a very big problem. Entitlement spending is growing, and in future years we are going to struggle to keep these programs afloat. That is why I would not agree to do a $50 billion SCHIP bill. I thought it was too much spending. I am not particularly happy with spending $35 billion, but as I have said, this bill is a compromise, and it is $15 billion less than what the Democratic budget approved.

So let's focus on the total obligations of the Federal program. This chart, when you look at the whole picture, puts things in perspective. Now, remember, all that fire and brimstone about the awful cliff that was on the previous chart, the awful cliff that this bill brings before the Senate, where is that cliff, you might ask, on the chart I put before my colleagues. If you look closely, right here where the blue line on top goes down gradually to beyond the green line, if you look at the blue there where it dips down a little bit, that little dip to the right of the dotted vertical line is what my good friend from New Hampshire is so exercised about. So this little blue line is what the debate is all about. The little blue line is this legislation before us. The little blue line is creating all this rancor. But it looks a little bit different here, doesn't it, than it did on that cliff chart I showed you ahead of time.

Let me tell my colleagues then what the Finance Committee bill—this little blue line—is not; not what it is but what it is not. Looking at this dip, this is not a government takeover of health care. Looking at this dip, this is not bringing the Canadian health care system to America. Looking at this dip in the blue line, this is not the end of the world as we know it.

While I concede that allotments under our bill in the years beyond the 5-year reauthorization do not behave as described in my friend's chart, I don't think it warrants the heated rhetoric we are hearing during this debate yesterday and today and probably tomorrow. SCHIP is not the real fiscal problem we have. The problem is the big orange area. That is Medicaid. The ranking member and I worked together—I am referring now to Senator GREGG, the ranking member of the Budget Committee. He and I worked together last year on the Deficit Reduction Act to try to rein in Medicaid, and I am proud of the work we did. We also found out how hard it is to dial back entitlement spending, even in a Republican-controlled Congress and even with special procedural protections we call reconciliation. We only succeeded in shaving $26 billion over a 10-year period on Medicaid spending.

The problem of entitlement spending is still there, and SCHIP is a pebble next to the boulders of Social Security, Medicare, and Medicaid. Do we have a funding issue? Yes. There is no denying that. We had one today that was the $14 billion hole that we had to fill if we were going to do what the President said he wanted to do with $5 billion. The Republican Congress created that hole in 1997, I am sad to say, but the Finance Committee filled that hole and produced a bill that complies with the budget rules. I am confident the Finance Committee in 5 years will do the same thing.

I think it is also important to point out we have so many far bigger problems in health care today that we need to deal with. If I am supposed to infer from Senator GREGG's speech that this is supposed to be the opportunity to do something about the problems of entitlement spending, I should point out the obvious: The substitute we expect to vote on does absolutely nothing about the entitlement spending but make a big deal out of it.

So I appreciate Senator GREGG's remarks. They are not without some merit, but you have to put them in context. I don't think they fit the crime we are accused of committing.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I request time from the Democratic side.

The PRESIDING OFFICER. There are no controlled time limits at this time.

Mr. REED. Mr. President, first let me begin by commending Senator BAUCUS and Senator GRASSLEY and their colleagues, Senator HATCH and Senator ROCKEFELLER, for extraordinary work. This effort represents great legislating based upon principled compromise to achieve a noble objective, which is to provide health coverage to the children of America. I can't think of a more laudable effort than that which has been led and spearheaded by both Senator BAUCUS and Senator GRASSLEY. They deserve our praise and our support.

I am here today to lend my support to the expansion of the CHIP program, the Children's Health Insurance Program, to support this endeavor which is so critical to the health of the country, literally and figuratively. It is not only a sensible policy in terms of investing in children, it is also morally compelling.

What more lofty objective can we have than to give children access to health care, to be able to grow up in this country knowing they can receive medical attention when they need it?

We are in a situation now where, remarkably, the Nation's level of poverty is growing. It is higher now than it was in 1970. We have not had a President since Lyndon Johnson try to tackle this issue head on. This bill recognizes that there are families who don't have the resources to buy health insurance, but they have a claim as Americans and as citizens to at least have their children covered. I hope we can do that by passing this legislation.

It is estimated there are 37 million Americans in poverty, 13 million of whom are children. These are not merely statistics; they are our neighbors in every State in the Union. They are youngsters who we hope one day will grow up healthy and strong to participate not just as workers in this economy but as productive citizens of this great land. To do that they need access to health care.

We also know that children without access to health care fare very poorly in school and have difficulties. These difficulties become more and more complex, and they compound over the years. In fact, one of the strongest arguments for this legislation is that it makes sense as an investment. It is better to pay now rather than later, in terms of social disruption and serious health problems. That is something I hope even the most hard-nosed colleague in the Senate will appreciate.

One of the consequences of this issue of growing poverty and the bifurcation of income between the rich and the rest of us in what we all consider to be the ''land of opportunity,'' sadly, is that opportunity is not as evident or as palpable as it was in the past. One of the great engines of opportunity for any individual, in addition to education, is health and the ability to seize these opportunities—work, education, and service to others.

Again, I think this is an incredibly important piece of legislation. We have to do more. We have to recognize there are families who are working two jobs—mothers and fathers working 50, 60, 70 hours a week—and still they don't have the resources necessary to pay for the increasing cost of health care for their children or themselves. They are squeezed between paying the rent, providing food for the family, and

are looking, many times, for ways to cover the cost of health care for their children.

I am very proud to have been one of the original cosponsors of CHIP in 1997. We were fortunate in Rhode Island to have on the Finance Committee Senator John Chafee, who was one of the leading advocates of the program. As Senator GRASSLEY suggested, this program was crafted with a bipartisan effort in 1997, and one of the great leaders in that was John Chafee. In many respects, we are here today—both of us—to renew his commitment to the children of America.

Over the past decade, this program has been an unequivocal success. It has reduced the number of low-income uninsured children in this country. It has done what it said it would do, and it has done it well. In Rhode Island, we have a combined Medicaid/CHIP program called RIteCare. Our program has been instrumental in reducing uninsured children, and it made a difference for hard-working families in my State. While this program made great strides, there is still much more work to be done.

I want to take a few moments to address some of the issues raised about the Senate Finance Committee agreement and talk to some of the points raised in this Chamber criticizing that agreement. I believe this agreement is not only sound policy, but it addresses a major concern in the country. The proposal before us would achieve several key objectives supported by the overwhelming majority of Americans.

First, it preserves coverage for all 6.6 million children presently covered under the CHIP program. Second, it renews the original intent of the program by making a real commitment to cover an additional 3.2 million children who are eligible for coverage but not enrolled. These two important goals are achieved by allocating $35 billion over 5 years. The original program was financed through the Federal cigarette excise tax, and the proposal before us continues to use this mechanism.

The bill also addresses a problem with the formula that was beginning to plague a growing number of States, including my State of Rhode Island. Last December, I joined a number of my colleagues in crafting an agreement to redistribute unexpended funds from some States and redirect them to States, such as Rhode Island and Georgia and New Jersey, that were rapidly approaching budget shortfalls because they exceeded their CHIP allotment.

The Finance Committee, recognizing this issue, has made a proposal that institutes needed changes in the formula used to calculate State CHIP allotments so Congress is not required to resort to eleventh hour deals to shift money from one State that hasn't used it to other States. That is an important change to the legislation. The bill sets aside a portion of funds in case of contingencies, such as what was experienced during Hurricane Katrina.

Lastly, the bill tackles a challenge that States have been struggling with since the CHIP program began 10 years ago; that is, reaching children who are uninsured and eligible for coverage but are not enrolled. The bill provides incentive funds and flexibility for States to overcome the many economic, social, and geographic barriers that hinder millions of uninsured children who deserve health insurance coverage.

My home State of Rhode Island is a perfect case in point. While Rhode Island ranks 10th nationally in the lowest number of uninsured children—we are very proud of that; in fact, we would like to move up in the ranking from 10 to 1—a recent report by Rhode Island Kids Count indicates that of the estimated 18,680 uninsured children in the State, 11,275 of them were eligible for children's health insurance coverage but were not enrolled. We should enroll all eligible children; that should be our goal. We have to reach these children and, frankly, this legislation will help States become more proactive and successful in enrolling children.

There has been criticism directed at the bill. Let me take a moment to respond to some of the criticism. There has been concern about the cost of the package. I understand that alternative versions of the Children's Health Insurance Program reauthorization will be offered by others in the Chamber during this debate. Some of these bills will have very enticing names, like Kids First, but we should not be fooled by it. The substance of these amendments does everything but put kids first. It won't even maintain the minimum coverage that we have today. Some of the 6.6 million children who are enrolled today will lose out in these alternatives. Rather than expanding coverage, it will contract coverage. We don't want to head in the other direction; we want to move forward.

Similarly, others have balked about the $35 billion price tag. I remind my colleagues that our Senate budget resolution allocated $50 million for children's health insurance coverage. The Senate Finance Committee, the chairman and ranking member, labored mightily and came up with the best possible proposal they could get through the committee, and it is a principled proposal. I salute it. But I was disappointed that the committee left on the table $15 billion that could have been used to insure more children. I have joined Senator KERRY in his amendment to restore it. Again, in terms of our budget priorities, the proposal before us today is even less than what was supported in the budget resolution. For those who say it is too expensive, that suggests this hasn't been very carefully considered and indeed it was, unfortunately, somewhat winnowed down.

Perhaps the most poignant reference is that, while we were talking about $35 billion over 5 years for children's health, we are spending $10 billion a month in Iraq. That says a lot about how we have to begin to reshape our priorities. I don't believe we are spending too much on children when it comes to this particular legislation.

Some have expressed displeasure over using the Federal cigarette excise tax to finance the package. The bill would gradually raise the tax 61 cents, up to $1, over a 5-year period. This is consistent with the original financing mechanism for the Children's Health Insurance Program in 1997. But there is something else interesting here. Cigarette smoking has been identified for decades as one of the chief public health problems in this country, particularly when children start doing it. It is a threat to the health of the Nation, and I doubt if there is anyone in this Chamber who has not had at least one family member's health affected adversely by smoking. I listened to Senator ENZI speak passionately in the Senate Health, Education, Labor and Pensions Committee last week about his father's smoking, which led to his demise, and it also affected his mother.

When you raise the price of a product, you curtail the amount of it that is purchased. We are using market forces to help us do something that we should do: reduce the rate of cigarette smoking. Using market mechanisms in this way, not only to raise resources for health insurance for children, but to lower the number of people who engage in smoking will save public health dollars that are being spent to care for people who have lung cancer, emphysema, and other respiratory diseases caused by smoking.

There is another concern that has been raised, which is that the agreement grossly expands the CHIP program to parents and childless adults, when in fact the bill does quite the opposite. The bipartisan agreement actually ends the administration's practice of providing States waivers to cover parents and childless adults. To date, 14 States have received waivers to cover parents and childless adults, including my State of Rhode Island. In fact, Secretary Leavitt just approved a 3-year extension of Wisconsin's waiver allowing adult coverage. Frankly, I believe that States deserve the ability to take these steps. I am disappointed that more States won't be able to do it. This bill acts as a check on that administrative authority. It deliberately, at this time, restricts the number of parents and childless adults who can join this coverage.

As my colleague, Senator MENENDEZ, mentioned earlier, research shows a strong correlation between parental coverage and the enrollment of eligible children. Once again, the policy behind enrolling parents is sound. But this bill, rather than grossly expanding parental coverage, begins to restrict that coverage. Under the agreement, States with existing coverage expansion waivers will be given a period of transition, and no new States will be granted the opportunity to extend coverage under CHIP. This seems like a reasonable response to these concerns, but I hope as

we go forward we might be able to look at the logic behind parental coverage policies as a way to ensure that the whole family—particularly children—are covered.

The proposal also rightly grants States the option to cover pregnant women. Good prenatal care is essential to overall child health and well-being, as well as reducing the number of low birth weight and premature babies. Given the fact that the United States is actually behind most developed countries, and even some developing countries, in terms of these indicators, this step is certainly warranted and overdue.

Finally, Members seem to have great consternation over the fact that children's health coverage produces some level of crowding out of private insurance coverage, and the bill is a giant step toward Government-run health care. Again, the rhetoric seems to be at odds with the reality of what is in this bill. I note that most enrollees in public insurance are actually covered through private plans, where States take the money and reimburse the private insurer. The Finance Committee proposal takes the additional step of including something called premium support. It essentially gives States the ability to offer subsidies for children who are eligible for CHIP coverage but have access to employer-sponsored coverage.

In my State, we have had this experience. We have a program called RIteShare. The program has enabled thousands of Rhode Island families who otherwise could not afford to remain in private insurance coverage to do so with a little help from the State. It is a marginal contribution to their private health insurance, which allows them to stay in the private market. This proposal, again, goes a long way toward addressing the issue of potential crowding out.

I believe this bipartisan agreement represents a very strong step forward to facilitate outreach and enrollment of low-income children. It is not a perfect legislative proposal, but it is an important one based on principled compromise. It reinforces our commitment to children's health. I am amazed the President is already suggesting he might veto it, despite overwhelming public support, and despite the compelling economics that are behind investing in children's health.

I hope that we will by our votes demonstrate that this is a bill which should not be vetoed but should be passed quickly so children can continue to enjoy access to health care in our country.

We all understand that our future is really about our children. They will be the leaders years from now, and we all hope and wish that they will grow up strong, able to seize the opportunities of this Nation. Beyond hoping and wishing today, we can help make that a reality by voting for this important legislation. I urge all my colleagues to join me in doing so.

Finally, I would like to take another moment. As colleagues, we come to the floor, we debate issues and legislation we have sponsored, but the details are worked out by staff members long into the wee hours of the morning. We read speeches prepared by very dedicated staff members.

I have the rare privilege of saluting someone who has worked with me for so many years. Lisa German Foster has been with me since January 1996 when I joined the Senate. She is leaving to pursue other endeavors.

She started in my office as an unpaid intern and has become recognized here as one of the preeminent staffers with respect to health care issues and one of the most decent and humane individuals one will ever meet. I salute her for her work on this bill, on child health and immunization, on the bone marrow registry, on tobacco legislation.

She is a native of my home State of Rhode Island, in Narragansett, but I think she is firmly ensconced in Washington, DC, with her husband Bill and children Aidan and Brady.

Lisa, on behalf of all of us here, thank you for your good work.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I join with those who assert that working Americans are carrying too difficult a burden when it comes to health insurance, that the governmental supplements and assistance we provide to help people get health insurance are aberrational, unprincipled, counterproductive, bureaucratic, and often just unfair.

A person's health care is more dependent on where he or she works than anything else. If you happen to work for the Government, you are in pretty good shape. If you work for some big company, you are in good shape. But people live in fear that they might lose their job, and more than just losing their job, they may lose their health care. They don't like that. Families are worried about it. People sometimes refuse to take better jobs because of fears that they will lose their health insurance.

Prices are exceedingly high for people who are not part of big plans, Government programs and policies, and big company plans. That is just a fact. The same person can end up paying twice as much if they run a small business or work for a small business that doesn't provide insurance, and you cannot be guaranteed you will even get it. Sometimes the premiums are more than twice as much.

The President talked about this issue in his State of the Union Address when he talked about tax credits and ending the disparity we now have in health care. It is an absolute problem.

I was pleased to support the program offered by Senator ENZI, the small business health plans, the so-called associated health plans that would help small businesses to pool their resources and get cheaper rates. This could add 1 million people to our insured rolls without any increases in taxes.

We have a problem out there, we really do. So, sure, there is no doubt SCHIP is helping children in need, and there is no doubt our current system is not working fairly and something must be done to fix it. But just adding to this bureaucratic program without any principled fix in the abuses that are contained in it strikes me as very odd. I do not approve of it. I just do not approve of that at all.

It is a system that is brutal on the self-employed, brutal on the person who works for a small business that does not provide insurance. It is not legitimate, it is not right, and we absolutely need to do something to fix it. This odd program that came together some years ago was never, in my view, a particularly sound program. It is just maybe an attempt to fix something that won't work.

What we really need, if my colleagues want to know the truth, is a program to allow all Americans to have an insurance policy that is not dependent on where they work. We should allow them to pay tax-free dollars just like employers can. If they have lower income, the Government helps them make the premium payments and they keep that policy whether they are working or they are not working. They take it with them, and they are not being terrorized all the time by the fear of losing their health insurance.

We can do that. Senator COBURN has talked about this idea, I know, and Senator CORKER, Senator DEMINT all those who worked on this issue. The Department of Health and Human Services worked on it. We ought to be doing that. That is what we ought to be thinking about and talking about instead of putting new wine in old wine bottles, trying to reinvigorate a program that has some fundamental problems and, as I am going to point out, is unprincipled and counterproductive in a number of ways.

I believe we absolutely could have a portable plan of health insurance which would be something that would excite all Americans and make people feel so much more comfortable with their health insurance. That is what I would like to see us move to.

It is said that this is not an entitlement, but it is close to an entitlement. If we are not making needed reforms to preserve this benefit for those in need, why isn't it an entitlement? Who is going to cut and eliminate health care for children and those in need? We are missing an opportunity to have real reform now.

I know one can argue this case a lot of different ways, but I will just say, when we have my wonderful colleague, Senator GRASSLEY, whom I admire so much and who is personally a very frugal person, saying: Well, this chart which Senator GREGG, the former chairman of the Budget Committee, produced showing that when it is

scored out here, there is no money for it after the fifth year, as if it is going to drop to virtually zero—we know that is not going to happen, and, in fact, Senator GRASSLEY said we will have to find the money 5 years from now. But they wrote the bill in that way so it wouldn't score as costing as much as it is really going to cost. It is a gimmick. It is a classic gimmick, that is exactly what it is. It is a bit discouraging, I have to tell my colleagues, when I have a colleague I admire as much as Senator GRASSLEY taking that position on the bill.

Let me ask a few questions about this legislation that point out some of the failures in principle and good policy.

If this is a children's health insurance program, why does it cover adults? There is no ''A'' in it; it is SCHIP; it doesn't say adults. Clearly, SCHIP has been abused by some States that have expanded the program to cover adults when the goal of the program from the beginning was to cover children. That is what people talk about. In fact, there are 670,000 adults participating in SCHIP. Some States are spending over half of their SCHIP money on adults, including adults without children. One-third of covered adults are not even parents.

One might say: Why do you care that the State has this program? Because the Federal taxpayers are paying 65, 70, 80 percent of it. It is a federally conceived program and substantially federally funded program.

Fourteen States provide health insurance through SCHIP, the State Children's Health Insurance Program, for adults. The Government Accountability Office—that is our watchdog analysis group—reports that nearly 10 percent of SCHIP enrollees nationwide are adults. In Wisconsin, 66 percent of enrollees are adults. Seventy-five percent of the SCHIP funds are spent on adults, and we pay the bulk of that money. Sixty-one percent of the funds are spent on adults in Minnesota, where 87 percent of enrollees are adults, according to the Heritage Foundation. Illinois spends 60 percent of their money on adults; Rhode Island, 57 percent; and New Jersey, 43 percent.

This year, 13 percent of all SCHIP funds will go to adults who are not expectant mothers. About 30 percent of these adults are not even parents. Of the 14 States projected to spend more than they were given, allocated in 2007, 5 cover children not considered low income, and 5 cover adults other than expectant mothers.

The CMS goal and HHS goal was to end the adult waivers by 2009, but this bill basically blocks the ability for that to happen.

No. 2, I ask this question: If this program was created to help lower income children, why are some States covering middle- and high-income children and adults? Isn't this an indication that the program has gone far beyond what its original concept was? Isn't this typical of big Government programs, how they grow and take over more and more, and pretty soon become a Government-dominated system?

I don't think that is the way for us to go. Rich States are getting richer under this program. States are not stupid; they have figured out how to make the program work to their advantage. If they have the money, they make it work to their advantage, if they can make their match. The definition of low income, therefore, has been manipulated. The SCHIP statute defines a low-income child—this is what it says:

> A child whose family income is at or below 200 percent of the poverty line for a family of the size involved.

So it is supposed to be for, and was created in the fundamental statute to be for, those at or below 200 percent of poverty. I will talk about what that means in a minute. That is a pretty decent income, but we are going way above that. However, States are allowed to disregard parts of a family's income. They can just disregard it. These income disregards can mean, for example, that $50,000 of a family's income simply doesn't count, making many more children and adults eligible who are not low-income people.

New Jersey disregards all income between 200 and 350 percent of the poverty level. How do they do that? I am not sure. They got a waiver, apparently. Senator ALLARD presented an amendment to fix the problem of income disregards. It was defeated, of course. New Jersey just disregards the income between 200 and 350 percent of the poverty level.

Ten States and the District of Columbia now cover children in families with incomes of up to 300 percent of the Federal poverty level. In those States, SCHIP provides health insurance for children in a family of four earning up to $61,950. That is a pretty good income. The program, in its current form, provides health insurance for children in those families. New Jersey has extended eligibility to $72,000 for a family of four—350 percent of poverty level. New York recently voted to extend eligibility to families of four earning up to $82,000—400 percent of poverty level.

This is supposed to be a program for the poor. It basically is a program for the poor in most States—it is in my State. Some legislative proposals on SCHIP would allow all States to expand SCHIP. Some of these proposals we are floating around here would allow all States to go to 400 percent of poverty level, which would make 71 percent of all American children eligible for public assistance through Medicaid or SCHIP.

This bill will allow New York to cover people at 400 percent of the poverty level. Now, the bill says 300 percent, and that is what they will say here on the floor, that it is 300 percent, but the grandfathered-in program covers New York, and they are at 400 percent, which means we will be subsidizing that.

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

Mr. SESSIONS. Yes, I would be delighted. I hope I am wrong.

Mr. BAUCUS. Are there any States that cover 400 percent of poverty?

Mr. SESSIONS. That do what?

Mr. BAUCUS. That cover children at 400 percent of poverty.

Mr. SESSIONS. I understand New York has passed a law that would do that.

Mr. BAUCUS. No, that is not correct.

Mr. SESSIONS. It hasn't taken effect yet, but I understand they have passed it.

Mr. BAUCUS. No. Is it true if a State wants to cover, say, above 300 percent of poverty, is it true the State has to get concurrence with the Secretary of HHS?

Mr. SESSIONS. Yes.

Mr. BAUCUS. Has New York received that concurrence?

Mr. SESSIONS. My understanding is that under the current law, the Department of Health and Human Services believes it may have to grant that waiver, and nothing in this bill would prevent it; is that not correct?

Mr. BAUCUS. Actually, I would not say it is 100 percent incorrect, but HHS has discretion, as HHS had discretion granting other waivers which the Senator is concerned with, and, frankly, this Senator is concerned with. As the Senator knows, this bill is designed to crack down on the effect of those waivers and prevent any future waivers with a lot of the adults I know the Senator is concerned about.

I wished to make the point that no State covers at 400 percent of poverty today. Secondly, if New York does seek 400 percent—if any State seeks 400 percent, it has to get the concurrence of the Secretary of HHS.

Mr. SESSIONS. Well, I will say this without doubt, Mr. President. Amendments have been offered, I believe already and will be offered, to make sure New York would not be able to get the 400 percent. Because the Federal taxpayers in my State of Alabama, where we provide SCHIP to children under 200 percent of poverty, we are going to be subsidizing that, and I don't see any reason for us to do that. But under this bill it can continue, if Health and Human Services is correct, and their lawyers tell them they can't deny this request.

I will agree they probably should have been more aggressive in denying some of these things and litigating, if need be.

Mr. BAUCUS. Will the Senator yield for another question?

Mr. SESSIONS. I will do my best to answer the Senator's question.

Mr. BAUCUS. I appreciate the willingness of the Senator to engage in a dialogue. Is it true, first, that the match rates States are getting; that is, the Federal proportion and the State proportion, are more favorable to States under the CHIP program than it is under Medicaid?

Mr. SESSIONS. I believe that is correct.

Mr. BAUCUS. The Senator is correct. That is correct. Is it also true that, on average, the differential is about 30 percent? That is, the match rate that States get under the Children's Health Insurance Program is about 30 percent better, from the State's perspective, than the State gets from Medicaid; is that also true?

Mr. SESSIONS. I believe so.

Mr. BAUCUS. It is true.

Mr. SESSIONS. I know the distinguished committee chairman probably knows that pretty well.

Mr. BAUCUS. It is true it is about 30 percent. Is it also true that different States have different costs of living?

Mr. SESSIONS. That is correct.

Mr. BAUCUS. And so some States—

Mr. SESSIONS. Although as the days and years go by, less and less perhaps.

Mr. BAUCUS. Different States have different costs of living. Some are more expensive to live in than other States.

Although the Senator is correct that States have set their eligibility rates at 300 percent of poverty, that actually, at that point, States no longer receive the Children's Health Insurance Program match rate, which is 30 percent higher on average than they receive in Medicaid. They can go to 300 percent or above 300 percent, but if they do—if they do—isn't it also true they get a much lower match rate than they receive today; that is, at the CHIP rate rather than the Medicaid rate?

Mr. SESSIONS. My understanding is the Senator is correct; that is, at least in Medicaid those rates, as you cover certain extras, you get a lower percentage rate. I am unsure of the exact details about how that is applied in SCHIP, but I understand there is a differential.

I would suggest to my colleague, though, that what we have done is created a system that incentivizes States to spend because they are getting a very substantial—65 to over 80 percent—match to cover things they wouldn't otherwise cover because it is money given gratis from the Federal Government; is that not correct?

Mr. BAUCUS. Well, if the Senator is asking me the question, that is true, as in the case of Medicaid but reminding us that we are talking about very low-income kids here.

Mr. SESSIONS. Well, reclaiming the floor, the GAO did a study that criticized this aspect of Medicaid some time ago, and it made some news; that the net effect of all this is that, on a percapita basis, people in higher income States are getting more out of Medicaid than they are in poorer States, on a fairly substantial basis. They have criticized that policy. Some of those same policies based on that unprincipled approach to health care are at work in this bill.

Again, the Federal Government would pick up a substantial percentage of what New York may get if they go to 400 percent. But 350 and 300 percent is, I think, a bit much anyway. For example, about 70,000 upper-middle-class-income families who pay the alternative minimum tax would also qualify for SCHIP under this bill. The program, I think, as a matter of policy, encourages irresponsible spending.

Think about this: States who use up all their allotment, many of which obviously are those giving out their richest benefits, profit from States such as Alabama, who are very careful with their spending and stay within their allotments. In years past, if Alabama didn't use all the allotment given to them—and they have to match a portion of it to get that money—that money was redistributed to States who spent more. This is, I think, unfair and not good, sound policy. It has encouraged States to overspend while punishing States who have been conscientious about controlling spending.

Of the States which exceeded their allotment and that have asked for bailouts, adults accounted for 55 percent of those States' enrollees, according to the Government Accountability Office. Those States that have exceeded their allotment, that have reached back into the pool and have gotten more money, the GAO has found that about 55 percent of what they pay out goes to adults. Not to children—adults. This bill does not stop that in an effective way. It had an opportunity to, and it did not.

Of the 18 States projected to have shortfalls for 2007, 7 have SCHIP eligibility that is above 200 percent of the poverty level. So the 18 States who were projecting they were going to spend above their eligible amount, they are the ones that have the highest eligibility rate. Four of those States—Maryland, Massachusetts, Missouri, and New Jersey—are at or above 300 percent of the poverty level, so you are talking about subsidizing health care for a family of four earning $60,000 per year.

In addition to taking leftover money from fiscally responsible States such as Alabama, some States that have expanded their programs beyond the scope of the original program have asked the Government to bail them out with new money. In other words, there is not enough leftover money. Not enough leftover money now that they can scoop up from frugal States such as Alabama to take care of their spending, so now they are asking and demanding more money from the Federal Government to match whatever they want to do.

It is a classic example of an out-of-control Federal program running amok. I have to tell you that is not good policy.

Five States have taken 83 percent of Government bailout funding for 2006 and 2007, and 14 States received part of this funding. This is the extra money Congress has appropriated to fill their deficits. Only 5 States have gobbled up 83 percent of these funds, with 14 States receiving part of this funding. But out of $720 million, Illinois received $237 million, New Jersey $164, Rhode Island—small Rhode Island—$84 million—high-income State, that is—Maryland $31 million, and Massachusetts $77 million.

So it is the high-benefit, high-tax States that are sucking up money out of the fund, and they want more and more. This bill does not deal with that.

The bill only worsens the problem of States who are overspending as it creates a contingency fund. Now, the contingency fund is specifically designed to provide this additional funding to States that run out of money because they have covered too much and there is not enough Federal matching money for them. I think we better name this contingency fund the ''Federal Fund to Encourage SCHIP Overspending.'' Maybe that would be the right title for it.

As Secretary Leavitt has said, this section indicates that either the allocation formulas that determine how much money States get are wildly inaccurate or we do want States to overspend. It seems like that is our goal. That is why people are suggesting this is a subtle way to have the Federal Government take over a larger and larger portion of health care in America.

A further example of bad SCHIP policy is federally subsidizing infrastructure for States to develop government-sponsored universal health care. Many States, such as Pennsylvania and Vermont, have already begun the process of instituting a universal health care program. I think it is unfair to tax people in the frugal States to pay for rich health care plans for the wealthy in other States. That is not a good policy.

About 45 percent of American children are currently enrolled in Medicaid or SCHIP, though only 37 percent are in families earning less than 200 percent of the Federal poverty level.

This is the third question I would ask. CBO estimates that about half of new SCHIP enrollees from this legislation now have private insurance. So my question is: Why would we spend taxpayers' money to insure people who are already insured? This bill would decrease private health insurance coverage. It would encourage people to leave their plans. It seeks to take kids away from private coverage and move them to government-run health care. Parents would be financially motivated to take their children off private, usually employer-sponsored plans, and put them on a taxpayer-supported plan. Those children would then have to be supported by the taxpayers; whereas, before they were covered by their own private insurance plan.

A recent report by CBO estimates that SCHIP has reduced the uninsured in the target population—those we wanted to reach who are uninsured, low-income children—by only 25 percent. That is the CBO saying that. The target group that was uninsured—low-

income children—we have reduced those uninsured by only 25 percent. I think this is because a lot of children now in SCHIP, and in many States adults, are people who used to be on private health plans. Between 50 percent and 75 percent of Medicaid expansion funds in the 1990s were spent on people who would have been privately insured, according to the economist Jonathan Gruber. That is a big number. I don't know if it is accurate, but that is what he concluded—between 50 percent and 75 percent of Medicaid expansion funds—were spent on people who would have been privately insured.

One study found that 60 percent of the children who became eligible for SCHIP had private coverage in the year before the SCHIP plan began. That is a stunning number; 60 percent of the children who became eligible for SCHIP had private insurance the year before. CBO found that among newly eligible populations—the higher income families who would be covered by this bill—one child will drop private coverage for every new uninsured child who is enrolled in the public program. That is a stunning number.

Overall, for every 100 children whom this bill would enroll in SCHIP, 50 of those children would come from private insurers. So half of the children we are going to be covering would be coming from private insurance plans. I don't think that is good policy, unless it is your goal to diminish private insurance and further take over the private sector with Federal plans.

These are conservative estimates, since the studies failed to calculate the crowd-out effect for adults who switched to Government plans. A recent study——

Mr. BAUCUS. Will the Senator yield on that point for a question?

Mr. SESSIONS. I will be pleased.

Mr. BAUCUS. A question designed for Senators to have more information about the basic point the Senator was talking about, crowd-outs, which the Senator understands is people on private insurance leaving private health insurance to go to the program that Congress may have enacted.

Does the Senator have any idea—I found this very interesting—when Congress passed the Medicare Modernization Act, which included Part D drug benefits—I don't know whether the Senator voted for that bill. I assume the Senator voted for that.

Mr. SESSIONS. I did vote for that.

Mr. BAUCUS. Does the Senator know at that time what the so-called crowd-out was? In fact, put it this way: Does the Senator know what percent of people who at that time were on private health insurance who might then have gone to a program the Government offered? Does the Senator have any idea—I am not saying the Senator should know. Does the Senator have any idea what was estimated at that time when we passed that bill what the crowd-out would be?

Mr. SESSIONS. Responding to the question of the Senator, I do know that you, as one of the authors of that bill which I did support, did create provisions to minimize that and deliberately took steps to reduce the amount of crowd-out that would occur.

Mr. BAUCUS. The Senator is correct.

Mr. SESSIONS. I am sure some would occur. Of course there was a feeling and observation on that from the beginning that this was a trend in the country.

Mr. BAUCUS. Correct. There is no real official conclusion of what the actual crowd-out has been. But does the Senator know the basic unofficial statistic is about 66 percent; there was about a 66-percent crowd-out under the Medicare Modernization Act?

Mr. SESSIONS. I am not aware of that. I know my mother didn't have any coverage. She was glad to get the prescription drug benefits.

Mr. BAUCUS. I want to ask another question. Does the Senator know what the anticipated crowd-out was when this Children's Health Insurance Program was originally enacted in 1997? What was the estimated crowd-out then, when we passed this bill in 1997?

Mr. SESSIONS. I am curious. I don't know.

Mr. BAUCUS. It is about 40 percent. And does the Senator know what the actual experience has been? About between 25 and 50 percent are the best numbers we can get.

Mr. SESSIONS. That is not so much—

Mr. BAUCUS. Between 25 and 50.

Mr. SESSIONS. I am pretty close to the estimate.

Mr. BAUCUS. You are close. Does the Senator know that when we wrote this bill we asked the CBO Director, Peter Orszag, to tell us in the Finance Committee what we have to do to minimize the phenomenon of crowding out? Of course the Senator doesn't know we asked him, but does the Senator know when we asked Peter Orszag during the markup—it is on the public record—were we extremely efficient and minimized the crowd-out as much as we possibly could, does the Senator know Mr. Orszag said, Yes, we were extremely efficient and minimized crowd-out as much as we possibly could?

Mr. SESSIONS. I didn't. But I will respond by asking this question: If we have crowded out prescription drug coverage for seniors, if we crowd out private insurance in Medicaid for low-income people, if we crowd out regardless of income concerns in general Medicare, and if we now crowd out more children and even adults under a children's plan, who is going to be left in private coverage?

Mr. BAUCUS. Let me answer that question by asking this question in return: Would the Senator want even more crowd-outs under a different approach? All experts say if we try to address more coverage for low-income kids through private coverage that the crowd-out would be even greater. Would the Senator want that greater crowd-out to occur, compared with the Children's Health Insurance Program?

Mr. SESSIONS. I would respond with this question: Isn't it true, if you are setting eligibility at 400 percent of poverty, or 350 percent, or 300 percent of poverty, you are going to crowd out more people with insurance than if you are actually taking care of poor people who are less likely to have insurance?

Mr. BAUCUS. I respond to the Senator, I have forgotten the exact statistic, but intuitively the answer is the one the Senator is suggesting, but actually the fact is, as we established earlier, no State has 400 percent of poverty. No State does. No State does. But for those States above 300 percent, the kids who are actually covered, the greatest preponderance of kids covered is still low-income kids. I say of all the beneficiaries to date under the Children's Health Insurance Program today, 91 percent are children at or below 200 percent of poverty.

This program is for kids. I know all this concern about adults and I share the Senator's concern about adults. I share it very strongly. We worked very hard on this bill to cut down adults, as the Senator knows. Childless adults are phased out after 2 years and parents are much lower—get a poorer rate. The third category of adults, pregnant women, there is a State option.

But the biggest concern, I am sure, of the Senator from Alabama is childless adults. This is supposed to be a kid's program, not an adult's program. We say, OK, after 2 years you are off. As the Senator also knows, back in the Deficit Reduction Act, when that was passed, we prevented HHS from granting any waivers for childless adults in the future.

Mr. SESSIONS. I thank the distinguished chairman for his insights. It has been a good dialog. I would go back, fundamentally, to the remarks I made at the beginning. Our present health care system is not working well. I believe a simpler system, if taken as part of the idea of equalizing tax deductions and tax credits for all Americans—and it would require spending from the Government to do that—if we did that in an effective way, every person could then choose their own insurance policy covering themselves as they wish. I think it would be a far more preferable way than taking a children's program and expanding it in a significant way.

There is no doubt. CBO has scored that for every child who is in this bill who would be enrolled in SCHIP, 50 percent of those children would come from private insurance coverage. That is a conservative estimate. It is a big deal. Fifty percent of the people who would be picked up under this plan would come from families where they are already covered.

The National Bureau of Economic Research, an independent group, estimates the crowd-out rate for SCHIP to be as high as 60 percent. Of 10 million children, about 50 percent of the children in families with incomes below 200 percent of the poverty line have insurance. This is the number for the lowest

income group. We would normally expect and do expect that higher income levels would have higher crowd-out effects. In fact, CBO—our own Congressional Budget Office—the one we have to rely on for information, estimates that 77 percent of the children in families at 200 percent to 300 percent of the poverty level already have private coverage. How about that? And 89 percent of children in families with incomes between 300 percent and 400 percent of poverty have private coverage, as do 95 percent of children in families above 400 percent of the Federal poverty level, according to our own Congressional Budget Office, which I assume our distinguished chairman does not disagree with. I mean he doesn't dispute those numbers.

Our goal should not be to take insurance away.

I will conclude. I know others are here prepared to speak. I have enjoyed the dialog.

I am not comfortable with the some of the ways we are proposing to take care of children and the way we are taking care of adults in a children's program and the way we are dealing with a broken Federal tax policy with regard to the uninsured. I was on a task force appointed by former majority leader Bill Frist, Dr. Bill Frist, to deal with the uninsured. We wrestled with it a number of ways. One of the ways we could have gotten a million people covered was through the association health plans, the small business health plans that my colleagues on the other side of the aisle managed to block.

Now we are moving more money, more, I guess, new wine in old wine bottles here. I think we need to break out of this mentality and create a system where you own your health insurance policy and you take it with you if you change jobs. I would note that the average American worker has had nine jobs by the time he or she is 35. Likewise, we ought to have savings accounts that people can take with them whenever they move from job to job and provide as much security and stability and assurance as we can possibly provide the working American families today.

Middle-class families are getting hit at both ends here. They are required to pay more taxes. They are not getting the benefits. They are working hard. If they are not working for a big company or the Government, they are paying a very high price for their health insurance.

We ought to work on these things, and if we did so, we might be surprised how many people might come on the insured rolls.

I yield the floor.

The PRESIDING OFFICER (Mrs. MCCASKILL). The Senator from Montana.

Mr. BAUCUS. I am not going to belabor this crowd-out issue. A lot of people watching are probably asking what in the world is crowd-out. For those wondering what in the world crowd-out is that we are talking about here, basically it is how many people of those this legislation covers—how many people would be crowded out of private health care insurance. That is, if they are on private health care insurance today, how many would leave private health insurance to go to the Government program.

A couple of points here. No. 1, those who might be inclined to vote for the McConnell substitute know this, but actually the so-called crowd-out is greater in the McConnell-Lott proposal than it is on a percentage basis under my bill. On a percentage basis, under the McConnell-Lott bill, more people would be leaving private health insurance to go to the Children's Health Insurance Program.

Second, the figure we hear is 1 to 1. That is not accurate. That is selective use of the tables. If you look at the real facts, at the bottom line under CBO's estimates, they actually say it is more in the neighborhood of—it is not 50 percent that is represented here, but actually it is about 30 percent.

It also has been represented here that maybe under tax credits, which is a better way to go to cover health insurance, the implication is there will be less crowd-outs. Well, let me just point out that there is a fellow named John Gruber, and he is an MIT professor, a health economist. He is often quoted by the President. Professor Gruber is often quoted by President Bush in this general area. What does Professor Gruber say? He says that the tax credit crowd-out is, in his estimate, 77 percent. Much higher.

So for those concerned about the so-called crowd-out, I would think they would like the underlying bill because of all of the approaches we have discussed here, there is less crowd-out in the underlying bill than in the substitute or under the Kyl-Lott amendment and much less than would be the case under a tax credit approach to help low-income kids. I think the record should show that so Senators have full information and those watching this debate, wherever they may be, also have the facts before them.

Madam President, I suggest that the Chair recognize Senator MURRAY.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, all children should be able to see a doctor when they are sick, and all children should be able to get the medicine they need to make them better. When a kid gets a cut or requires stitches or comes down with a fever or an earache or with any imaginable problem, they should be able to get help, period. Unfortunately, today in America, the richest and most successful country ever, that is not the case. In fact, millions of American children do not have health insurance today, which means millions of American children cannot see a doctor when they are sick and millions of American children do not get the medicine they need to get better. As wages remain stagnant, as the cost of living—heat, food, clothing, college tuition, doctor's visits—increases, more and more parents today are unable to afford health care, and the ranks of uninsured children are growing.

This tragedy can only be described as a shame. It is unquestionably our moral obligation as Americans to correct it. It does not matter if you are Republican or Democrat, progressive or conservative—making sure our children get health care is the moral thing to do. Now, most of us in the Senate know this, and we are working now to do the moral thing—support reauthorizing and improving the Children's Health Insurance Program, or CHIP, which takes massive steps forward to giving our kids better health insurance in this country.

This bill will ensure that the 6.6 million children who are enrolled in CHIP continue receiving care, and it provides 3.2 million uninsured children with coverage. As a result, over the next 5 years, the number of uninsured children in America will drop by more than a third. It also strengthens the program by increasing funding for States that need the most help. You know, in recent years under President Bush's watch, many of our States have faced funding shortfalls, jeopardizing the coverage of countless children.

This bill also provides an emergency fund to cover unexpected shortfalls arising from economic downturns or emergencies. In fact, the Congressional Budget Office, which is a nonpartisan group of experts, predicts that 800,000 children now covered by CHIP or children's health insurance will lose coverage over the next 5 years unless there is an increase in funding above the base amount required.

This legislation which is before the Senate today provides $100 million as well for outreach and enrollment efforts that increase the participation of children in the Children's Health Insurance Program. It includes a national campaign to help raise awareness of the Children's Health Insurance Program and the targeting of our children in rural areas with high populations of eligible but unenrolled children today. Another outreach effort will provide funds for translation and interpretation service for CHIP, so minority children, especially Native Americans and Hispanics, will become more aware of this program.

Finally, this authorization plan provides my home State of Washington with the funding and flexibility we need to provide more children with quality health care.

This bill is a big win-win for Washington State and the many families who struggle to provide care for their children today. One of the smartest parts of this plan is that the money for these initiatives—$35 billion over 5 years—comes solely from a 61-cent excise tax increase on cigarettes and

other tobacco products. No other programs are cut; Social Security is not raided; the deficit will not be increased.

Not only will this bill provide millions of American children with health care, but it is estimated that it will lead 1.7 million adult smokers to quit smoking, and that will cause a 9.2-percent decline in youth smoking and will prevent over 1.8 million kids from becoming smokers. So when you provide health care to millions of children and lead millions of young people to stop smoking or to never pick up a cigarette, this bill is a win-win for our country and for our children.

I think it is very important that I thank my colleague, Senator Max Baucus, for his tireless work on this issue and for all of America's children. Without his determination, we would not be so close to providing more of our kids with health care.

It is also important to note that this bill is bipartisan. Senator GRASSLEY has worked very hard, along with Senator BAUCUS, in creating this legislation. It was passed out of committee on a commendable bipartisan basis.

Another big supporter of this bill on the floor has been Senator HATCH, who was a cosponsor, actually, of the original 1997 bill.

I listened to him as he recently said:

> We are trying to do what is right by our children who are currently not being helped by our health care system. If we cover children properly, we will save billions of dollars in the long run. Even if we did not, we should still take care of those children.

Senators GRASSLEY and HATCH are not alone on their side of the aisle. Many of our colleagues realize that supporting this legislation is the moral thing to do. Unfortunately, however, President Bush does not agree, and he has, amazingly, threatened to veto this bill. Now, he is going to be out there giving his reasons for the veto. He is going to make complicated arguments and throw some numbers around. But the bottom line is, the moral line is that vetoing this bill will endanger coverage for millions of children who are currently enrolled in our Children's Health Insurance Program, and a veto will deny millions of kids who would become covered under the bill a chance to see a doctor when they are sick. It seems, sadly, the moral light President Bush says guides his decisions has dimmed.

I wish to share the following story with President Bush and with any Senators who might be thinking about voting against this bill.

This is Sydney. Sydney and her mom Sandi DeBord live in Yakima, WA. Sydney has cystic fibrosis. Sydney's mom recently wrote to me. She talked about her daughter and the importance of the Children's Health Insurance Program, which allowed Sydney to get the care she needed, which extended her life and allowed her to live her short life to the fullest.

Mrs. DeBord wrote to me, and I want to read to you what she said. These are her words:

> My daughter has a life-shortening genetic condition called Cystic Fibrosis. With quality health care I believe her life has been extended and she has been able to enjoy 9 years of quality life.
>
> Of course, she spent many weeks in the hospital on life-saving IV antibiotics during those 9 years, and not a day goes by that she does not have to endure taking a bucket full of medicine. But despite the obstacle in her way, she is a happy child living life to the fullest.
>
> She is active, she does well in school, has many friends, and loves to sing and dance. However, none of that would be possible if it was not for the quality health care she receives as part of the CHIP health care. I know for a fact that without this bit of assistance, her life would end much sooner due to the inability to afford quality health care for her.
>
> As her parent, it frightens me to even think some day she may be without health care coverage if programs like CHIP are no longer available.

She said:

> I write to ask you to reauthorize the State Children's Health Insurance Program and ensure the program is adequately funded to provide high quality health care for children with Cystic Fibrosis.

I hope President Bush and opponents of this bill will listen to this story. I hope they take a chance to look at Sydney and the life in her eyes and the life she has been able to live. I know Mrs. DeBord hopes they are listening as well.

It is our moral duty as Americans to ensure our kids can see a doctor when they are sick. The bill in front of us today fulfills that duty. It ensures that children covered by CHIP remain covered, and it ensures that millions without insurance today are going to get it.

I strongly urge my colleagues to do the moral thing and support the reauthorization of this Children's Health Insurance Program.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, as everybody knows, I have been in the CHIP battle since the beginning. I just want to pay a great deal of tribute to the distinguished chairman of the committee, Senator BAUCUS; the distinguished ranking member, Senator GRASSLEY; and, of course, Senator ROCKEFELLER.

In the beginning instance of CHIP, my good friend, Senator KENNEDY, and also Senator SNOWE, my dear friend—all of these people had a lot to do with the CHIP bill from the beginning. And I have to say that the original Hatch-Kennedy bill became the CHIP bill back in 1997, and, of course, it has come all of this way to today where we are looking for renewal.

There are some facts that really ought to be put into the equation here today, and I thought I would just spend a few minutes on some of the facts regarding CHIP.

No. 1: The Children's Health Insurance Program reauthorization is not full of budget gimmicks. The Senate Budget Committee has certified that this legislation complies with pay-go rules of both the 6- and 11-year base under the pay-go rule. The Congressional Budget Office has reviewed its 5-year and 10-year expenditures and revenue raisers and believes they are balanced on an on-budget basis. This bill is a 5-year authorization and is fully paid for with offsets. This bill is not a 10-year reauthorization, and that is an important point to remember. The CHIP program must be reauthorized in 5 years.

Fact two: Some have indicated that the Children's Health Insurance Program reauthorization imposes up to a $10 tax on a cigar. Well, the tobacco tax included in our bill prorates tobacco rates or taxes on cigars. The tax imposed on cigars is based on the price of a cigar. In very few instances will an individual cigar be taxed at $10.

Another fact: The Children's Health Insurance Reauthorization Act does not increase the crowd-out rate. There is crowd-out because there is always going to be crowd-out when you try to solve some of these very serious problems. Although, because we are covering more children, some have concern that the crowd-out rate will increase, according to CBO, the fact is that the crowd-out rates will not increase.

Another fact: The Children's Health Insurance Reauthorization Act prohibits the Federal Government from granting future State waivers to cover nonpregnant adults through CHIP. Our bill puts the emphasis back on low-income, uninsured children. Simply put, our bill puts an immediate stop to States being granted future waivers to cover nonpregnant adults.

Let me give you another fact: The Children's Health Insurance Program Reauthorization Act eliminates enhanced Federal matching rates for nonpregnant adults. At the beginning of fiscal year 2009, States will receive lower Federal matching rates for childless adults, and in fiscal year 2010, childless adults will not be covered under CHIP. At the beginning of fiscal year 2010, only States with significant outreach efforts for low-income uninsured children will receive enhanced match rates for parents; others will receive the lower Medicaid match rate, or FMAP, for adults.

Starting in fiscal year 2011, all States will receive a lower Federal match rate for parents. Those States covering more lower income kids will receive REMAP—that is the mid-point between the CHIP matching rate and the lower Medicaid matching rate. Other States will receive FMAP for CHIP parents.

Another fact: The Children's Health Insurance Program Reauthorization Act provides lower matching rates to States for those individuals 300 percent of the Federal poverty level and above who are covered under CHIP, thus penalizing States that want to cover higher income children.

Under the current CHIP bill, States receive an enhanced Federal matching rate for all income levels. Our bill discourages States from covering higher income individuals in the CHIP program. After enactment of our bill, States that have new waivers approved to cover 300 percent of the Federal poverty level and above would only receive a lower FMAP payment for higher income individuals.

Let me give one more fact, and then I will make some other points. The Children's Health Insurance Program Reauthorization Act is an effective children's health program and a small part of the overall cost of health. CHIP is not an entitlement program. That is something a lot of people don't understand. We drafted it that way because I didn't want it to be an entitlement program. Now some say we will never be able to stop it. That may be because it works. It has saved literally millions of children. It is a capped block grant program, where States are given flexibility to cover their low-income uninsured children.

According to CMS, the agency that has a lot to do with health care, in 2005, we spent a total of $1.98 trillion on our Nation's health care system. Private expenditures were $1.08 trillion. The Federal Government's expenditures were $900 billion. Total Medicare spending was $342 billion in 2005, according to CMS, and Medicaid was $177 billion in Federal dollars. Our bill today funds CHIP at $60 billion over 5 years. That is the $25 billion base figure and an additional $35 billion to cover more children. This is a fraction of the total cost of health care in our country to provide care for low-income, uninsured children. Covering these children is worth every cent. We spend almost $2 trillion on health care, and the equivalent of $12 billion a year is what this program will cost, out of $2 trillion in health care, $900 billion of which happens to be Federal dollars. Only $12 billion goes to these kids, mainly children of the working poor who earn enough that they don't qualify for Medicaid but don't have enough money to buy private health insurance.

That is what a lot of people don't seem to understand. The CHIP bill, up to now, has worked quite well in spite of the waivers, which I believe should not have been granted in many respects by the last two Administrations. But I have to say this program has worked very well.

I also wish to let everybody know that I support S. 1893, the Children's Health Insurance Program Reauthorization Act. Over the past few days, I have been listening to the floor debate on the bill being considered on the Senate floor this week. I have to admit, at some points during the debate, the descriptions I am hearing don't even sound like the bill I introduced with Senators BAUCUS, GRASSLEY, and ROCKEFELLER. Indeed, I believe there have been many allegations by opponents of S. 1893 that are not accurate. Therefore, I would like to take a few minutes to correct the record so my Senate colleagues hear from both sides before making a final decision on how to vote on this bill later this week.

First, I take issue with the point that our legislation is full of budget gimmicks. I made that point before, but I will remake some of these points. The Senate Budget Committee has certified this legislation does comply with pay-go rules on both the 6-year and 11-year bases under the pay-go rule. In addition, the Congressional Budget Office Director, Dr. Peter Orszag, told us in last week's Finance Committee markup that CBO reviewed the bill's 5-year and 10-year expenditures and revenue raisers, and CBO believes they are balanced on an onbudget basis. In addition, this bill is a 5-year authorization that is fully paid with offsets. This is how our rules operate. Those who talk about its 10-year impact fail to note this bill is not a 10-year reauthorization. That is an important point to remember. They argue that it will be very expensive in 10 years. Who knows? I can't tell you what it is going to cost in the remaining 6, 7, 8, 9, 10 years not covered by this bill, but we should all be working to try and keep costs down. We have to look at the CHIP program again in 5 years and reauthorize it.

I assure my colleagues that when writing this bill, we did everything possible to comply with the budget rules, and any assertion to the contrary is plain false. Further, I wish to remind my colleagues that when CHIP was established in 1997, we had a set amount of money and, as a result, the budget baseline did not assume any rate of growth for the CHIP program. Additionally, the budget rules did not consider the fact that health care costs are rising by 9 percent each year. That is not CHIP's fault. In many respects, that is our fault in the Congress due the way we run things around here.

Some would say that is why we shouldn't have CHIP. I guess that is why we shouldn't have any Federal programs, if that is the argument. The fact is, CHIP has worked abundantly well to help the most vulnerable people in our society, our children. I want to see that continue.

The budget rules also did not consider the increasing number of children enrolling in the CHIP program. Therefore, there is only $5 billion per year for the CHIP program in the budget baseline. To me, this number is unrealistic, and I think anybody who looks at it would agree. It creates a situation which is extremely frustrating because health care costs continue to increase in the CHIP program just like every other health care program is going up 9 percent a year. That is somewhat of a victory because it used to go up 13 percent a year. As a result, we had to come up with the money to keep the current program functioning, not to mention additional sums for providing coverage to uninsured, low-income children without health care. There are many incidents of young children who don't have health care beyond the CHIP program or that haven't been covered by the CHIP program.

To keep the program running as it currently exists, it will cost the Federal Government $14 billion. We fixed the problem by addressing the shortfall. Simply put, we had to comply with the budget rules in this bill, and we did. So in 5 years, the Congress will have to come up with money to keep the program operating, similar to the challenge we are facing with our $14 billion deficit right now.

We need to be realistic. Since CHIP is not a permanent program and not an entitlement program, we in Congress have an even bigger job to keep the program running efficiently in the next 5 years. The current budget rules do not include a realistic rate of growth after the program expires. I can only conclude, then, with this bill, we are doing the best we can under very difficult circumstances for some of the most vulnerable people in our society, our children, the ones left out of the Medicaid process and whose parents don't earn enough money to buy insurance.

Another issue I have heard being raised is that our legislation will raise tobacco taxes on cigars to $10 a cigar. Let me make one thing perfectly clear. The Children's Health Insurance Program Reauthorization Act does not impose a $10 tax on each cigar. In fact, the tobacco tax included in our bill prorates tobacco taxes on cigars. The tax imposed on cigars is based on the price of the cigar. In very few instances will an individual cigar be taxed at $10, and those who can afford that kind of cigar can afford the taxes.

I know Senators are concerned about what some term ''crowd-out.'' Crowd-out is having individuals who are currently covered by private health insurance drop their private health insurance to be covered by a government program.

This was my concern, as it was for Senator KENNEDY, when we enacted CHIP originally. It is a valid concern today as well. But allegations that this bill increases the crowd-out rate are untrue. According to CBO, the fact is, the crowd-out rate will not increase for the basic CHIP program. While crowd-out does remain a serious problem, the crowd-out rate is not worsened by our bill. People will turn to whatever is better for them. If the CHIP bill is better for these kids, they are going to turn to it. I don't think we can blame them for that. Of course, the argument is that this is the camel's nose under the tent for one-size-fits-all socialized medicine. No, it isn't. But some want to make it that type of a program. I believe the House may be well on its way to trying to make it that, but we don't in this bill.

In fact, during the Senate Finance Committee markup last week, CBO Director Peter Orszag told us the crowd-out rate for this bill is the same as the

crowd-out rate for the original CHIP program. In addition, the CBO Director told us that in the absence of a mandate, this approach is as efficient as you can possibly get per dollars spent to get a reduction in the number of uninsured children, the goal of the CHIP program. This is because the incentive fund which was created in this bill to reward States for lowering the number of uninsured, low-income kids is designed so it provides a payment per child only for new Medicaid children as opposed to new CHIP children. This is helpful with crowd-out, first, because Medicaid is for lower income kids who are less likely to have the option of private coverage, so tilting toward Medicaid is beneficial. Second, the payments for the incentive fund payments are graduated. In other words, they are not based on random noise. The combination of these two is an efficient outcome.

According to CBO, the approach we take in our bill is probably the most efficient way to have new dollars spent to reduce the number of uninsured children.

Another issue that continues to be raised is adult coverage under CHIP. Unfortunately, the opponents of the bill have not been very clear about how adults are treated under this legislation. If I were the only one drafting the bill, which obviously I am not, I would like to see all adults removed from the CHIP program today, or tomorrow, to be a little more precise. I don't think they have any business receiving health care through a program created for low-income, uninsured children. In fact, I am very disappointed with our administration for continuing to grant Federal waivers to States to cover adults through CHIP. This has been extremely frustrating to me. Of course, our original language allowed them to do it, but we never dreamed for a minute they would allow some States to have more adults on this program than children. Not only is that ridiculous, that was never contemplated. But that is what has happened.

This legislation addresses this matter by phasing childless adults off the CHIP program and lowering the Federal matching rate for parents and States who currently are covered under the CHIP program. Recently, Senators GRASSLEY, ROBERTS, and I wrote both the President and my good friend, Health and Human Services Secretary Mike Leavitt, urging the administration to stop granting States any new adult waivers. I was pleased to hear back from Secretary Leavitt regarding adult waivers. I truly believe the letter Senators GRASSLEY, ROBERTS, and I sent to the President and Secretary Leavitt, along with the CHIP reauthorization bill we drafted, made some impact with the administration. I am encouraged that the administration says it does not intend to approve any new adult waivers or renew any waivers for adults. I am also encouraged to see the administration is making progress toward removing adults from the CHIP program. However, these decisions should have been made a long time ago. I take issue with the point that our legislation will actually reverse the progress the administration is making with the States. I truly believe that one of the reasons the administration is finally moving forward on this is due to the pressures it has received from Congress to remove adults from the program. I look forward to working with the administration to make this a reality.

To be fair, most of these waivers were granted before Secretary Leavitt took over at that position. I don't want to particularly blame him, but some waivers have been approved afterwards as well. I think the same crowd down there has been doing it and, of course, Secretary Leavitt has been the one who some would blame, although I think unjustifiably.

The Children's Health Insurance Program Reauthorization Act prohibits the Federal Government from granting future State waivers to cover nonpregnant adults through CHIP once and for all. Simply put, our bill puts an immediate stop to States being granted future waivers to cover nonpregnant adults. Our bill puts the emphasis back on low-income, uninsured children. As one of the original authors of the CHIP program, I am here to tell Senators we did not create CHIP for adults. I wish we could do more for the working poor adults, but we do not have the money, and this program was not created for adults. We created CHIP for low-income uninsured children.

On a related matter, our legislation also eliminates enhanced Federal matching rates for adults, with the exception of pregnant women.

Today, under CHIP, States receive an enhanced Federal matching rate for those covered under CHIP. The Medicaid Federal medical assistance percentage, known as FMAP, ranges between 50 percent and 76 percent in fiscal year 2006; the CHIP FMAP ranges from 65 percent to 83.2 percent.

At the beginning of fiscal year 2009, States will receive lower Federal matching rates for childless adults, and in fiscal year 2010, childless adults will no longer be covered under CHIP. With regard to parents, at the beginning of fiscal year 2010, only States that have covered more low-income uninsured children or have undertaken significant outreach efforts for low-income uninsured children will receive enhanced match rates for parents; the others will receive the lower Medicaid match rate, or FMAP, for adults.

Starting in fiscal year 2011, all States will receive a lower Federal matching rate for parents. Those States covering more lower income kids or with significant outreach efforts will receive REMAP. That is the midpoint between the CHIP matching rate and the lower Medicaid matching rate. The other States will receive FMAP for CHIP parents.

Many have also raised concerns about the income eligibility level of those covered by CHIP.

The Children's Health Insurance Program Reauthorization Act provides lower matching rates to States for those individuals with incomes at 300 percent of the Federal poverty level and above who are covered under CHIP, thus penalizing States that want to cover higher income children.

I might add, the original bill had us at 200 percent of the Federal poverty level, and approximately 90 percent of the children covered by CHIP were 200 percent of the federal poverty rate and below.

Today, States receive an enhanced Federal matching rate for all income levels. Our bill discourages States from covering higher income individuals in the CHIP program. Once our bill is enacted, States that have new waivers approved to cover individuals 300 percent of the Federal poverty level and above would only receive the lower FMAP payment for these higher income individuals.

To me, this is dramatic improvement over current law which allows higher income individuals to receive the same Federal matching rate provided to States for covering low-income children through the CHIP program.

Finally, I emphasize that the CHIP program is an effective children's health program and a small part of overall health care costs. I make that point one more time. CHIP is not an entitlement program. It is a capped, block-granted program where the States are given flexibility and control, to cover their low-income uninsured children. It is totally voluntary on the part of a State to participate and offer CHIP program benefits to its residents.

According to CMS, in 2005 we spent a total of $1.98 trillion on our Nation's health care system. Private expenditures were $1.08 trillion, and $900 billion in Federal dollars. Total Medicare spending was $342 billion in 2005, and Medicaid was 177 billion in Federal dollars.

Our bill today funds CHIP—for 5 years—at $60 billion over the 5-year period. It is a fraction of the overall health care costs. If you want to divide it by 5, it is $12 billion a year out of a $2 trillion expenditure in this country for total health care, and out of a $900 billion Federal expenditure for health care. This $12 billion per year is a fraction of the cost, or should I say, this $60 billion over 5 years is a fraction of the cost to provide care for low-income uninsured children.

Now, I think it is pathetic for people to argue that this is running out of control when we are trying to cover kids who have not been covered, as well as those who have—when it costs, like I say, $12 billion a year out of $900 billion spent by the Federal Government. I wish we had a better system in the sense that the private sector could take care of everybody. I think part of

our problem is we have too much Federal Government involvement. But the fact is, for the CHIP program to be reauthorized, it is a very minuscule amount of money compared to the $900 billion, every year, the Federal Government pays for health care coverage.

Covering these children is worth every cent. If we do not take care of these children, these low-income uninsured children, these kids are going to have serious health care problems in the future, and it is going to cost the federal government a lot more than what reauthorizing the CHIP program is going to cost us. We have to look forward to the future and do everything in our power to help these children.

It is my hope that I have cleared up some of the misconceptions that my colleagues may have regarding the bill the Senate is considering this week.

Mr. President, I will yield the floor. I apologize that I have taken so long, but I wanted to clear up some of these misconceptions about the CHIP bill that have been stated on the floor by some of my colleagues. I know they are very sincere, and I know they want to be fiscally responsible. But to argue that $12 billion a year or $60 billion over 5 years is too much money to pay for our children—when we are spending $2 trillion on health care—I think that makes our point, the distinguished Senator from Montana and I have been trying to make, even more resilient and effective.

The PRESIDING OFFICER (Mr. OBAMA). The Senator from Montana.

Mr. BAUCUS. Mr. President, first, I thank Senator HATCH. He has been very hardworking and dedicated to the goal of trying to find a balanced, bipartisan solution to help expand the Children's Health Insurance Program. I compliment him very deeply for all of his terrific work.

Mr. HATCH. I thank my colleague.

Mr. BAUCUS. He has just gone above and beyond. Senators and the people from the State of Utah, I think, should know that. He has done a super job.

I know a number of Senators have been seeking to speak, and I want to protect them. So I ask unanimous consent that the following Senators be recognized in the following order: first, Senator NELSON of Florida, then Senator THUNE of South Dakota, and then Senator LAUTENBERG of New Jersey.

Mr. KERRY. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I will not object. I would just like to ask if I might be recognized first to simply make a unanimous consent request on a modification and send it to the desk. I will not speak.

The PRESIDING OFFICER. Are there any objections?

Without objection, it is so ordered.

AMENDMENT NO. 2602, AS MODIFIED

Mr. KERRY. Mr. President, I ask unanimous consent that my amendment No. 2602 be modified, as sent to the desk, and that be the pending amendment.

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

The amendment, as modified, is as follows:

At the end, add the following:

TITLE IX—IMPROVED INCENTIVES TO ENROLL UNINSURED CHILDREN AND PROTECT EXISTING COVERAGE OPTIONS

SEC. 901. IMPROVEMENTS TO THE INCENTIVE BONUSES FOR STATES.

Paragraphs (2) and (3) of section 2104(j), as added by section 105(a), are amended to read as follows:

''(2) PAYMENTS TO STATES INCREASING ENROLLMENT.—

''(A) IN GENERAL.—Subject to paragraph (3)(D), with respect to each of fiscal years 2008 through 2012, the Secretary shall make payments to States from the Incentive Pool determined under subparagraph (B).

''(B) AMOUNT.—The amount described in this subparagraph for a State for a fiscal year is equal to the sum of the following amounts:

''(i) FIRST TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of first tier above baseline child enrollees (as determined under paragraph (3)(A)(i)) under title XIX for the State and fiscal year multiplied by 6 percent of the projected per capita State Medicaid expenditures (as determined under paragraph (3)(B)) for the State and fiscal year under title XIX.

''(ii) SECOND TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of second tier above baseline child enrollees (as determined under paragraph (3)(A)(ii)) under title XIX for the State and fiscal year multiplied by 35 percent of the projected per capita State Medicaid expenditures (as determined under paragraph (3)(B)) for the State and fiscal year under title XIX.

''(iii) THIRD TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of third tier above baseline child enrollees (as determined under paragraph (3)(A)(iii)) under title XIX for the State and fiscal year multiplied by 90 percent of the projected per capita State Medicaid expenditures (as determined under paragraph (3)(B)) for the State and fiscal year under title XIX.

''(3) DEFINITIONS AND RULES.—For purposes of this paragraph and paragraph (2):

''(A) TIERS ABOVE BASELINE.—

''(i) FIRST TIER ABOVE BASELINE CHILD ENROLLEES.—The number of first tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (C)) enrolled during the fiscal year under the State plan under title XIX; exceeds

''(II) the baseline number of enrollees described in clause (iv) for the State and fiscal year under title XIX, respectively;

but not to exceed 2 percent of the baseline number of enrollees described in subclause (II).

''(ii) SECOND TIER ABOVE BASELINE CHILD ENROLLEES.—The number of second tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (C)) enrolled during the fiscal year under title XIX, as described in clause (i)(I); exceeds

''(II) the sum of the baseline number of child enrollees described in clause (iv) for the State and fiscal year under title XIX, as described in clause (i)(II), and the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i),

but not to exceed 7 percent of the baseline number of enrollees described in clause (i)(II), reduced by the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i).

''(iii) THIRD TIER ABOVE BASELINE CHILD ENROLLEES.—The number of second tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (C)) enrolled during the fiscal year under title XIX, as described in clause (i)(I); exceeds

''(II) the sum of the baseline number of child enrollees described in clause (iv) for the State and fiscal year under title XIX, as described in clause (i)(II), the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i), and the maximum number of second tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (ii).

''(iv) BASELINE NUMBER OF CHILD ENROLLEES.—The baseline number of child enrollees for a State under title XIX—

''(I) for fiscal year 2008 is equal to the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX, respectively, during fiscal year 2007 increased by the population growth for children in that State for the year ending on June 30, 2006 (as estimated by the Bureau of the Census) plus 1 percentage point; or

''(II) for a subsequent fiscal year is equal to the baseline number of child enrollees for the State for the previous fiscal year under this title or title XIX, respectively, increased by the population growth for children in that State for the year ending on June 30 before the beginning of the fiscal year (as estimated by the Bureau of the Census) plus 1 percentage point.

''(B) PROJECTED PER CAPITA STATE MEDICAID EXPENDITURES.—For purposes of subparagraph (A), the projected per capita State Medicaid expenditures for a State and fiscal year under title XIX is equal to the average per capita expenditures (including both State and Federal financial participation) for children under the State plan under such title, including under waivers but not including such children eligible for assistance by virtue of the receipt of benefits under title XVI, for the most recent fiscal year for which actual data are available (as determined by the Secretary), increased (for each subsequent fiscal year up to and including the fiscal year involved) by the annual percentage increase in per capita amount of National Health Expenditures (as estimated by the Secretary) for the calendar year in which the respective subsequent fiscal year ends and multiplied by a State matching percentage equal to 100 percent minus the Federal medical assistance percentage (as defined in section 1905(b)) for the fiscal year involved.

''(C) QUALIFYING CHILDREN DEFINED.—For purposes of this subsection, the term 'qualifying children' means, with respect to this title or title XIX, children who meet the eligibility criteria (including income, categorical eligibility, age, and immigration status criteria) in effect as of July 1, 2007, for enrollment under this title or title XIX, respectively, taking into account criteria applied as of such date under this title or title XIX, respectively, pursuant to a waiver under section 1115.''.

SEC. 902. OPTIONAL COVERAGE OF OLDER CHILDREN UNDER MEDICAID AND CHIP.

(a) MEDICAID.—

(1) IN GENERAL.—Section 1902(l)(1)(D) (42 U.S.C. 1396a(l)(1)(D)) is amended by striking ''but have not attained 19 years of age'' and inserting ''but is under 19 years of age (or, at the option of a State, under such higher age, not to exceed 21 years of age, as the State may elect)''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(e)(3)(A) (42 U.S.C. 1396a(e)(3)(A)) is amended by striking ''18 years of age or younger'' and inserting ''under 19 years of age (or under such higher age as the State has elected under subsection (l)(1)(D))'' after ''18 years of age''.

(B) Section 1902(e)(12) (42 U.S.C. 1396a(e)(12)) is amended by inserting ''or such higher age as the State has elected under subsection (l)(1)(D)'' after ''19 years of age''.

(C) Section 1905(a) (42 U.S.C. 1396d(a)) is amended, in clause (i), by inserting ''or under such higher age as the State has elected under subsection (l)(1)(D)'' after ''as the State may choose''.

(D) Section 1920A(b)(1) (42 U.S.C. 1396r–1a(b)(1)) is amended by inserting ''or under such higher age as the State has elected under section 1902(l)(1)(D)'' after ''19 years of age''.

(E) Section 1928(h)(1) (42 U.S.C. 1396s(h)(1)) is amended by striking ''18 years of age or younger'' and inserting ''under 19 years of age or under such higher age as the State has elected under section 1902(l)(1)(D)''.

(F) Section 1932(a)(2)(A) (42 U.S.C. 1396u–2(a)(2)(A)) is amended by inserting ''(or under such higher age as the State has elected under section 1902(l)(1)(D))'' after ''19 years of age''.

(b) TITLE XXI.—Section 2110(c)(1) (42 U.S.C. 1397jj(c)(1)) is amended by inserting ''(or, at the option of the State, under such higher age as the State has elected under section 1902(l)(1)(D))''.

SEC. 903. MODERNIZING TRANSITIONAL MEDICAID.

(a) FOUR-YEAR EXTENSION.—

(1) IN GENERAL.—Sections 1902(e)(1)(B) and 1925(f) (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are each amended by striking ''September 30, 2003'' and inserting ''September 30, 2010''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2007.

(b) STATE OPTION OF INITIAL 12-MONTH ELIGIBILITY.—Section 1925 (42 U.S.C. 1396r–6) is amended—

(1) in subsection (a)(1), by inserting ''but subject to paragraph (5)'' after ''Notwithstanding any other provision of this title'';

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

''(5) OPTION OF 12-MONTH INITIAL ELIGIBILITY PERIOD.—A State may elect to treat any reference in this subsection to a 6-month period (or 6 months) as a reference to a 12-month period (or 12 months). In the case of such an election, subsection (b) shall not apply.''; and

(3) in subsection (b)(1), by inserting ''but subject to subsection (a)(5)'' after ''Notwithstanding any other provision of this title''.

(c) REMOVAL OF REQUIREMENT FOR PREVIOUS RECEIPT OF MEDICAL ASSISTANCE.—Section 1925(a)(1) (42 U.S.C. 1396r–6(a)(1)), as amended by subsection (b)(1), is further amended—

(1) by inserting ''subparagraph (B) and'' before ''paragraph (5)'';

(2) by redesignating the matter after ''REQUIREMENT.—'' as a subparagraph (A) with the heading ''IN GENERAL.—'' and with the same indentation as subparagraph (B) (as added by paragraph (3)); and

(3) by adding at the end the following:

''(B) STATE OPTION TO WAIVE REQUIREMENT FOR 3 MONTHS BEFORE RECEIPT OF MEDICAL ASSISTANCE.—A State may, at its option, elect also to apply subparagraph (A) in the case of a family that was receiving such aid for fewer than three months or that had applied for and was eligible for such aid for fewer than 3 months during the 6 immediately preceding months described in such subparagraph.''.

(d) CMS REPORT ON ENROLLMENT AND PARTICIPATION RATES UNDER TMA.—Section 1925 (42 U.S.C. 1396r–6), as amended by this section, is further amended by adding at the end the following new subsection:

''(g) COLLECTION AND REPORTING OF PARTICIPATION INFORMATION.—

''(1) COLLECTION OF INFORMATION FROM STATES.—Each State shall collect and submit to the Secretary (and make publicly available), in a format specified by the Secretary, information on average monthly enrollment and average monthly participation rates for adults and children under this section and of the number and percentage of children who become ineligible for medical assistance under this section whose medical assistance is continued under another eligibility category or who are enrolled under the State's child health plan under title XXI. Such information shall be submitted at the same time and frequency in which other enrollment information under this title is submitted to the Secretary.

''(2) ANNUAL REPORTS TO CONGRESS.—Using the information submitted under paragraph (1), the Secretary shall submit to Congress annual reports concerning enrollment and participation rates described in such paragraph.''.

(e) EFFECTIVE DATE.—The amendments made by subsections (b) through (d) shall take effect on the date of the enactment of this Act.

SEC. 904. REPEAL OF TOP INCOME TAX RATE REDUCTION FOR TAXPAYERS WITH $1,000,000 OR MORE OF TAXABLE INCOME.

(a) IN GENERAL.—Section 1(i) of the Internal Revenue Code of 1986 (relating to rate reductions) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) EXCEPTION FOR TAXPAYERS WITH TAXABLE INCOME OF $1,000,000, OR MORE.—

''(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of taxable years beginning in a calender year after 2007, the last item in the fourth column of the table under paragraph (2) shall be applied by substituting '39.6%' for '35.0%' with respect to taxable income in excess of $1,000,000 (one-half of such amount in the case of taxpayers to whom subsection (d) applies).

''(B) INFLATION ADJUSTMENT.—In the case of the dollar amount under subparagraph (A), paragraph (1)(C) shall be applied by substituting '2008' for '2003' and '2007' for '2002'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

(c) APPLICATION OF EGTRRA SUNSET.—The amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

Mr. KERRY. I thank the Chair and thank my friend.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, first of all, before the Senator from Utah leaves the Chamber, I want to say that I listened to him, and I appreciate his leadership. This is one of the most important programs. It was created back in 1997, when the Senator from Utah took a leading role, along with the Senator from Montana. It is truly a bipartisan program, and it is one that has met with great success.

As it was created in 1997, this Senator happened to be the elected State treasurer and insurance commissioner of Florida, of which in that position I chaired the health insurance program for children that had been set up separate from this program. This program just all the more enabled us in Florida to add that many more children to receive health care, particularly health care at a time that is so important in their lives, when those little minds are beginning to learn and those little bodies are beginning to build.

So I just want the two Senators on the floor to know how much I appreciate it.

Since 1997, even as the percentage of uninsured adults has increased, the rate of low-income uninsured children has decreased by over a third. As a result, these insured children, in large part because of this program, have been afforded better access to primary and preventive care, better quality of care, improved health, and even improved school performance.

In our State, over 300,000 children received health insurance through Medicaid or CHIP last year, and those children were able to enjoy these benefits. But over 700,000 children in Florida remain uninsured. This legislation before us is the best opportunity to expand coverage to a significant portion of those 700,000 children in Florida and millions of low-income uninsured children throughout the country.

We have seen how successful this program can be, and we are aware of how many more children should be allowed to participate. So 10 years after the creation of the program, now we have the opportunity to pass this bipartisan bill that reauthorizes and further strengthens this very popular program.

This legislation is bipartisan. It is going to bring health care to millions of children. While many of us in this Chamber have supported an additional $50 billion for this program, I believe the $35 billion allocated in this legislation is a fair compromise. With that money, we can still accomplish an increase of more than 3 million children newly insured under the program.

I also support the inclusion of legal immigrant children and pregnant women in the program, and I was disappointed to see it was not included in this legislation. Under current law, legal immigrants who have been in this country for less than 5 years are not eligible to participate in Medicaid or CHIP, despite the fact they pay taxes to support those programs. As a result, the preventive effects of health insurance are not being realized for them. I am concerned, as so many of us are, that we are going to end up paying much more in the future for health problems that could have been treated

early on. I understand there will be an amendment that will be offered to include legal—legal—immigrants in this reauthorization, and I am going to support that amendment.

Now, another concern I have is a portion of the tobacco tax. It is not the tobacco tax. If you have to find a source of revenue, then this is the place to do it. But I want to emphasize the increase in the tobacco tax, as a whole, is quite appropriate as a funding mechanism for this legislation. It is going to have significant, positive impacts on health. It is going to save billions of dollars in health care costs, and it is going to reduce the prevalence of smoking among kids, whom this bill is designed to protect. But there is a portion that is not fair, and that is the tax that is applied with some inequity across product lines. Unbeknownst to most people, Florida is the largest cigar manufacturing State in the country and serves also as the main port of entry for premium handmade cigars into the United States. There are approximately 30 cigar manufacturers and importers based in Florida which employ 4,000 workers and thousands more in support industries. I hope some of these problems with the tax which cause many multiple thousands of a percentage increase in the tax on those cigars is going to be addressed in this bill, and what is not addressed in this bill can be addressed in conference.

Despite some concerns, this bipartisan legislation is a strong bill with much to its credit. It will institute a more streamlined funding process and it will provide for improved child health quality measures, and will give States such as ours important opportunities for expansion.

We have the opportunity to do something that is morally unassailable, and that is to expand access to health care to a significant number of low-income children. I believe this bipartisan legislation is the best way forward, and I look forward to casting my vote in favor.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota.

MODIFICATION TO AMENDMENT NO. 2593

Mr. THUNE. Mr. President, I ask unanimous consent that the Lott amendment be modified with the changes at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The modification is as follows:

MODIFICATION TO LOTT AMDT. NO. 2593

Strike TITLE III.

AMENDMENT NO. 2579 TO AMENDMENT NO. 2530

Mr. THUNE. Mr. President, I ask unanimous consent to call up amendment No. 2579.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE], for himself, Mr. LOTT, Mr. CORNYN, and Mr. DEMINT, proposes an amendment numbered 2579 to amendment No. 2530.

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

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

The amendment is as follows:

(Purpose: To exclude individuals with alternative minimum tax liability from eligibility for SCHIP coverage)

At the end of title VI, add the following:

SEC. _____. EXCLUSION OF INDIVIDUALS WITH ALTERNATIVE MINIMUM TAX LIABILITY FROM ELIGIBILITY FOR SCHIP COVERAGE.

(a) IN GENERAL.—Section 2102(b), as amended by this Act, is amended by adding at the end the following new paragraph:

''(6) EXCLUSION OF INDIVIDUALS WITH ALTERNATIVE MINIMUM TAX LIABILITY.—Notwithstanding any other provision of this title, no individual whose income is subject to tax liability imposed under section 55 of the Internal Revenue Code of 1986 for the taxable year shall be eligible for assistance under a State plan under this title for the fiscal year following such taxable year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

Mr. THUNE. Mr. President, I am pleased to be here today in support of the Kids First Act, which is being referred to as the McConnell-Lott or Lott-McConnell alternative, which will in the long run, in my view, do more to lower health care costs and help the underlying expansion bill we are debating here today. Let me say also it is frustrating that instead of debating a reauthorization of a very popular program—the SCHIP program—Members on both sides of the aisle are being asked to support a new program, a brandnew program, that will cover children and adults at 300 percent of the poverty level—and some at even higher levels.

Let me tell my colleagues a little bit about the makeup of the uninsured population in my State of South Dakota. Right now, approximately 2.6 percent of the children in my State are uninsured, or approximately 5,000 children. This percentage does not include the approximately 5,000 Native American children who receive their health care from the Indian Health Service. It is very important to break down these statistics in each State since the needs vary greatly in each State and from region to region.

For example, of the approximately 5,000 uninsured children in South Dakota, a number of these children are currently eligible but not enrolled in Medicaid or SCHIP. In other words, in my State, a number of our uninsured children are actually at or below 200 percent of the Federal poverty level. This SCHIP expansion bill under consideration doesn't focus on these children. Instead, it channels more money to cover children from families at higher incomes.

I mention these facts because I am concerned that the underlying bill misses the most key problems in my State for the uninsured, and it misses the basic goal to make sure that eligible low-income children are able to take full advantage of our safety net health care programs. If our goal is to simply put all children—or even all families, for that matter—in South Dakota, insured or uninsured, into Government health insurance, and make thousands more families in my State dependent on the Government for their health care, and limiting more choices for families and parents in my State, then that is an entirely different goal, and it is a goal I don't share.

Let me expand on that a little bit, if I might, to give an idea of what the uninsured problem is in its totality in South Dakota. Currently, according to our State, there are approximately 61,000 uninsured individuals—an uninsured rate of the adult population of about 9 percent. I have already discussed the statistics for children, so let me do so for adults. In a recent survey done by the State of South Dakota, the adult uninsured population breaks down in the following way: Of the total number of uninsured adults—approximately 53,390—13,401 are not employed. That amounts to about 25 percent. This means that approximately 70 percent of the uninsured adults in my State are actually working. If you break down that number even further, most of that number—31,000 out of 37,000—are employed, working 30 or more hours a week. They are not part-time workers.

About 10,500 of these employed and uninsured individuals are self-employed. We happen to have a large number of self-employed farmers and ranchers and business owners in my State who simply cannot afford health insurance.

But the uninsured population in my State could purchase insurance if it were more affordable. There are huge steps we could take to bring down the cost of insurance in my State for all of those small business employees and self-employed and cover even more uninsured, and without expanding a government program with tax increases.

Also, the cost to insure a child or adult under the SCHIP program is three to four times the cost of insuring a child with private insurance. That is an inefficient way of covering people who are uninsured. Already today, about half of our country's children are on public insurance. That is not sustainable, and it makes it nearly impossible in the State of South Dakota—a very rural State—already with more limited options than others when it comes to health care access to have a vibrant health care insurance market.

I was in the House of Representatives when the current SCHIP bill passed in the Balanced Budget Act of 1997. I voted for that. I voted for other reforms as a Member of the House of Representatives and since coming to the Senate. Frankly, I think the debate over health care needs to be engaged in this country, because we have way too many people who are uninsured. Our

health care costs in this country now are a couple billion dollars—we have heard that repeated throughout the debate on the floor today—or about 16 to 17 percent of our gross domestic product. That is an enormous amount of money that is spent on health care in this country.

I think we have to ask ourselves: What can we do to make reforms in the health care system that will lower costs, make health care more accessible to more people in this country, and make sure that the ranks of the uninsured decrease rather than increase?

One of the things I supported as a Member of the House of Representatives is small business health plans—expanding access to tax-advantaged accounts that allow people to own and take control of their own health care, such as health savings accounts. In fact, small businesses make up most of the employers in my State. In 2003, according to the Small Business Administration, there were 20,400 employer firms with fewer than 500 employees, which represented 96.9 percent of employer businesses in my State and employed approximately 63 percent of the nonfarm private workforce. The alternative I referred to—the McConnell-Lott alternative that will be offered—will allow for small business health plans, a proposal that will do much more for my State in the long run and strengthen our private health insurance market in the future. Small business health plans would allow small business associations to band their members together to purchase more affordable insurance, which increases their bargaining power to get better benefits at better prices such as big businesses currently get.

This proposal also gives small business health plans the flexibility to provide a variety of uniform benefit packages across State lines, which is the only way small business associations could provide new options affordably. As a result, this proposal would reduce the cost of health insurance for small employers by about 12 percent, or $1,000 per employee, according to a respected actuarial firm. The bill would also cover more than 1 million uninsured Americans and working families or 1 out of every 12 people who live in a family headed by someone who works for a small company. The Congressional Budget Office states that three out of every four small business employees would pay lower premiums under the McConnell-Lott alternative than under current law.

What I want for South Dakota is for more people to have control over their health care, more options for their care, and more competition in the insurance market to help bring prices down. In fact, last week I introduced a bill to expand access to private long-term care insurance by allowing individuals with IRAs or 401(k)s to withdraw funds penalty free to pay for long-term care premiums. This is extremely important in South Dakota and across the country where many seniors have to spend down their life savings to pay for long-term care or to qualify for Medicaid.

Mr. REID. Mr. President, could I ask the distinguished Senator from South Dakota if I could interrupt for a unanimous consent request?

Mr. THUNE. I yield to the majority leader.

Mr. REID. I yield a couple of minutes to Senator BAUCUS for the unanimous consent request.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent that at 6 p.m. the Senate vote in relation to Senator DOLE's amendment No. 2554; that following that vote the Senate vote in relation to Senator BUNNING's amendment No. 2547; that following that vote the Senate vote in relation to Senator LOTT's amendment, as modified, No. 2593; and following that vote the Senate vote in relation to Senator KERRY's amendment No. 2602, as modified; that there be 2 minutes for debate, equally divided, prior to each vote; that no other amendments be in order prior to these votes; that any amendment not disposed of remain debatable and amendable, and that the time between now and 6 p.m. be equally divided between the two leaders or their designees.

The PRESIDING OFFICER. Is there objection?

The Senator from Idaho is recognized.

Mr. CRAIG. Reserving the right to object, I only want to speak to the division of the time between now and the proposed schedule of votes. I had come to the floor hoping to gain 10 minutes, and I wonder—the Senator obviously who is speaking now and the other Senator who has time reserved, if we could have some understanding in the allocation if it is possible for me to be able to speak for up to 10 minutes?

Mr. BAUCUS. First, Mr. President, I modify the unanimous consent request to say that after the first vote, there be 10 minutes between votes—that they be 10-minute votes.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, I will do my best to allocate time from one of the remaining speakers so that the Senator from Idaho could speak as much as he can. We are trying to use the time as best we can between now and 6 o'clock.

Mr. REID. Mr. President, if I could interrupt, Senator THUNE was speaking and I would ask, how much more time does the Senator need?

Mr. THUNE. I say to the majority leader that I can wrap up my remarks speaking to the amendment specifically, but I am sure within the next 10 minutes.

Mr. REID. How much time does Senator CRAIG need?

Mr. CRAIG. I would hope to have somewhere near 10 minutes, if possible.

Mr. LAUTENBERG. Mr. President, I would ask whether it is understood that I would have up to 15 minutes, and I don't think I will need that long, but I do make that request.

Mr. BAUCUS. Mr. President, the order has been Senator NELSON and Senator THUNE—excuse me, the Senator from Florida, Senator THUNE, and Senator LAUTENBERG. I think given the time, if the Senators understand the three remaining speakers have a total of a half hour, we can work that out. The Senator would get at least 10 minutes, and depending upon the length of time other Senators speak, he may get more. Senator THUNE still has the floor.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. Reserving the right to object, Mr. President, I thought we had carved out an understanding.

The PRESIDING OFFICER. Under the current agreement, Senator THUNE has the floor, and the Senator from New Jersey, Senator LAUTENBERG, will follow. We are free to modify that agreement if there is no objection to add the Senator from Idaho for additional time.

Mr. CRAIG. Mr. President, I will not object. Let's get these Senators talking so we don't burn up any more slack time.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Without objection, it is so ordered.

The Senator from South Dakota may proceed.

Mr. THUNE. Mr. President, let me again pick up where I left off in regard to the cost of health care, both health care in the sense that we all need it, and as we get into retirement age, Medicare, but I was also making reference to long-term care in some legislation I introduced recently with regard to that.

It is important that affordable, long-term care insurance allow individuals to plan for their later years as well. More competition in the long-term care insurance market would mean more options for South Dakota's families and seniors, not to mention reductions in Federal spending. So putting the politics of Government on health care versus private insurance aside—and again, I believe that is a debate this Senate is going to have to join in the not too distant future, because I believe this is where the debate actually today is taking us. We are growing the amount of Government health care out there, pushing aside the options for private health care insurance. Frankly, I believe the thing that differentiates our country from those around the world and why people come here for health care rather than going to other countries is because we have the best health care in the world.

We have a robust free market-based system that allows for innovation and for research and comes up with literally the best therapies in the world.

I want to continue to make that market work. I don't want to make it harder for citizens in my State to get health insurance in the private marketplace. I fear that as we go down this road, we are starting to look at what, in effect, will be a major debate raging; it is raging across the country, but it will ultimately be dealt with here, and we will decide whether we want to have a government-run, bureaucratic health care system or whether we want to preserve the market-based system that has worked so well for us in the past. I don't want to make it harder for citizens in my State to choose and afford the insurance plan that is best for them.

Finally, I don't want to support doubling the size of this particular program, which, after 5 years, is going to have to be paid for with substantial tax increases on all Americans, because I think as we all know when you reach 2013, there is a cliff there, and at some point that issue is going to have to be dealt with because there is a huge funding shortfall under the proposal that is on the floor before us today.

I support the McConnell-Lott alternative, which reauthorizes the current SCHIP program and also helps lower health care costs for all Americans and because it allows for small business health plans and other types of alternatives that can be used by allowing South Dakotan small businesses to pool together to purchase more affordable health insurance and make further needed improvements to the underlying SCHIP program for children, as well as providing long-term solutions for lowering the cost of health care for all Americans.

I also wish to speak on amendment No. 2579, which I offered. Under this bill, the Congress will be making it possible, as my colleague from Montana pointed out earlier—it is not the case today, but there are some States around the country where this bill expands the underlying amount, or income eligibility, up to 300 percent of the Federal poverty level. But there are States which have waiver requests that would allow them to go to 400 percent of the poverty level. There is not anything in the underlying bill that prevents that from happening. That would make it possible for people to be put on the rolls of the SCHIP program for health care who are not only low income but who at the same time are subject to the alternative minimum tax, or the AMT, which is a tax intended for individuals and families who are wealthy.

Let me repeat that. Under the bill, individuals eligible for SCHIP—one of our Nation's safety net health insurance programs—may also be hit with the alternative minimum tax, which is meant to ensure that the wealthy in our society are paying their fair share of taxes. Effectively, the Federal Government could consider you poor under the SCHIP program for the purpose of providing you free health insurance, while at the same time the Internal Revenue Service considers you wealthy because of the level of income you make, so that you would have to pay higher taxes.

My amendment is pretty straightforward. It simply says that if a family finds out when they file their taxes that they are subject to the AMT, then the State in which they reside has to remove them from its SCHIP program by the following fiscal year. In other words, you cannot be eligible for both. You cannot be both rich and poor at the same time.

The SCHIP program should be preserved as a program for low-income children, for those who need it. This amendment is simply intended to ensure we continue focusing on that fact.

I remember, as I said, this debate from 1997, when we decided to create the SCHIP program. I was in the House at that time, and I supported the creation of this program to help the uninsured who have incomes too high to qualify for Medicaid. But I also remember the concerns of my colleagues that down the road we would be faced with pressure to expand the program. That is what has happened for decades with entitlement spending in this country. We know we are facing a fiscal crisis already in Medicare and Medicaid that cannot be solved with more Government expansion. Yet here we are today debating how much to expand a government safety net program for the uninsured, which originally was supposed to serve only low-income children.

Of course, my amendment today also points out the fallacy of the alternative minimum tax. Under current law, if we don't enact another ''patch'' or comprehensive AMT reform, middle-income families everywhere will be hit with this tax, and some people on SCHIP might even hit both. This amendment is not simply to point out we have a looming AMT problem, which we all know must be paid for, my amendment points out the mixed intentions of the underlying bill. If you want to make this debate about low-income children, let's do that, but if we want to expand eligibility for SCHIP for families making up to $62,000 or $82,000 for a family of four, if waivers are granted, then let's have a debate on the uninsured. Let's not kid ourselves that this bill doesn't take us closer to government-run, government-dominated universal health care for lower, middle, and upper income families.

I welcome the debate on the uninsured. There are so many things we can do to help lower the cost of prescription drugs and increase competition and portability in the health insurance market and help our small businesses and the self-employed in our States afford their health insurance. It is these ideas we need to discuss in a debate in this Chamber—an open and honest debate on the merits of a government-run system or one with competition, choice, and affordability. The estimated 61,000 uninsured adults and children in my State and the over 40 million uninsured around the country makes it imperative to this Congress to have that debate.

The amendment I offered, amendment No. 2579, would make it very clear under this bill that if somehow someone gets to an income level where they are running afoul of the alternative minimum tax or are considered wealthy or rich in this country, they are not also then considered poor in a sense that they qualify for the SCHIP program. That seems to be an inherent contradiction in this particular legislation.

I hope the Members of the Senate will support my amendment. It will improve the underlying bill.

I yield back the remainder of my time.

Mr. BAUCUS. Mr. President, I know the Senator from New Jersey wishes to speak. He has a very deep interest in one of the amendments. He wants to speak for 15 minutes. Maybe he can speak a little less than that. I would appreciate it.

Mr. LAUTENBERG. I will try to do that.

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

AMENDMENT NO. 2547

Mr. LAUTENBERG. Mr. President, we are going to soon be voting on an amendment proposed by Senator BUNNING. I rise to register my opposition to that amendment, and I hope my colleagues will follow me.

I come to the floor to defend the health and well-being of 3,000 children in the State of New Jersey who would have their children's health insurance stripped away from them by the Bunning amendment.

Our mission this week is to pass a bill to expand health coverage for our Nation's children. But instead of focusing on providing more coverage for children, the Senator from Kentucky has targeted 3,000 children in my State to take their coverage away.

None of us has any asset we treasure more than our children. None of us enjoys anything more than the smiles of our kids when they are feeling good and are in good health. That is why, when we see an attempt to remove health care from a modest-income family's children, who care so deeply about them, I wonder what it is that we are truly about.

This amendment is an assault on children from working families who require health care coverage. To think that while we spend $3 billion each and every week on the Iraq war, there is an unwillingness to provide the necessary funding to keep all our kids healthy regardless of their income situation. This one focuses on modest-income people. It is amazing that while we pledge to protect our people from harm, we shun the opportunity to shelter our children.

I wish to make our request clear to my colleagues, and I want them to recognize that we in New Jersey always

pay our way fully; we more than pay for the incredibly high cost of living in New Jersey. Our health care costs are among the highest in the Nation. Keeping our people healthy is a primary mission in our State. We have had stem cell research going back decades. Our pharmaceutical companies constantly research for new medicines to benefit the well-being of people across this country and the world.

The Bush administration has recognized the higher costs in New Jersey and explicitly granted our State the right to provide health care to children at the level it currently does. New Jersey is not trying to beat the system or get health coverage for its children in a way that is unfair to other States—not at all. The State of New Jersey is legitimately trying to provide health insurance to children, recognizing the distinct economic characteristics of our State.

The Bunning amendment is particularly discouraging, given New Jersey's support when it comes to helping other States in need. We know that other States have different needs than we do, and we have unique challenges we face as well. Time and again, New Jersey taxpayers are asked to shoulder the burden and help other areas of the country that are in need. In fact, for every dollar New Jersey gives to the Federal Government, we only get back 55 cents in Federal spending programs. Compare that with States such as Kentucky, for example, which for every dollar paid gets $1.45 back. Some States get up to $2 back for each dollar they pay.

Whether it is the universal service fund for telephones, essential air service in aviation or other programs, New Jersey gives far more than it gets back.

I want to be clear. I support many of these programs for other States. I recognize this occurs because New Jersey is a State with a higher-than-average income and higher-than-average costs compared to other States.

But we care as much about our children as other people do across the country. More than anything, we want our kids to be healthy.

There are 3,000 children in New Jersey who are depending on Senators to oppose the Bunning amendment—3,000 children who are looking to all of us to let them continue to have health care.

The Bunning amendment is contrary to everything we are trying to accomplish on the floor this week. If that amendment is adopted, this bill will be tainted with the legacy of taking health insurance away from children who need it but whose families cannot afford to supply it on their own.

I have many families who come in to see me and bring their children with them. I welcome them with open arms. There is nothing I find more satisfying than to see parents and their children together. They come in often with diseases that are difficult, such as autism, diabetes, and asthma. Not only do these children require a lot of love, affection, and attention but, unfortunately, very often it is at a cost that few families can bear. I want to help those kids, those families, and I reach out to them in any way I can. I want stem cell research to be available. I want more money spent on general health research.

I hope my colleagues will reject this amendment on a bipartisan basis. I commend the chairman of the Finance Committee and the ranking member for the work they did. They overwhelmingly rejected the amendment of the Senator from Kentucky on a bipartisan vote. This amendment that has been authored by the Senator from Kentucky flies in the face of the good judgment of the Finance Committee. I hope my colleagues will reject this amendment, the Bunning amendment, once again when it gets to the Senate floor.

I am pleased to yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 2593

Mr. KYL. Mr. President, I will speak briefly to the Republican alternative—the amendment that will be voted on later as a comprehensive alternative to the bill. Unlike the Finance Committee bill, the Republican alternative achieves the following goals:

First, it reauthorizes SCHIP and preserves health care coverage for millions of low-income children.

Secondly, it adds 1.3 million new children to SCHIP coverage.

Third, it provides $14 billion in new SCHIP allotments over the $25 billion baseline over the next 5 years.

Fourth, the offset is with no new tax increases and, importantly, in contrast in the committee bill, no gimmicks to meet the budget considerations.

Next, it includes funds for SCHIP coverage from fiscal year 2013 to 2017. This is important because the Finance Committee bill, in comparison, uses a budget gimmick to reduce the SCHIP funding spending over that critical period of time. As a result, the Republican alternative includes more money for SCHIP over 10 years—$85.1 billion as compared to the Finance Committee bill of $81.7 billion.

Next, it minimizes the reduction in private coverage by targeting SCHIP funds to low-income children. It doesn't provide the coverage for the adults or children for higher income families who may have access to private health care insurance, as does the committee bill. In fact, I note that according to CBO, for the newly eligible people to be covered, there is a one-for-one crowd-out effect by the committee product. That is to say, for every new family brought on for SCHIP coverage, there is one that goes off private health insurance coverage. That is not a goal to which we should be aspiring.

Next, the Republican alternative promotes market-based health reforms, such as small business health plans and health savings accounts.

Finally, it requires a Treasury Department study on ways to make the tax treatment of health care more equitable, something the President raised in his State of the Union speech earlier this year and which we do need to study to come up with a more equitable tax system.

For all these reasons, I urge my colleagues to support the Republican alternative. I note that it is very simple in terms of the two choices that confront the Senate: one, a budget buster that does not protect SCHIP coverage over 10 years and represents an open-ended financial burden on American taxpayers and takes a significant step toward Government-run health care, or a fiscally responsible SCHIP reauthorization that preserves coverage for millions of low-income children that is fully offset without budget gimmicks or tax increases and promotes market-driven health reforms.

To me, the choice is very clear. The Republican alternative is the right solution for everyone. I urge its adoption by my colleagues.

The PRESIDING OFFICER. Who yields time? The Senator from Vermont.

AMENDMENT NO. 2602

Mr. SANDERS. Mr. President, I will be very brief. I rise in support of the Kerry amendment. I do so for two reasons. No. 1, while I applaud Senator BAUCUS and Senator GRASSLEY for their work on expanding health insurance to 3.2 million more children, we should be aware that expansion only increases coverage for one-third of children in this country who are uninsured. This is the United States of America, and we should not continue to be embarrassed by the fact that we remain the only country in the industrialized world that does not provide health insurance for all of our children. Going forward for 3.2 million children is undoubtedly a step forward. We have, however, a long way to go, and the Kerry amendment would take us closer.

The second point I wish to make deals with national priorities and the direction in which we believe our country should go.

I hear that a lot of my friends are talking about the expense involved in providing health insurance to our children. This particular bill would cost us $35 billion over a 5-year period. Is $35 billion a lot of money? It is. Is it worth spending that money to cover 3.2 million children? It is. Yet I find it ironic that the President of the United States and others are telling us we cannot afford this expenditure at the same time that many—the President, certainly—are telling us we need to repeal completely the estate tax, which only applies to the wealthiest two-tenths of 1 percent of our population. If we were to repeal the estate tax, one family, the Walton family who owns Wal-Mart, would receive tax breaks worth $32.7 billion for one family. So the debate today is whether we spend $35 billion to

cover, over a 5-year period, 3.2 million children or, as the President and others would have us do, give $32.7 billion in tax breaks to one family. This is an issue of national priorities.

Very briefly, because I see my friend from Iowa standing, it seems to me we have to move not only to provide health insurance for all our children, but, in fact, we need to move to a national health care program that guarantees health care for every man, woman, and child in this country, and we can.

I conclude on that note. This is a moral issue. We have to cover our children. This is an issue of national priorities. For all of those who think we are spending too much money, they may want to think twice about the hundreds of billions of dollars in tax breaks they have given to the wealthiest 1 percent and the ideas they have for the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, if it is OK, I yield to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, this week the Senate is engaged in an extremely important debate about the direction we as a Congress want to take in ensuring health care for all Americans.

I recognize that the bill we are debating this week is literally one that focuses on children's health. But, I believe the design of this legislation and who we are targeting tells us something about how the majority in the Senate believes we should provide health care for all of our citizens.

This bill lays out one way to provide health care coverage in this Nation. It says ''increase taxes, increase government spending, and have the Government provide all health care plans.''

That is a failing formula. And now we are going to use that tax-and-spend formula to move further down the road towards socialized medicine.

Under this bill, middle-class taxpayers in Idaho will be supporting health insurance for some families making more money than they are.

I strongly oppose the Finance Committee legislation. Instead, I will vote for the McConnell-Lott alternative bill.

Let me make it clear that I support reauthorizing the SCHIP program to ensure that low-income children have health insurance. No one should conclude that my vote against this bill is a vote against insuring poor children. My vote is a vote against massive tax increases and out-of-control spending. It is against a tax-and-spend policy that more than doubles the cost of a program for poor children so we can cover those with higher income. And it is against a budget gimmick that leaves an unfunded liability of $40 billion in just 5 years.

A little history and few facts are in order.

When a Republican Congress and a Democratic President set out in 1997 to insure low-income children, we talked about 10 million uninsured.

At that time, there were about 20 million children on Medicaid. So we needed to cover about 10 million kids with the SCHIP program or Medicaid.

Today, there are 36 million children enrolled in either Medicaid or SCHIP. Sounds like we achieved our goal and more.

Yet some of my colleagues on the other side of the aisle say we are still 9 million short. Somehow, we insured 16 million more kids in the last 10 years and we have made no dent in the problem? Or have we moved the goal post? I think we have moved them.

That is why I am pleased that Senators MCCONNELL, LOTT, and others have offered an alternative that keeps this program focused on the group it was created to serve—low-income children.

The Republican alternative will reauthorize the SCHIP program for another 5 years. Again, all of us favor providing health insurance to low-income children. It will also correct some of the policy problems with the current program and make some changes to the Finance Committee approach.

First and foremost, the Republican alternative will provide, coverage for all children at or below 200 percent of the Federal poverty level. That is the goal of the Children's Health Insurance Program.

The Finance Committee bill will increase the coverage allowance to 300 percent of the poverty level and, in some cases, allow coverage of even higher incomes than that.

In addition, the Republican alternative will stop the waivers that have led to the current situation where a children's health insurance program covers about 700,000 adults.

Also, the Republican alternative will provide $400 million in outreach funding. This funding represents the key to the philosophical difference between the Republican bill and the Finance Committee bill.

Our bill demands that Government stay focused on the population in need. We shouldn't just raise the coverage ceiling. Let's go out and find the one's who are already eligible and have no insurance. And then let's enroll them.

Further, the Republican alternative would make sure that we have a consistent definition of income. No longer can States simply ''disregard'' all kinds of income in an effort to enroll higher income people. Frankly, the practice of disregarding income so that nonpoor citizens qualify for poverty programs is fairly offensive.

The other important aspect of the Republican alternative is that it addresses health care coverage in a larger context.

Let's face it, uninsured children are just the tip of the health insurance problem in this Nation.

We are once again tinkering around the edges rather than taking on systemic reform. The Democratic tinkering moves us in the direction they want for the Nation—socialized medicine.

Republicans have a better idea.

The bill will provide much needed relief to small business to allow them to provide health care benefits to their employees.

Nearly 60 percent of the 45 million uninsured Americans today are employed by, or reliant on, small business. In other words, if we can help small business insure their employees, then we can make a significant dent in the total number of uninsured Americans.

I just do not see how we can take up the issue of health care and health insurance and not talk about one way we can truly help insure Americans. Of course, my colleagues on the other side of the aisle don't want to do that because it doesn't take us further down their road towards socialized medicine.

I don't want to go down that road. So I will vote for the Republican alternative. It is fiscally responsible, it focuses the SCHIP program on those it was created to help, and it takes a larger look at the problem of health insurance for all Americans.

I urge my colleagues to support the McConnell-Lott amendment.

Mr. President, I ask my colleagues to support the McConnell-Lott alternative so we do not begin a progressive march down a road toward socialized medicine.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the alternative Senator CRAIG just spoke about is the amendment I wish to speak against. I am a Republican, but I am part of the bipartisan effort to pass this SCHIP bill. So I will tell my colleagues on both sides of the aisle why the Lott amendment, or the Republican alternative, should not be accepted.

First of all, I commend the people who authored the alternative because all ideas ought to be considered. It is creative, and it is thoughtful. It certainly contributes to the debate. In reading through it, I am struck by the similarities between this proposal and the bipartisan bill before the Senate that I am backing. Both proposals increase funding for State allotments. Both proposals largely base the new allotments on State projections. Both proposals limit the availability of allotments to 2 years. Both proposals restrict coverage for nonpregnant adults. Both proposals prohibit new waivers for adult coverage. Both proposals provide funds for outreach and enrollment activities. Both proposals include additional State options for premium assistance.

Lest my colleagues think I am attacking them with faint praise, I do acknowledge there are significant differences in the approaches between the Republican alternative and our bipartisan bill that is before the Senate.

The position taken by the Lott amendment is that SCHIP has been a successful small program that covers about 6 million kids in 2007 and should not cover many, if any, more. The position of the Lott amendment is that any increase in the enrollment of children should be limited to the relatively better off SCHIP kids and not cover the poorer Medicaid kids. That is a perfectly reasonable position for them to take, but that is the biggest difference between the Lott amendment and the bipartisan proposal that is referred to as Grassley-Baucus.

The difference is that the amendment supporters cannot claim that it increases coverage for any of the 4 million uninsured children who are eligible and entitled to Medicaid, the kids who need it most. In fact, not only does the Lott amendment do virtually nothing to improve coverage for the 4 million children eligible for Medicaid, but it adds insult to injury by reducing the Medicaid Program by over $10 billion to pay for an expansion of SCHIP.

Let me put this another way. The Lott amendment drains billions out of the Medicaid Program, which is a program that covers the poorest of the poor, and it redirects that funding to SCHIP, a program that covers kids and families who make too much to qualify for Medicaid. It is the old issue of robbing Peter to pay Paul. The Senate Finance Committee bill, on the other hand, covers 1.7 million kids eligible for Medicaid but not enrolled.

At this point, it is important to reiterate for colleagues that the Senate Finance Committee bill does not expand Medicaid. The bill does not change eligibility for Medicaid one single bit.

The Senate Finance Committee bill does include the very precise and targeted incentive funds that Director Peter Orszag of CBO concluded is ''as efficient as you can possibly get per new dollar spent.'' This incentive fund helps increase coverage of 3.2 million uninsured children. The Lott amendment, however, does not increase coverage for the lowest income children and actually causes some individuals, including children currently enrolled in SCHIP, to lose coverage.

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

Mr. BAUCUS. Mr. President, I yield whatever time the Senator from Iowa desires.

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

Mr. GRASSLEY. Mr. President, we simply, then, have an honest disagreement on whether we want to cover additional low-income kids. Some Members do; some Members do not. I am on the side that wants to cover additional low-income children who are eligible for coverage. It is as simple as that.

The other main difference is the income eligibility for children. Right now, 91 percent of the SCHIP funds are being spent on kids at or below 200 percent of poverty. Under current law, States have the flexibility to adjust their income eligibility to respond to rising health care costs and the cost of living within a particular State because it differs so much between California and Iowa, to name two States.

The Lott amendment imposes a ''Washington knows best'' mentality regarding a State's ability to determine what income within that State is most appropriate. And then it goes one step further: It reduces the Federal match for covering kids above 200 percent of poverty. There are 18 States that currently cover kids above 200 percent of poverty. Under this proposal, a State currently receiving the enhanced match under SCHIP for coverage of eligible children would see that match reduced for those very same children.

While I would prefer that all States focus on children at or below 200 percent of poverty, the fact remains that $42,000 a year for a family of four is a lot harder to get by on in some States than in other States. By imposing this new requirement that States limit eligibility, the Lott amendment would cause kids to lose coverage. The table CBO sent us on the Lott amendment confirms that. I am sorry, but in a bill designed to cover kids, cutting them off is a step in the wrong direction.

The Finance Committee bill takes a different approach. The committee bill would lower the Federal payments to States that choose to cover kids over 300 percent of poverty level. States that go above that limit would only get the regular Medicaid match. Those States wouldn't get the enhanced Federal match under SCHIP for these higher income kids. So the Finance Committee bill creates a disincentive for States to go in that direction.

Some have alleged that the Senate Finance Committee bill would permit States to cover kids and families who make over $80,000. That is false. What the Finance Committee bill does is allow States that have passed State laws to increase eligibility to be grandfathered at the SCHIP match as it is right now. There are no States that do that today. So it is incorrect to say that the Finance package expands coverage for these higher income kids. That just is not accurate.

Right now, the only State that is even proposing to go as high as 400 percent of poverty is New York, and their State plan amendment still must be approved by the Bush administration. The Bush administration, not Congress, has to decide whether to approve that coverage.

So let me repeat. The Senate Finance bill would only permit New York to get an enhanced match for kids and families over 83 percent a year if this administration approves their plan, and it gives my colleagues on this side of the aisle who don't want that to happen a chance to lobby the Secretary of HHS to make sure it doesn't happen.

Given the criticism they leveled against the Finance plan, I would be shocked if they did approve it. I will wait and see, however, if their actions match their rhetoric.

Wrapping up, let me just say again that the Lott amendment has many similarities that I have delineated for the Senate—many similarities to the Finance Committee package. I commend them for their work in putting together this proposal, and I would hope that since their amendment has so many similarities to the Senate Finance Committee bill, perhaps they will take another look at the policies in our bipartisan package. There are key differences in the two approaches, however. I appreciate my colleagues' work in pointing out these differences. I, for one, am happy to stand on the side of covering kids rather than cutting them out, and I support giving States flexibility.

AMENDMENTS NOS. 2540 AND 2541 TO AMENDMENT NO. 2530

Madam President, I call up for consideration two amendments by Senator ENSIGN, amendments Nos. 2541 and 2540.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for Mr. ENSIGN, proposes amendments numbered 2540 and 2541 to amendment No. 2530.

Mr. GRASSLEY. Madam President, I ask that further reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 2540

(Purpose: To prohibit a State from using SCHIP funds to provide coverage for nonpregnant adults until the State first demonstrates that it has adequately covered targeted low-income children who reside in the State)

On page 58, between lines 16 and 17, insert the following:

''(d) COVER KIDS FIRST IMPLEMENTATION REQUIREMENT.—Notwithstanding the preceding subsections of this section, no funds shall be available under this title for child health assistance or other health benefits coverage that is provided for any other adult other than a pregnant woman, and this title shall be applied with respect to a State without regard to such subsections, for each fiscal year quarter that begins prior to the date on which the State demonstrates to the Secretary that the State has enrolled in the State child health plan at least 95 percent of the targeted low-income children who reside in the State.''.

AMENDMENT NO. 2541

(Purpose: To prohibit a State from providing child health assistance or health benefits coverage to individuals whose family income exceeds 200 percent of the Federal Poverty Level unless the State demonstrates that it has enrolled 95 percent of the targeted low-income children who reside in the State)

At the end of title I, add the following:

SEC. 112. COVER LOW-INCOME KIDS FIRST.

Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 602, is amended by adding at the end the following new paragraph:

''(12) NO PAYMENTS FOR EXPENDITURES FOR CHILD HEALTH ASSISTANCE OR HEALTH BENEFITS COVERAGE FOR INDIVIDUALS WHOSE GROSS FAMILY INCOME EXCEEDS 200 PERCENT OF THE POVERTY LINE UNLESS AT LEAST 95 PERCENT OF ELIGIBLE LOW-INCOME CHILDREN ENROLLED.—

Notwithstanding any other provision of this title, for fiscal years beginning with fiscal year 2008, no payments shall be made to a State under subsection (a)(1), or any other provision of this title, for any fiscal year quarter that begins prior to the date on which the State demonstrates to the Secretary that the State has enrolled in the State child health plan at least 95 percent of the low-income children who reside in the State and are eligible for child health assistance under this State child health plan with respect to any expenditures for providing child health assistance or health benefits coverage for any individual whose gross family income exceeds 200 percent of the poverty line.''.

Mr. GRASSLEY. Madam President, I yield the floor.

Mr. BAUCUS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Madam President, I am going to proceed just for a few moments on my leader time.

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

FISA MODIFICATION EFFORT

Mr. MCCONNELL. Madam President, the ranking member of the Intelligence Committee, Senator BOND, and I, will be introducing and later placing on the calendar a bill related to the FISA modification effort that has been underway on a bipartisan basis over the last few weeks.

Senator BOND and I will be, as I said, placing in the RECORD, and then subsequently doing a rule XIV placing it on the calendar, a proposal that the administration thinks makes sense to deal with the modifications that everyone seems to agree in principle need to be made to the FISA procedure.

With that, I don't know that I can yield leader time to somebody who isn't a leader, so let me just say that having given that notice, we will be placing that on the calendar for later this evening.

Mr. REID. Madam President, just a brief comment on the distinguished Republican leader's statement.

As we speak, there are meetings going on to see if we can resolve this matter in a manner that is acceptable to Republicans and Democrats in the Senate, and of course then we have to also be concerned about the House. Senator MCCONNELL and I were in a meeting early this morning with individuals, including Admiral McConnell, and we hope something can be worked out.

We waited a little longer than I wanted, waiting for Admiral McConnell's papers to come here this afternoon, but they are here and they are being reviewed. I spoke to Senator LEVIN just a few minutes ago. There is nothing serious, but Senator ROCKEFELLER has been with his wife today on a minor problem, but it was necessary he not be here. So we are trying to work our way through this.

Hopefully, we can resolve this. It is something important, we are going to do everything we can, and we hope all sides will be reasonable. At this point they have been. It is an issue we certainly need to resolve, if at all possible, before we leave for our August recess.

Mr. MCCONNELL. Madam President, if I may, let me just commend the majority leader on his observations. I know people on both sides of the aisle are working intensely on this issue, and I, too, hope and believe we will get it resolved by the end of the week.

I did, however, want all Members of the Senate to be aware of a proposal that the administration feels very strongly would get the job done in the hopes that it would enjoy bipartisan support. Senator BOND and I will address the details of it after the votes, and I will rule XIV it onto the calendar at that point.

I yield the floor.

AMENDMENT NO. 2554

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes equally divided on amendment No. 2554, offered by the Senator from North Carolina.

Mrs. DOLE. Madam President, increasing the tax on tobacco unfairly burdens low-income Americans. My amendment is simple: It creates a 60-vote budget point of order against any legislation that includes a Federal excise tax increase that would unfairly affect low-income individuals, defined as taxpayers with earned income less than 200 percent of the Federal poverty level.

According to the Centers for Disease Control report from 2003 to 2005, 28.5 percent of smokers were classified as poor—below 100 percent of the Federal poverty level—and 25.9 percent of smokers were classified as near poor—between 100 and 200 percent of the Federal poverty level. As these numbers clearly show, the tax increase proposed in this bill unfairly falls on the shoulders of those who can least afford it.

I am urging my colleagues to acknowledge that the proposed tax increase is an irresponsible and fiscally unsound policy. I urge my colleagues to support the fact that this has a negative impact and is disproportionately hard on the poor.

Madam President, I ask for the yeas and the nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, I understand the Senator does not like the way we are paying for this bill. The more appropriate response would be for the Senator to offer an amendment to strike it or to find some other way to pay for it. I do not think it is wise for this body to enact another procedural hurdle as we consider legislation generally here; that is, another hurdle that would block attempts for us to help people in the States we represent. I don't think that is needed.

Secondly, this is the wrong time to consider changing Senate procedure. The more appropriate time is during consideration of the budget resolution, when the Senate has all the budget issues before it. I don't think it makes any sense to put another procedural obstacle before us to make it more difficult for Congress to respond to the needs of the American people.

I encourage Senators to, therefore, not support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

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

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

The result was announced—yeas 32, nays 64, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—32

Allard	Crapo	Lott
Barrasso	DeMint	Martinez
Bond	Dole	McConnell
Bunning	Ensign	Nelson (NE)
Burr	Enzi	Sessions
Chambliss	Graham	Shelby
Cochran	Hagel	Thune
Coleman	Hutchison	Vitter
Collins	Inhofe	Voinovich
Cornyn	Isakson	Warner
Craig	Kyl	

NAYS—64

Akaka	Feingold	Murray
Alexander	Feinstein	Nelson (FL)
Baucus	Grassley	Obama
Bayh	Gregg	Pryor
Bennett	Harkin	Reed
Biden	Hatch	Reid
Bingaman	Inouye	Roberts
Boxer	Kennedy	Salazar
Brown	Kerry	Sanders
Byrd	Klobuchar	Schumer
Cantwell	Kohl	Smith
Cardin	Landrieu	Snowe
Carper	Lautenberg	Specter
Casey	Leahy	Stabenow
Clinton	Levin	Stevens
Coburn	Lieberman	Sununu
Conrad	Lincoln	Tester
Corker	Lugar	Webb
Dodd	McCaskill	Whitehouse
Domenici	Menendez	Wyden
Dorgan	Mikulski	
Durbin	Murkowski	

NOT VOTING—4

Brownback	McCain
Johnson	Rockefeller

The amendment (No. 2554) was rejected.

Mr. BAUCUS. Madam President, I move to reconsider the vote.

Mr. GRASSLEY. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2547

The PRESIDING OFFICER. Under the previous order, there will now be 2

minutes equally divided on amendment No. 2547 offered by the Senator from Kentucky.

Mr. BUNNING. Madam President, my amendment is simple. It strikes the exemption for New York and New Jersey to get Federal dollars for covering families above 300 percent of poverty. No other State in the country gets that kind of an exemption. New Jersey's SCHIP program covers families up to $72,000 a year, 350 percent. New York is planning on covering families making up to $82,000 a year. It has not yet been approved by HHS.

Why should people in every other State subsidize Government health care for families in New York and New Jersey at these higher incomes? My amendment does not kick kids off SCHIP. The State can still cover them at their Medicaid matching rate. It is the State's choice. If people in these two States think this is a priority, then they should be willing to pay more for this type of benefit. I am sure New York and New Jersey are expensive areas to live. But those States have more resources and a larger tax base than others. I urge a ''yes'' vote on my amendment.

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

The Senator from New Jersey.

Mr. LAUTENBERG. Madam President, we listened to the comments from our colleague from Kentucky about how much New Jersey or New York can afford. But I will tell you this, New Jersey, for each dollar that it sends down to the Federal Government, it gets barely half of it back. But not in Kentucky. In Kentucky, if they send in a dollar, they get $1.45 back. We cannot compare things. We cannot compare costs of living. The poverty level for a four-person family is $20,000. That means their income is about $5,000 a month. In New Jersey, after taxes, housing, and other costs, they're left with about $865. And yet their health care costs average above $2,000.

As a consequence, with $2,000 a month for health care costs, every family is burdened up until almost the highest of incomes. So we ask fairness. Here we are trying to expand health care for children, and our colleague wants to take that away. This is not fair, it is not right, and I hope we will defeat this soundly.

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

The Senator from Montana.

Mr. BAUCUS. Madam President, I move to table the Bunning 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 assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

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

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

The result was announced—yeas 53, nays 43, as follows:

[Rollcall Vote No. 290 Leg.]

YEAS—53

Akaka	Feingold	Mikulski
Baucus	Feinstein	Murray
Bayh	Grassley	Nelson (FL)
Biden	Harkin	Nelson (NE)
Bingaman	Hatch	Obama
Boxer	Inouye	Pryor
Brown	Kennedy	Reed
Byrd	Kerry	Reid
Cantwell	Klobuchar	Salazar
Cardin	Kohl	Sanders
Carper	Landrieu	Schumer
Casey	Lautenberg	Snowe
Clinton	Leahy	Stabenow
Conrad	Levin	Tester
Dodd	Lieberman	Webb
Domenici	Lincoln	Whitehouse
Dorgan	McCaskill	Wyden
Durbin	Menendez	

NAYS—43

Alexander	Crapo	McConnell
Allard	DeMint	Murkowski
Barrasso	Dole	Roberts
Bennett	Ensign	Sessions
Bond	Enzi	Shelby
Bunning	Graham	Smith
Burr	Gregg	Specter
Chambliss	Hagel	Stevens
Coburn	Hutchison	Sununu
Cochran	Inhofe	Thune
Coleman	Isakson	Vitter
Collins	Kyl	Voinovich
Corker	Lott	Warner
Cornyn	Lugar	
Craig	Martinez	

NOT VOTING—4

Brownback	McCain
Johnson	Rockefeller

The motion was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2593

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 2593, as modified, offered by the Senator from Mississippi.

Mr. LOTT. Madam President, the Baucus bill we have before us is a $35 billion increase over the current $25 billion, a $60 billion bill. Our Kids First alternative amendment targets children. SCHIP does not have an A in it. We should not move steadily toward more and more higher income children and adults being included in the program. This one is targeted to children. The cost is $9 billion above the $25 billion in the baseline. It will cover an additional 1.3 million children over the next 5 years. This 40-percent increase would maintain children currently enrolled and insure 2.2 million more children by 2017 than is in the underlying Baucus bill. It also includes the small business health plans, which I believe would lead to the coverage of an additional 10 or 20 million people who work for small businesses that now cannot get coverage. There is no tax increase in this provision. It is paid for by equalizing the State match for Medicaid administrative expenses at 50 percent.

Mr. MCCONNELL. Madam President, the State Children's Health Insurance Program was created to target the health care needs of poor children whose families made too much to be eligible for Medicaid but were still in danger of not being able to afford private health insurance.

SCHIP is in many ways successful, as last year, 6.6 million children had health care coverage thanks to it, including more than 50,000 in the Commonwealth of Kentucky. From 1996 to 2005, the rate of children living without health insurance in America dropped by 25 percent.

So as the Senate turned to debate the reauthorization of this Federal/State partnership, I had hoped that all of my colleagues would focus on SCHIP's true goal: covering children. Unfortunately, that is not what the Finance Committee's bill does. This bill is a dramatic departure from current SCHIP law that will significantly raise taxes, increase spending, and lead to Government-run health care.

At a time when the people of America have made clear that they want us to reduce Government spending, Democrats are going to spend $112 billion of the taxpayers' money. And part of this increase will go toward people that SCHIP was never meant to cover, as this proposal will allow more adults to piggyback onto a children's health program.

So Senators LOTT, KYL, GREGG, BUNNING, and I have proposed an alternative measure I hope all of my colleagues will consider. Our Kids First Act will refocus SCHIP to help the people it was designed to help: low-income children.

The Kids First Act will reauthorize SCHIP for 5 years and would ensure that children enrolled in SCHIP stay covered by adding $14 billion in funding above and beyond the baseline SCHIP budget.

Our alternative will add 1.3 million new kids to the SCHIP program by 2012. By contrast, the Finance Committee bill actually begins reducing kids' coverage in 2012 and results in fewer children having SCHIP coverage in 2017.

Our alternative also provides $400 million over the next 5 years for States to spend on outreach and enrollment for low-income children who are eligible but not on SCHIP, so we can enroll them. This money will help guarantee that SCHIP dollars go toward the low-income kids the program is meant to help.

The Kids First Act takes several measures to make health insurance more affordable and cost-effective. For

instance, it encourages premium assistance to aid parents in buying private health insurance for their children.

It also includes the small business health plan legislation we considered in the 109th Congress. Of the 20 million working Americans who do not have health insurance, nearly half work in firms of 25 or fewer.

Small business health plans would allow those firms to band together across State lines, increase their bargaining power and afford better health care coverage for their employees.

Finally, our alternative ensures that the taxpayers' dollars are spent appropriately by decreasing the number of adults who can take advantage of the program.

While considerably less expensive to the taxpayers than the Finance Committee's bill, it is worth noting, that many States, including Kentucky, would fare better next year under the Kids First Act than under the committee bill.

Our plan is fiscally responsible and focuses Government assistance on those who really need it. It reauthorizes and improves upon a program that works instead of transforming it into a license for higher taxes, higher spending, and another giant leap toward Government-run health care.

It can receive a Presidential signature, and it deserves this Senate's support.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Madam President, effectively, the Lott amendment is actually going to cause in some States a reduction in kids who are covered. It is very nominal, a slight increase overall. It does not begin to address the 6.6 million kids we need to cover under CHIP, as I think most of us want to. The basic point is, this amendment has lots of other provisions in it which I do not think we should appropriately consider at this point. The small business health plans, HSAs, is a debate for another day. It has nothing to do with the Children's Health Insurance Program. I don't think it is wise to put those battles on the backs of kids. We should get this legislation passed. It helps kids. It cuts back adults. It is moderate. It cuts back on some excessive coverage in some States, but it is unwise to radically restructure health insurance with the health insurance provision as well as HSAs.

Mr. LOTT. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

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

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

The result was announced—yeas 35, nays 61, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—35

Alexander	Crapo	Lott
Allard	DeMint	Martinez
Barrasso	Dole	McConnell
Bennett	Ensign	Sessions
Bunning	Enzi	Shelby
Burr	Graham	Stevens
Chambliss	Gregg	Sununu
Coburn	Hagel	Thune
Cochran	Hutchison	Vitter
Corker	Inhofe	Voinovich
Cornyn	Isakson	Warner
Craig	Kyl	

NAYS—61

Akaka	Feingold	Murray
Baucus	Feinstein	Nelson (FL)
Bayh	Grassley	Nelson (NE)
Biden	Harkin	Obama
Bingaman	Hatch	Pryor
Bond	Inouye	Reed
Boxer	Kennedy	Reid
Brown	Kerry	Roberts
Byrd	Klobuchar	Salazar
Cantwell	Kohl	Sanders
Cardin	Landrieu	Schumer
Carper	Lautenberg	Smith
Casey	Leahy	Snowe
Clinton	Levin	Specter
Coleman	Lieberman	Stabenow
Collins	Lincoln	Tester
Conrad	Lugar	Webb
Dodd	McCaskill	Whitehouse
Domenici	Menendez	Wyden
Dorgan	Mikulski	
Durbin	Murkowski	

NOT VOTING—4

Brownback	McCain
Johnson	Rockefeller

The amendment (No. 2593), as modified, was rejected.

Mr. REID. I move to reconsider the vote.

Mr. DURBIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I have spoken to the distinguished Republican leader. I have spoken to the two managers of the bill. I think it would be appropriate to announce at this time there will be no more rollcall votes tonight. However, if people have a desire to offer amendments, the managers are willing to talk to you about those amendments. They need some idea of who else wants to offer amendments. You can hear from them.

My main purpose in making this statement is announcing there will be no more rollcall votes tonight, after this next vote, of course.

AMENDMENT NO. 2602

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of debate equally divided on amendment No. 2602, as modified, offered by the Senator from Massachusetts, Mr. KERRY.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, in the underlying bill, we have made a decision to insure some 3.3 million kids who are among the poorest in the country. But we still have about 5.7 million kids who will not get covered. So you have 9 million kids without coverage, and this bill will seek to insure 3.3 million.

What my amendment seeks to do is recognize that if you have a rationale that says it is worthwhile to insure all those kids, we also ought to be insuring the additional 1 million kids who are Medicaid eligible who will not be insured under this bill.

So my amendment seeks to do what we said we would do in the original budget resolution, where we allocated $50 billion to insure children. It pays for it by not granting to those earning more than $1 million a year a continuation of their tax cut next year. That is how you pay for it.

Mr. President, .18 percent of all Americans will be affected in an effort to guarantee that the poorest of the poor children in America—Medicaid eligible—will be eligible for health care coverage.

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

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I am not going to speak to the substance of the amendment but to the process. This bill is a bipartisan approach where a lot of different points of view were brought together to a bill that can pass this Senate. We have people on the left for whom $50 billion might not be enough money. We have people on the right for whom anything over $5 billion was too much money. We have come out at $35 billion. This is a well-balanced, well-thought-out compromise.

Compromise is the essence of getting things done. You have to bring people in the Senate to the center to get things done or nothing is going to get done. In order to get this job done, we have to defeat this amendment, regardless of the merits of it.

I yield back.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. KERRY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

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

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

The result was announced—yeas 36, nays 60, as follows:

[Rollcall Vote No. 292 Leg.]

YEAS—36

Akaka	Durbin	Menendez
Bayh	Feingold	Mikulski
Biden	Feinstein	Murray
Bingaman	Harkin	Nelson (FL)
Boxer	Inouye	Obama
Brown	Kennedy	Pryor
Cantwell	Kerry	Reed
Cardin	Lautenberg	Reid
Casey	Leahy	Sanders
Clinton	Levin	Schumer
Collins	Lieberman	Tester
Dodd	Lincoln	Whitehouse

NAYS—60

Alexander	Dole	McCaskill
Allard	Domenici	McConnell
Barrasso	Dorgan	Murkowski
Baucus	Ensign	Nelson (NE)
Bennett	Enzi	Roberts
Bond	Graham	Salazar
Bunning	Grassley	Sessions
Burr	Gregg	Shelby
Byrd	Hagel	Smith
Carper	Hatch	Snowe
Chambliss	Hutchison	Specter
Coburn	Inhofe	Stabenow
Cochran	Isakson	Stevens
Coleman	Klobuchar	Sununu
Conrad	Kohl	Thune
Corker	Kyl	Vitter
Cornyn	Landrieu	Voinovich
Craig	Lott	Warner
Crapo	Lugar	Webb
DeMint	Martinez	Wyden

NOT VOTING—4

Brownback	McCain
Johnson	Rockefeller

The amendment (No. 2602), as modified, was rejected.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 2558, 2537, AND 2562, EN BLOC

Mr. GRASSLEY. Mr. President, en bloc, I want to do for Senator GRAHAM and for Senator KYL three amendments, and I call up en bloc amendments Nos. 2558, 2537, and 2562.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 2558

(Purpose: To sunset the increase in the tax on tobacco products on September 30, 2012)

Beginning on page 218, strike line 5 and all that follows through page 220, line 2, and insert the following:

(a) CIGARS.—Section 5701(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking ''($1.594 cents per thousand on cigars removed during 2000 or 2001)'' in paragraph (1) and inserting ''($50.00 per thousand on cigars removed after December 31, 2007, and before October 1, 2012)'',

(2) by striking ''(18.063 percent on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''(53.13 percent on cigars removed after December 31, 2007, and before October 1, 2012)'', and

(3) by striking ''($42.50 per thousand on cigars removed during 2000 or 2001)'' in paragraph (2) and inserting ''($10.00 per thousand on cigars removed after December 31, 2007, and before October 1, 2012)''.

(b) CIGARETTES.—Section 5701(b) of such Code is amended—

(1) by striking ''($17 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (1) and inserting ''($50.00 per thousand on cigarettes removed after December 31, 2007, and before October 1, 2012)'', and

(2) by striking ''($35.70 per thousand on cigarettes removed during 2000 or 2001)'' in paragraph (2) and inserting ''($104.9999 per thousand on cigarettes removed after December 31, 2007, and before October 1, 2012)''.

(c) CIGARETTE PAPERS.—Section 5701(c) of such Code is amended by striking ''(1.06 cents on cigarette papers removed during 2000 or 2001)'' and inserting ''(3.13 cents on cigarette papers removed after December 31, 2007, and before October 1, 2012)''.

(d) CIGARETTE TUBES.—Section 5701(d) of such Code is amended by striking ''(2.13 cents on cigarette tubes removed during 2000 or 2001)'' and inserting ''(6.26 cents on cigarette tubes removed after December 31, 2007, and before October 1, 2012)''.

(e) SMOKELESS TOBACCO.—Section 5701(e) of such Code is amended—

(1) by striking ''(51 cents on snuff removed during 2000 or 2001)'' in paragraph (1) and inserting ''($1.50 on snuff removed after December 31, 2007, and before October 1, 2012)'', and

(2) by striking ''(17 cents on chewing tobacco removed during 2000 or 2001)'' in paragraph (2) and inserting ''(50 cents on chewing tobacco removed after December 31, 2007, and before October 1, 2012)''.

(f) PIPE TOBACCO.—Section 5701(f) of such Code is amended by striking ''(95.67 cents on pipe tobacco removed during 2000 or 2001)'' and inserting ''($2.8126 on pipe tobacco removed after December 31, 2007, and before October 1, 2012)''.

(g) ROLL-YOUR-OWN TOBACCO.—Section 5701(g) of such Code is amended by striking ''(95.67 cents on roll-your-own tobacco removed during 2000 or 2001)'' and inserting ''($8.8889 on roll-your-own tobacco removed after December 31, 2007, and before October 1, 2012)''.

AMENDMENT NO. 2537

(Purpose: To minimize the erosion of private health coverage)

At the end, add the following:

SEC. ____. DELAY IN EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this Act and the amendments made by this Act shall not take effect until the day after the date on which the Director of the Congressional Budget Office certifies that this Act and the amendments made by the Act, will not result in a reduction of private health insurance coverage greater than 20 percent.

AMENDMENT NO. 2562

(Purpose: To amend the Internal Revenue Code of 1986 to extend and modify the 15-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements and to provided a 15-year straight-line cost recovery for certain improvements to retail space)

On page 217, after line 25, insert the following:

SEC. 61__. EXTENSION AND MODIFICATION OF 15-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT IMPROVEMENTS; 15-YEAR STRAIGHT-LINE COST RECOVERY FOR CERTAIN IMPROVEMENTS TO RETAIL SPACE.

(a) EXTENSION OF LEASEHOLD AND RESTAURANT IMPROVEMENTS.—

(1) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) of the Internal Revenue Code of 1986 (relating to 15-year property) are each amended by striking ''January 1, 2008'' and inserting ''January 1, 2009''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property placed in service after December 31, 2007.

(b) MODIFICATION OF TREATMENT OF QUALIFIED RESTAURANT PROPERTY AS 15-YEAR PROPERTY FOR PURPOSES OF DEPRECIATION DEDUCTION.—

(1) TREATMENT TO INCLUDE NEW CONSTRUCTION.—Paragraph (7) of section 168(e) of the Internal Revenue Code of 1986 (relating to classification of property) is amended to read as follows:

''(7) QUALIFIED RESTAURANT PROPERTY.—The term 'qualified restaurant property' means any section 1250 property which is a building (or its structural components) or an improvement to such building if more than 50 percent of such building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to any property placed in service after the date of the enactment of this Act, the original use of which begins with the taxpayer after such date.

(c) RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN IMPROVEMENTS TO RETAIL SPACE.—

(1) 15-YEAR RECOVERY PERIOD.—Section 168(e)(3)(E) of the Internal Revenue Code of 1986 (relating to 15-year property) is amended by striking ''and'' at the end of clause (vii), by striking the period at the end of clause (viii) and inserting '', and'', and by adding at the end the following new clause:

''(ix) any qualified retail improvement property placed in service before January 1, 2009.''.

(2) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—Section 168(e) of such Code is amended by adding at the end the following new paragraph:

''(8) QUALIFIED RETAIL IMPROVEMENT PROPERTY.—

''(A) IN GENERAL.—The term 'qualified retail improvement property' means any improvement to an interior portion of a building which is nonresidential real property if—

''(i) such portion is open to the general public and is used in the retail trade or business of selling tangible personal property to the general public, and

''(ii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

''(B) IMPROVEMENTS MADE BY OWNER.—In the case of an improvement made by the owner of such improvement, such improvement shall be qualified retail improvement property (if at all) only so long as such improvement is held by such owner. Rules similar to the rules under paragraph (6)(B) shall apply for purposes of the preceding sentence.

''(C) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

''(i) the enlargement of the building,

''(ii) any elevator or escalator,

''(iii) any structural component benefitting a common area, or

''(iv) the internal structural framework of the building.''.

(3) REQUIREMENT TO USE STRAIGHT LINE METHOD.—Section 168(b)(3) of such Code is amended by adding at the end the following new subparagraph:

''(I) Qualified retail improvement property described in subsection (e)(8).''.

(4) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) of such Code is amended by inserting after the item relating to subparagraph (E)(viii) the following new item:

(E)(ix) ..... 39''.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after the date of the enactment of this Act.

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, I thank the Senator from Maryland for allowing me to proceed, and I will not be too long.

I ask unanimous consent that I be allowed to proceed as in morning business, to be followed by Senator BOND.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 1927

Mr. MCCONNELL. Mr. President, I understand that S. 1927 is at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1267) to amend the Foreign Intelligence Surveillance Act of 1978 to provide additional procedures for authorizing certain acquisitions of foreign intelligence information and for other purposes.

Mr. MCCONNELL. I now ask for a second reading and, in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

Mr. BAUCUS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

Mr. MCCONNELL. Mr. President, yesterday the Director of National Intelligence came to Capitol Hill and implored Congress once again to modernize the Foreign Intelligence Surveillance Act. He was echoing the warnings of the entire intelligence community, which has told us that current law—current law—prevents us from collecting a significant amount of intelligence that could be vital in protecting us from another terrorist attack.

The latest National Intelligence Estimate makes clear that the greatest terrorist threat to the United States is al-Qaida. Their intent to attack us is undiminished since 9/11. They have gained recruits and strength in the Middle East. They continue to adapt and improve their capabilities, and we must continue to adapt and improve our ability to swiftly detect their movements and their plots.

One of the most effective tools we have had in doing this over the last 6 years is our electronic surveillance program. The Foreign Intelligence Surveillance Act gives us the legal framework for monitoring terrorists electronically without impinging on the civil liberties of Americans. But the law is badly out of date.

Since FISA was enacted, sweeping advances in technology have upset the balance that Congress struck in 1978, and the law that was written to protect Americans while ensnaring terrorists must be changed as well.

The targeting of a foreign terrorist overseas should not require a FISA warrant. That was never the intention of the original legislation. Yet this is what the law, as written, currently requires. The intelligence community has told us they are hamstrung by the existing law, and in a significant number of cases, our intelligence professionals are in the unfortunate position of having to obtain court orders to collect foreign intelligence concerning foreign targets located overseas.

The facts here are not in dispute. Our Nation faces an alarming intelligence gap, a situation in which the intelligence community every day is missing—missing—a significant portion of what we should be getting in order to protect the American people here at home. We should not adjourn until we have closed this gap. We must act quickly in a bipartisan manner and let the appropriate committees come back and review FISA and other matters related to the legislation in a more comprehensive manner.

We should not return in September knowing that we have failed in our duty, and we pray that we don't have cause to regret our inaction. Let there be no doubt: If we had the foresight in August of 2001 to enact a law that would have exposed the plot that was being hatched against us then, the vote to approve that law would have been cast unanimously and without hesitation—unanimously and without hesitation. None of us would have shrunk from that duty. Six years later, the duty remains.

There is little we can do in the Senate from day to day that can immediately and decisively improve the security of this country. But by passing a FISA modernization bill that the President can sign before we go home for recess, we will have done just that. We need to act on this legislation now. We should not adjourn until we have closed this gap, until we have fixed this outdated law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank the minority leader because he has brought to the attention of this body a measure of critical importance. Right now, we are missing a very significant portion of the signals and intelligence we could capture on al-Qaida and other terrorist organizations threatening to do harm to the United States. The reason is because the existing Federal Foreign Intelligence Surveillance Act doesn't fit in with today's technology.

The Director of National Intelligence has asked us—begged us—to make these changes. He submitted a proposal to the Intelligence Committee in April, and then he came before our committee in May. He came and briefed as many Members of the Senate who wanted to show up last month, and 42 members did, and they understood the importance.

In my tenure as a member of the Intelligence Committee, I have spent a considerable amount of time looking at issues regarding FISA modernization. Since I became vice chairman, I have worked closely with Chairman ROCKEFELLER to ensure that our oversight of this measure and this program has been comprehensive. We have held numerous hearings. Most of us have gone out and watched how the protections are implemented and where the information is collected at the NSA.

The DNI's proposal came up to us, and in April he warned that the current text of FISA is causing significant intelligence gaps during a period of increased threat. We all know that the threat of al-Qaida is severe now. We cannot afford to go home, to leave this place, and not take off the artificial barriers that prevent NSA from keeping our country safe.

The DNI has now provided us with a bare-bones FISA modernization proposal. It doesn't deal with all of the problems we in the Intelligence Committee must deal with later on in this session. We must do it.

Last night, we had a proposal delivered by Senator ROCKEFELLER that did not come from the members of the Intelligence Committee. It was a counterproposal to provide what he argued was a temporary legislative fix to FISA. Unfortunately, the counterproposal will not close these significant intelligence gaps that the DNI has told us about. Instead, it requires the Government to get a FISA order when a foreign target communicates with a significant number of persons and calls into the United States. That, to me, is going in the wrong direction. We don't need to stop and get a court order to protect the privacy of a terrorist who is making lots of calls into the United States. That is moving in the wrong direction.

Our enemies are not naive. They understand our laws sometimes better than we do. They would realize that all they had to do, if they wanted to cover their tracks while a lengthy FISA court application procedure was done, is make a whole lot of calls to people in the United States to trigger the requirement.

It would be an unnecessary and enormous burden on the intelligence assets and operators. We don't want people who play an essential role in fighting terrorism to spend the bulk of their time processing stacks of FISA applications on foreign targets. We want them to do the intelligence work to keep our country safe.

Well, as a result of the proposal made by Senator ROCKEFELLER, and others, the DNI was able to accommodate a number of these proposals and adopted their proposal for FISA court review of the procedures. They put a 6-month sunset on it. They added the DNI, Director of National Intelligence, to the authorizing process for acquisition of foreign intelligence. This is what is before us. The minority leader has presented it. I am proud to be a cosponsor.

The debate is about whether targeting foreigners overseas should require a FISA order. That was never the intent of the FISA legislation. It was intended solely to protect the fourth amendment rights of persons inside the United States—not foreign targets.

FISA needs to be modernized. Technology has changed. It is now no longer covered. The DNI's approach takes into account the changing technology and has adopted the reasonable suggestions made in the proposal made by Senator ROCKEFELLER, and others.

Congress needs to act on this legislation, please, before we get out of town. Don't leave town leaving the NSA deaf to significant terrorist information that might save our country from attack.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I want to move things along here and set an order of speakers. I ask unanimous consent that Senator MIKULSKI be recognized to speak for 5 minutes; following that, Senator CHAMBLISS be recognized to speak for 5 minutes. Following him, Senator BROWN be allowed to speak for 8 minutes; following him, Senator COBURN, for 10 minutes; following that, Senator WEBB be allowed to speak for 10 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, I, too, rise to comment on the FISA situation in which we find ourselves, because we want to be very clear that patriotism, adherence to the Constitution to defend the Nation against all enemies foreign and domestic, is not a partisan issue; that as our distinguished colleague from Missouri has spoken to—and I know the Senator from Georgia will—we are all on the Intelligence Committee, and we know what the real deal is in the sense of a very dangerous time facing our country.

We on this side of the aisle want to assure both our colleagues and the American people that we want to make the reforms in FISA before we go out as intensely as do our colleagues who are speaking tonight. We want to make those reforms so that we, too, give the intelligence community the power to go after and catch the terrorists and to be able to pump for the information they need to protect us, rather than a bureaucracy.

As a member of the Intelligence Committee, I feel it is my first duty to make sure they have the tools they need to protect the Nation. That means not only the financial resources to hire the best people and have the best technology, but it also means they have the legal framework in which to operate. But, indeed, a legal framework is what we need. We believe that in functioning within a legal framework, we are able to bring to bear all of the very important resources that are needed, both from the private sector as well as from the public sector.

I agree with my colleagues that as we come into August, we have a certain level of anxiety. All of us know, as we look back on 2001, that if in fact we could have done something to protect or stop what happened on that terrible day, September 11, we would have done it. We know that right now, this minute, we have another rendezvous with destiny and we will meet that. In meeting that rendezvous, we will arrive at a legal framework that is constitutionally compliant, that will enable the Intelligence Committee to be able to do what it needs, without being shackled by more bureaucratic mandates. There are many proposals. The details of why we would support them or raise a question are better discussed in a more classified forum.

Should the approach be bipartisan? You bet. I have worked with the Senator from Missouri. I know how he brings pragmatism, common sense, and very sound legal analysis to the discussion. This is not about politics. This is about the people and protecting the people we were sworn to protect. So I believe we will be proceeding. I am prepared, if necessary, to cancel my plans. But I believe if we work hard and are inclusive and approach it with common sense, we will focus on what is the end game here, which is to do the right thing to protect us.

Mr. President, I have fought for children's health care for a very long time, going back to my days as a social worker and also as a young House Member. This bill is what we hoped for and dreamed for—those of us who worked in social work and foster care and child abuse—to make sure kids had eyeglasses and hearing aids and so forth. And for all those adolescents who need to discuss things with doctors, this would be an open door. For all those handicapped children, this is what we need.

I salute the chairman and ranking member on this bipartisan solution. We have done this in a way that we can pay for it. At the end of the day, over an additional 3 million children will have health care. I salute my colleagues.

A few months ago, we had a little boy die in Maryland because he didn't have access to dental care. He had an oral infection that spread through his blood. So tomorrow when I vote, I vote for Deamonte, and for all others like him. I support the bill.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I ask the Senator from Georgia to yield so that I may speak for a few minutes. I am sorry I wasn't on the floor to listen to the speech of the Senator from Kentucky, the Republican leader, dealing with FISA.

Let me say briefly, we got the bill and the rule XIV late this afternoon. Ours is almost completed. We are working on it in my office, and the Speaker has to sign off on some of these things. It could take a little while before we are able to file this.

I so appreciate the Senator from Maryland. She is a woman who takes tremendously difficult jobs as a Senator. She has been a valued member on more than one occasion on the Ethics Committee, doing some of the most difficult work we have had to do on ethics in the entire history of the country. And then as far as her serving on the Intelligence Committee, she has been exemplary. I depend on her for information on what to do. A lot of times these meetings are held, and you need direction as to what we need to do on the Senate floor because what goes on in the Intelligence Committee is all secret. I admire and respect her so much because she helped us get to the point where we are.

We are going to come back with the proposal that we will file, a rule XIV, as the Republicans did theirs. It is meeting the expectations of the American people. One of the things we have going for us with this repair of FISA is Admiral McConnell. We trust this man. He is a man who speaks in a language we understand. He is direct and concise. Because of that, I think we can work something out. I just spoke to the vice chair of the Intelligence Committee, Senator BOND. We talked about the fact that ours will be laid down, and theirs is already laid down. Certainly, we should be able to work something out. We are all trying to obtain the same goal: to be able to protect ourselves from the evil people in the world who are trying to do harm to us as a country and individually and others from around the world.

We are going to proceed in good faith to try to get this done, and hopefully sometime in the next little bit, we will be able to file our legislation and what we call rule XIV so we are matching what the Republicans did this afternoon.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2557 TO AMENDMENT NO. 2530

Mr. BAUCUS. Mr. President, if I may have the indulgence of the Senator from Georgia, I ask unanimous consent that the pending amendment be set aside, and on behalf of Senator SPECTER, I call up amendment No. 2557.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for Mr. SPECTER, proposes an amendment numbered 2557 to amendment No. 2530.

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

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

The amendment is as follows:

(Purpose: To amend the Internal Revenue Code of 1986 to reset the rate of tax under the alternative minimum tax at 24 percent)

On page 217, after line 25, insert the following:

SEC. 61__. REDUCTION IN RATE OF TENTATIVE MINIMUM TAX FOR NONCORPORATE TAXPAYERS.

(a) IN GENERAL.—Clause (i) of section 55(b)(1)(A) of the Internal Revenue Code of

1986 (relating to noncorporate taxpayers) is amended to read as follows:

''(i) IN GENERAL.—In the case of a taxpayer other than a corporation, the tentative minimum tax for the taxable year is—

''(I) 24 percent of the taxable excess, reduced by

''(II) the alternative minimum tax foreign tax credit for the taxable year.''.

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 55(b)(1) of such Code is amended by striking clause (iii).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

Mr. BAUCUS. I thank my friend from Georgia. I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

FISA MODERNIZATION

Mr. CHAMBLISS. Mr. President, I rise tonight to support the McConnell legislation that has been submitted relative to FISA modernization and say, first, that I associate myself with the remarks of the Senator from Maryland. She has been a huge asset on the Intelligence Committee. She does her homework, she works hard, she studies the issues. She is exactly right. This is not a partisan issue by any means. This is truly an American issue because it is an issue that allows us to continue to protect Americans and allows us to do the best job we possibly can in the intelligence community to ensure we do not suffer another attack on American soil.

Unfortunately, we cannot guarantee that will not happen, but the fact is, we need this updated, even though it is temporary, FISA modernized to allow our intelligence community to gather the type of information from the bad guys who are certainly out there getting up every day and making plans to attack assets of America, whether they are abroad or whether they are assets in the United States.

It is simply necessary that we take advantage of the technology that is available today that was not available at the time the original FISA statute was implemented and passed into law, and that we make sure we are giving our intelligence community all the tools they need to do their job in a very professional manner.

There is a threat out there. The Secretary of the Department of Homeland Security has expressed recently that a threat exists, that he has a gut feeling something may happen. There are a lot of factors timewise and otherwise that make us feel that might be the case. Who knows. We cannot step into the minds of the bad guys who are out there.

I will say one thing about this legislation. It does not invade the privacy of any group except one, and that is the terrorists. We need to invade the privacy of the terrorists. This bill is something that if it had been in place, if the tools had been in place in 2001, who knows whether we could have stopped the attack that took place on September 11. But what we do know is that certain phone calls were made by some of the 9/11 hijackers, and if we had in place a program that we now are operating under, it is very likely that we might have picked up on some of those phone calls.

This legislation, again, gives our intelligence community tools which they can use to gather information only from those people who are making plans to carry out a terrorist attack against the United States or against our allies or in some country where we have assets.

I appreciate the cooperative spirit that, obviously, we are seeing from folks on the other side of the aisle. This is truly one of those times we need to come together in a bipartisan way and, obviously, we are going to make this fix to make sure our intelligence community can do their job in a very professional way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. BROWN. Mr. President, I begin by thanking Chairman BAUCUS for his terrific work on perhaps the most important domestic legislation this year, and that is the Children's Health Insurance Program. I thank the Senator from Pennsylvania also, the Presiding Officer tonight, for his terrific work leading our freshman class on this issue. We know how important it is to the people, whether it is Montana, Pennsylvania, Maryland, Georgia, or any of the States represented here tonight.

The children's health insurance bill meets the most basic need of American families. Nothing should stand in the way of this bill moving forward. Children too often suffer and some die because they do not have access to health care. In a nation as wealthy as ours, that is not just irresponsible, it is immoral.

Today we have the opportunity to do the right thing for American families, for parents, for children. Without health insurance for their children, parents too often face impossible choices—go to the doctor when their child is sick or pay the grocery bill or the electric bill or the rent. These are the choices that families are forced to make—cruel choices.

In 1996, when Congress created the Children's Health Insurance Program, with a Democratic President and a Republican Congress, there were nearly 11 million uninsured children in the United States. In Ohio, my State, there were roughly 305,000 uninsured children. Today, thanks in large part to the Children's Health Insurance Program, those numbers have been reduced substantially—fewer than 9 million nationwide and roughly 236,000 in Ohio.

The Children's Health Insurance Program is directly responsible for covering 6.6 million children across the country and more than 200,000 children in Ohio in Athens, in Ashtabula, in Warren and West Lake, in Marion and Maple Heights. That is good, but it is not good enough. Mr. President, 150,000 low-income children, most of whom have working parents, in Ohio, do not have health insurance. This bill does the right thing on mental health, requiring parity between mental and physical health benefits.

I would like to share a story I heard yesterday that should remind us of the importance of this provision. In 1990, Kitty Burgitt's husband died suddenly, leaving her to care for her 5-year-old daughter and 2-year-old son as a single mother in Canton, OH, a city in the northeast part of my State. Her Social Security survivor benefits were considered too much to qualify for Medicaid. Six years later, Congress created the Children's Health Insurance Program. Kitty immediately enrolled her children in that program.

Given the initial strict income eligibility provisions of the program, Kitty was forced to turn down raises and refuse the additional hours at work that she wanted to work to keep her children enrolled, to keep them insured.

When her daughter was in the eighth grade, she started experiencing mental health problems. Then her daughter became suicidal. The Children's Health Insurance Program covered her treatment, which then was extensive. Imagine what it would have been like for Kitty if she had no way to help her daughter. No parent should ever feel that helpless. No parent should ever be forced to watch powerlessly as her child, or his child, suffers.

Thankfully, because of the Children's Health Insurance Program, Kitty's daughter did receive the treatment she needed. Today her daughter is healthy and happy. As Kitty herself wrote recently:

> Today my daughter is 22, happily married with a beautiful daughter of her own—
>
> Kitty's granddaughter—
>
> and has a good job as a restaurant manager.

If we do our job this week and pass this bill, we will hear more success stories such as this one in the future.

Some of my colleagues raise concern over this bill's income eligibility levels. I believe it is important, however, for each State, with its own unique set of circumstances, to have the flexibility to offer coverage to those it deems in need. The State makes that determination.

In my State of Ohio, for instance, Governor Strickland and the State legislature have taken it upon themselves to raise the eligibility limit for the Children's Health Insurance Program to 300 percent of poverty level. That 300 percent is not living in the lap of luxury. It means a parent still cannot afford health insurance in a job where they are 300 percent of poverty without some help from the Children's Health Insurance Program.

This means little boys, such as Marco Rodriguez, will finally have health insurance. Marco lives in Marion, 20 to 30 miles from where I grew up. He is 9½

years old. His father died last year. His mother works full time. This is Marco's mother. But her job does not offer health insurance. She cannot afford private coverage. Her income is just over 200 percent of poverty, roughly $24,000 a year. She works hard, is raising her child, she is widowed, and she makes $24,000 a year. Of course she cannot afford health insurance on that income. It is not enough to pay for food, rent, and clothing—barely—and private health insurance.

So Marco, like all too many children, has been going without health insurance. What if something happens? One major medical emergency for Marco could mean financial catastrophe for his mother, his family—for both of them.

If we do our job this week, Ohio will be able to cover Marco come January 2008.

Others have voiced concern over the cost of this reauthorization. It was a bipartisan initiative 10 years ago, with a Democratic President and a Republican Congress and an overwhelming number of Democrats, myself included, in the House of Representatives and Senate voting for it. We all agree this program has been a success.

The investment we made in 1996 has proven to be a wise one. And still too many of my friends on the other side of the aisle hesitate. They hesitate about our Nation's children. They say: We like the program, but it is too expensive or, We have other priorities. But this is about priorities. And the questions are pretty simple.

Should Congress provide for billionaire tax breaks or health insurance for our children? Should we provide for billions, literally billions in no-bid contracts in Iraq or health insurance for our children? Should we provide for Medicare privatization and oil company subsidies or health insurance for our children?

It is time for Congress to get its priorities straight. We should pass the Children's Health Insurance Program.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 2618 TO AMENDMENT NO. 2530

Mr. WEBB. Mr. President, I ask unanimous consent that the pending amendment be laid aside in order that I might bring up my amendment No. 2618 to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WEBB] proposes an amendment numbered 2618 to amendment No. 2530.

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

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

The amendment is as follows:

(Purpose: To eliminate the deferral of taxation on certain income of United States shareholders attributable to controlled foreign corporations)

At the end of title VII, insert the following:

SEC. ___. ELIMINATION OF DEFERRAL OF TAXATION OF CERTAIN INCOME OF CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—Section 952 (relating to subpart F income defined) is amended by adding at the end the following new subsection:

''(e) SPECIAL APPLICATION OF SUBPART.—

''(1) IN GENERAL.—For taxable years beginning after December 31, 2007, notwithstanding any other provision of this subpart, the term 'subpart F income' means, in the case of any controlled foreign corporation, the income of such corporation derived from any foreign country.

''(2) APPLICABLE RULES.—Rules similar to the rules under the last sentence of subsection (a) and subsection (d) shall apply to this subsection.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after December 31, 2007, and to taxable years of United States shareholders with or within which such taxable years of such corporations end.

Mr. WEBB. Mr. President, I strongly support this bill. As an initial matter, I express my thanks to Senators BAUCUS and GRASSLEY for their hard work on this bipartisan bill which will help provide health insurance to millions of children nationwide and hundreds of thousands of children in my home State of Virginia.

For too long in this country, low-income families have been unable to afford health insurance for their children. Reauthorizing this program helps meet this urgent need. But, unfortunately, this bill does so by singling out one form of conduct, tobacco smoking, and then taxing many of the very same people the program is intended to assist.

Not only are lower income workers more likely to smoke, they spend a greater percentage of their income on tobacco when they do because an estimated half of American smokers come from the same income groups as those families who are eligible for this program. In my view, this amounts to robbing Peter to pay Paul.

Additionally, the very form of conduct that we are supposedly attempting to discourage has become the same form of conduct that we are implicitly hoping will continue to finance this program. I find this logic odd. At some level, I find it counterproductive to the very goals of the legislation that is before us.

And here is another problem. This is a targeted tax on commercial transactions that are disproportionately engaged in by people with lower incomes. At the same time, our country is experiencing a vast accumulation of wealth amongst our highest income earners.

Income disparities in this country are at levels that we have not seen for at least 70 years. Moreover, corporate profits are at an all-time high as a percentage of our national wealth, while wages and salaries on our working people are at an all-time low.

There is, in my view, a better way, a fairer way to pay for this program. That is why I have offered this amendment.

Under the Federal Tax Code, American corporations are allowed to defer payment of American taxes on the profits earned by their overseas subsidiaries. Under current law, taxes on the business income of foreign subsidiaries are not payable until the profits are repatriated back to the American parent corporation and, in reality, this means they are not going to be paid at all.

Companies can defer ever paying taxes in the United States by keeping their income overseas and making money from it indefinitely. The Tax Code, in other words, creates an incentive to move jobs overseas, to not invest in American operations, and also provides a method to shelter overseas profits from fair taxation.

In just one recent example reported by the New York Times, a major biotech corporation—Amgen—with offshore subsidiaries used American tax laws to escape hundreds of millions of dollars in taxes, taxes that should have gone into the American treasury. Although this corporation reported that 80 percent of its billions of dollars of sales occurred in the United States, it paid only 22 percent of American taxes on its profits. This corporation got away with this specifically because of American tax policies, like many other corporations do today.

My amendment would eliminate this deferral provision in the Tax Code. This critical reform would discourage these companies from moving American investments and jobs to foreign tax havens and raise the revenue necessary to expand the Children's Health Insurance Program. This reform also would protect American workers by reversing the consistent flow of American jobs that corporations are outsourcing abroad.

I have been unable at this point to receive an official estimate of the revenues this amendment would raise, but I have consulted multiple credible sources and have no doubt this amendment would raise the new funds needed under the new policy, which are approximately $7 billion a year. These sources include the Joint Committee on Taxation, which estimated last year that deferral would raise $6.4 billion in 2008 and rise to $7.5 billion by 2010. It also includes the President's own budget proposal for fiscal 2008, which estimates that tax expenditures for the deferral of income of this sort would be $12.8 billion in 2008 and rise to $16.7 billion in 2012.

Opponents of this amendment would argue that deferral is needed to avoid corporate exposure to double taxation. However, in my view, that is a disingenuous argument. American corporations investing overseas currently receive a tax credit, a Federal tax credit, for their payment of foreign taxes of

up to 35 percent. My amendment does not affect the availability of this credit and therefore would not result in double taxation, nor does my amendment affect in any way the current provisions regarding allocation of corporate expenses, which are related but separate.

Some opponents might contend this is a new tax. But this is not a new tax. This is a way to reclaim monies that already should have been paid into the National Treasury by companies earning skyrocketing profits. This amendment closes a loophole.

The Children's Health Insurance Program is probably the greatest achievement of our Congress in terms of health care insurance in the past decade. It has provided cost-effective health coverage to more than 137,000 children in Virginia in 2006 and millions of children across the country, reducing the number of uninsured children by one-third. We must, however, further strengthen our investment in children's health coverage. Millions of children remain uninsured. That is why this legislation is important.

I urge my colleagues to seize this opportunity to help children from America's low-income families, but I respectfully argue that we need to do so not with a regressive tax on people who have little ability to pay but, instead, by eliminating a corporate tax provision that would be one small step toward restoring fairness in our society and reinforcing the proper notions of how our Government should operate.

I ask my colleagues to support this amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 2530 to Calendar No. 58, H.R. 976, the Small Business Tax Relief Act of 2007.

Harry Reid, Max Baucus, Bernard Sanders, Jeff Bingaman, Ted Kennedy, Maria Cantwell, B.A. Mikulski, Barbara Boxer, Daniel K. Inouye, Christopher Dodd, Patty Murray, Benjamin L. Cardin, Barack Obama, Kent Conrad, Dick Durbin, Ken Salazar, Blanche L. Lincoln, Jack Reed.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on Calendar No. 58, H.R. 976, the Small Business Tax Relief Act of 2007.

Harry Reid, Max Baucus, Bernard Sanders, Jeff Bingaman, Ted Kennedy, Maria Cantwell, B.A. Mikulski, Barbara Boxer, Daniel K. Inouye, Christopher J. Dodd, Patty Murray, Byron L. Dorgan, Barack Obama, Kent Conrad, Dick Durbin, Ken Salazar, Blanche L. Lincoln, Jack Reed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2537

Mr. KYL. Mr. President, I know the majority leader is going to be coming here shortly to conclude today's activities. Prior to that, let me comment a little bit on an amendment that has been offered on my behalf by Senator GRASSLEY, amendment No. 2537. It is an amendment which deals with the so-called crowd-out effect of the Finance Committee bill.

The crowd-out effect has to do with the people who are covered by private insurance today who would be crowded out of private insurance and going onto the SCHIP program, the Government program under the bill. The problem is that under the bill, all of the newly eligible people under the program are replaced literally one for one from private insurance to the Government program. In other words, a child or a family who is on private insurance today, for every one of those children or families who is on private insurance, when the Government program is expanded, they will leave the private insurance market. It is a one-for-one transfer. We should not be offering more Government benefits for insurance to cover children or anyone else when the effect of that is for every new person covered to have somebody leaving the private insurance market. The object here is to cover people with insurance, to allow them to have access to good care through insurance. We do not solve any problem at all when we take somebody who already has insurance and bring them into a new program.

The CBO estimates that between 25 percent and 50 percent of all the eligible SCHIP recipients are crowded out of the private insurance market. In other words, for every 100 people on private insurance today, between 25 and 50 of them will leave private insurance to go to the SCHIP program as it is expanded. As I said, for the newly eligible, it is a one-for-one transfer. Why is that a good idea?

This amendment which I have offered says that if the effect is more than 20 percent in the crowd-out, that is to say that through this program, more than 20 percent of the people who are covered leave private insurance to be covered by this new program, then it does not go into effect. But it does go into effect if the so-called crowd-out effect is less than 20 percent.

For the life of me, I don't know why we would spend an additional $35 billion to replace people who are already covered. That does not represent a sound and efficient use of taxpayer dollars.

Let me make it clear that I support the reauthorization of SCHIP. I have supported the Republican alternative. But I believe the Finance Committee bill represents not just a reauthorization but an expansion of the program which, as the chairman himself acknowledged, is another step toward universal coverage.

We do not need to be taking people off private insurance to enroll them into this program. The problem, and I will be very brief, is that the people who are added are people generally of higher income, and we are adding a group of adults as well. Those are people who generally are more covered by insurance today. So it is logical that, as CBO says, for every one person who is covered today, one person leaves that coverage to go to the SCHIP program under the committee bill. It is estimated that there will be about 600,000 in this category. In fact, CBO shows that a one-for-one replacement means that for 600,000 newly insured individuals, 600,000 individuals go off their private coverage.

As I said, that simply makes no sense. It seems to me what we should be doing instead is providing coverage for people who do not have private insurance coverage. That would be a much better use of taxpayer dollars.

To conclude the point, there are two reasons why this is happening that are not problems with the alternative, the Republican alternative that was voted on that failed. But they are problems with the Finance Committee bill. The first one is that the Finance Committee bill allows States to enroll children from higher income families, the very ones who have greater insurance coverage today. We have already talked about the New Jersey experience, for example, and the New York experience, in that regard—people at 350 percent to 400 percent of the poverty level, between $60,000 and $80,000 in income for a family of four. Those people, by and large, are already covered by insurance. Not only is there no reason to provide them SCHIP coverage, but we are simply crowding people out of the private sector into this program.

If my colleagues want to avoid the crowding-out effect, it seems to me we

should be focusing on the truly needy, the low-income children, not children from higher income families.

Second, the Finance Committee bill allows States with existing waivers to continue enrolling parents. CBO stated:

No studies have estimated the extent to which SCHIP reduces private coverage among parents so the available estimates probably underestimate the total reduction in private coverage.

According to CBO's own numbers, this is a big problem. It seems to me we should be focused on solving that problem rather than simply adding to the problem as the Finance Committee does. If we are serious about minimizing the erosion of private coverage, then we should direct SCHIP funds to low-income children and not add adults; as the Budget Committee chairman said not too long ago, there is no ''A'' in SCHIP. Otherwise, CBO estimates that over 2 million individuals will go off private coverage under the Finance Committee bill.

Let me state that again: 2 million individuals who currently have private insurance will go off that private insurance onto this new program or onto the program that is added to by the Finance Committee bill. Why would we do that? It doesn't make sense.

My amendment will be dealt with tomorrow. We will have a chance to further debate it and, as I said, all it provides essentially is if more than 20 percent of the people who are enrolled come from the private insurance sector already, then the program would be in abeyance until that number is reduced below 20 percent.

I also note there were several articles recently written that I think describe the general problem as well as this specific problem. There are three in particular I would like to have printed in the RECORD at the conclusion of my remarks.

I will ask unanimous consent that the following pieces be printed in the RECORD. One is a piece by John Goodman called ''Insurance Folly,'' in the Wall Street Journal; another is a Wall Street Journal opinion in the ''Review & Outlook'' section, dated July 30, called ''The Newest Entitlement,'' and third is a column in my hometown newspaper, the Arizona Republic, an editorial, August 1, by Bob Robb, which I think correctly notes the problem I have discussed and issues with the Finance Committee bill.

I ask unanimous consent these three published items be printed in the RECORD.

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

[From the Wall Street Journal]

INSURANCE FOLLY

(By John C. Goodman)

The State Children's Health Insurance Program (Schip) was originally a Republician program to provide health insurance to children in near-poor families who did not qualify for Medicaid. Democrats now want to expand Schip to children of the middle class.

Their efforts to do so are rightly being resisted by the White House, but Senate Finance Committee Republicans have already caved on an unwise compromise to make more people eligible for Schip.

On the surface, congressional Democrats appear to be rescuing children from the scourge of uninsurance. The reality is quite different. If they get their way, millions of children will have less access to health care than they do today, and the same will surprisingly be true for many low-income seniors.

Studies by MIT economist Jonathan Gruber show that public insurance substitutes for private insurance and the crowd-out rates is high. In general, for every extra dollar spent on Medicaid, private insurance contracts by 50 cents to 75 cents. For Schip, depending on how it is implemented, private insurance could contract by about 60 cents.

These findings make sense. Why pay for something if the government offers it for free? Under congressional proposals to expand Schip, the crowd out would likely be much worse. The reason: Almost all the newly eligible beneficiaries already have insurance.

The Senate bill would expand the eligibility for coverage under Schip to families with incomes 300% above the federal poverty level ($62,000), from its present ceiling, 200% above the poverty level. House Democrats want to push coverage to 400% ($83,000 annual income).

Yet almost eight of every 10 children whose parents earn from 200%–300% more than the poverty level already have private health-care coverage, according to the Congressional Budget office (CBO). At incomes between 300% and 400% more than poverty, nine of every 10 children are already insured.

What about the eight to nine million children currently uninsured? Nearly 75 percent of them are already eligible for Medicaid or Schip, according to the CBO. So the main result of the Democrats' proposal to expand Schip will be to shift middle-class children from private to public plans.

Why is that bad? One reason is that most Schip programs pay doctors at Medicaid rates—rates so low that Medicaid patients are having increasing difficulty getting access to health care. Anecdotal evidence suggests that U.S. Medicaid patients already must wait as long for specialist care and hospital surgery as in Canada.

Many doctors won't see Medicaid patients. Among those that do, many will not accept new patients. As a result, children who lose private coverage and enroll in Schip are likely to get less care, not more.

There is also the issue of who exactly will be covered. Republicans want to restrict Schip to children. The Democrats want adults covered as well. Even under the current system, children's health insurance is increasingly a ruse to cover adults. Minnesota spends 61% of Schip funds on adults. Wisconsin spends 75%.

Seniors will suffer from Schip expansion too. When millions shift from private to public coverage, not much happens to the overall rate of uninsurance. But the government's cost soars. Where's the money to come from? One idea popular with some House Democrats is to reduce federal payments to Medicare Advantage plans. These plans provide comprehensive coverage to low-income seniors who can't afford supplemental insurance to fill all the gaps in Medicare. One in five seniors has enrolled in these plans and one in four of those is a minority. In the House of Representatives, health care for this group is a great risk.

The proposal to expand Schip comes at a time when health-care spending already poses a serious threat to the federal budget. The Medicare trustees tell us that the program's unfunded liability is six times that of Social Security. The CBO predicts that on the current course income tax rates paid by the middle class will reach 66% by midcentury and the top marginal rate will reach 92%.

So what do congressional Democrats plan to do about this problem? Ignore it.

A key provision of the 2003 Medicare Modernization Act says that when Medicare's finances deteriorate to a certain level (that level is already reached), the president must propose an appropriate reform and Congress must fast-track the proposal. Yet one senior Democratic legislator—as yet unidentified—wants the Schip bill to repeal that provision.

In a way, repeal makes a certain sense. If the ship is going down anyway, why spoil the fun?

[From the Wall Street Journal, July 30, 2007]

THE NEWEST ENTITLEMENT

The State Children's Health Insurance Program sounds like the epitome of good government: Who could be against health care for children? The answer is anyone who worries about one more middle-class taxpayer entitlement and a further slide to a government takeover of health care. Yet Schip is sailing toward a major expansion with almost no media scrutiny, and with Republicans in Congress running for cover.

Schip was enacted in 1997 to help insure children from working-poor families who make too much to qualify for Medicaid. In the intervening years, the program reduced the rate of uninsured kids by about 25% but has also grown to cover the middle class and even many adults—and it gets bigger every year. Schip expires in September without reauthorization, and Congressional Democrats want to enlarge its $35 billion budget by at least $60 billion over five years.

State Governors from both parties are also leading the charge—and for their own self-interested reasons. Schip money is delivered as a block grant, which the states match while designing their own insurance programs. All cost overruns, however, are billed to the federal government, which is on the hook for about 70% of Schip's ''matching rate.'' This offers incentives for state politicians to make generous promises and shift the costs to the feds, or to toy around with costly universal health-care experiments. And since the states only get 57 cents on the dollar for Medicaid, they are working hard to transfer those recipients to Schip.

This self-interest explains a recent letter from the National Governors Association demanding ''urgent action'' on Schip, which got lots of favorable play in the press. Yet these are the same Governors who have been moaning for years about rising entitlement burdens, which is what Schip will be soon enough. Particularly egregious was the signature on the letter of Minnesota Governor Tim Pawlenty, a Republican who regards himself a conservative health-care maven and should know better.

This ''bipartisan'' cover is serving Democrats in Congress, who want to liberalize Schip eligibility as part of their march to national health care. The Senate Finance Committee has voted 17–4 to increase Schip spending to at least $112 billion over 10 years. Not only does it use a budget trick to hide a payment hole of at least $30 billion, it proposes to offset the increase by bumping up the cigarette tax by 61 cents to $1 pack.

House Democrats are putting the finishing touches on their own plan, making the cigarette tax somewhat lower to win over tobacco state members. Instead, the House is proposing to steal nearly $50 billion from Medicare Advantage, the innovative attempt

to bring private competition to senior health care.

Michigan's John Dingell explains that ''these are not cuts'' but ''reductions in completely unjustified overpayments''—which will come as news to insurers that offered coverage plans based on certain funding expectations. The ''overpayments'' he's referring to were passed expressly as an incentive for companies to offer Medicare Advantage in rural areas with traditionally fewer insurance options—and are intended to be phased out over time. Democrats apparently want to starve any private option for Medicare.

In any case, the actual costs of Schip will overwhelm these financing gimmicks. Like all government insurance, Schip is ''covering'' more children by displacing private insurance. According to the Congressional Budget Office, for every 100 children who are enrolled in the proposed Schip expansion, there will be a corresponding reduction in private insurance for between 25 and 50 children. Although there is a net increase in coverage, it comes by eroding the private system.

This crowd-out effect is magnified moving up the income scale. In 2005, 77% of children between 200% and 300% of the poverty level already had private insurance, which is where the Senate compromise wants to move Schip participation. New York State is moving to 400% of poverty, or some $82,000 in annual income. All of this betrays the fact that the real political objective of Schip is more government control—HillaryCare on the installment plan.

We'd have thought Capitol Hill Republicans would understand all this, especially with the White House vowing to veto any big Schip expansion. But we hear the GOP lacks the Senate votes for a filibuster and perhaps even to sustain a veto. GOP Senators Mitch McConnell and Jon Kyl are backing an alternative to account for population growth and reach the remaining 689,000 uninsured children that Schip was intended to help. Republicans would be wise to support this version, or they'll take one more step to returning to their historic minority party status as tax collectors for the welfare state.

[From the Arizona Republic, Aug. 1, 2007]

DEM HEALTH PLAN A BURDEN ON POOR

(By Bob Robb)

The reauthorization of the State Children's Health Insurance Program illustrates the difficulty of having a sensible policy discussion in the context of American politics, as currently practiced.

According to congressional Democrats, opposition to their reauthorization proposals means support for allowing low-income children to go without health care.

According to Republicans, the Democrats are proposing socialized medicine on the installment plan.

A sensible policy discussion begins with what the debate isn't about: health insurance coverage for low-income children.

SCHIP was intended to provide federal subsidies to insure children up to 200 percent of the federal poverty level, or a family income of about $40,000 a year. The program expires this year and needs to be reauthorized.

No one opposes reauthorization for its intended purpose. The Bush administration has proposed reauthorization for this targeted population with an extra $5 billion in funding over the next five years, over the current base of $25 billion.

The problem is that SCHIP has expanded beyond its original scope, as so often happens with federal programs. In the early years, many states couldn't use all their SCHIP money, so the feds permitted excess funds to be used by other states to extend coverage to children beyond 200 percent of the poverty level and even adults.

In Arizona, the SCHIP plan is called KidsCare. A Government Accountability Office study found, however, that 56 percent of the people enrolled in ''KidsCare'' were actually adults.

Fifteen states now provide SCHIP coverage for children above 200 percent of the federal poverty level, and 14 states cover adults.

Congressional Democrats propose not only to fund these existing expanded programs but provide enough funding for other states to substantially expand eligibility, as well. In all, Democrats are proposing to more than double SCHIP funding, allowing universal coverage up to 300 percent of the federal poverty level, as Gov. Janet Napolitano has proposed for Arizona.

That would provide coverage up to a family income of about $60,000 a year. Since the median family income in the United States is just over $46,000, this reaches well into the middle class.

Here, a confusion surfaces between the issues of universal access and federal subsidies. There are a lot of middle-class American families that have difficulty obtaining health-insurance coverage. Every state, however, can provide universal access by allowing buy-ins to its Medicaid program.

The question SCHIP reauthorization poses is whether the federal government should be subsidizing the health insurance of middle-class families. There doesn't seem to be any justification for it, particularly funded the way congressional Democrats are proposing.

To pay for the SCHIP expansion, Democrats are proposing to raise tobacco taxes by up to 61 cents a pack.

Tobacco taxes are highly regressive. So, basically, Democrats are proposing to tax the poor to pay for the health care of the middle class.

Tobacco taxes are also highly uncertain. Health-care advocates like them because the evidence is that they do reduce consumption. However, states and the federal government have already loaded up various programs, many involving health care and children, on their backs. The odds are very strong that tobacco taxes will not produce the revenues being obligated.

Now, Republicans are making these points. But they also are employing a scare tactic of their own, that Democratic proposals are basically socialized medicine on the installment plan.

However, government programs to provide subsidized access to what is still a private system of health-care providers are very distinct from European-style national health-care systems. Moreover, federal tax policy also heavily subsidizes private, employer-provided health insurance. So, this is not a clean choice between public and private approaches.

At the end of the rhetoric, however, congressional Democrats aren't proposing to reauthorize a program to insure low-income children. Instead, they are proposing a massive expansion of subsidized health care to middle-class families, funded by a large increase in heavily regressive tobacco taxes.

That's an unwise, unfair and fiscally risky scheme.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. CASEY. Mr. President, we are going to close for the night. I do wish to make a couple references to my friend from Arizona on this issue. I know he will be offering his amendment tomorrow. We will discuss and debate it more. But I have to say we have been hearing a lot of these arguments all week about crowd-out. I would say, respectfully, a lot of Americans feel crowded out right now because they have no health insurance. It is a terrible crisis in the life of too many Americans. We can debate this, and I think the numbers show there is a lot more crowd-out in Medicare Part D, and that was voted overwhelmingly by the last Congress.

I think there is still a lot of debate to go on this, but I have to say there are still some people on the other side of the aisle who have been debating different points of this legislation all week—but they have their insurance. They are called Senators and their families. They have insurance. I do, the Presiding Officer does, the Senator from Arizona has insurance as a Member of the Senate. I am tired of some of the arguments we have heard. I do not attribute them to this Senator, but too often arguments have been made all during this week as a way to block this legislation from going forward. I think it is about time we got to a vote.

Too often, in the last couple days, all we have heard are ways to slow this down, to impede the progress. We have heard misinformation about poverty level numbers, that people above 300 percent of poverty are getting children's health insurance right now. That is not true under this program.

I think we will have more time to debate this, but we have seen a lot of crowding out already. The American people have had to suffer. I think it is a question worthy of debate. But I hope when all the debating is over, all the speeches and all the debates on both sides lead to what the American people expect from this legislation, which is that we cover 3.2 million more American children. That is the question before the Senate. We are either going to do that or not.

Unfortunately, there are some people here who want to agree with the President. If the President's proposal on children's health insurance—make no mistake; if we rubberstamp the President, 1.4 million American children will lose their health insurance. That is the choice. That is the choice for people on both sides of the aisle.

I am pleased that in the Finance Committee we had consensus, a 17 to 4 vote. The choice is very clear: Support the President's proposal, 1.4 million kids lose their coverage; support the bipartisan children's health insurance initiative, 3.2 million children more than the 6.6 are covered. That is the way to go for America.

We can have a debate tomorrow about a couple of points. But this debate is going to end this week, and we better leave this town having supported 3.2 million American children getting their health insurance.

Mr. SPECTER. Mr. President, I voted against Senate amendment 2538 to the State Children's Health Insurance Program reauthorization because of the critical need to provide health insurance to 3.3 million additional children

under this program. This vote should not be misconstrued as a vote against National Institutes of Health, NIH, funding but as recognizing the need to provide health insurance to children.

This amendment would transfer the additional $35 billion for children's health insurance into a fund for NIH to increase medical research. As ranking member and chairman of the Labor, Health and Human Services, and Education Appropriations Subcommittee, I have ardently supported doubling funding for NIH. The fiscal year 2008 Senate Labor, Health and Human Services, and Education appropriations bill provides $29.9 billion for NIH.

While I support an increase in NIH funding, it cannot be at the expense of providing much needed health care to America's children.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. CASEY. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

LIEUTENANT GENERAL ROBERT ALLEN BREITWEISER

Mr. STEVENS. Mr. President, I missed the 10:30 a.m. vote today because I was at Arlington Cemetery for the interment services for LTG Robert Allen Breitweiser. Lieutenant General Breitweiser was one of the commanding officers of the Fourteenth Air Force when I served in the China-Burma-India theater, and he turned into a good friend when he was assigned to the Alaskan North American Air Defense Command from 1967 to 1969. It was also an occasion for me because Lieutenant General Breitweiser's assistant was Tony Langhorn Motley, who, along with me, survived the airplane crash in which my wife and four others were killed in 1978.

Mr. President, I ask unanimous consent that Lieutenant General Breitweiser's full biography be printed in the RECORD.

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

LIEUTENANT GENERAL ROBERT ALLEN BREITWEISER

Lt. Gen. Robert Allen Breitweiser is commander in chief, Alaskan Command, and commander, Alaskan North American Air Defense Command Region.

General Breitweiser was born in St. Joseph, Mo., in 1916. He graduated from South Denver High School in Denver, Colo., in 1932 and attended the Colorado School of Mines at Golden, Colo., for two years where he majored in Petroleum Engineering. He obtained an appointment to the U.S. Military Academy in 1934 and received a bachelor of science degree in military science and engineering, ranking third in a class of 301.

The general completed primary and advanced flying schools at Randolph and Kelly fields, Texas, in August 1939. He remained at the Advanced Flying School as an instructor until he went to Maxwell Field, Ala., as training group operations officer. He was designated commandant of the Contract Primary Flying School at Bennettsville, S.C. in August 1941. The following February he was assigned to Headquarters, Southeast Training Center, Maxwell Field, Ala.

Transferred to the China-Burma-India Theater in August 1943, General Breitweiser served with the Fourteenth Air Force and the 68th Composite Wing. While with the Fourteenth Air Force he served as General Chennault's personal representative to General Wedemeyer, the China Theater commander. During his duty tour in China, General Breitweiser flew 120 combat hours on 22 combat missions, accounting for numerous enemy trucks and river craft destroyed, plus one 6,000-ton freighter.

Returning to the United States in July 1945, he was appointed deputy chief and later, chief of the Requirements and Resources Branch, Military Personnel Division of Army Air Force Headquarters, Washington, D.C. In August 1947, General Breitweiser was transferred to Ramey Air Force Base, Puerto Rico, and served as assistant executive officer, 24th Composite Wing. He was appointed commander of the base in July 1948, and served in that capacity until May 1949.

After graduating from the Air War College at Maxwell Air Force Base, Ala., in 1950, General Breitweiser became executive officer to the assistant secretary of the Air Force for management in Washington, D.C. He served in that position until November 1951, when he was appointed vice commander of the 34th Air Division (Defense), Kirtland Air Force Base, N.M.

Transferred to Ent Air Force Base, Colorado Springs, Colo., in May 1952, he was named assistant deputy chief of staff for operations for the Air Defense Command.

In July 1954, the general returned to Washington, D.C., as a student in the National War College. Upon his graduation in June 1955, he was assigned as special assistant to the deputy director for estimates, Directorate of Intelligence, Headquarters, U.S. Air Force, and became chief of the policy and management group the following February. In June 1956, he was named deputy director of estimates, office of the assistant chief of staff, intelligence, U.S. Air Force.

In February 1957, General Breitweiser was designated the director for intelligence, Joint Chiefs of Staff, Washington, D.C.

In July 1961, General Breitweiser became assistant chief of staff, intelligence, Headquarters U.S. Air Force, and in September 1963 he assumed command of the U.S. Air Force Southern Command in Panama, Canal Zone. In August 1966, he became vice commander, Military Airlift Command.

Among the general's awards and decorations are the Distinguished Service Medal, Legion of Merit, Bronze Star Medal, Air Medal, Army Commendation Medal with oak leaf cluster, American Defense Service Medal, American Campaign Medal, Asiatic-Pacific Campaign Medal, World War II Victory Medal, National Defense Service Medal with bronze star, Air Force Longevity Service Award with silver and two bronze oak leaf clusters, Order of Yunhui (Special Breast) of China, Friendship Medal with Citation (Argentina), Royal Order of the Sword (Grade of Knight Commander)—Sweden, National Order of the Condor of the Andes (Grade of Commander—Certificate of Honor)—Bolivia, Grand Star of Military Merit (Chile), Order of Aeronautical Merit (Grade of Great Officer)—Brazil. He is rated a command pilot.

CHANGES TO S. CON. RES. 21

Mr. CONRAD. Mr. President, section 301 of S. Con. Res. 21, the 2008 budget resolution, permits the chairman of the Senate Budget Committee to revise the allocations, aggregates, and other appropriate levels for legislation that reauthorizes the State Children's Health Insurance Program, SCHIP. On July 30, 2007, I filed revisions to S. Con. Res. 21 pursuant to section 301 for Senate amendment No. 2530, which Senator BAUCUS offered as a substitute to H.R. 976.

I find that Senate amendment No. 2602, as modified, offered by Senator KERRY to Senate amendment No. 2530 satisfies the conditions of the deficit-neutral reserve fund for SCHIP legislation. Therefore, pursuant to section 301, I am further adjusting the aggregates in the 2008 budget resolution, as well as the allocation provided to the Senate Finance Committee.

I ask unanimous consent that the following revisions to S. Con. Res. 21 be printed in the RECORD.

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

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008.—S. CON. RES. 21; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301 DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION

[In billions of dollars]

Section 101:	
(1)(A) Federal Revenues:	
FY 2007	1,900.340
FY 2008	2,032.346
FY 2009	2,136.133
FY 2010	2,191.807
FY 2011	2,362.185
FY 2012	2,494.778
(1)(B) Change in Federal Revenues:	
FY 2007	−4.366
FY 2008	−18.450
FY 2009	29.207
FY 2010	28.086
FY 2011	−32.365
FY 2012	−102.318
(2) New Budget Authority:	
FY 2007	2,376.360
FY 2008	2,503.590
FY 2009	2,525.926
FY 2010	2,579.993
FY 2011	2,697.660
FY 2012	2,734.343
(3) Budget Outlays:	
FY 2007	2,299.752
FY 2008	2,470.680
FY 2009	2,572.427
FY 2010	2,610.470
FY 2011	2,705.388
FY 2012	2,718.644

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008.—S. CON. RES. 21; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301 DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION

[In millions of dollars]

Current Allocation to Senate Finance Committee:	
FY 2007 Budget Authority	1,011,527
FY 2007 Outlays	1,017,808
FY 2008 Budget Authority	1,086,142
FY 2008 Outlays	1,081,969
FY 2008-2012 Budget Authority	6,064,784
FY 2008-2012 Outlays	6,056,901
Adjustments:	
FY 2007 Budget Authority	0
FY 2007 Outlays	0
FY 2008 Budget Authority	300
FY 2008 Outlays	311
FY 2008-2012 Budget Authority	7,877
FY 2008-2012 Outlays	14,527
Revised Allocation to Senate Finance Committee:	
FY 2007 Budget Authority	1,011,527
FY 2007 Outlays	1,017,808
FY 2008 Budget Authority	1,086,442
FY 2008 Outlays	1,082,280
FY 2008-2012 Budget Authority	6,072,661
FY 2008-2012 Outlays	6,071,428

FURTHER CHANGES TO S. CON. RES. 21

Mr. CONRAD. Mr. President, earlier today, pursuant to section 301 of S. Con. Res. 21, the 2008 budget resolution, I filed revisions to S. Con. Res. 21. Those revisions were made for amendment No. 2602, as modified, an amendment offered by Senator KERRY to amendment No. 2530 regarding the reauthorization of the State Children's Health Insurance Program, SCHIP.

The Senate did not adopt amendment No. 2602, as modified. As a consequence, I am further revising the 2008 budget resolution and the adjustments made today pursuant to section 301 to the aggregates and the allocation provided to the Senate Finance Committee for amendment No. 2602.

I ask unanimous consent that the following revisions to S. Con. Res. 21 be printed in the RECORD.

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

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008—S. CON. RES. 21; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301 DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION

[In billions of dollars]

Section 101:	
(1)(A) Federal Revenues:	
FY 2007	1,900.340
FY 2008	1,022.084
FY 2009	2,121.502
FY 2010	2,176.951
FY 2011	2,357.680
FY 2012	2,494.753
(1)(B) Change in Federal Revenues:	
FY 2007	−4.366
FY 2008	−28.712
FY 2009	14.576
FY 2010	13.230
FY 2011	−36.870
FY 2012	−102.343
(2) New Budget Authority:	
FY 2007	2,376.360
FY 2008	2,503.290
FY 2009	2,524.710
FY 2010	2,577.981
FY 2011	2,695.425
FY 2012	2,732.230
(3) Budget Outlays:	
FY 2007	2,299.752

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008—S. CON. RES. 21; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301 DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION—Continued

[In billions of dollars]

FY 2008	2,470.369
FY 2009	2,570.622
FY 2010	2,607.048
FY 2011	2,701.083
FY 2012	2,713.960

CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2008—S. CON. RES. 21; FURTHER REVISIONS TO THE CONFERENCE AGREEMENT PURSUANT TO SECTION 301 DEFICIT-NEUTRAL RESERVE FUND FOR SCHIP LEGISLATION

[In millions of dollars]

Current Allocation to Senate Finance Committee:	
FY 2007 Budget Authority	1,011,527
FY 2007 Outlays	1,017,808
FY 2008 Budget Authority	1,086,442
FY 2008 Outlays	1,082,280
FY 2008–2012 Budget Authority	6,072,661
FY 2008–2012 Outlays	6,071,428
Adjustments:	
FY 2007 Budget Authority	0
FY 2007 Outlays	0
FY 2008 Budget Authority	−300
FY 2008 Outlays	−311
FY 2008–2012 Budget Authority	−7,877
FY 2008–2012 Outlays	−14,527
Revised Allocation to Senate Finance Committee:	
FY 2007 Budget Authority	1,011,527
FY 2007 Outlays	1,017,808
FY 2008 Budget Authority	1,086,142
FY 2008 Outlays	1,081,969
FY 2008–2012 Budget Authority	6,064,784
FY 2008–2012 Outlays	6,056,901

IRAQ

Mr. SPECTER. Mr. President, it continues to be my hope that there will be a consensus reached among Senators as to how to move forward in Iraq. This is indispensable if there is to be an accommodation between the President and Congress.

I had hoped to make a floor statement on Iraq during the Senate's consideration of the DoD authorization bill, but the majority leader took that bill off the floor after there was only consideration of the Levin-Reed amendment. That action deprived the Senate of an opportunity to consider the Warner-Lugar and Salazar-Alexander amendments and perhaps other amendments which might have secured the requisite 60 votes to structure a new U.S. policy for Iraq.

When a tally is made of the Senators who have voted for or cosponsored legislation aimed at altering or reevaluating U.S. policy in Iraq, the total is 62. When Senators are added who have made public statements critical of the President's policy, the number could possibly reach or exceed two-thirds of the Senate membership.

A July 2007 vote, had it been successful, would have had no binding effect since the President already had sufficient funding to continue until September 30 and would need additional funding only in the next fiscal year, 2008, beginning October 1.

The time for Congress to have asserted its constitutional power of the purse to withhold funding was this spring during consideration of supplemental funding for approximately $120 billion. On April 26, 2007, following a vote in the House of Representatives of 218–208, the Senate passed the conference report to H.R. 1591, the fiscal year 2007 Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act on a vote of 51–46. However, because this bill contained target dates for withdrawal, on May 1, 2007, the President vetoed the bill.

After the House failed to gather the two-thirds majority required to override the President's veto, on May 24, 2007, the Congress approved a bill, H.R. 2206, which did not include targeted dates for withdrawal and which was subsequently signed into law by President Bush on May 25, 2007, Public Law 110–28.

When the Levin-Reed amendment was considered, it was a forgone conclusion that there were not anywhere near 60 votes to invoke cloture, let alone the 67 votes needed to override a veto. With the removal of the bill from the floor, the Senate was prevented from considering alternatives to the Levin-Reed proposal, and denied the opportunity to have a vote or votes to demonstrate dissatisfaction with the President's policy.

This action deprived the Senate of an opportunity to craft a compromise around Warner-Lugar or Salazar-Alexander to get the 60 votes and put the president squarely on notice that funding in September was unlikely unless the President's policy showed significant progress. Perhaps the Levin-Reed proponents would have rejected the other amendments as being insufficiently forceful, but Senators never know for sure how they will ultimately vote until there is floor debate, careful analysis, informal discussions on the floor and corridors, and talk in the cloakroom. Much of the Senate's productive work occurs during quorum calls when Members hassle and jawbone on the issues. Since so many Senators demonstratively want a change, it was at least worth a try in daylight compared to the futile all-nighter.

Of particular interest to me were the provisions of the Warner-Lugar proposal on having a contingency plan and redefining the mission. For three decades, Senators LUGAR and WARNER have served on the Foreign Relations Committee and Armed Services Committee, respectively, with both rising to chairman. Their combined tenures in the Senate are more than 60 years. To say these colleagues bring a significant amount of thought and authority to this debate is an understatement.

Regrettably, we did not have the opportunity to debate and vote on their proposal.

The Warner/Lugar amendment is an attempt to ensure that the U.S. is prepared to implement changes to U.S. policy following the September report, to be provided by General Petaeus and Ambassador Crocker, on the progress

of the President's current strategy in Iraq.

The Warner-Lugar amendment recognizes that conditions in Iraq have changed considerably since the initial invasion to topple Saddam Hussein's regime and States that the joint resolution passed by Congress in 2002 to authorize ''the use of the Armed Forces of the United States against Iraq'' requires ''review and revision.''

In addition, the amendment calls for enhanced U.S. diplomatic efforts to work with the Government of Iraq to establish a consistent diplomatic forum related to Iraq that is open to all parties in the Middle East. Because of the potential for the Warner-Lugar amendment to provide a basis for a Senate consensus, I am cosponsoring this amendment.

As explained on the floor by Senator LUGAR on July 13, 2007:

> The purpose of the forum would be to improve transparency of national interests so that neighboring states and other actors avoid missteps . . . Such a forum could facilitate more regular contact with Syria and Iran with less drama and rhetoric. The existence of a predictable and regular forum in the region would be especially important for dealing with refugee problems, regulating borders, exploring development initiatives, and preventing conflict between the Kurds and Turks.

This type of planning and diplomatic engagement should be occurring today. I believe a vote confirming this could have led the President to do that.

Prior to the 2002 U.S. invasion of Iraq, I publicly stated my concerns about the potential fallout from such an action. On February 13, 2002, I took to the Senate floor to express my belief that there should be a comprehensive analysis of the threat posed by Saddam Hussein and what an invasion would amount to in terms of U.S. casualties:

> We need to know, with some greater precision, the threat posed by Saddam Hussein with respect to weapons of mass destruction. There also has to be an analysis of what the costs would be, some appraisal in terms of casualties. Then there is the issue as to what happens after Saddam Hussein is toppled.

As I stated on the Senate floor on December 6, 2006:

> It has been my view that had we known Saddam Hussein did not have weapons of mass destruction, we would not have gone into Iraq.

Eight months after my February 13 statement, on October 7, 2002, I returned to the floor to express my concerns over the lack of a comprehensive plan for Iraq:

> What happens after Saddam Hussein is toppled has yet to be answered in real detail.
>
> What was the extent of Saddam Hussein's control over weapons of mass destruction? What would it cost by way of casualties to topple Saddam Hussein? What would be the consequence in Iraq? Who would govern after Saddam was toppled? What would happen in the region, the impact on the Arab world, and the impact on Israel?
>
> In previous briefings, I have sought the administration plan as to what will be done after Saddam Hussein is toppled, and I think that is an area where a great deal more thought needs to be given. The situation in Iraq would obviously be contentious, with disputes between the Sunnis and the Shi 'ites, with the interests of the Kurds in an independent state, and it means a very long-term commitment by the United States.

Five years later, we are in the midst of a highly controversial troop surge in Iraq.

Following the announcement of the President's plan to surge, I met with President Bush on two occasions. Following these meetings I told the President directly that I could not support a troop surge. I also had extensive discussions on the President's plan with the highest ranking members of his national security team including Secretary of State Condoleezza Rice, National Security Adviser Stephen Hadley and Director of National Intelligence John Negroponte.

I met with GEN David Petraeus on January 31, 2007, who has been confirmed as the United States' top commander in Iraq. Following these meetings, I was not convinced the administration possessed a comprehensive plan to deal with the situation in Iraq and too many uncertainties persisted to warrant my support for a surge of U.S. personnel.

On February 5, 2007, I spoke on the Senate floor regarding the surge:

> On this state of the record, I cannot support an additional allocation of 21,500 troops because it is my judgment that would not be material or helpful in what is going on at the present time. This comes against the backdrop of extensive hearings in the Armed Services Committee and Foreign Relations Committee, and in the context of the military having given many estimates with many of those in key command position saying that no more troops are necessary. This comes with the Iraqi Prime Minister Maliki saying a variety of things but at some times saying he doesn't want any more troops.

At this time, I have not seen a plan that sufficiently addresses a strategy for victory in Iraq. Various reports indicate military advisers differ on the impact of an increased troop level in Iraq. It is not clear what the surge will ultimately accomplish and if it will be successful. Nonetheless, there are indicators that mandate we create contingency plans and consider other options. The Iraqi Government has failed to deliver on prior pledges which makes me hesitant to think they have the ability to deliver on new ones. According to many measurements, progress in Iraq has been poor and the situation is deteriorating. What is clear is that any solution will necessarily include political compromises by Iraq's various sects as well as an emphasis on a regional dialogue—something for which the Iraq Study Group advocated.

Another proposal offered by Senators SALAZAR and ALEXANDER would have used the work of the Iraq Study Group, which was led by former Secretary of State James Baker and former Representative Lee Hamilton, as a guide for our policy in Iraq. This legislation garnered bipartisan support including five Republicans and seven Democrats.

The amendment states that U.S. support should be conditioned on the Government of Iraq's political will and substantial progress towards national reconciliation, revision of de baathification laws, equitable sharing of Iraqi oil revenues, free and fair provincial elections and mechanisms to ensure the rights of woman and minorities.

Like the Warner-Lugar proposal, this amendment calls for enhanced diplomatic efforts. Specifically, the measure calls for a new ''Diplomatic Offensive'' to deal with the problems in Iraq and the region; energize other countries to support reconciliation in Iraq; engage directly with the Governments of Iran and Syria to obtain their commitment to constructive policies towards Iraq and the region, encourage the holding of a conference in Baghdad of neighboring countries and convey to the Iraqi Government that continued American support is contingent upon substantial progress toward and assist in the achievement of the milestones.

Because of the potential for the Salazar-Alexander amendment to provide a basis for a Senate consensus, I am cosponsoring this amendment. There is no inconsistency in cosponsoring both Warner-Lugar and Salazar-Alexander. They complement each other.

Both the Warner-Lugar and Salazar-Alexander proposals address the issue of diplomacy in the region. I have consistently urged the administration to work with Iraq's neighbors, including Iran and Syria, in order to develop cooperative stabilization efforts. To that end, I have met with President Bashar Assad of Syria. I have met with Iran's Ambassadors to the United Nations, Seyed Muhammed Hadi Nejad Hosseinian and Muhammad Javad Zarif, on four occasions in New York and Washington, DC. Additionally, I was the only Member of Congress to attend the September 2006 address by former President Khatami at the National Cathedral.

During my meetings with Iranian officials, I developed a proposal for an exchange of visits by Members of Congress to Iran and Iranian parliamentarians to the United States to try to open dialogue between our two countries. In January 2004, my efforts to foster such a dialogue were successful. There was a tentative agreement for U.S. Members of Congress to meet with Iranian parliamentarians in Geneva. Regrettably, this parliamentary exchange never came to fruition.

In an effort to jumpstart this exchange, on May 3, 2007, I sent a letter, with support from Senators BIDEN, HAGEL and DODD and Representatives LANTOS, ENGLISH, MORAN, GILCHREST and MEEKS, to the Speaker of Iran's Parliament suggesting we convene a meeting of U.S. and Iranian parliamentarians.

I have amplified my strong belief that dialogue with nations such as Iran and Syria is necessary in an extensive Senate speech on June 16, 2006 and most recently in an essay ''Dialogue

With Adversaries'' published in the winter edition of The Washington Quarterly. While we can't be sure that dialogue will succeed, we can be sure that without dialogue there will be failure.

I am not alone in calling for enhanced dialogue with U.S. adversaries. Of the many suggestions gleaned from the Baker-Hamilton commission, one passage crystallizes their conclusion:

> Our most important recommendations call for new and enhanced diplomatic and political efforts in Iraq and the region, and a change in the primary mission of U.S. forces in Iraq that will enable the United States to begin to move its combat forces out of Iraq responsibly. We believe that these two recommendations are equally important and reinforce one another.

However, the President's plan places a disproportionate emphasis on military force while neglecting the needed diplomacy and political efforts.

Having served in the Senate for 26 years, holding the chairmanship of the Intelligence Committee and senior positions on the Appropriations subcommittees on Defense and Foreign Operations, I am aware of what challenges nations like Iran and Syria pose to the United States. A world in which Iran seeks nuclear weapons and supports terrorist groups such as Hezbollah is not a safe world. A world in which Syria provides refuge for Hamas and Hezbollah and permits its territory to be used as a conduit for terrorism is counterproductive to peace and stability. I expressed my views on the danger the connectivity between Iran, Syria and Hezbollah poses to peace and security in an August 2, 2006, floor statement.

Today, however, Americans are not dying from nuclear weapons or from direct attacks by Hamas and Hezbollah. Many are dying policing a civil conflict.

President Assad, during our December 2006 meeting in Damascus, suggested that a conference with regional players and the United States would be beneficial to addressing the issues confronting Iraq. On January 22, 2007, I conveyed this proposal and my support for it to Secretary Rice in a meeting in her office at the State Department. One month later, on February 27, 2007, during her testimony before the Senate Appropriations Committee, Secretary Rice announced such a proposal:

> Before I discuss our specific request for Iraq, I would like to take this opportunity to announce a new diplomatic initiative relating to Iraq's future. I am pleased to tell Members of Congress that there is now being formed a neighbors' conference to support Iraq. Invitees will include Iraq's immediate neighbors, as well as representatives from other regional states, multilateral organizations, and the UN Permanent Five (the U.S., France, Britain, Russia and China). I would note that both Syria and Iran are among Iraq's neighbors invited to attend.
>
> The violence occurring within Iraq has a decided impact on Iraq's neighbors. Iraq's neighbors have a clear role to play in helping Iraq to move forward, and this conference will provide a needed forum in order to do just that.

Very little has happened to effectuate that ''new diplomatic initiative.'' The Iraq Study Group clearly states:

> Given the ability of Iran and Syria to influence events within Iraq and their interest in avoiding chaos in Iraq, the United States should try to engage them constructively.

It would have been my hope that these types of meetings would have occurred frequently in the intervening months. However, I am pleased that the President has recently indicated a commitment to ramp up diplomatic efforts in the region.

Had there been Senate consideration and debate on the Warner-Lugar and Salazar-Alexander proposals, there would have been an opportunity for more senators to explicitly put the President on notice that funding beyond September was in jeopardy without significant improvement.

I think this time would have also allowed Members to share concerns about the overall struggle to combat terrorism. While considering U.S. policy in Iraq, it is important we do not neglect other threats to U.S. security.

Waziristan is a semi-autonomous tribal region in Pakistan's mountainous Northwest Frontier province that shares a porous border with Afghanistan. It is populated primarily by ethnic Pashtuns who do not recognize the authority of President Musharrafs government in Islamabad. Many of the Taliban who fled Afghanistan in 2001 found safe haven in Waziristan with their Pashtun brethren.

Some accounts, including the 9/11 Commission report, indicate Pakistan's willingness to assist the United States. Following direct U.S. engagement with Pakistan after the September 11 attacks, the 9/11 Commission report stated that, ''Secretary of State Powell announced at the beginning of an NSC meeting that Pakistani President Musharraf had agreed to every U.S. request for support in the war on terrorism.''

However, that was 6 years ago. According to the Congressional Research Service, CRS, ''Despite clear successes in disrupting al-Qaida and affiliated networks in Pakistan since 2001, there are increasing signs that anti-U.S. terrorists are now benefiting from what some analysts call a Pakistani policy of appeasement in western tribal areas near the Afghan border.''

GEN Pervez Musharraf took a largely hands-off approach to the region after signing a truce with tribal leaders in September 2006. The truce came after 4 years of unsuccessful army operations into the region in which the government forces suffered heavy casualties and achieved little. Some accounts indicate this policy has enhanced al-Qaida's abilities: ''By seeking accommodation with pro-Taliban leaders in these areas, the Musharraf government appears to have inadvertently allowed foreign (largely Arab) militants to obtain safe haven from which they can plot and train for terrorist attacks against U.S. and other Western targets.''

Assistant Secretary of State Richard A. Boucher confirmed that al-Qaida thrived under the truce between the tribal leaders and General Musharraf: ''they were able to operate, meet, plan, recruit, and obtain financing in more comfort in the tribal areas than previously.''

Bruce Riedel, a senior fellow at the Brookings Institution, who served for 29 years with the CIA and held various positions such as Special Assistant to the President and Senior Director for Near East Affairs at the National Security Council, 1997–2002, stated in his May/June 2007 essay in Foreign Affairs:

> Al Qaeda is a more dangerous enemy today than it has ever been before and the organization now has a solid base of operations in the badlands of Pakistan and an effective franchise in western Iraq.

Riedel further suggests that:

> The United States and its partners, including NATO, also need to take a firmer position with the Pakistani government to enlist its help in tracking down al-Qaeda leaders. President Pervez Musharraf has taken some important steps against al-Qaeda, especially after its attempts to assassinate him, and he has promised more than once a full crackdown on extremism. But mostly he has sought to tame jihadists—without much success—and his government has tolerated those who harbor bin Laden and his lieutenants, Taliban fighters and their Afghan fellow travelers, and Kashmiri terrorists. Many senior Pakistani politicians say privately that they believe Pakistan's Inter-Services Intelligence (ISI) still has extensive links to bin Laden; some even claim it harbors him. Apprehending a few al-Qaeda officers would not be enough, and so a systematic crackdown on all terrorists—Arab, Afghan, and Kashmiri—is critical. Hence, Pakistan should no longer be rewarded for its selective counterterrorism efforts.

Since September 11, 2001, the United States has provided Pakistan with roughly $9 billion in aid. According to the Congressional Research Service, CRS:

> The outcomes of U.S. policies toward Pakistan since 9/11, while not devoid of meaningful successes, have neither neutralized anti-Western militants and reduced religious extremism in that country, nor have they tributed sufficiently to the stabilization of neighboring Afghanistan.

As Congress considers administration's request for an additional $785 million for fiscal year 2008, it is incumbent upon us to evaluate our relationship with them and their performance in the war on terror.

Waziristan provides al-Qaida with much of what it lost in Afghanistan after September 11, 2001: safe haven; territory to train and base operations in Pakistan, Afghanistan, and beyond; and a populace sympathetic to their aims. Failing to recognize and address the situation in Waziristan risks negating the costly advances made in Afghanistan over the past 6 years and jeopardizes U.S. security.

As the Senate continues to deliberate, it is my hope that we will return to the proposals offered by Senators WARNER, LUGAR, SALAZAR and ALEXANDER. These should have been debated in great length as they make more

sense in the context of not infringing on the President's authority as Commander in Chief. Rather, these bipartisan efforts would allow the President to fulfill a congressional requirement that he ought to be considering and planning for the next steps.

The Senate is known as the most deliberative body in the world. Regrettably, the Senate was not permitted the opportunity to demonstrate this as we did not debate the various options before us.

As I stated on the Senate floor on March 14, 2007, during a similar debate on whether to continue with the status quo in Iraq or to legislate a date certain for withdraw:

It is equally undesirable, however, to view the current situation in Iraq, which looks like an endless tunnel—a tunnel without a light at the end. We are faced with very considerable discomfort in this body. I think it is very important that we debate this matter, that we exchange our views, that we stimulate discussion that will go beyond this Chamber and will resound throughout the country, resound throughout the editorial pages and the television and radio talk shows, and by our colleagues in the corridors and in the cloakroom so that we can try to work our way through an extraordinarily difficult situation where, as I see it, there is no good answer between the two intractable alternatives to set a timetable where our opponents simply have to wait us out or to keep proceeding down a tunnel which, at least at this juncture, appears to be endless and has no light. We don't know where the end is, let alone to have a light at the end of the tunnel.

In a democracy, the voters ultimately decide U.S. policy. As detailed in Federalist No. 57, elected representatives must be responsive to the people:

Duty gratitude, interest, ambition itself, are the chords by which [representatives] will be bound to fidelity and sympathy with the great mass of the people. Hence, the House of Representatives is so constituted as to support in the members an habitual recollection of their dependence on the people. Before the sentiments impressed on their minds by the mode of their elevation can be effaced by the exercise of power, they will be compelled to anticipate the moment when their power is to cease, when their exercise of it is to be reviewed, and when they must descend to the level from which they were raised; there forever to remain unless a faithful discharge of their trust shall have established their title to a renewal of it.

If this is not understood and reflected by elected representatives, the framers placed elections into the system to remind them. Federalist No. 57 further states:

The elective mode of obtaining rulers is the characteristic policy of republican government . . . The means relied on in this form of government for preventing their degeneracy are numerous and various. The most effectual one, is such a limitation of the term of appointments as will maintain a proper responsibility to the people.

This was the case last November when the electorate spoke loudly disagreeing with United States policy in Iraq. As I stated on March 14, 2007:

Last November, the American people spoke in a resounding manner, in a way that could only rationally be interpreted as rejecting the conduct of the war in Iraq.

I am making this extensive floor statement at this time to put the administration on notice of my reservations on supporting open-ended appropriations for the Iraq war in September. This statement further urges the majority leader to structure the Senate debate in September to consider the Warner-Lugar amendment, the Salazar-Alexander amendment, and other possible amendments, as well as the Levin-Reed amendment, to give the Senate the full range of alternatives to provide the basis for 60 or more votes to change U.S. policy in Iraq.

Mr. KYL. Mr. President, during the recent debate of the Defense authorization bill, we saw attempt after attempt to declare the new strategy, General Petraeus' strategy, in Iraq a failure. The other side of the aisle wanted to declare that the strategy, which had been in full force only a couple of weeks, had failed and direct the President to begin withdrawing troops from Iraq, which is today the central front in the war against terrorists. Indeed, after the other side lost a vote to withdraw the troops, the majority leader pulled the bill from the floor, thus leaving important business for our military unfinished.

The Democratic majority's insistence that the General Petraeus' strategy has failed makes it easy to overlook what the strategy has accomplished and what the strategy seeks to accomplish.

In that regard, I ask unanimous consent to have an article by Michael Gordon from New York Times of July 24 printed in the RECORD.

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

[From nytimes.com, July 24, 2007]

U.S. IS SEEN IN IRAQ UNTIL AT LEAST '09

(By Michael R. Gordon)

BAGHDAD, July 23.—While Washington is mired in political debate over the future of Iraq, the American command here has prepared a detailed plan that foresees a significant American role for the next two years.

The classified plan, which represents the coordinated strategy of the top American commander and the American ambassador, calls for restoring security in local areas, including Baghdad, by the summer of 2008. ''Sustainable security'' is to be established on a nationwide basis by the summer of 2009, according to American officials familiar with the document.

The detailed document, known as the Joint Campaign Plan, is an elaboration of the new strategy President Bush signaled in January when he decided to send five additional American combat brigades and other units to Iraq. That signaled a shift from the previous strategy, which emphasized transferring to Iraqis the responsibility for safeguarding their security.

That new approach put a premium on protecting the Iraqi population in Baghdad, on the theory that improved security would provide Iraqi political leaders with the breathing space they needed to try political reconciliation.

The latest plan, which covers a two-year period, does not explicitly address troop levels or withdrawal schedules. It anticipates a decline in American forces as the ''surge'' in troops runs its course later this year or in early 2008. But it nonetheless assumes continued American involvement to train soldiers, act as partners with Iraqi forces and fight terrorist groups in Iraq, American officials said.

The goals in the document appear ambitious, given the immensity of the challenge of dealing with die-hard Sunni insurgents, renegade Shiite militias, Iraqi leaders who have made only fitful progress toward political reconciliation, as well as Iranian and Syrian neighbors who have not hesitated to interfere in Iraq's affairs. And the White House's interim assessment of progress, issued on July 12, is mixed.

But at a time when critics at home are defining patience in terms of weeks, the strategy may run into the expectations of many lawmakers for an early end to the American mission here.

The plan, developed by Gen. David H. Petraeus, the senior American commander, and Ryan C. Crocker, the American ambassador, has been briefed to Defense Secretary Robert M. Gates and Adm. William J. Fallon, the head of the Central Command. It is expected to be formally issued to officials here this week.

The plan envisions two phases. The ''near-term'' goal is to achieve ''localized security'' in Baghdad and other areas no later than June 2008. It envisions encouraging political accommodations at the local level, including with former insurgents, while pressing Iraq's leaders to make headway on their program of national reconciliation.

The ''intermediate'' goal is to stitch together such local arrangements to establish a broader sense of security on a nationwide basis no later than June 2009.

''The coalition, in partnership with the government of Iraq, employs integrated political, security, economic and diplomatic means, to help the people of Iraq achieve sustainable security by the summer of 2009,'' a summary of the campaign plan states.

Military officials here have been careful not to guarantee success, and recognized they may need to revise the plan if some assumptions were not met.

''The idea behind the surge was to bring stability and security to the Iraqi people, primarily in Baghdad because it is the political heart of the country, and by so doing give the Iraqis the time and space needed to come to grips with the tough issues they face and enable reconciliation to take place,'' said Col. Peter Mansoor, the executive officer to General Petraeus.

''If eventually the Iraqi government and the various sects and groups do not come to some sort of agreement on how to share power, on how to divide resources and on how to reconcile and stop the violence, then the assumption on which the surge strategy was based is invalid, and we would have to re-look the strategy,'' Colonel Mansoor added.

General Petraeus and Ambassador Crocker will provide an assessment in September on trends in Iraq and whether the strategy is viable or needs to be changed.

The previous plan, developed by Gen. George W. Casey Jr., who served as General Petraeus's predecessor before being appointed as chief of staff of the Army, was aimed at prompting the Iraqis to take more responsibility for security by reducing American forces.

That approach faltered when the Iraqi security forces showed themselves unprepared to carry out their expanded duties, and sectarian killings soared.

In contrast, the new approach reflects the counterinsurgency precept that protection of the population is the best way to isolate insurgents, encourage political accommodations and gain intelligence on numerous

threats. A core assumption of the plan is that American troops cannot impose a military solution, but that the United States can use force to create the conditions in which political reconciliation is possible.

To develop the plan, General Petraeus and Ambassador Crocker assembled a Joint Strategic Assessment Team, which sought to define the conflict and outline the elements of a new strategy. It included officers like Col. H. R. McMaster, the field commander who carried out the successful ''clear, hold and build'' operation in Tal Afar and who wrote a critical account of the Joint Chiefs of Staff role during the Vietnam War; Col. John R. Martin, who teaches at the Army War College and was a West Point classmate of General Petraeus; and David Kilcullen, an Australian counterinsurgency expert who has a degree in anthropology.

State Department officials, including Robert Ford, an Arab expert and the American ambassador to Algeria, were also involved. So were a British officer and experts outside government like Stephen D. Biddle, a military expert at the Council on Foreign Relations.

The team determined that Iraq was in a ''communal struggle for power,'' in the words of one senior officer who participated in the effort. Adding to the problem, the new Iraqi government was struggling to unite its disparate factions and to develop the capability to deliver basic services and provide security.

Extremists were fueling the violence, as were nations like Iran, which they concluded was arming and equipping Shiite militant groups, and Syria, which was allowing suicide bombers to cross into Iraq.

Like the Baker-Hamilton commission, which issued its report last year, the team believed that political, military and economic efforts were needed, including diplomatic discussions with Iran, officials said. There were different views about how aggressive to be in pressing for the removal of overtly sectarian officials, and several officials said that theme was toned down somewhat in the final plan.

The plan itself was written by the Joint Campaign Redesign Team, an allusion to the fact that the plan inherited from General Casey was being reworked. Much of the redesign has already been put into effect, including the decision to move troops out of large bases and to act as partners more fully with the Iraqi security forces.

The overarching goal, an American official said, is to advance political accommodation and avoid undercutting the authority of the Iraqi prime minister, Nuri Kamal al-Maliki. While the plan seeks to achieve stability, several officials said it anticipates that less will be accomplished in terms of national reconciliation by the end of 2009 than did the plan developed by General Casey.

The plan also emphasizes encouraging political accommodation at the local level. The command has established a team to oversee efforts to reach out to former insurgents and tribal leaders. It is dubbed the Force Strategic Engagement Cell, and is overseen by a British general. In the terminology of the plan, the aim is to identify potentially ''reconcilable'' groups and encourage them to move away from violence.

However, groups like Al Qaeda in Mesopotamia, a Sunni Arab extremist group that American intelligence officials say has foreign leadership, and cells backed by Iran are seen as implacable foes.

''You are not out there trying to defeat your enemies wholesale,'' said one military official who is knowledgable about the plan. ''You are out there trying to draw them into a negotiated power-sharing agreement where they decide to quit fighting you. They don't decide that their conflict is over. The reasons for conflict remain, but they quit trying to address it through violence. In the end, we hope that that alliance of convenience to fight with Al Qaeda becomes a connection to the central government as well.''

The hope is that sufficient progress might be made at the local level to encourage accommodation at the national level, and vice versa. The plan also calls for efforts to encourage the rule of law, such as the establishment of secure zones in Baghdad and other cities to promote criminal trials and process detainee cases.

To help measure progress in tamping down civil strife, Col. William Rapp, a senior aide to General Petraeus, oversaw an effort to develop a standardized measure of sectarian violence. One result was a method that went beyond the attacks noted in American military reports and which incorporated Iraqi data.

''We are going to try a dozen different things,'' said one senior officer. ''Maybe one of them will flatline. One of them will do this much. One of them will do this much more. After a while, we believe there is chance you will head into success. I am not saying that we are absolutely headed for success.''

Mr. KYL. Mr. President, I wanted to insert this article in the RECORD because it provides an objective description of the Petraeus plan and how it came to be. The goals of the strategy are ''ambitious,'' as the article notes, but that is all the more reason to support the plan and not undermine it in the Senate.

Those who have criticized the surge at this early stage have offered few options for dealing with the aftermath. One option is to follow the recommendation of the Baker-Hamilton Commission.

At this point, I request unanimous consent to print in the RECORD a column by Steven Biddle that appeared in the July 11 Washington Post.

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

[From washingtonpost.com, July 11]

IRAQ: GO DEEP OR GET OUT

(By Stephen Biddle)

The president's shaky political consensus for the surge in Iraq is in danger of collapsing after the recent defections of prominent Senate Republicans such as Richard Lugar (Ind.), Pete Domenici (N.M.) and George Voinovich (Ohio). But this growing opposition to the surge has not yet translated into support for outright withdrawal—few lawmakers are comfortable with abandoning Iraq or admitting defeat. The result has been a search for some kind of politically moderate ''Plan B'' that would split the difference between surge and withdrawal.

The problem is that these politics do not fit the military reality of Iraq. Many would like to reduce the U.S. commitment to something like half of today's troop presence there. But it is much harder to find a mission for the remaining 60,000 to 80,000 soldiers that makes any sense militarily.

Perhaps the most popular centrist option today is drawn from the Baker-Hamilton commission recommendations of last December. This would withdraw U.S. combat brigades, shift the American mission to one of training and supporting the Iraqi security forces, and cut total U.S. troop levels in the country by about half. This idea is at the heart of the proposed legislative effort that Domenici threw his support behind last week, and support is growing on both sides of the aisle on Capitol Hill.

The politics make sense, but the compromise leaves us with an untenable military mission. Without a major U.S. combat effort to keep the violence down, the American training effort would face challenges even bigger than those our troops are confronting today. An ineffective training effort would leave tens of thousands of American trainers, advisers and supporting troops exposed to that violence in the meantime. The net result is likely to be continued U.S. casualties with little positive effect on Iraq's ongoing civil war.

The American combat presence in Iraq is insufficient to end the violence but does cap its intensity. If we draw down that combat presence, violence will rise accordingly. To be effective, embedded trainers and advisers must live and operate with the Iraqi soldiers they mentor—they are not lecturers sequestered in some safe classroom. The greater the violence, the riskier their jobs and the heavier their losses.

That violence reduces their ability to succeed as trainers. There are many barriers to an effective Iraqi security force. But the toughest is sectarian factionalism. Iraq is in the midst of a civil war in which all Iraqis are increasingly forced to take sides for their own survival. Iraq's security forces are necessarily drawn from the same populations that are being pulled apart into factions. No military can be hermetically sealed off from its society—the more severe the sectarian violence, the deeper the divisions in Iraqi society become and the harder it is for Americans to create the kind of disinterested nationalist security force that could stabilize Iraq. Under the best conditions, it is unrealistic to expect a satisfactory Iraqi security force anytime soon, and the more severe the violence, the worse the prospects.

The result is a vicious cycle. The more we shift out of combat missions and into training, the harder we make the trainers' job and the more exposed they become. It is unrealistic to expect that we can pull back to some safe yet productive mission of training but not fighting—this would be neither safe nor productive.

If the surge is unacceptable, the better option is to cut our losses and withdraw altogether. In fact, the substantive case for either extreme—surge or outright withdrawal—is stronger than for any policy between. The surge is a long-shot gamble. But middle-ground options leave us with the worst of both worlds: continuing casualties but even less chance of stability in exchange. Moderation and centrism are normally the right instincts in American politics, and many lawmakers in both parties desperately want to find a workable middle ground on Iraq. But while the politics are right, the military logic is not.

Mr. KYL. Mr. Biddle provides a need evaluation of the flaws in the Baker-Hamilton. Among those flaws, as he explains, our combat forces are restraining the intensity of the violence in Iraq, and removing them would cause the violence to rise. This rise in violence would put the safety of Americans who remain to train Iraqis in even greater jeopardy.

Of course, prematurely withdrawing our troops would have many other consequences. Indeed, a sobering assessment of the risks of withdrawal is too often missing from debates about the U.S. mission in Iraq.

In this regard, I ask unanimous consent that an article from the July 17 Washington Post be printed in the RECORD.

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

[From the Washington Post, July 17, 2007]

EXIT STRATEGY: WOULD IRAN TAKE OVER IRAQ, WOULD AL-QAEDA? THE DEBATE ABOUT HOW AND WHEN TO LEAVE CENTERS ON WHAT MIGHT HAPPEN AFTER THE U.S. GOES

(By Karen DeYoung and Thomas E. Ricks)

If U.S. combat forces withdraw from Iraq in the near future, three developments would be likely to unfold. Majority Shiites would drive Sunnis out of ethnically mixed areas west to Anbar province. Southern Iraq would erupt in civil war between Shiite groups. And the Kurdish north would solidify its borders and invite a U.S. troop presence there. In short, Iraq would effectively become three separate nations.

That was the conclusion reached in recent ''war games'' exercises conducted for the U.S. military by retired Marine Col. Gary Anderson. ''I honestly don't think it will be apocalyptic,'' said Anderson, who has served in Iraq and now works for a major defense contractor. But ''it will be ugly.''

In making the case for a continued U.S. troop presence, President Bush has offered far more dire forecasts, arguing that al-Qaeda or Iran—or both—would take over Iraq after a ''precipitous withdrawal'' of U.S. forces. Al-Qaeda, he said recently, would ''be able to recruit better and raise more money from which to launch their objectives'' of attacking the U.S. homeland. War opponents in Congress counter that Bush's talk about al-Qaeda is overblown fear-mongering and that nothing could be worse than the present situation.

Increasingly, the Washington debate over when U.S. forces should leave is centering on what would happen once they do. The U.S. military, aware of this political battlefield, has been quietly exploring scenarios of a reduced troop presence, performing role-playing exercises and studying historical parallels. Would the Iraqi government find its way, or would the country divide along sectarian lines? Would al-Qaeda take over? Would Iran? Would U.S. security improve or deteriorate? Does the answer depend on when, how and how many U.S. troops depart?

Some military officers contend that, regardless of whether Iraq breaks apart or outside actors seek to take over after a U.S. pullout, ever greater carnage is inevitable. ''The water-cooler chat I hear most often . . . is that there is going to be an outbreak of violence when we leave that makes the [current] instability look like a church picnic,'' said an officer who has served in Iraq.

However, just as few envisioned the long Iraq war, now in its fifth year, or the many setbacks along the way, there are no firm conclusions regarding the consequences of a reduction in U.S. troops. A senior administration official closely involved in Iraq policy imagines a vast internecine slaughter as Iraq descends into chaos but cautions that it is impossible to know the outcome. ''We've got to be very modest about our predictive capabilities,'' the official said.

MISTAKES OF THE PAST

In April of last year, the Army and Joint Forces Command sponsored a war game called Unified Quest 2007 at the Army War College in Pennsylvania. It assumed the partition of an ''Iraq-like'' country, said one player, retired Army Col. Richard Sinnreich, with U.S. troops moving quickly out of the capital to redeploy in the far north and south. ''We have obligations to the Kurds and the Kuwaitis, and they also offer the most stable and secure locations from which to continue,'' he said.

''Even then, the end-of-game assessment wasn't very favorable'' to the United States, he said.

Anderson, the retired Marine, has conducted nearly a dozen Iraq-related war games for the military over the past two years, many premised on a U.S. combat pullout by a set date—leaving only advisers and support units—and concluded that partition would result. The games also predicted that Iran would intervene on one side of a Shiite civil war and would become bogged down in southern Iraq.

T.X. Hammes, another retired Marine colonel, said that an extended Iranian presence in Iraq could lead to increased intervention by Saudi Arabia and other Sunni states on the other side. ''If that happens,'' Hammes said, ''I worry that the Iranians come to the conclusion they have to do something to undercut . . . the Saudis.'' Their best strategy, he said, ''would be to stimulate insurgency among the Shiites in Saudi Arabia.''

In a secret war game conducted in December at an office building near the Pentagon, more than 20 participants from the military, the CIA, the State Department and the private sector spent three days examining what might unfold if the recommendations of the Iraq Study Group were implemented.

One question involved how Syria and Iran might respond to the U.S. diplomatic outreach proposed by the bipartisan group, headed by former secretary of state James A. Baker III and former congressman Lee H. Hamilton (D-Ind.). The gamers concluded that Iran would be difficult to engage because its divided government is incapable of delivering on its promises. Role-players representing Syria did engage with the U.S. diplomats, but linked helping out in Baghdad to a lessening of U.S. pressure in Lebanon.

The bottom line, one participant said, was ''pretty much what we are seeing'' since the Bush administration began intermittent talks with Damascus and Tehran: not much progress or tangible results.

Amid political arguments in Washington over troop departures, U.S. military commanders on the ground stress the importance of developing a careful and thorough withdrawal plan. Whatever the politicians decide, ''it needs to be well-thought-out and it cannot be a strategy that is based on 'Well, we need to leave,'" Army Maj. Gen. Benjamin Mixon, a top U.S. commander in Iraq, said Friday from his base near Tikrit.

History is replete with bad withdrawal outcomes. Among the most horrific was the British departure from Afghanistan in 1842, when 16,500 active troops and civilians left Kabul thinking they had safe passage to India. Two weeks later, only one European arrived alive in Jalalabad, near the Afghan-Indian border.

The Soviet Union's withdrawal from Afghanistan, which began in May 1988 after a decade of occupation, reveals other mistakes to avoid. Like the U.S. troops who arrived in Iraq in 2003, the Soviet force in Afghanistan was overwhelmingly conventional, heavy with tanks and other armored vehicles. Once Moscow made public its plans to leave, the political and security situations unraveled much faster than anticipated. ''The Soviet Army actually had to fight out of certain areas,'' said Army Maj. Daniel Morgan, a two-tour veteran of the Iraq war who has been studying the Soviet pullout at Fort Leavenworth, Kan., with an eye toward gleaning lessons for Iraq. ''As a matter of fact, they had to airlift out of Kandahar, the fighting was so bad.''

War supporters and opponents in Washington disagree on the lessons of the departure most deeply imprinted on the American psyche: the U.S. exit from Vietnam. ''I saw it once before, a long time ago,'' Sen. John McCain (R-Ariz.), a Vietnam veteran and presidential candidate, said last week of an early Iraq withdrawal. ''I saw a defeated military, and I saw how long it took a military that was defeated to recover.''

Sen. Joseph R. Biden Jr. (D-Del.), also a White House hopeful, finds a different message in the Vietnam retreat. Saying that Baghdad would become ''Saigon revisited,'' he warned that ''we will be lifting American personnel off the roofs of buildings in the Green Zone if we do not change policy, and pretty drastically.''

THE AL-QAEDA THREAT

What is perhaps most striking about the military's simulations is that its post-drawdown scenarios focus on civil war and regional intervention and upheaval rather than the establishment of an al-Qaeda sanctuary in Iraq.

For Bush, however, that is the primary risk of withdrawal. ''It would mean surrendering the future of Iraq to al-Qaeda,'' he said in a news conference last week. ''It would mean that we'd be risking mass killings on a horrific scale. It would mean we'd allow the terrorists to establish a safe haven in Iraq to replace the one they lost in Afghanistan.'' If U.S. troops leave too soon, Bush said, they would probably ''have to return at some later date to confront an enemy that is even more dangerous.''

Withdrawal would also ''confuse and frighten friends and allies in the region and embolden Syria and especially Iran, which would then exert its influence throughout the Middle East,'' the president said.

Bush is not alone in his description of the al-Qaeda threat should the United States leave Iraq too soon. ''There's not a doubt in my mind that Osama bin Laden's one goal is to take over the Kingdom of the Two Mosques [Saudi Arabia] and reestablish the caliphate'' that ended with the Ottoman Empire, said a former senior military official now at a Washington think tank. ''It would be very easy for them to set up camps and run them in Anbar and Najaf'' provinces in Iraq.

U.S. intelligence analysts, however, have a somewhat different view of al-Qaeda's presence in Iraq, noting that the local branch takes its inspiration but not its orders from bin Laden. Its enemies—the overwhelming majority of whom are Iraqis—reside in Baghdad and Shiite-majority areas of Iraq, not in Saudi Arabia or the United States. While intelligence officials have described the Sunni insurgent group calling itself al-Qaeda in Iraq as an ''accelerant'' for violence, they have cited domestic sectarian divisions as the main impediment to peace.

In a report released yesterday, Anthony H. Cordesman of the Center for Strategic and International Studies warned that al-Qaeda is ''only one part'' of a spectrum of Sunni extremist groups and is far from the largest or most active. Military officials have said in background briefings that al-Qaeda is responsible for about 15 percent of the attacks, Cordesman said, although the group is ''highly effective'' and probably does ''the most damage in pushing Iraq towards civil war.'' But its activities ''must be kept in careful perspective, and it does not dominate the Sunni insurgency,'' he said.

'SERIOUS CONSEQUENCES'

Moderate lawmakers such as Sen. Richard G. Lugar (R-Ind.) have concluded that a unified Iraqi government is not on the near horizon and have called for redeployment, change of mission and a phased drawdown of

U.S. forces. Far from protecting U.S. interests, Lugar said in a recent speech, the continuation of Bush's policy poses ''extreme risks for U.S. national security.''

Critics of complete withdrawal often charge that ''those advocating [it] just don't understand the serious consequences of doing so,'' said Wayne White, a former deputy director of Near East division of the State Department's Intelligence and Research Bureau. ''Unfortunately, most of us old Middle East hands understand all too well some of the consequences.''

White is among many Middle East experts who think that the United States should leave Iraq sooner rather than later, but differ on when, how and what would happen next. Most agree that either an al-Qaeda or Iranian takeover would be unlikely, and say that Washington should step up its regional diplomacy, putting more pressure on regional actors such as Saudi Arabia to take responsibility for what is happening in their back yards.

Many regional experts within and outside the administration note that while there is a range of truly awful possibilities, it is impossible to predict what will happen in Iraq—with or without U.S. troops.

''Say the Shiites drive the Sunnis into Anbar,'' one expert said of Anderson's wargame scenario. ''Well, what does that really mean? How many tens of thousands of people are going to get killed before all the surviving Sunnis are in Anbar?'' He questioned whether that result would prove acceptable to a pro-withdrawal U.S. public.

White, speaking at a recent symposium on Iraq, addressed the possibility of unpalatable withdrawal consequences by paraphrasing Winston Churchill's famous statement about democracy. ''I posit that withdrawal from Iraq is the worst possible option, except for all the others.''

Mr. KYL. Mr. President, a premature withdrawal would have severe consequences, all of which would pose severe risks. Clearly, we should allow General Petraeus's plan time to succeed.

Finally, Mr. President, as I noted previously, by setting the aside the Defense authorization bill because he lost a vote to withdraw our troops, the Majority Leader left important business for our military undone. Recently, the Senate passed parts of the bill—a pay raise and ''wounded warriors'' provisions—but more needs to be done.

For instance, the Defense authorization bill should be the vehicle for setting our national security priorities, one of which is how we should deal with antisatellite weapons the Chinese could use against us.

I, therefore, ask unanimous consent that an article on China's space weapons that appeared in the July 23 Wall Street Journal be inserted into the RECORD.

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

[From the Wall Street Journal, July 23, 2007]

CHINA'S SPACE WEAPONS

(By Ashley J. Tellis)

On Jan. 11, 2007, a Chinese medium-range ballistic missile slammed into an aging weather satellite in space. The resulting collision not only marked Beijing's first successful anti-satellite (ASAT) test but, in the eyes of many, also a head-on collision with the Bush administration's space policies.

As one analyst phrased it, U.S. policy has compelled China's leaders to conclude ''that only a display of Beijing's power to launch . . . an arms race would bring Washington to the table to hear their concerns.'' This view, which is widespread in the U.S. and elsewhere, misses the point: China's ASAT demonstration was not a protest against the Bush administration, but rather part of a maturing strategy designed to counter the overall military superiority of the U.S.

Since the end of the Cold War, Chinese strategists have been cognizant of the fact that the U.S. is the only country in the world with the capacity—and possibly the intention—to thwart China's rise to great power status. They also recognize that Beijing will be weak militarily for some time to come, yet must be prepared for a possible war with America over Taiwan or, in the longer term, over what Aaron Friedberg once called ''the struggle for mastery in Asia.'' How the weaker can defeat the stronger, therefore, becomes the central problem facing China's military strategy.

Chinese strategists have struggled to find ways of solving this conundrum ever since the dramatic demonstration of American prowess in Operation Desert Storm. And after carefully analyzing U.S. operations in the Persian Gulf, Kosovo and Afghanistan, they believe they have uncovered a significant weakness.

The advanced military might of the U.S. is inordinately dependent on a complex network of space-based command, control, communications, and computer-driven intelligence, surveillance and reconnaissance capabilities that enables American forces to detect different kinds of targets and exchange militarily relevant information. This network is key to the success of American combat operations. These assets, however, are soft and defenseless; while they bestow on the American military definite asymmetric advantages, they are also the source of deep vulnerability. Consequently, Chinese strategists concluded that any effort to defeat the U.S. should aim not at its fundamental strength—its capacity to deliver overwhelming conventional firepower precisely from long distances—but rather at its Achilles' heel, namely, its satellites and their related ground installations.

Consistent with this calculus, China has pursued, for over a decade now, a variety of space warfare programs, which include direct attack and directed-energy weapons, electronic attack, and computer-network and ground-attack systems. These efforts are aimed at giving China the capacity to attack U.S. space systems comprehensively because, in Chinese calculations, this represents the best way of ''leveling the playing field'' in the event of a future conflict.

The importance of space denial for China's operational success implies that its counterspace investments, far from being bargaining chips aimed at creating a peaceful space regime, in fact represent its best hope for prevailing against superior American military power. Because having this capacity is critical to Chinese security, Beijing will not entertain any arms-control regime that requires it to trade away its space-denial capabilities. This would only further accentuate the military advantages of its competitors. For China to do otherwise would be to condemn its armed forces to inevitable defeat in any encounter with American power.

This is why arms-control advocates are wrong even when they are right. Any ''weaponization'' of space will indeed be costly and especially dangerous to the U.S., which relies heavily on space for military superiority, economic growth and strategic stability. Space arms-control advocates are correct when they emphasize that advanced powers stand to gain disproportionately from any global regime that protects their space assets. Yet they are wrong when they insist that such a regime is attainable and, therefore, ought to be pursued.

Weaker but significant challengers, like China, simply cannot permit the creation of such a space sanctuary because of its deleterious consequences for their particular interests. Consequently, even though a treaty protecting space assets would be beneficial to Washington, its specific costs to Beijing—in the context of executing China's national military strategy—would be remarkably high.

Beijing's attitude toward space arms control will change only given a few particular developments. China might acquire the capacity to defeat the U.S. despite America's privileged access to space. Or China's investments in counterspace technology might begin to yield diminishing returns because the U.S. consistently nullifies these capabilities through superior technology and operational practices. Or China's own dependence on space for strategic and economic reasons might intensify to the point where the threat posed by any American offensive counterspace programs exceed the benefits accruing to Beijing's own comparable efforts. Or the risk of conflict between a weaker China and any other superior military power, such as the U.S., disappears entirely.

Since these conditions will not be realized anytime soon, Washington should certainly discuss space security with Beijing, but, for now, it should not expect that negotiation will yield any successful agreements. Instead, the U.S. should accelerate investments in solutions that enhance the security of its space assets, in addition to developing its own offensive counterspace capabilities. These avenues—as the Bush administration has correctly recognized—offer the promise of protecting American interests in space and averting more serious threats to its global primacy.

Mr. KYL. I asked that this article be printed in the RECORD because it is a wake-up call to a new threat we need to take seriously. By setting aside the Defense authorization bill, we missed an opportunity to deal with this threat from China.

FOREIGN INTELLIGENCE SURVEILLANCE ACT

Mr. SPECTER. Mr. President, I have sought recognition to comment on proposed legislation to revise the Foreign Intelligence Surveillance Act of 1978 to facilitate the electronic surveillance of targets reasonably believed to be outside the United States in order to obtain foreign intelligence information relating to international terrorism. When the act was passed in 1978, communications outside the United States were characteristically transmitted via satellite and were not covered by the act which applied to wires. In the intervening 29 years, such communications now travel by wire and are covered by the act.

The civil and constitutional rights of U.S. persons would ordinarily not be involved in electronic surveillance of targets outside the United States. If persons inside the United States were surveilled while targeting outside the United States, then the minimization procedures would reasonably protect

civil and constitutional rights of persons inside the United States.

As the Director of National Intelligence, Michael McConnell, outlined the current threat, there is an urgent need to enact this legislation promptly, certainly before the Congress adjourns for the August recess. Such modifications to FISA should have been enacted long ago and legislation has been pending for months as proposed by Senator DIANNE FEINSTEIN and myself.

I am concerned by provisions of the proposed legislation which would give extensive authority to the Attorney General. Regrettably, Attorney General Gonzales does not enjoy the confidence of many, if not most, Members of Congress. There is in the Congress generally considerable skepticism about the administration's Terrorist Surveillance Program because it was kept secret for so long and concerns continue to be expressed that some portions have still not been adequately explained to the public, even where that might be done consistent with national security.

There has been considerable discussion among Members of the Senate raising at a minimum serious concerns and, beyond that, objections to giving Attorney General Gonzales any additional, even if temporary, authority.

Discussions have been undertaken with the Director of National Intelligence to substitute his position for that of the Attorney General; or, in the alternative, to substitute the Secretary of Homeland Security or some other official outside of the Department of Justice who has been confirmed by the Senate.

I am putting these concerns on the record now so that they may be considered and resolved at the earliest time so that legislation can be concluded before Congress adjourns for the August recess.

ADDITIONAL STATEMENTS

REMEMBERING GEORGE EDWARD ''SKIP'' PROSSER

• Mr. BURR. Mr. President, I wish to honor the life of George Edward ''Skip'' Prosser, head coach of the Wake Forest University basketball team.

As a Demon Deacon alumni myself, I join the entire Wake Forest University community in mourning his untimely passing.

I knew Skip personally. Skip was a friend of mine. And before I mention many of his accomplishments as a basketball coach, perhaps Skip's most admirable achievement in life was that he was a good husband and good dad.

When I first heard the news of Skip's passing, my first thoughts were not of basketball but of his wife Nancy and his sons, Scott and Mark. My heartfelt thoughts and prayers go out to Skip's family and to the Wake Forest community that adored him.

Coach Prosser had countless basketball accomplishments, and as I stand here today, I can only scratch the surface of what he has achieved.

When he joined Wake Forest University for the 2001 to 2002 season, after successful coaching at Loyola, Maryland, and Xavier, he added a much needed spark to our basketball program that yielded immediate success.

Coach Prosser is the only coach in NCAA history to take three different schools to the NCAA Tournament in his first season at each of those schools.

In his first four seasons coaching at Wake Forest, Coach Prosser led the Demon Deacons to the NCAA tournament, and in 2003 he led the team to its first outright regular season ACC title in over 40 years.

In the 2004 to 2005 season, Coach Prosser's Demon Deacons rose to No. 1 in the national rankings for the first time in school history.

One of his most impressive statistics was his career wins percentage of .666 that is among the highest winning percentages of active coaches.

More impressive, however, is the statement Coach Prosser often made about his personal coaching record. It personified the kind of man Skip was. When his record was applauded, he often responded by saying, ''I don't have a career record. The players won those games.''

In addition to the honor and praise Coach Prosser got for his achievements on the court, his work off the court also deserved high marks.

Coach Prosser always emphasized that academic success was the first priority for his athletes. In fact, every senior on Coach Prosser's team graduated with a diploma in 4 years.

The Wake Forest student body embraced him as one of their own because he took every opportunity to spend time with them—frequently walking through the Wake Forest Quad, talking with students, and game after game filling our home basketball coliseum with Demon Deacon pride.

Skip Prosser will be missed. He was an outstanding man who brought a community together through the game he so loved.

Again, I send my deepest condolences to Skip's family, his athletes, his fans, and his friends.•

COMMENDING WEYERHAEUSER CORPORATION

• Mr. COCHRAN. Mr. President, I wish to recognize the Weyerhaeuser Corporation for its assistance in the relief efforts and the rebuilding of the gulf coast that was devastated by Hurricane Katrina in August of 2005. This outstanding company has gone well beyond the call of duty, truly exemplifying community service.

Weyerhaeuser was incorporated in 1900 and is one of the world's largest integrated forest product companies. Headquartered in Federal Way, WA, Weyerhaeuser employs over 49,000 people in 18 countries. In 2005, Weyerhaeuser recorded sales of $22.6 billion and managed more than 6.5 million acres of timberland in nine States.

On November 29, 2006, Weyerhaeuser received the Ron Brown Award, the only Presidential award to honor companies ''for their exemplary quality of their relationships with employees and communities.'' The Ron Brown Award, originally established by President Bill Clinton, is named after the late Secretary of Commerce who believed that ''businesses do well by doing good.''

I am honored to have such a dedicated company operating in Mississippi in places such as Magnolia, Philadelphia, Richland, Columbus and Bruce. Weyerhaeuser has been operating in Mississippi since 1956 with approximately 1,700 employees at 14 locations, as well as 776,000 acres of timberland.

To date, over 300 employees and retirees from across the United States have volunteered more than 42,000 hours of their time, helped rebuild more than 50 homes, and contributed more than $2.8 million for disaster relief. Weyerhaeuser has a generous policy of allowing employees 2 to 4 weeks of paid leave to help volunteer in the rebuilding efforts of the gulf coast.

The people touched by Weyerhaeuser's response say it best. As one family wrote in response to help from Weyerhaeuser volunteers, ''Because of all your efforts, we are home! Words cannot truly express the outpouring of love we have received. We are eternally grateful to our Weyerhaeuser family.''

The high caliber of Weyerhaeuser employees can be seen in their comments after volunteering on the gulf coast. One man noted, ''The days were long and hot, the work was intense, but the rewards were immeasurable. This has been an experience I won't soon forget.'' Another volunteer employee commented, ''This experience was such a blessing. I got so much more from it than I felt I gave.'' One Weyerhaeuser retiree said, ''Having once more the opportunity to work side by side with other Weyerhaeuser employees and retirees made me realize anew why I enjoyed working for Weyerhaeuser so much. It's all about the people and the values the company ascribes to. Thanks again.'' Testimonies such as these speak volumes about Weyerhaeuser's dedication to its employees and others.

I cannot thank the company enough for the work they have done and continue to do. It is truly deserving of such a prestigious award, and I am delighted to see Weyerhaeuser's efforts have been recognized.•

NATIONAL NIGHT OUT

• Mr. DOMENICI. Mr. President, I wish to recognize the statewide effort my great State of New Mexico will put forth for the National Night Out. National Night Out is a community event

designed to bring awareness to preventing crime while building partnerships between communities and local law enforcement agencies. Crime is not limited to urban areas anymore; it affects every person in every town, big and small. Communities need to be proactive in fighting it. National Night Out is a great step locals can take to curb violence and crime in their areas.

Activities for the night out include barbeques, block parties, downtown rallies and townhall meetings and vary by community; each event in an attempt to gain support for local law enforcement and create camaraderie amongst citizens. When communities come together, they can do great things, even fight crime. Some New Mexico communities participating in National Night Out are Albuquerque, Belen, Bernalillo, Bosque Farms, Carlsbad, Gallup, Isleta, Jal, Las Cruces, Los Lunas, all of Sandoval County, Santa Fe, and Truth or Consequences. Each town will celebrate with its own flair, and each night out will succeed in bring awareness to crime in their area.

I applaud these neighborhoods for being proactive in their local fight on crime.●

15TH ANNUAL NAVAJO FAIR AND RODEO

● Mr. DOMENICI. Mr. President, almost 40 years ago, the Ramah Navajo School Board was incorporated in New Mexico as a means to provide education, health, job training, and social services to the Ramah Navajo people. This private, not-for-profit group was created in 1970 and has since strengthened the community through its involvement. As they have done for the past 15 years, the School Board organizes a fair and rodeo as a celebration of Ramah Navajo culture and the culture of New Mexico.

To name a few of the events this year, there is a Pow Wow, kid's carnival, traditional dance performances, and roping competitions. I want to recognize the Ramah Navajo School Board, Inc., and their efforts to promote these public events, specifically the landmark of the 15th annual Ramah Navajo Fair and Rodeo. These events strengthen bonds in the community with the people and their traditions.

Because of their location and separation from the contiguous Navajo Nation, the Ramah Navajo community stands on a mission of self-determination and self-reliance, setting up programs like the School Board to deal with all their people's needs. The Ramah Navajo School Board helped create the first Indian-controlled contract school in the United States, currently educating 600 students.

I would like to bring to the attention of the country how the Ramah Navajo people have kept their cultural identity strong while building on their community through events like this fair and rodeo.●

TRIBUTE TO DELORES TOLLEFSON

● Mr. DORGAN. Mr. President, most of us look back on our high school years as a wonderful time of learning, growing and maturing.

And also, most of us remember fondly one special teacher that gave us a nudge or an encouraging pat on the back or maybe even some discipline at the right moment.

For me, that teacher was Delores Tollefson. She was a big presence in a small school. She was the English teacher who virtually did it all in my small school of 40 students in all four high school grades. She put on all the class plays; she helped run the school newspaper and spearheaded the school annual; and she taught speech and English, and much more.

But most important to me was that she had the patience to see potential in her students. At just the right time she would offer either encouragement or disapproval and say, ''You can do that, you've got a lot of talent,'' or ''You're better than that. Come on—get busy and work up to your potential,'' or ''Great job!''

Most of us who were fortunate enough to have a teacher that saw potential and pushed us to reach it seldom took the time to say thank you.

This year marks the 90th birthday of Delores Tollefson and I want to pay tribute to a wonderful teacher who affected my life in a very positive way. It is time to say a very special ''Thank you.''

Happy Birthday, Delores Tollefson! And thank you for dedicating your life to teaching young people. It made a big difference in the life of this former student.●

HONORING SUPERLATIVE TECHNOLOGIES, INC.

● Ms. SNOWE. Mr. President, today I recognize an outstanding small business from my home State of Maine that has established itself as one of New England's leading information technology engineering firms. Headquartered in East Machias, Superlative Technologies Inc., SuprTEK, provides effective information technology solutions and engineering services to the diverse clientele it has established during its 11 years in operation.

As an 8(a) and HUBZone certified small business, SuprTEK supplies private industries, as well as local, State, and Federal Government, with support solutions in a wide variety of areas, including information assurance, network management, systems development, operation management, wireless solutions, and enterprise architecture. The 8(a) and HUBZone programs often allow small businesses, such as SuprTEK, greater access to Federal Government opportunities. The HUBZone program, in particular, benefits rural communities by ensuring the business itself, and a portion of its employees, reside in the HUBZone. By enabling each client to utilize its support solutions effectively and efficiently, SuprTEK demonstrates its strong commitment to improving its clients' businesses. Employing highly qualified business and technical specialists averaging almost 10 years of experience, SuprTEK demands high standards for themselves and their clients.

SuprTEK has consistently fought to bring jobs and economic vitality to the Machias region and all of downeast Maine. With the closing of the Naval Computer and Telecommunications Station in Cutler, and fears of the loss's effect on the local economy, SuprTEK was awarded a contract to build a first-of-its-kind Navy Human Resources Benefits Call Center in July of 2001. The employees at SuprTEK provided health, insurance, and retirement assistance to nearly 40,000 U.S. Navy civilian employees throughout the Northeast in 2001. Currently, 30 employees aid the full 186,000 member Navy civilian workforce worldwide. In May 2005, SuprTEK completed the construction of a new and improved facility in East Machias to house its call center. And in October of 2006, the U.S. Navy announced a new contract for SuprTEK's call center to continue providing these vital resources to the Navy through 2011.

In 2005, the Army Surface Deployment and Distribution Command presented SuprTEK with its Small Disadvantaged Business Outstanding Achievement Award. This award is emblematic of the U.S. military's appreciation for the work that SuprTEK has done and continues to do. Having visited SuprTEK myself, I have seen firsthand the dedication and commitment of the employees at SuprTEK and the tremendous impact that they are having on the lives of the Navy's civilian employees. Furthermore, SuprTEK plans to expand its operation by creating a business park that would also include low-cost office space for light industry, such as manufacturers of clothing and household items. This is a welcome and reassuring sign for a region whose prosperity has suffered. I thank everyone at SuprTEK for the magnificent job they have done so far, and wish them luck in their future endeavors.●

DECLARATION OF A NATIONAL EMERGENCY RELATIVE TO THE THREAT IN LEBANON POSED BY THE ACTIONS OF CERTAIN PERSONS TO UNDERMINE LEBANON'S LEGITIMATE DEMOCRATIC INSTITUTIONS—PM 23

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 Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Pursuant to the International Emergency Economic Powers Act, as amended (50 U.S.C. 1701 et. seq.) (IEEPA), I hereby report that I have issued an Executive Order declaring a national emergency to deal with the threat in Lebanon posed by the actions of certain persons to undermine Lebanon's legitimate and democratically elected government or democratic institutions, to contribute to the deliberate breakdown in the rule of law in Lebanon, including through politically motivated violence and intimidation, to reassert Syrian control or contribute to Syrian interference in Lebanon or to infringe upon or undermine Lebanese sovereignty, contributing to political and economic instability in that country and the region. Such actions constitute an unusual and extraordinary threat to the national security and foreign policy of the United States.

This order will block the property and interests in property of persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, to have taken, or to pose a significant risk of taking, actions, including acts of violence, that have the purpose or effect of undermining Lebanon's democratic processes or institutions or contributing to the breakdown of the rule of law in Lebanon, supporting the reassertion of Syrian control or contributing to Syrian interference in Lebanon, or infringing upon or undermining Lebanese sovereignty. The order further authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to block the property and interests in property of those persons determined to have materially assisted, sponsored, or provided financing, material, logistical, or technical support for, or goods or services in support of, such actions or any person whose property and interests in property are blocked pursuant to the order; to be a spouse or dependent child of any person whose property and interests in property are blocked pursuant to the order; or to be owned or controlled by, or to act or purport to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the order.

I delegated to the Secretary of the Treasury, in consultation with the Secretary of State, the authority to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of my order.

I am enclosing a copy of the Executive Order I have issued.

GEORGE W. BUSH.

THE WHITE HOUSE, *August 1, 2007*.

MESSAGES FROM THE HOUSE

At 12:39 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 176. An act to authorize the establishment of educational exchange and development programs for member countries of the Caribbean Community (CARICOM).

H.R. 180. An act to require the identification of companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes.

H.R. 957. An act to amend the Iran Sanctions Act of 1996 to expand and clarify the entities against which sanctions may be imposed.

H.R. 986. An act to amend the Wild and Scenic Rivers Act to designate certain segments of the Eightmile River in the State of Connecticut as components of the National Wild and Scenic Rivers System, and for other purposes.

H.R. 2347. An act to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of $20,000,000 or more in Iran's energy sector, companies that sell arms to the Government of Iran, and financial institutions that extend $20,000,000 or more in credit to the Government of Iran for 45 days or more, and for other purposes.

H.R. 2722. An act to restructure the Coast Guard Integrated Deepwater Program, and for other purposes.

H.R. 2831. An act to amend title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans With Disabilities Act of 1990, and the Rehabilitation Act of 1973 to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

ENROLLED BILL SIGNED

At 2:36 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1. An act to provide for the implementation of the recommendations of the National Commission on Terrorist Attacks Upon the United States.

The enrolled bill was subsequently signed by the President pro tempore (Mr. BYRD).

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1384. An act to designate the facility of the United States Postal Service located at 118 Minner Street in Bakersfield, California, as the ''Buck Owens Post Office''.

H.R. 2688. An act to designate the facility of the United States Postal Service located at 103 South Getty Street in Uvalde, Texas, as the ''Dolph S. Briscoe, Jr. Post Office Building''.

H.R. 3034. An act to designate the facility of the United States Postal Service located at 127 South Elm Street in Gardner, Kansas, as the ''Private First Class Shane R. Austin Post Office''.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 2831. An act to amend title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans With Disabilities Act of 1990, and the Rehabilitation Act of 1973 to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

S. 1927. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to provide additional procedures for authorizing certain acquisitions of foreign intelligence information 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–2754. A communication from the Secretary of Defense, transmitting, pursuant to law, a report relative to progress in building interagency capacity for national security missions; to the Committee on Armed Services.

EC–2755. A communication from the Under Secretary of Commerce (Oceans and Atmosphere), transmitting, pursuant to law, a report relative to the administration of the Coastal Zone Management Act for fiscal years 2004 and 2005; to the Committee on Commerce, Science, and Transportation.

EC–2756. 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'' (FRL No. 8449–6) received on July 28, 2007; to the Committee on Environment and Public Works.

EC–2757. 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 Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of Boyd County, Kentucky Portion of the Huntington-Ashland 8-Hour Ozone Nonattainment Area to Attainment for Ozone'' (FRL No. 8449–5) received on July 28, 2007; to the Committee on Environment and Public Works.

EC–2758. 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 ''Extension of Cross-Media Electronic Reporting Rule Deadline for Authorized Programs'' ((RIN2025–AA07) (FRL No. 8449–8)) received on July 28, 2007; to the Committee on Environment and Public Works.

EC–2759. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2007–143—2007–152); to the Committee on Foreign Relations.

EC–2760. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled, ''Letter Report: Review of Advisory Neighborhood Commission 2C Grant Awards for the Period March 2005 Through December 2006''; to the Committee on Homeland Security and Governmental Affairs.

EC–2761. A communication from the General Counsel, Office of Management and

Budget, Executive Office of the President, transmitting, pursuant to law, the report of a rule entitled ''Applicability of Cost Accounting Standards Coverage'' (Docket No. 3110–01) received on July 28, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2762. A communication from the General Counsel, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of a rule entitled ''Time and Material and Labor Hours Contracts for Commercial Items'' (Docket No. 3110–01) received on July 28, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2763. A communication from the General Counsel, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report of a rule entitled ''Changes to Acquisition Thresholds'' (Docket No. 3110–01) received on July 28, 2007; to the Committee on Homeland Security and Governmental Affairs.

EC–2764. A communication from the Under Secretary for Management, Department of Homeland Security, transmitting, pursuant to law, a report relative to the Department's commercial activities inventory for fiscal year 2006; to the Committee on Homeland Security and Governmental Affairs.

EC–2765. A communication from the Secretary of Veterans Affairs, transmitting, the report of a draft bill entitled, ''Veterans' Pride Initiative Act''; to the Committee on Veterans' Affairs.

EC–2766. A communication from the Secretary of Veterans Affairs, transmitting, the report of a draft bill entitled, ''Agent Orange Equitable Compensation Act''; to the Committee on Veterans' Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–193. A resolution adopted by the Legislature of Rockland County, New York, urging Congress to schedule a public hearing in Rockland County with the Federal Aviation Administration and to not close the public comment period on the proposed airspace redesign; to the Committee on Commerce, Science, and Transportation.

POM–194. A concurrent resolution adopted by the Senate of the State of Louisiana urging Congress to provide funding for the Louisiana University of Medical Sciences, Inc., College of Primary Care Medicine; to the Committee on Health, Education, Labor, and Pensions.

SENATE CONCURRENT RESOLUTION NO. 137

Whereas, Louisiana suffers with one of the worst health environments in the country, including a high infant mortality rate, a high rate of low birth weight babies, and an incidence of stroke that is 1.3 times that of the rest of the country, outside of the ''stroke belt''; and

Whereas, despite the best efforts of medical education institutions in Louisiana, the deficit of primary care physicians continues; and

Whereas, less than one-half of the 1998 graduates of medical education institutions in Louisiana selected a primary care specialty; and

Whereas, Louisiana University of Medical Sciences, Inc., College of Primary Care Medicine, is a non-profit organization designed to address the shortage of primary care physicians in small towns, rural areas, and underserved areas; and

Whereas, the faculty and staff of the College of Primary Care Medicine are committed to a teaching program that addresses the shortage of primary care physicians both in Louisiana and nationwide; and

Whereas, throughout the educational experience at the College of Primary Care Medicine of the Louisiana University of Medical Services, Inc., the student will be exposed to a wide variety of primary health care settings; and

Whereas, through the program at the College of Primary Care Medicine of the Louisiana University of Medical Services, Inc., the traditional basic medical sciences will be thoroughly presented, and students will be given all the tools necessary to be successful on the United States Medical Licensing Examination. Therefore, be it

Resolved, That the Legislature of Louisiana hereby memorializes the Congress of the United States to provide funding for the Louisiana University of Medical Services, Inc., College of Primary Care Medicine. Be it further

Resolved, That a copy of this Resolution be transmitted to the President of the United States, the secretary of the United States Senate, the clerk of the United States House of Representatives, and each member of the Louisiana delegation to the Congress of the United States.

POM–195. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to act on legislation that would ensure the safety and well-being of the returning veterans who face mental illness caused by their fulfillment of their duties; to the Committee on Veterans' Affairs.

Whereas, A significant growth in Post-Traumatic Stress Disorder (PTSD) has been identified over the past few years with the escalation of combat veterans returning home from the Iraq and Afghanistan conflicts; nation-wide calls for more assistance for those returning with mental issues as a result of combat have been growing, and this resolution is in response to those calls; and

Whereas, As of January 2007, more than 1.6 million U. S. Servicemen and women had served in Afghanistan and Iraq; and

Whereas, In October 2005, the U.S. Department of Veterans Affairs reported that more than 430,000 U.S. soldiers have been discharged from the military following service in Afghanistan and Iraq; more than 119,000 have sought help for medical or mental health issues from the Department of Veterans Affairs to date; and

Whereas, In January 2006, the Journal of the American Medical Association reported that 35% of Iraq Veterans have already sought help for mental health concerns; a 2003 New England Journal of Medicine Study found that more than 60% of Operation Iraqi Freedom/Operation Enduring Freedom veterans showing symptoms of PTSD were unlikely to seek help due to fears of stigmatization or loss of career advancement opportunities; and

Whereas, In 2005, the Department of Veterans Affairs reported that 18% of Afghanistan Veterans and 20% of Iraq Veterans in their care were suffering from some type of service-connected psychological disorder; and

Whereas, The Department of Veterans Affairs has seen a tenfold increase in PTSD cases in 2006; according to the VA, more than 37,000 Vets of Iraq and Afghanistan are suffering from mental health disorders, and more than 16,000 have already been diagnosed with PTSD; and

Whereas, According to the Army, since March 2003, at least 45 U.S. soldiers and 9 Marines have committed suicide in Iraq; at least 20 soldiers and 23 Marines have committed suicide since returning home, though exact numbers are not available; and

Whereas, The United States Congress is currently considering H.R. 612, H.R. 1538, S. 713, and H.R. 1268, which address the tragic Post-Traumatic Stress Disorder situation among our returning veterans; therefore, be it

Resolved, by the House of Representatives of the Ninety-fifth General Assembly of the State of Illinois, that our returning veterans deserve the very best in healthcare, including mental care, and that both the Federal Government and State Governments must work together to provide this healthcare; and be it further

Resolved, That the State of Illinois wishes to be a model State for the medical care that we offer to our returning soldiers in joint partnership with the Federal Government; and be it further

Resolved, That we urge Congress to act on H.R. 612, H.R. 1538, S. 713, and H.R. 1268 for the safety and well-being of our returning veterans who face mental illness caused by their fulfillment of their duties; and be it further

Resolved, That suitable copies of this resolution be sent to the Majority Leader and the Minority Leader of the U.S. Senate, the Speaker and the Minority Leader of the U.S. House of Representatives, the Illinois Congressional Delegation, and the Director of the Illinois Department of Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 793. A bill to provide for the expansion and improvement of traumatic brain injury programs (Rept. No. 110–140).

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

H.R. 1260. A bill to designate the facility of the United States Postal Service located at 6301 Highway 58 in Harrison, Tennessee, as the ''Claude Ramsey Post Office''.

H.R. 1335. A bill to designate the facility of the United States Postal Service located at 508 East Main Street in Seneca, South Carolina, as the ''S Sgt Lewis G. Watkins Post Office Building''.

H.R. 1425. A bill to designate the facility of the United States Postal Service located at 4551 East 52nd Street in Odessa, Texas, as the ''Staff Sergeant Marvin ''Rex'' Young Post Office Building''.

H.R. 1434. A bill to designate the facility of the United States Postal Service located at 896 Pittsburgh Street in Springdale, Pennsylvania, as the ''Rachel Carson Post Office Building''.

H.R. 1617. A bill to designate the facility of the United States Postal Service located at 561 Kingsland Avenue in University City, Missouri, as the ''Harriett F. Woods Post Office Building''.

H.R. 1722. A bill to designate the facility of the United States Postal Service located at 601 Banyan Trail in Boca Raton, Florida, as the ''Leonard W. Herman Post Office''.

H.R. 2025. A bill to designate the facility of the United States Postal Service located at 11033 South State Street in Chicago, Illinois, as the ''Willye B. White Post Office Building''.

H.R. 2077. A bill to designate the facility of the United States Postal Service located at 20805 State Route 125 in Blue Creek, Ohio, as the ''George B. Lewis Post Office Building''.

H.R. 2078. A bill to designate the facility of the United States Postal Service located at 14536 State Route 136 in Cherry Fork, Ohio,

as the ''Staff Sergeant Omer T. 'O.T.' Hawkins Post Office''.

H.R. 2127. A bill to designate the facility of the United States Postal Service located at 408 West 6th Street in Chelsea, Oklahoma, as the ''Clem Rogers McSpadden Post Office Building''.

H.R. 2563. A bill to designate the facility of the United States Postal Service located at 309 East Linn Street in Marshalltown, Iowa, as the ''Major Scott Nisely Post Office''.

H.R. 2570. A bill to designate the facility of the United States Postal Service located at 301 Boardwalk Drive in Fort Collins, Colorado, as the ''Dr. Karl E. Carson Post Office Building''.

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment:

S. 1011. A bill to change the name of the National Institute on Drug Abuse to the National Institute on Diseases of Addiction and to change the name of the National Institute on Alcohol Abuse and Alcoholism to the National Institute on Alcohol Disorders and Health.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 1539. A bill to designate the post office located at 309 East Linn Street, Marshalltown, Iowa, as the ''Major Scott Nisely Post Office''.

S. 1596. A bill to designate the facility of the United States Postal Service located at 103 South Getty Street in Uvalde, Texas, as the ''Dolph S. Briscoe, Jr. Post Office Building''.

By Mr. KENNEDY, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1693. A bill to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States.

By Mr. LIEBERMAN, from the Committee on Homeland Security and Governmental Affairs, without amendment:

S. 1732. A bill to designate the facility of the United States Postal Service located at 301 Boardwalk Drive in Fort Collins, Colorado , as the ''Dr. Karl E. Carson Post Office Building''.

S. 1772. A bill to designate the facility of the United States Postal Service located at 127 South Elm Street in Gardner, Kansas, as the ''Private First Class Shane R. Austin Post Office''.

S. 1781. A bill to designate the facility of the United States Postal Service located at 118 Minner Avenue in Bakersfield, California, as the ''Buck Owens Post Office''.

S. 1896. A bill to designate the facility of the United States Postal Service located at 11 Central Street in Hillsborough, New Hampshire, as the ''Officer Jeremy Todd Charron Post Office''.

By Mr. DODD, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 1923. An original bill to authorize appropriations for assistance for the Housing Assistance Council, the Raza Development Fund, and for the Housing Partnership Network (HPN) and its members, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LIEBERMAN for the Committee on Homeland Security and Governmental Affairs:

Jim Nussle, of Iowa, to be Director of the Office of Management and Budget.

*Dennis R. Schrader, of Maryland, to be Deputy Administrator for National Preparedness, Federal Emergency Management Agency, Department of Homeland Security.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

NOMINATIONS DISCHARGED

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were confirmed:

Eric G. John, of Indiana, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Thailand.

Nominee: Eric G. John.

Post: Thailand.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date; and donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses, none.
4. Parents: Patricia John, $25.00, 9/2004, George W. Bush.
5. Grandparents, none.
6. Brothers and spouses, Robert John, $250.00, 11/2003, John Edwards.
7. Sisters and spouses, none.

Michael W. Michalak, of Michigan, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of Vietnam.

Nominee: Michael W. Michalak.

Post: Washington, D.C.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee.

1. Self, none.
2. Spouse, none.
3. Children and spouses, none.
4. Parents, none.
5. Grandparents, none.
6. Brothers and spouses, none.
7. Sisters and spouses, none.

The Senate Committee on Agriculture, Nutrition, and Forestry was discharged from further consideration of the following nominations and the nominations were confirmed:

Jill E. Sommers, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 2009.

Bartholomew H. Chilton, of Delaware, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 2008.

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. REED (for himself, Ms. SNOWE, Mr. KERRY, and Mr. KENNEDY):

S. 1910. A bill to amend the Internal Revenue Code of 1986 to provide that amounts derived from Federal grants and State matching funds in connection with revolving funds established in accordance with the Federal Water Pollution Control Act and the Safe Drinking Water Act will not be treated as proceeds or replacement proceeds for purposes of section 148 of such Code; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mrs. DOLE, Mrs. BOXER, Mr. LAUTENBERG, and Mr. KERRY):

S. 1911. A bill to amend the Safe Drinking Water Act to protect the health of susceptible populations, including pregnant women, infants, and children, by requiring a health advisory, drinking water standard, and reference concentration for trichloroethylene vapor intrusion, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BROWN:

S. 1912. A bill for the relief of Maha Dakar; to the Committee on the Judiciary.

By Mr. CRAPO (for himself and Mrs. LINCOLN):

S. 1913. A bill to improve the amendments made by the No Child Left Behind Act of 2001; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN (for herself, Ms. COLLINS, Mr. DURBIN, Mr. KENNEDY, Mr. FEINGOLD, and Mr. CASEY):

S. 1914. A bill to require a comprehensive nuclear posture review, and for other purposes; to the Committee on Armed Services.

By Mr. SUNUNU:

S. 1915. A bill to amend title XVIII of the Social Security Act to provide incentives to physicians for writing electronic prescriptions; to the Committee on Finance.

By Mr. BURR (for himself, Mr. VITTER, and Ms. LANDRIEU):

S. 1916. A bill to amend the Public Health Service Act to modify the program for the sanctuary system for surplus chimpanzees by terminating the authority for the removal of chimpanzees from the system for research purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CRAPO (for himself, Mr. CRAIG, Mr. BAUCUS, and Mr. TESTER):

S. 1917. A bill to include Idaho and Montana as affected areas for purposes of making claims under the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) based on exposure to atmospheric nuclear testing; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. LEAHY, and Mr. CASEY):

S. 1918. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself, Mr. HATCH, and Ms. STABENOW):

S. 1919. A bill to establish trade enforcement priorities for the United States, to strengthen the provisions relating to trade remedies, and for other purposes; to the Committee on Finance.

By Mr. REID:

S. 1920. A bill to award competitive grants to eligible partnerships to enable the partnerships to implement innovative strategies

at the secondary school level to improve student achievement and prepare at-risk students for postsecondary education and the workforce; to the Committee on Health, Education, Labor, and Pensions.

By Mr. WEBB (for himself, Mr. SESSIONS, Ms. LANDRIEU, Mr. PRYOR, Mr. CORNYN, Mr. BUNNING, Mr. LOTT, Mr. CARDIN, Mr. WARNER, Mrs. LINCOLN, Mr. BURR, Mrs. HUTCHISON, Mr. ALEXANDER, Mr. DURBIN, Mrs. MCCASKILL, and Mrs. CLINTON):

S. 1921. A bill to amend the American Battlefield Protection Act of 1996 to extend the authorization for that Act, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KERRY (for himself and Ms. SNOWE):

S. 1922. A bill to apply basic contracting laws to the Transportation Security Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD:

S. 1923. An original bill to authorize appropriations for assistance for the Housing Assistance Council, the Raza Development Fund, and for the Housing Partnership Network (HPN) and its members, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. CARPER (for himself, Mr. WARNER, and Mr. MENENDEZ):

S. 1924. A bill to amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty; to the Committee on Homeland Security and Governmental Affairs.

By Mr. KOHL (for himself, Mr. SANDERS, Mrs. MCCASKILL, Mr. DURBIN, and Mr. SMITH):

S. 1925. A bill to amend the Truth in Lending Act, to prevent credit card issuers from taking unfair advantage of college students and their parents, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD (for himself and Mr. HAGEL):

S. 1926. A bill to establish the National Infrastructure Bank to provide funding for qualified infrastructure projects, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MCCONNELL (for himself and Mr. BOND):

S. 1927. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to provide additional procedures for authorizing certain acquisitions of foreign intelligence information and for other purposes; read the first time.

By Mr. KENNEDY (for himself, Mr. DODD, Mrs. MURRAY, Mrs. CLINTON, Mr. OBAMA, Mr. LEAHY, Mr. FEINGOLD, and Ms. CANTWELL):

S. 1928. A bill to amend section 1977A of the Revised Statutes to equalize the remedies available under that section; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1929. A bill to authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to conduct a feasibility study of water augmentation alternatives in the Sierra Vista Subwatershed; to the Committee on Energy and Natural Resources.

By Mr. WYDEN (for himself, Mr. ALEXANDER, Mr. KERRY, Ms. SNOWE, Mr. FEINGOLD, Mr. BIDEN, Mr. DODD, and Mr. OBAMA):

S. 1930. A bill to amend the Lacey Act Amendments of 1981 to prevent illegal logging practices, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. TESTER:

S. 1931. A bill to amend the Mineral Leasing Act to ensure that development of certain Federal oil and gas resources will occur in a manner that protects water resources and respects the rights of surface owners, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAYH (for himself, Mr. KERRY, Ms. SNOWE, Ms. LANDRIEU, and Mr. VITTER):

S. 1932. A bill to amend the Small Business Act to increase SBIR and STTR program expenditures; to the Committee on Small Business and Entrepreneurship.

By Mr. REID (for himself, Mr. ENSIGN, Mrs. BOXER, Mr. BAUCUS, Mrs. MURRAY, Mrs. CLINTON, Mr. SANDERS, and Mr. CONRAD):

S. 1933. A bill to amend the Safe Drinking Water Act to provide grants to small public drinking water systems; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SESSIONS (for himself, Mr. SCHUMER, Mr. INHOFE, Ms. LANDRIEU, Mr. SPECTER, Mr. MENENDEZ, Mr. CHAMBLISS, Mrs. BOXER, Mr. CRAPO, Mrs. FEINSTEIN, Mrs. DOLE, and Ms. SNOWE):

S. Res. 288. A resolution designating September 2007 as ''National Prostate Cancer Awareness Month''; to the Committee on the Judiciary.

By Mrs. BOXER:

S. Res. 289. A resolution expressing the sense of the Senate that a ''Welcome Home Vietnam Veterans Day'' should be established; to the Committee on Veterans' Affairs.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. Res. 290. A resolution honoring the life and career of former San Francisco 49ers Head Coach Bill Walsh; considered and agreed to.

By Mr. GRAHAM (for himself, Mr. ALEXANDER, Mr. BAYH, Mr. BIDEN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. CARDIN, Mr. CHAMBLISS, Mr. COCHRAN, Mr. CORNYN, Mr. DEMINT, Mr. DODD, Mrs. DOLE, Mr. DURBIN, Mrs. HUTCHISON, Mr. ISAKSON, Mr. LEVIN, Mrs. LINCOLN, Mr. LOTT, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. NELSON of Florida, Mr. OBAMA, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SCHUMER, Mr. SESSIONS, Mr. SPECTER, Mr. VITTER, and Mr. WARNER):

S. Res. 291. A resolution designating the week beginning September 9, 2007, as ''National Historically Black Colleges and Universities Week''; considered and agreed to.

ADDITIONAL COSPONSORS

S. 311

At the request of Ms. LANDRIEU, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 311, 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. 638

At the request of Mr. ROBERTS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 638, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 681

At the request of Mr. LEVIN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 681, a bill to restrict the use of offshore tax havens and abusive tax shelters to inappropriately avoid Federal taxation, and for other purposes.

S. 694

At the request of Mrs. CLINTON, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 694, a bill to direct the Secretary of Transportation to issue regulations to reduce the incidence of child injury and death occurring inside or outside of light motor vehicles, and for other purposes.

S. 831

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 831, a bill to authorize States and local governments to prohibit the investment of State assets in any company that has a qualifying business relationship with Sudan.

S. 912

At the request of Mr. ROCKEFELLER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 912, a bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

S. 1254

At the request of Ms. MIKULSKI, the name of the Senator from Virginia (Mr. WEBB) was added as a cosponsor of S. 1254, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 1323

At the request of Mr. MCCONNELL, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1323, a bill to prevent legislative and regulatory functions from being usurped by civil liability actions brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for claims of injury relating to a person's weight gain, obesity, or any health condition associated with weight gain or obesity.

S. 1428

At the request of Mr. HATCH, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1428, a bill to amend part B of title XVIII of the Social Security Act to assure access to durable medical equipment under the Medicare program.

S. 1451

At the request of Mr. WHITEHOUSE, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1451, a bill to encourage the development of coordinated quality reforms to improve health care delivery and reduce the cost of care in the health care system.

S. 1577

At the request of Mr. KOHL, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1577, a bill to amend titles XVIII and XIX of the Social Security Act to require screening, including national criminal history background checks, of direct patient access employees of skilled nursing facilities, nursing facilities, and other long-term care facilities and providers, and to provide for nationwide expansion of the pilot program for national and State background checks on direct patient access employees of long-term care facilities or providers.

S. 1607

At the request of Mr. BAUCUS, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1607, a bill to provide for identification of misaligned currency, require action to correct the misalignment, and for other purposes.

S. 1621

At the request of Mr. CONRAD, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1621, a bill to amend the Internal Revenue Code of 1986 to treat certain farming business machinery and equipment as 5-year property for purposes of depreciation.

S. 1675

At the request of Ms. CANTWELL, the name of the Senator from Vermont (Mr. SANDERS) was added as a cosponsor of S. 1675, a bill to implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service.

S. 1693

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1693, a bill to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States.

S. 1709

At the request of Mr. BIDEN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1709, a bill to amend the National Underground Railroad Network to Freedom Act of 1998 to provide additional staff and oversight of funds to carry out the Act, and for other purposes.

S. 1741

At the request of Mr. BAYH, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1741, a bill to modernize the manufactured housing loan insurance program under title I of the National Housing Act.

S. 1780

At the request of Mr. ROCKEFELLER, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 1780, a bill to require the FCC, in enforcing its regulations concerning the broadcast of indecent programming, to maintain a policy that a single word or image may be considered indecent.

S. 1886

At the request of Mr. BURR, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 1886, a bill to provide a refundable and advanceable credit for health insurance through the Internal Revenue Code of 1986, to provide for improved private health insurance access and affordability, and for other purposes.

S. 1894

At the request of Mr. DODD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1894, a bill to amend the Family and Medical Leave Act of 1993 to provide family and medical leave to primary caregivers of servicemembers with combat -related injuries.

S. 1898

At the request of Mrs. CLINTON, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from North Dakota (Mr. CONRAD) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 1898, a bill to amend the Family and Medical Leave Act of 1993 to expand family and medical leave for spouses, sons, daughters, and parents of servicemembers with combat-related injuries.

S. 1903

At the request of Mr. REED, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 1903, a bill to extend the temporary protected status designation of Liberia under section 244 of the Immigration and Nationality Act so that Liberians can continue to be eligible for such status through September 30, 2008.

S. RES. 196

At the request of Mr. CRAPO, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. Res. 196, a resolution commending Idaho on winning the bid to host the 2009 Special Olympics World Winter Games.

AMENDMENT NO. 2552

At the request of Mr. SMITH, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of amendment No. 2552 intended to be proposed to H.R. 976, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

AMENDMENT NO. 2560

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Washington (Mrs. MURRAY) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of amendment No. 2560 intended to be proposed to H.R. 976, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

AMENDMENT NO. 2588

At the request of Mr. OBAMA, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of amendment No. 2588 intended to be proposed to H.R. 976, a bill to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself, Ms. COLLINS, Mr. DURBIN, Mr. KENNEDY, Mr. FEINGOLD, and Mr. CASEY):

S. 1914. A bill to require a comprehensive nuclear posture review, and for other purposes; to the Committee on Armed Services.

Mrs. FEINSTEIN. Mr. President, I rise today with Senator COLLINS, Senator DURBIN, Senator FEINGOLD, Senator KENNEDY, and Senator CASEY to introduce legislation to authorize a comprehensive review of our nuclear weapons policy and posture.

Before we ramp up funding for the Reliable Replacement Warhead program as the administration has requested, we should have a clear, bipartisan consensus on the role nuclear weapons will play in our national security strategy and the impact they will have on our nuclear nonproliferation efforts.

The Nuclear Policy and Posture Review Act of 2007 does three things.

First, it authorizes the President to conduct a nuclear policy review to consider a range of possible roles of nuclear weapons in U.S. security policy. The administration may reach out to outside experts and conduct public hearings to get a wide range of views. The policy review will provide options and recommendations for a nuclear posture review.

This report is due on September 1, 2009.

Second, following the completion of the nuclear policy review, it authorizes the Secretary of Defense to conduct a comprehensive review of the nuclear posture of the U.S. to clarify U.S. nuclear deterrence policy and strategy. This report is due March 1, 2010.

Finally, it zeros out funding for the Reliable Replacement Warhead program until the policy review and posture review reports have been submitted to Congress.

In his testimony on March 29, 2007, before the House Energy & Water Appropriations Subcommittee, former Senator Sam Nunn, Chairman of Nuclear Threat Initiative, noted that:

On the [Reliable Replacement Warhead] itself, if Congress gives a green light to this program in our current world environment, I believe that this will be: misunderstood by our allies; exploited by our adversaries; complicate our work to prevent the spread and use of nuclear weapons and . . . make resolution of the Iran and North Korea challenges all the more difficult.

I could not agree more.

Indeed, I remain deeply concerned about this administration's nuclear weapons policy.

As a U.S. Senator, I have worked with colleagues in the House and Senate to stop the re-opening of the nuclear door and the development of new nuclear weapons.

Together, we have eliminated funding for the Advanced Concepts Initiative, the Robust Nuclear Earth Penetrator, and the Modern Pit Facility.

These were consequential victories but the fight is far from over.

For fiscal year 2008, the administration requested $118 million for the Reliable Replacement Warhead program; $88 million in the National Nuclear Security administration's budget and $30 million in the Department of Defense's budget.

These funds would be used for Phase 2A activities: design definition and cost study.

This would represent approximately a four-fold increase over fiscal year 2007 funding of $24.7 million.

The House, however, rejected the administration's request and zeroed out funding for RRW in its fiscal year 2008 Energy and Water Development Appropriations bill. In its report accompanying the legislation, the House cited the lack of a definitive nuclear weapons policy review as a key reason for withholding funding for what will be a costly new nuclear warhead program. It stated:

The lack of any definitive analysis or strategic assessment defining the objectives of a future nuclear stockpile makes it impossible to weigh the relative merits of investing billions of taxpayer dollars in new nuclear weapon production activities when the United States is facing the problem of having too large a stockpile as a Cold War legacy. Currently, there exists no convincing rationale for maintaining the large number of existing Cold War nuclear weapons, much less producing additional warheads, or for the DoD requirements that drive the management of the DOE nuclear weapons complex.

While the Senate bill did not follow suit, it did cut $22 million from the administration's request, for a total of $66 million, and restricted activities to Phase 2A.

I believe we can match the House's action and this bill would do just that.

The administration is clearly getting nervous about the prospects for funding for RRW.

On Wednesday, the Secretaries of Energy, Defense, and State released a 4-page white paper on nuclear weapons strategy: ''National Security and Nuclear Weapons: Maintaining Deterrence in the 21st Century''. It affirmed the importance of maintaining a credible nuclear deterrent and sought to justify funding for the Reliable Replacement Warhead program. Among other things, it stated that the Reliable Replacement Warhead program is critical to sustaining long-term confidence in the nuclear stockpile and will help reduce the stockpile and move us away from nuclear testing; and any delay to the program will force the U.S. to maintain a larger stockpile, invest in costly and risky Life Extension Programs, and increase the likelihood that we will have to resume nuclear testing.

These arguments simply do not stand up to scrutiny.

Indeed the evidence clearly shows that there is no need to rush forward with increased funding for RRW. Let us take a close look at the status of our nuclear weapons arsenal.

Are there currently problems with the safety and reliability of our nuclear arsenal?

No, for each of the past 11 years the Secretary of Energy and Secretary of Defense have certified that the nuclear stockpile is safe and reliable.

Has the Pentagon asked for a new warhead for new missions?

No, there is no new military requirement to replace existing, well-tested warheads.

What about the plutonium pit, the ''trigger'' of a nuclear weapon? In past years, the administration requested funding for a Modern Pit Facility that could build up to 450 pits a year arguing that the pits in our current stockpile were reaching the end of their lifespan.

Is our stockpile at risk due to aging pits?

No, a December 2006 report by the National Laboratories showed that plutonium pits have a life-span of at least 85 years, and possibly up to 100 years.

That report validated Congressional action to eliminate funding for the Modern Pit Facility. I am pleased that the administration listened and did not request funding for the facility in fiscal year 2007 and fiscal year 2008.

Are we at risk for resuming nuclear testing?

No, as I have argued our stockpile is safe and secure and will clearly remain so for the foreseeable future.

If the likelihood of resuming nuclear testing is increasing it is due to the fact that the administration has, in past years, requested funding to lower the time to test readiness at the Nevada test site from 24–36 months to 18 months and, above all, refused to support ratification of the Comprehensive Test Ban Treaty, CTBT.

What about costs? I find it interesting that the administration would cite the costs of successful Life Extension Programs as a reason to ramp up funding for the RRW.

Has the administration shared with us what it will cost to replace the warhead on our deployed nuclear arsenal with a new Reliable Replacement Warhead?

The answer is no. The administration has remained silent about when the supposed cost savings from RRW will ultimately kick in.

In fact, the development of a new nuclear warhead will likely add billions of dollars to the American taxpayer's bill at a time when, as noted above, the stockpile is safe and reliable. As the House Energy and Water Appropriations report argued:

Under any realistic future U.S. nuclear defense scenario, the existing legacy stockpile will continue to provide the nation's nuclear deterrent for well over the next two to three decades. The effort by the NNSA to apply urgency to developing a significant production capacity for the RRW while lacking any urgency to rationalize an oversized complex appears to mean simply more costs to the American taxpayer.

Before we move any further with this program which would add a new warhead to the stockpile, we should have a better understanding of the role nuclear weapons will play in our security policy in a post-Cold War and post 9/11 world.

If we as a country are going to move away from massive stockpiles of nuclear weapons and explore more conventional alternatives, does it make sense to add a new warhead to the stockpile?

If we are committed to strengthening the Nuclear Nonproliferation Treaty and stopping the proliferation of nuclear weapons, what impact would a Reliable Replacement Warhead have on those efforts?

If the Stockpile Stewardship Program and the Life Extension Program can certify the safety and the reliability of our existing nuclear stockpile, should we shift resources from RRW to more pressing concerns?

It is common sense to ask these questions and engage in comprehensive review and debate about these options before we make the decision on manufacturing new warheads.

As it stands now, we are addressing this issue backwards and behind closed doors.

That is, we are rushing to develop a new warhead without an understanding of the role it will play in our nuclear weapons policy and national security strategy and without public input that will lead to a bipartisan policy.

Let us be clear: a rushed, four page white paper is simply not sufficient to answer these questions and make decisions about developing new nuclear warheads.

The administration has promised a more detailed report but its haste to put out this paper suggests that it is more intent on rushing the development of the Reliable Replacement Warhead program than in taking a sober,

unbiased look at our nuclear weapons policy and posture.

A lack of a substantive debate and review means we are not paying sufficient attention to the potential negative consequences of RRW.

Speeding up the development of a new nuclear warhead may send the wrong message to Iran; North Korea; and other would-be nuclear weapon states and encourage the very proliferation we are trying to prevent.

What to us may appear to be a safer, more reliable weapon could appear to others to be a new weapon with new missions and a violation of the Nuclear Nonproliferation Treaty.

The American Association for the Advancement of Science issued a report last month acknowledging that a Reliable Replacement Warhead ''could lead to a final selected design that is certifiable without a nuclear test.''

Yet, the report also concluded that absent a comprehensive review of nuclear policy and stockpile needs, the purpose and intention of RRW could be widely misinterpreted abroad.

Pointing out that there has been no high level statement about nuclear weapons policy since the 2001 Nuclear Posture Review, it called on the administration to develop a bipartisan policy on the future of nuclear weapons and nuclear weapons policy before moving ahead with RRW. It stated:

> In the absence of a clear nuclear posture, many interpretations are possible [about U.S. nuclear weapons policy] and the lack of a national understanding and consensus on the role of U.S. nuclear weapons puts any new approach at considerable risk at home and abroad. For example, an RRW plan that emphasizes the goal of sustaining the deterrent without nuclear testing could be perceived quite differently from one that focuses on future flexibility to develop and deploy nuclear weapons for new military mission.

It goes on to state:

> . . . nuclear weapons are ultimately an instrument of policy and strategy rather than of war fighting, and only with the leadership of the president can there be major changes in that instrument.

Unfortunately we have not seen such leadership from this administration.

Because it pursued the development of low-yield nuclear weapons and a Robust Nuclear Earth Penetrator, because it sought to lower the time-to-test readiness at the Nevada test site from 24–26 months to 18 months, because it sought to build a Modern Pit Facility that could produce up to 450 pits a year, this administration has lost the credibility to take a fresh and open look at nuclear weapons policy and posture.

Only a new administration, free from the constraints of the heated debates of the past, will have the authority to conduct a comprehensive review of our nuclear weapons policy and posture.

A bipartisan consensus on this policy is essential. It will let the world know exactly where we stand on these important issues and help clear up any confusion about our intentions.

Friend and foe alike will know that regardless of who holds power in Congress or the White House, the role of nuclear weapons in our security strategy will not change.

It will strengthen our efforts to convince other states to forego the development of nuclear weapons and make the world safer from the threat of nuclear war.

I believe that bipartisan policy is beginning to emerge.

In a January 4, 2007 op-ed in the Wall Street Journal, ''A World Free of Nuclear Weapons'', George Schultz, William Perry, Henry Kissinger, and Sam Nunn laid out a compelling vision for a world free of the threat of nuclear war.

They laid a set of common sense steps the U.S. and other nuclear weapon states can take to make this happen including: taking nuclear weapons off high-alert status; substantially reducing the size of nuclear stockpiles; eliminating short-ranged nuclear weapons; ratifying the Comprehensive Test Ban Treaty; securing all stocks of weapons, weapons-usable plutonium, and highly enriched uranium around the world; getting control of the uranium enrichment process; stopping production of fissile material for nuclear weapons globally; resolving regional confrontations that encourage the development of nuclear weapons.

They conclude:

> Reassertion of the vision of a world free of nuclear weapons and practical measures toward achieving that goal would be, and would be perceived as, a bold initiative consistent with America's moral heritage. The effort could have a profoundly positive impact on the security of future generations. Without that bold vision, the actions will not be perceived as fair or urgent. Without the actions, the vision will not be perceived as realistic or possible.

We should pay close attention to these words.

In conclusion, let me say that there is a big difference between an RRW program that increases the reliability of the existing stockpile and one that leads to a resumption of nuclear testing.

Congress should ask the tough questions to ensure that this is not a back door to new nuclear weapons with new missions and new rounds of testing.

I firmly believe we should zero out for the Reliable Replacement Warhead program until the next administration takes a serious look at our nuclear weapons programs and issues a bipartisan policy on the size of the future stockpile, testing, and nuclear nonproliferation efforts.

I look forward to working with my colleagues and the administration to craft that sensible, bipartisan nuclear weapons policy that will make Americans safe and allow us to reclaim a leadership role in the fight against nuclear proliferation.

I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 1914

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 ''Nuclear Policy and Posture Review Act of 2007''.

SEC. 2. REVISED NUCLEAR POLICY REVIEW AND NUCLEAR POSTURE REVIEW.

(a) NUCLEAR POLICY REVIEW.—

(1) IN GENERAL.—The President shall conduct a nuclear policy review to consider a range of options on the role of nuclear weapons in United States security policy. The policy review shall be coordinated by the National Security Advisor and shall include the Secretary of State, the Secretary of Energy, the Secretary of Defense, the Director of National Intelligence, the Director of the Office of Management and Budget, and the Director of the Office of Science and Technology Policy.

(2) SCOPE OF REVIEW.—The nuclear policy review conducted under paragraph (1) shall—

(A) address the role and value of nuclear weapons in the current global security environment;

(B) set forth short-term and long-term objectives of United States nuclear weapons policy;

(C) consider the contributions of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968 (commonly referred to as the ''Nuclear Non-Proliferation Treaty''), to United States national security, and include recommendations for strengthening the Treaty;

(D) explore the relationship between the nuclear policy of the United States and nonproliferation and arms control objectives and international treaty obligations, including obligations under Article VI of the Nuclear Non-Proliferation Treaty;

(E) determine the role and effectiveness of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms, signed at Moscow July 31, 1991 (commonly referred to as the ''START I Treaty''), and the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow May 24, 2002 (commonly referred to as the ''Moscow Treaty''), in achieving the national security and nonproliferation goals of the United States and in implementing United States military strategy, and describe the elements of a recommended successor treaty, including verification provisions; and

(F) provide policy guidance and make recommendations for the nuclear posture review to be conducted under subsection (b).

(3) OUTSIDE INPUT.—The policy review shall include contributions from outside experts and, to the extent possible, shall include public meetings to consider a range of views.

(b) NUCLEAR POSTURE REVIEW.—

(1) IN GENERAL.—Following completion of the nuclear policy review under subsection (a), the Secretary of Defense shall conduct a comprehensive review of the nuclear posture of the United States to clarify United States nuclear deterrence policy and strategy. The Secretary shall conduct the review in collaboration with the Secretary of Energy, the Secretary of State, the Director of National Intelligence, and the National Security Advisor.

(2) ELEMENTS OF REVIEW.—The nuclear posture review conducted under paragraph (1) shall include the following elements:

(A) The role of nuclear forces in United States military strategy, planning, and programming, including the extent to which conventional forces can assume roles previously assumed by nuclear forces.

(B) The policy requirements and objectives for the United States to maintain a safe, reliable, and credible nuclear deterrence posture, in light of the guidance provided by the nuclear policy review conducted under subsection (a).

(C) The targeting strategy required to implement effectively the guidance provided by the nuclear policy review conducted under subsection (a).

(D) The levels and composition of the nuclear delivery systems that will be required for implementing the United States national and military strategy, including any plans for removing, replacing, or modifying existing systems.

(E) The nuclear weapons complex that will be required for implementing the United States national and military strategy, including any plans to consolidate, modernize, or modify the complex.

(F) The active and inactive nuclear weapons stockpile that will be required for implementing the United States national and military strategy, including any plans for replacing or modifying warheads.

(G) An account of the different nuclear postures considered in the review and the reasoning for the selection of the nuclear posture.

(c) REPORTS REQUIRED.—

(1) NUCLEAR POLICY REVIEW.—Not later than September 1, 2009, the President shall submit to Congress a report on the results of the nuclear policy review conducted under subsection (a).

(2) NUCLEAR POSTURE REVIEW.—Not later than March 1, 2010, the President shall submit to Congress a report on the results of the nuclear posture review conducted under subsection (b).

(3) FORM.—Each report required under this subsection shall be submitted in unclassified form, but may contain a classified annex.

(d) SENSE OF CONGRESS ON USE OF NUCLEAR POSTURE REVIEW.—It is the sense of Congress that the nuclear policy review conducted under subsection (a) should be used as the basis for establishing future strategic arms control objectives and negotiating positions of the United States.

(e) RESTRICTION ON FUNDING OF RELIABLE REPLACEMENT WARHEAD PROGRAM.—Notwithstanding any other provision of law, no funds may be appropriated or otherwise made available for the Reliable Replacement Warhead Program for fiscal years 2008, 2009, or 2010 until the reports required under subsection (c) have been submitted to Congress.

By Mr. SPECTER (for himself, Mr. LEAHY, and Mr. CASEY):

S. 1918. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition today to introduce the Christopher Kangas Fallen Firefighter Apprentice Act, a bill designed to correct a flaw in the current definition of ''firefighter'' under the Public Safety Officer Benefits Act.

On May 4, 2002, 14-year-old Christopher Kangas was struck by a car and killed while he was riding his bicycle in Brookhaven, PA. The local authorities later confirmed that Christopher was out on his bike that day for an important reason: Chris Kangas was a junior firefighter, and he was responding to a fire emergency.

Under Pennsylvania law, 14- and 15-year-olds such as Christopher are permitted to serve as volunteer junior firefighters. While they are not allowed to operate heavy machinery or enter burning buildings, the law permits them to fill a number of important support roles, such as providing first aid. In addition, the junior firefighter program is an important recruitment tool for fire stations throughout the Commonwealth. In fact, prior to his death Christopher had received 58 hours of training that would have served him well when he graduated from the junior program.

It is clear to me that Christopher Kangas was a firefighter killed in the line of duty. Were it not for his status as a junior firefighter and his prompt response to a fire alarm, Christopher would still be alive today. Indeed, the Brookhaven Fire Department, Brookhaven Borough, and the Commonwealth of Pennsylvania have all recognized Christopher as a fallen public safety officer and provided the appropriate death benefits to his family.

Yet, while those closest to the tragedy have recognized Christopher as a fallen firefighter, the Federal Government has not. The U.S. Department of Justice, DOJ, determined that Christopher Kangas was not eligible for benefits because he was not acting within a narrow range of duties at the time of his death that are the measured criteria to be considered a ''firefighter,'' and therefore, was not a ''public safety officer'' for purposes of the Public Safety Officer Benefits Act. In order to be eligible for benefits under the Public Safety Officer Benefits Act, an officer's death must be considered the ''direct and proximate result of a personal injury sustained in the line of duty.'' Although the United States Code includes firefighters in the definition of ''public safety officer'' and specifies a firefighter as ''an individual serving as an officially-recognized or designated member of a legally-organized volunteer fire department;'' it offers no definition of ''line of duty''. DOJ had to defer to an arbitrarily narrow definition of ''line of duty,'' as described in the Code of Federal Regulations that restricts activities to the ''suppression of fires.'' DOJ decided that the only people who qualify as firefighters are those who play the starring role of operating a hose on a ladder or entering a burning building. According to this interpretation, those, such as junior firefighters, who play the essential supporting roles of directing traffic, performing first aid, or dispatching fire vehicles do not contribute to the act of suppressing the fire.

Furthermore, Christopher's family has been pursuing this benefit through our court system. The U.S. Federal Claims Court ruled in favor of the Kangas family ordering the Department of Justice to pay $250,000. However, the Department appealed the decision which the Appeals Court for the Federal Circuit upheld by concluding the Court of Federal Claims' decision failed to defer to DOJ's interpretation of ''firefighter.''

Any firefighter will tell you that there are many important roles to play in fighting a fire beyond operating the hoses and ladders. Firefighting is a team effort, and everyone in the Brookhaven Fire Department viewed young Christopher as a full member of their team.

As a result of this DOJ determination, Christopher's family cannot receive a $267,000 Federal line-of-duty benefit. In addition, Christopher is barred from taking his rightful place on the National Fallen Firefighters Memorial in Emmitsburg, MD. For a young man who dreamed of being a firefighter and gave his life rushing to a fire, keeping him off of the memorial is a grave injustice.

The bill I introduce today will ensure that the Federal Government will recognize Christopher Kangas and others like him as firefighters. The bill clarifies that all firefighters will be recognized as such ''regardless of age, status as an apprentice or trainee, or duty restrictions imposed because of age or status as an apprentice or trainee.'' The bill applies retroactively back to May 4, 2002, the date of Christopher Kangas' death.

I urge my colleagues to support this important legislation and I yield the floor.

By Mr. BAUCUS (for himself, by Mr. HATCH, and Ms. STABENOW):

S. 1919. A bill to establish trade enforcement priorities for the United States, to strengthen the provisions relating to trade remedies, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I am proud to join with Senator HATCH to introduce the Trade Enforcement Act of 2007. This bill will provide the administration additional tools, resources, and accountability to enforce international trade agreements abroad and domestic trade remedy laws here at home.

Over 400 years ago, William Shakespeare wrote ''The law hath not been dead, though it hath slept.'' The same could be said of our trade enforcement laws today.

The administration has many tools at its disposal to enforce international trade agreements. It can file dispute settlement cases in the World Trade Organization, WTO. It has Section 301 to fight market access barriers. It has Special 301 to address intellectual property violations abroad. It has Section 421 to remedy Chinese import surges that cause injury here at home.

But having these rules on the books is not enough. We need to enforce them.

There is a very real sense among Americans that our trading partners do not play by the rules. And there is a very real sense that the U.S. Government is allowing them to get away with it.

That is why I am introducing the Trade Enforcement Act of 2007—to ensure that the administration has the resources to enforce our existing trade laws, to provide political accountability when it does not, and to create new tools that address the enforcement priorities of American farmers, ranchers, manufacturers, and service suppliers.

This legislation bolsters enforcement of U.S. trade agreements in three important ways.

First, it requires the U.S. Trade Representative, USTR, to dedicate more time to enforcement. The bill requires USTR to provide an annual report to Congress identifying the most significant barriers to U.S. companies abroad and to take enforcement action to resolve them. It also makes trade enforcement more accountable to Congress. The bill allows the Senate Finance Committee or the House Ways and Means Committee to require USTR to identify a specific barrier in its annual report. And, significantly, the bill creates a Senate-confirmed Chief Enforcement Officer at USTR to investigate and prosecute trade enforcement cases.

Second, the bill addresses serious concerns that have been raised about the quality of recent World Trade Organization dispute settlement decisions. It does so by establishing a commission of retired judges and international trade law experts to review the decisions and determine whether they impose obligations on the U.S. that are not found in the text of the WTO agreements. The bill also prevents the administration from changing a regulation to comply with an adverse WTO decision until Congress receives the commission's report.

Third, the bill ensures that other U.S. government agencies do not use foreign policy and other noneconomic rationales to block USTR from taking tough enforcement actions. It clarifies that while USTR must carefully consider any advice provided by the interagency trade organization established under the Trade Expansion Act of 1962, it need not, and shall not, seek approval of its actions from the organization.

The bill also bolsters enforcement of U.S. trade remedy laws in four important ways.

First, the bill limits the President's discretion to deny relief in Section 421 cases to address Chinese import surges. This administration has utterly failed to use this trade remedy as Congress intended. It has denied relief in every case where the International Trade Commission, ITC, determined that relief was warranted. Our bill remedies this deficiency by requiring the President to proclaim any import relief that the ITC recommends unless the President finds, in extraordinary cases, that the relief would seriously harm our national security or would have an adverse impact on our economy that clearly and significantly outweighs the benefits. Congress may override the economic determination and reinstate the ITC's decision if it enacts a joint resolution of disapproval.

Second, the bill makes it easier for U.S. companies to obtain relief from subsidized imports from certain countries. It clarifies that the Commerce Department may apply countervailing duties to nonmarket economies like China. The Commerce Department has long taken the position that our countervailing duty laws do not apply to nonmarket economies, and it has refused to do so until very recently. The bill closes this loophole and eliminates any remaining uncertainty.

Third, the bill makes it easier for U.S. companies to obtain relief from subsidized and dumped imports from all countries by overriding the Federal Circuit's recent Bratsk decision. The bill provides that the ITC must make its injury determinations in antidumping and countervailing duty cases without regard to whether imports from other countries are likely to replace imports from the country under investigation.

Fourth, the bill increases intellectual property expertise at the ITC. It authorizes the ITC to appoint hearing officers, rather than administrative law judges, ALJs, to take evidence and make initial decisions in intellectual property investigations under Section 337 of the Tariff Act of 1930. Unlike the current ALJs, the hearing officers would be required to have technical expertise and experience in intellectual property law.

The overarching goal of this bill is, as Shakespeare might say, to ''wake up'' our trade laws from their current slumber and ensure that the administration enforces them to the fullest extent. Our farmers, ranchers, and companies deserve nothing less.

I therefore hope that my colleagues will support the Trade Enforcement Act of 2007.

By Mr. REID:

S. 1920. A bill to award competitive grants to eligible partnerships to enable the partnerships to implement innovative strategies at the secondary school level to improve student achievement and prepare at-risk students for postsecondary education and the workforce; to the Committee on Health, Education, Labor, and Pensions.

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. 1920

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 ''Getting Retention and Diplomas Up Among Today's Enrolled Students Act'' or the ''GRADUATES Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Since almost 90 percent of the fastest growing and best paying jobs now require some postsecondary education, a secondary school diploma and the skills to succeed in higher education and the modern workplace are essential.

(2) Only ⅓ of all high school students in the United States graduate in 4 years prepared for a 4-year institution of higher education. Another ⅓ graduate, but without the skills and qualifications necessary for success in higher education or the workplace, and the rest will not graduate from high school in 4 years, if at all.

(3) Dropouts from the class of 2006 will cost the United States more that $309,000,000,000 in reduced earnings.

(4) The Nation's failure to meet the increasing demand for skilled workers means that American companies cannot fill a large number of jobs. 81 percent of American manufacturing companies report experiencing a moderate to severe shortage of qualified workers.

(5) International competition has made education a national security issue. For example, the United States currently runs a $30,000,000,000 advanced technology trade deficit with China. Many other countries are developing the technology, infrastructure, and knowledge base to export quality products with inexpensive labor. The education system of the United States should support critical thinking, creativity, and innovative approaches to new opportunities, which are commodities that cannot be outsourced.

(6) As the bar for success continues to be raised, the responsibility to engender these attributes with progressive programs and original models lies squarely with the education system. It is imperative that the United States develop and implement new, innovative approaches to fully prepare every student for the 21st century.

(7) Realigning the education system to meet new, demanding requirements and face intensifying competition requires effective, systemic reform. Identifying effective, replicable models that achieve this goal is a critical step towards enhancing the prospects of all students entering the modern workforce.

SEC. 3. SECONDARY SCHOOL INNOVATION FUND.

(a) SECONDARY SCHOOL INNOVATION FUND.—Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended—

(1) by redesignating part I as part J; and

(2) by inserting after section 1830 the following:

''PART I—SECONDARY SCHOOL INNOVATION FUND

''SEC. 1851. PURPOSES.

''The purposes of this part are—

''(1) to improve the achievement of at-risk secondary school students and prepare such students for higher education and the workforce;

''(2) to create evidence-based, replicable models of innovation in secondary schools at the State and local level; and

''(3) to support partnerships to create and inform innovation at the State and local level to improve learning outcomes and transitions for secondary school students.

''SEC. 1852. DEFINITIONS.

''In this part:

''(1) ELIGIBLE PARTNERSHIP.—The term 'eligible partnership' means a partnership that includes—

''(A) not less than 1—

''(i) State educational agency; or

''(ii) local educational agency that is eligible for assistance under part A; and

''(B) not less than 1—

''(i) institution of higher education;

''(ii) nonprofit organization;

''(iii) community-based organization;

''(iv) business; or

''(v) school development organization or intermediary.

''(2) ELIGIBLE SCHOOL.—The term 'eligible school' means a public secondary school served by a local educational agency that is eligible for assistance under part A.

''(3) HIGH SCHOOL.—The term 'high school' means a public school, including a public charter high school, that provides education in any grade beginning with grade 9 and ending with grade 12, as determined under State law.

''(4) MIDDLE SCHOOL.—The term 'middle school' means a public school, including a public charter middle school, that provides middle education in any grade beginning with grade 5 and ending with grade 8, as determined under State law.

''(5) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given the term in section 9101.

''SEC. 1853. SECONDARY SCHOOL INNOVATION FUND.

''(a) PROGRAM AUTHORIZED.—

''(1) GRANTS TO ELIGIBLE PARTNERSHIPS.—The Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to enable the eligible partnerships to pay the Federal share of the costs of implementing innovative strategies described in subsection (f) to improve the achievement of at-risk students in secondary schools.

''(2) SUBGRANTS TO ELIGIBLE SCHOOLS.—An eligible partnership that receives a grant under this part may use the grant funds to award a subgrant to an eligible school to enable the eligible school to implement innovative strategies described in subsection (f) to improve the achievement of at-risk students at the eligible school.

''(b) RESERVATION OF FUNDS.—The Secretary shall reserve 5 percent of the amounts appropriated under this part for a fiscal year for the evaluation described in subsection (h).

''(c) APPLICATION.—

''(1) IN GENERAL.—An eligible partnership desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(2) CONTENTS.—The application described in paragraph (1) shall include—

''(A) a description of the eligible partnership, the partners forming the eligible partnership, and the roles and responsibilities of each partner, and a demonstration of each partner's capacity to support the outlined roles and responsibilities;

''(B) a description of how funds will be used to improve the achievement of at-risk students in secondary schools;

''(C) a description of how the activities funded by the grant will be innovative, systemic, evidence-based, and replicable;

''(D) a description of each subgrant the eligible partnership will award to an eligible school, including a description of the eligible school; and

''(E) a description of how the eligible partnership will measure and report improvement using the data collected under subsection (g) and additional indicators of improvement proposed by the partnership, such as student attendance or participation, credit accumulation rates, core course failure rates, college enrollment and persistence rates, or number or percentage of students taking Advanced Placement (AP), International Baccalaureate (IB), or other postsecondary education courses, rigorous postsecondary education preparatory courses, or workforce apprenticeship and training programs.

''(d) APPLICATION REVIEW AND AWARD BASIS.—

''(1) GRANT REVIEW AND APPROVAL.—The Secretary shall—

''(A) establish a peer review process to assist in the review of the grant applications and approval of the grants under this section; and

''(B) appoint to the peer review process—

''(i) individuals who are educators and experts in—

''(I) secondary school reform;

''(II) accountability;

''(III) secondary school improvement;

''(IV) innovative education models; and

''(V) other educational needs of secondary school students; and

''(ii) not less than 1 parent or community representative; and

''(C) ensure that each grant award is of sufficient size and scope to carry out the activities proposed in the grant application, including the evaluation required under subsection (g)(3).

''(2) AWARD BASIS.—In awarding grants under this part, the Secretary shall ensure, to the extent practicable—

''(A) diversity in the type of activities funded under the grants;

''(B) an equitable geographic distribution of the grants, including urban and rural areas; and

''(C) that the grants support activities—

''(i) that target different grade levels of students at the secondary school level; and

''(ii) in a variety of types of secondary schools, including middle schools and high schools.

''(e) FEDERAL SHARE, NON-FEDERAL SHARE.—

''(1) FEDERAL SHARE.—The Federal share of a grant under this part shall be not more than 75 percent of the costs of the activities assisted under the grant.

''(2) NON-FEDERAL SHARE.—The non-Federal share shall be not less than 25 percent of the costs of the activities assisted under the grant, of which not more than 10 percent of the costs of the activities assisted under the grant may be provided in-kind, fairly evaluated.

''(f) USE OF FUNDS.—An eligible partnership receiving a grant under this part, or an eligible school receiving a subgrant under this part, shall use grant or subgrant funds, respectively, to carry out 1 or more of the following activities:

''(1) Creating multiple pathways, including the creation of new public schools, that offer students a range of educational options designed to meet the students' needs and interests and to lead to a secondary school diploma consistent with readiness for postsecondary education and the workforce, which pathways may include—

''(A) alternative public schools that—

''(i) use innovative strategies such as flexible hours;

''(ii) provide competency-based instruction and performance-based assessment to improve educational outcomes for various populations of overaged and undercredited students or dropouts, such as—

''(I) students not making sufficient progress to graduate with a regular secondary school diploma in the standard number of years;

''(II) students who need to work to support themselves or their families;

''(III) pregnant and parenting teens; and

''(IV) students returning from the juvenile justice system;

''(B) career and technical education programs;

''(C) career academies;

''(D) early college and dual enrollment learning opportunities; and

''(E) creating more personalized and engaging learning environments for secondary school students, such as—

''(i) establishing smaller learning communities;

''(ii) creating student advisories and developing peer engagement strategies in which students lead guidance activities, mentoring, or tutoring efforts;

''(iii) involving students and parents in the development of individualized student plans for secondary school success and graduation and postsecondary transition;

''(iv) creating mechanisms for increased student participation in school improvement efforts and in decisions affecting the students' own learning; and

''(v) creating new opportunities to better utilize the grade 11 and grade 12 years and creating better connectivity to postsecondary education.

''(2) Creating expanded learning time opportunities, which may include—

''(A) establishing a mandatory expanded day, for all students transitioning into the first year of high school, for academic catch-up and enrichment;

''(B) providing arts or service learning opportunities with community-based cultural and civic organizations; and

''(C) providing higher education and work-based exposure, experience, and credit-bearing learning opportunities in partnership with postsecondary institutions and the workforce.

''(3) Improving student transitions from middle school to high school and ensuring successful entry into high school, which may include—

''(A) establishing summer transition programs for secondary school students transitioning from middle school to high school to ensure the students' connection to the students' new high school and to orient the students to the study skills and social skills necessary for success in the high school;

''(B) providing for the sharing of data between high schools and feeder middle schools;

''(C) establishing quick response and recovery programs in high school for secondary school students transitioning into the students' first year of high school so that such students do not become truant or fall too far behind in academics;

''(D) increasing the level of student supports, including academic and social-emotional supports, especially for struggling students; and

''(E) aligning academic standards, curricula, and assessments between middle and high schools.

''(4) Improving student transitions from secondary school to postsecondary education and the workforce, which may include—

''(A) providing for the sharing of data between secondary schools and institutions of higher education;

''(B) enabling dual enrollment and credit-bearing learning opportunities;

''(C) establishing one or more early college secondary schools that offer students a secondary school diploma and not more than 2 years of college credit within a 4- or 5-year program;

''(D) providing enhanced higher education and financial aid counseling; and

''(E) aligning the academic standards of secondary school with the academic standards of postsecondary education and the requirements and expectations of the workforce.

''(5) Increasing the autonomy and flexibility of secondary schools, which may include—

''(A) establishing a process whereby existing schools can apply for flexibility in such areas as scheduling, curricula, budgeting, and governance; and

''(B) starting new small public secondary schools that are guaranteed such autonomies.

''(6) Improving learning opportunities for secondary school students in rural schools, including through the use of distance-learning opportunities and other technology-based tools.

''(7) Redesigning a middle school—

''(A) to prevent student disengagement and improve achievement; and

''(B) to better respond to early warning signs that students are at risk of dropping out of school, such as poor attendance, poor behavior, or course failure.

''(8) Improving teaching and increasing academic rigor at the secondary school level, which may include—

''(A) improving the alignment of academic standards with the requirements and expectations of postsecondary education and the workforce;

''(B) improving the teaching and assessment of 21st century skills, including through the development of formative assessment models;

''(C) increasing community involvement, including leveraging community-based services and opportunities to provide every student with the academic and nonacademic supports necessary for academic success;

''(D) increasing parental involvement, including providing parents with the tools to navigate, support, and influence their child's academic career and choices through secondary school graduation and into postsecondary education and the workforce; and

''(E) addressing the learning needs of various student populations, including students who are limited English proficient, late entrant English language learners, and students with disabilities.

''(g) DATA COLLECTION AND EVALUATION.—

''(1) COLLECTION OF DATA.—Each eligible partnership receiving a grant under this part shall collect and report annually to the Secretary such information on the results of the activities assisted under the grant as the Secretary may reasonably require, including information on—

''(A) the number and percentage of students who—

''(i) are served by the eligible partnership;

''(ii) are assisted under this part; and

''(iii) graduate from secondary school with a regular secondary school diploma in the standard number of years;

''(B) the number and percentage of students, at each grade level, who are—

''(i) served by the eligible partnership;

''(ii) assisted under this part; and

''(iii) on track to graduate from secondary school with a regular secondary school diploma in the standard number of years;

''(C) the number and percentage of students, at each grade level, who—

''(i) are served by the eligible partnership;

''(ii) are assisted under this part; and

''(iii) meet or exceed State challenging student academic achievement standards in mathematics, reading or language arts, or science, as measured by the State academic assessments under section 1111(b)(3);

''(D) information consistent with the additional indicators of improvement proposed by the eligible partnership in the grant application; and

''(E) other information the Secretary may require as necessary for the evaluation described in subsection (h).

''(2) REPORTING OF DATA.—Each eligible partnership receiving a grant under this part shall disaggregate the information required under paragraph (1) in the same manner as information is disaggregated under section 1111(h)(1)(C)(i).

''(3) EVALUATION.—

''(A) IN GENERAL.—Each eligible partnership receiving a grant under this part shall enter into a contract with an outside evaluator to enable the evaluator to conduct—

''(i) an evaluation of the effectiveness of the grant after the third year of implementation of the grant; and

''(ii) an evaluation of the effectiveness of the grant after the final year of the grant period.

''(B) DISTRIBUTION.—Upon completion of an evaluation described in subparagraph (A), the eligible partnership shall submit a copy of the evaluation to the Secretary in a timely manner.

''(h) EVALUATION; BEST PRACTICES.—

''(1) IN GENERAL.—From amounts reserved under subsection (b), the Secretary shall—

''(A) enter into a contract with an outside evaluator to enable the evaluator to conduct—

''(i) a comprehensive evaluation after the third year of implementation on the effectiveness of all grants awarded under this part; and

''(ii) a final evaluation following the final year of the grant period with a focus on improvement in student achievement as a result of innovative strategies; and

''(B) disseminate best practices in improving the achievement of secondary school students.

''(2) PEER REVIEW.—

''(A) IN GENERAL.—An evaluator receiving a contract under this subsection shall—

''(i) establish a peer-review process to assist in the review and approval of the evaluations conducted under this subsection; and

''(ii) appoint individuals to the peer-review process who are educators and experts in—

''(I) research and evaluation; and

''(II) the areas of expertise described in subclauses (I) through (V) of subsection (d)(1)(B)(i).

''(B) RESTRICTIONS ON USE.—The Secretary shall not distribute or use the results of any evaluation described in paragraph (1)(A) until the results are peer-reviewed in accordance with subparagraph (A).

''(i) CONTINUATION OF FUNDING.—An eligible partnership that receives a grant under this part shall only be eligible to receive a grant payment for a fourth or fifth year of the grant if the Secretary determines, on the basis of the evaluation of the grant under subsection (h)(1)(A)(i), that the performance of the eligible partnership under the grant has been satisfactory.

''(j) RULE OF CONSTRUCTION REGARDING DISCRIMINATION.—Nothing in this section shall be construed to permit discrimination on the basis of race, color, religion, sex, national origin, or disability in any program or activity funded under this part.

''SEC. 1854. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this part $500,000,000 for fiscal year 2008 and for each of the succeeding 5 years.''.

(b) CONFORMING AMENDMENTS.—The table of contents in section 2 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 note) is amended—

(1) by striking the item relating to Part I and inserting the following:

''PART J—GENERAL PROVISIONS''; AND

(2) by inserting after the item relating to section 1830 the following:

''PART I—SECONDARY SCHOOL INNOVATION FUND

''Sec. 1851. Purposes.

''Sec. 1852. Definitions.

''Sec. 1853. Secondary school innovation fund.

''Sec. 1854. Authorization of appropriations.''.

By Mr. WEBB (for himself, Mr. SESSIONS, Ms. LANDRIEU, Mr. PRYOR, Mr. CORNYN, Mr. BUNNING, Mr. LOTT, Mr. CARDIN, Mr. WARNER, Mrs. LINCOLN, Mr. BURR, Mrs. LINCOLN, Mr. BURR, Mrs. HUTCHISON, Mr. ALEXANDER, Mr. DURBIN, Mrs. MCCASKILL, and Mrs. CLINTON):

S. 1921. A bill to amend the American Battlefield Protection Act of 1996 to extend the authorization for that Act, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WEBB. Mr. President, I rise today to join with my colleague Senator JEFF SESSIONS and 14 of our Senate colleagues to introduce the Civil War Battlefield Preservation Act of 2007. This bipartisan legislation was recently introduced in the House by Congressmen GARY MILLER of California and BART GORDON of Tennessee and presently enjoys the support of 26 Members of Congress.

Our bill is a straightforward, 5 year extension of the 2002 Civil War Battlefield Preservation Act. The purpose of this legislation remains the same as when Congress first passed it: to preserve and protect nationally significant Civil War battlefields through conservation easements and fee-simple purchases of battlefield sites. In addition, the legislation fosters partnerships among State and local governments, regional entities, and the private sector to preserve, conserve, and enhance nationally significant Civil War battlefields.

The legislation continues to protect private property rights by limiting land acquisitions to willing sellers only. It also requires a 50–50 match in order for projects to be eligible to receive Federal funds. Finally, the program limits the effect on the burgeoning National Park Service's maintenance backlog because non-Federal entities are responsible for the long-term maintenance of sites not within National Park Service boundaries.

In 1990, Congress established the Civil War Sites Advisory commission, a blue-ribbon panel empowered to investigate the status of America's remaining Civil War battlefields. Congress tasked the commission with the mission of prioritizing these battlefields according to their historic importance and the threats to their survival. The commission ultimately looked at the 10,000-plus battles and skirmishes of the Civil War and determined that 384 priority sites should be preserved. The results of the report were released in 1993 and they were not encouraging.

The 1993 commission report recommended that Congress create an emergency program to save threatened Civil War battlefield land. The result was the Civil War Battlefield Preservation Program, which was first funded

in fiscal year 1999 and originally authorized in 2002. To date, the preservation program has saved over 14,000 acres of land in 15 States.

The key to the success of the preservation program is that it achieves battlefield preservation through collaborative partnerships between State and local governments, the private sector and nonprofit organizations, such as the Civil War Preservation Trust.

But for the preservation program and its non-Federal partners, we would have lost key sites from national shrines at Antietam. Chancellorsville. Fredericksburg. Manassas. Harpers Ferry. Bentonville. Mansfield. Champion Hill. Their names of these legendary battlegrounds continue to haunt us to this day. Had the Civil War Battlefield Preservation Program not been available as a tool to preserve threatened battlefield land, these sites and others like them would have surely been lost forever to commercial and residential development.

It is not every day you can visit battlefield sites and have an immediate, direct connection with your ancestors. We must preserve these sites so that future generations might see and touch the very places where so many sacrifices were made, by soldiers and civilians alike. We are a stronger, more diverse and free Nation because of these sacrifices.

I would remind my colleagues that the preservation program has enjoyed bipartisan, bicameral support since its inception. In 2002, program funding was authorized through the Civil War Battlefield Preservation Act at the level recommended by the Civil War Sites Advisory Commission, $10 million a year. These Federal funds have, and will continue to, leverage millions more in private and other charitable donations; thereby increasing our ability to preserve more threatened battlefield sites.

The Civil War Battlefield Preservation Act has become an essential tool for protecting our nation's Civil War battlefields. I would urge my colleagues in the Senate to reauthorize this important federal program. The clock is ticking against these threatened historical sites and we must keep the Civil War Battlefield Preservation Program as a valuable tool to preserve them.

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. 1921

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 ''Civil War Battlefield Preservation Act of 2007''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Civil War battlefields provide a means for the people of the United States to understand a tragic period in the history of the United States.

(2) According to the Report on the Nation's Civil War Battlefields, prepared by the Civil War Sites Advisory Commission, and dated July 1993, of the 384 principal Civil War battlefields—

(A) almost 20 percent are lost or fragmented;

(B) 17 percent are in poor condition; and

(C) 60 percent have been lost or are in imminent danger of being fragmented by development and lost as coherent historic sites.

(b) PURPOSES.—The purposes of this Act are—

(1) to act quickly and proactively to preserve and protect nationally significant Civil War battlefields through conservation easements and fee-simple purchases of those battlefields from willing sellers at fair market value;

(2) to create partnerships among State and local governments, regional entities, and the private sector to preserve, conserve, and enhance nationally significant Civil War battlefields; and

(3) to prepare our Nation for the upcoming sesquicentennial commemoration of the Civil War, 2011 through 2015, which is expected to stimulate renewed interest in the conflict and generate unprecedented visitation to preserved Civil War battlegrounds.

SEC. 3. AUTHORIZATION EXTENDED.

The American Battlefield Protection Act of 1996 (16 U.S.C. 469k) is amended—

(1) in subsection (d)(7)(A), by striking ''fiscal years 2004 through 2008'' and inserting ''fiscal years 2009 through 2013''; and

(2) in subsection (e), by striking ''September 30, 2008'' and inserting ''September 30, 2013''.

By Mr. KERRY (for himself and Ms. SNOWE):

S. 1922. A bill to apply basic contracting laws to the Transportation Security Administration; to the Committee on Commerce, Science, and Transportation.

Mr. KERRY. Mr. President, today Senator SNOWE and I are introducing the TSA Acquisition Reform Act of 2007 to repeal exemptions from Federal contracting laws that were granted to the Transportation Security Administration, TSA, after 9/11 in the rush to secure airports. Representative CARNEY has introduced identical legislation in the House and I look forward to working with him to improve contracting at TSA.

TSA is one of the few Federal agencies and the only agency within the Department of Homeland Security that is not subject to the same procurement rules that every other Federal agency, including the Department of Defense, must abide.

Specifically, it is exempt from the Federal Acquisition Regulation, FAR, which covers every major procurement law and requires Federal agencies to provide for an open and competitive bidding process and submit contract information to the Federal Procurement Data System. TSA's exemption from the FAR was never meant to be permanent, and this amendment would bring the agency in line with normal Federal contracting rules.

TSA has a record of mismanaging contracts and wasting taxpayer dollars, and has been the subject of several DOT and DHS Inspector General reports. For instance, in 2002, TSA, despite using FAR guidelines, issued a federally prohibited cost-plus-a-percentage contract to Boeing to install explosive detection systems in airports. In September 2004, the IG found that the initial $508 million contract ballooned to $1.2 billion, that Boeing was paid $49 million in excess profit, received $82 million to cover $39 million in costs, and ultimately received a 210 percent return on its investment.

In 2005, the Washington Post reported on an audit by the Defense Contract Audit Agency which showed that a contract issued to the Pearson government solutions firm to recruit Federal passenger screeners increased in cost from $104 million to $741 million in 9 months in part because TSA changed the scope of the contract to require Pearson to use posh hotels, including the Waldorf Astoria, as recruitment centers. TSA disputes this account, but cannot provide any paperwork to back it up. The article quoted Deputy DHS Secretary Michael Jackson as saying, ''Honestly, I have no memory of it.''

In 2004, the when the GAO wanted to review 21 TSA contracts, it literally had to send staff to rummage through boxes of files to retrieve information that would otherwise have been in the Federal Procurement Data System.

As Chairman of the Small Business Committee, I am particular concerned about TSA's inability to meet its small business contracting goals. I am pleased that the 2007 DHS Appropriations bill applied the Small Business Act to TSA, but small business owners won't truly benefit because TSA is still exempt from basic contracting rules under the FAR that helps them compete for Federal contracts. Although TSA's small business contracting goal is 23 percent annually, only 10.7 percent of its contracts went to small businesses in 2005. Analysis conducted by my staff suggest that the true figure is closer to 6 percent because many of the large corporations that contract with TSA set up subsidiaries that technically qualify as small businesses but are in fact part of a larger corporation. I am concerned about this and I know that my colleague, Senator SNOWE, the ranking member of the Small Business Committee, is concerned as well.

There is another important reason to require TSA to follow the FAR. DHS, which encompasses 22 different agencies, is trying to create a unified procurement system and a common culture within the department. The Comptroller General noted last year before the House Homeland Security Committee that ''the various acquisition organizations within DHS are still operating in a disparate manner, with oversight of acquisition activities left primarily up to each individual component.'' How can DHS create a common contracting system when the agency that spends the most money on contracts within the department is exempt from the department's own rules?

It would be wrong to suggest that exemption from FAR is the main reason that TSA has mismanaged contracts. Its acquisition office was understaffed after 9/11, and there was a rush to meet Congressional deadlines that led to sloppy oversight. I understand that TSA has spent millions to improve its contracting office and I commend it for doing so. However, it is far from clear that TSA has a functional procurement system. A 2006 GAO review of the ongoing Boeing contract suggests that poor contracting oversight continues to plague TSA. The report states that ''TSA officials provided no evidence that they are reviewing required contractor submitted performance data,'' and that they ''do not document their activities because there are no TSA policies and procedures requiring them to do so. I know all Members would agree that this is a problem.

Unfortunately, lack of transparency and accountability are common themes in TSA's procurement history. Former DHS IG Kent Ervin has said that ''TSA is rapidly becoming the poster child for contracting dysfunction.'' Citizens Against Government Waste, which has endorsed this amendment, said in a letter to my office that ''TSA has a record of wasteful spending and mismanagement in its acquisition process and a continued exemption will only lead to more abuse.'' I think we would be remiss in our oversight responsibilities if we did not repeal these exemptions. TSA should not be policing itself.

I am not alone with these concerns. Just ask the Professional Services Council, the Nation's largest trade association representing Government contractors. In a letter to sent to my office yesterday, the PSC stated that my amendment will ''increase competition, expand opportunities for small businesses, provide greater accountability and transparency in their procurement process.'' This judgment comes from the association representing the contractors that do business with TSA.

Last year, TSA sent a letter to my office saying that it follows the FAR as a general rule but that its exemption ''benefits taxpayers.'' Amazingly, TSA criticized the FAR's requirement that Federal agencies consider all interested companies in the bidding process, saying that ''negatively impacts the limited resources of the government.'' It is hard to see how taxpayers benefit when an agency has the ability to opt out of the competitive bidding process at its choosing. The Army, Marines, Navy, Air Force, none of these agencies can simply decide to opt out of the FAR unless they meet the criteria for an exemption which is already provided for under the law.

This legislation is simple: apply the same rules to TSA that every other agency has to follow. There is no legitimate reason to maintain these exemptions—not for efficiency, not for national security. If it is good enough for the Department of Defense, it is good enough for TSA.

I look forward to working with Senator SNOWE and Representative CARNEY to pass this important legislation.

By Mr. KOHL (for himself, Mr. SANDERS, Mrs. MCCASKILL, Mr. DURBIN, and Mr. SMITH):

S. 1925. A bill to amend the Truth in Lending Act, to prevent credit card issuers from taking unfair advantage of college students and their parents, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KOHL. Mr. President, I rise today to introduce the Student Credit Card Protection Act of 2007 with my colleagues Senators SMITH, MCCASKILL, SANDERS, and DURBIN. This legislation will help prevent college students from compiling massive credit card debt while in school.

College students have become the target of credit card companies advertising campaigns over the past 15 years. Many universities allow credit card companies to set up tables on campus and offer students free gifts in exchange for filling out a credit card application. Additionally, students receive card solicitations through mail to their on-campus mailbox or at their home address even before they arrive at the university in the fall. These aggressive marketing strategies have worked and now close to 96 percent of college graduates hold a credit card, compared to 1994, when only half had one. The average college student graduates with close to $3,000 in credit card debt, double the amount in 1994. In some very extreme cases, students are leaving school with multiple credit cards and debts amounting upwards of $10,000.

Credit card debt can make it harder for graduates to rent an apartment, receive a car loan, or obtain a job after college. Due to the lack of financial education and complicated terms and conditions, many students find themselves in over their heads. The Student Credit Card Protection Act will help students avoid large credit card debt while forcing issuers to make more responsible loans. The bill requires credit card issuers to verify annual income of a full-time student and then extends a line of credit based on the income. For a student without a verifiable income, a parent, legal guardian or spouse must co-sign the credit card and approve any increase in the credit limit. These simple underwriting requirements will make it more difficult for credit card companies to approve loans that are beyond a students' ability to repay and return to a more responsible lending policy.

It is imperative that we help minimize the amount of debt young consumers incur before entering into the workforce. On average, a student with a bachelors degree will leave school with $18,000 in student loan debt. Paying for housing, healthcare, and student loans already place a financial strain on a recent college graduate. A huge credit card payment on top of all card of the other bills can lead to financial ruin before young people even have a chance to get on their feet. This bill gives students the protection they deserve from irresponsible lending that can trap them in years of crushing debt repayment.

By Mr. DODD (for himself and Mr. HAGEL):

S. 1926. A bill to establish the National Infrastructure Bank to provide funding for qualified infrastructure projects, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. DODD. Mr. President, I rise to introduce bipartisan legislation with my colleague from Nebraska, Senator HAGEL. The bill addresses an issue of paramount importance to our country and its quality of life: the deteriorating condition of our infrastructure systems.

I do not believe there is one person present in this chamber, funding myself, who has not taken our Nation's infrastructure systems for granted at some point. Indeed, our roads, bridges, mass transit systems, drinking water systems, wastewater systems, and public housing properties, collectively comprise the overlooked but critically important adhesive that holds our society together. These systems allow for the continuous passage of people and goods across the country; they allow people to communicate with each other here and around the world; they allow business and Government to function; and they allow goods to be consumed and services to be rendered. All in all, our infrastructure systems are directly responsible for providing the high quality of life that we Americans have come to enjoy in a free society.

Yet, it is precisely because we have taken our infrastructure systems for granted that we find ourselves in a precarious position today concerning their future viability. One does not have to look far to comprehend the extensive problems plaguing many of our infrastructure systems and facilities.

According to the American Society of Civil Engineers in their seminal 2005 Infrastructure Report Card, the current condition of our Nation's major infrastructure systems earns a grade point average of D and jeopardizes the prosperity and quality of life of all Americans.

According to the Federal Highway Administration, 33 percent of all urban and rural roads are in poor, mediocre or fair condition. 27.1 percent of all bridges are structurally deficient or functionally obsolete. Data from the Federal Transit Administration shows our mass transit systems are becoming increasingly unable to handle the growing demands passengers in a safe and efficient manner. According to the Texas Transportation Institute, the average traveler is delayed 51.5 hours annually due to traffic and infrastructure-related congestion in the Nation's

20 largest metropolitan areas. The delays range from 93 hours in Los Angeles to 14 hours in Pittsburgh. Combined, these delays waste 1.78 billion gallons of fuel each year and waste almost $50.3 billion in congestion costs. Furthermore, the average delay in these metropolitan areas has increased by almost 35.3 hours since 1982.

A significant percentage of our Nation's drinking water and wastewater systems are obsolete; the average age of these systems range in age from 50 years in smaller cities to 100 years in larger cities. Finally, the Department of Housing and Urban Development reports there are 1.2 million units of public housing with critical capital needs totaling $18 billion. Clearly, these statistics are alarming and they are not getting any better.

In their Infrastructure Report Card, the American Society of Civil Engineers estimates that $1.6 trillion is needed over a 5-year period to bring our Nation's infrastructure systems to a good condition.

Regrettably, our current infrastructure financing mechanisms, such as formula grants and earmarks, are not equipped by themselves to absorb this cost or meet fully these growing needs. They largely do not address capacity-building infrastructure projects of regional or national significance; they largely do not encourage an appropriate pooling of Federal, State, local and private resources; and they largely do not provide transparency to ensure the optimal return on public resources.

This is why I rise with my colleague from Nebraska today. We are introducing the National Infrastructure Bank Act of 2007, a bipartisan measure that addresses the critical needs of our Nation's major infrastructure systems. Our legislation establishes a new method through which the Federal Government can finance infrastructure projects of substantial regional or national significance more effectively with public and private capital.

Our legislation establishes the National Infrastructure Bank, which, as an independent entity of the Government, is tasked with evaluating and financing capacity-building infrastructure projects of substantial regional and national significance. Infrastructure projects that come under the bank's consideration are publicly-owned mass transit systems, housing properties, roads, bridges, drinking water systems, and wastewater systems.

Modeled after the Federal Deposit Insurance Corporation, the bank is led by a 5 member Board of Directors, each whom are appointed by the Prsident and confirmed by the Senate. The bank's board has flexibility to develop an organization of professional civil service staff to carry out the bank's authorized activities. An Inspector General oversees the bank's daily operations and reports on those operations to Congress.

Infrastructure projects with a potential Federal investment of at least $75 million are brought to the bank's attention by a project sponsor, State, locality, tribe, infrastructure agency, e.g. transit agency, a consortium of these entities. To determine a level of Federal investment, the bank uses a sliding-scale method that incorporates conditions such as the type of infrastructure system or systems, project location, project cost, current and projected usage, non-Federal revenue, regional or national significance, promotion of economic growth and community development, reduction in traffic congestion, environmental benefits, land use policies that promote smart growth, and mobility improvements.

Once a level of investment is determined for a project, the bank develops a financing package with full faith and credit from the government. The financing package could include direct subsidies, direct loan guarantees, long-term tax-credit general purpose bonds, and long-term tax-credit infrastructure project specific bonds. The initial ceiling to issue bonds is $60 billion.

The bank is tasked to report annually to Congress on the projects it reviews and finances. A public database is created to catalog what projects were funded and what financing packages were provided. The bank is also tasked to report every 3 years on the economic efficacy and transparency of all current Federal infrastructure financing methods, and how those methods could be improved. After 5 years, the Government Accountability Office would be tasked with evaluating the bank's operations and efficacy.

It is important to note that our legislation does not displace or supplant any existing infrastructure finance mechanisms, such as formula grants and earmarks. Instead, the bank targets large-scale projects that are currently underserved by these existing financing mechanisms.

I would like to take a moment to thank the Centers for Strategic and International Studies, CSIS, and the work undertaken by Dr. John Hamre in infrastucture finance. CSIS, Ambassador Felix Rohatyn, and former Senator Warren Rudman have provided valuable assistance and support in the development of our legislation.

I would also like to thank the American Society of Civil Engineers and the National Construction Alliance for their support of our bill.

It is my intent to take up this legislation in the Banking Committee after the August recess. This is an issue that cannot be neglected or deferred any further. Restoring our Nation's infrastructure demands our immediate attention and commitment in the Senate. The quality of life in our country hangs in the balance.

I ask unanimous consent that the text of the bill and letters of support be printed in the RECORD.

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

S. 1926

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 ''National Infrastructure Bank Act of 2007''.

(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.
Sec. 4. Authorization of appropriations.

TITLE I—NATIONAL INFRASTRUCTURE BANK

Sec. 101. Establishment of Bank.
Sec. 102. Management of Bank.
Sec. 103. Staff and personnel matters.

TITLE II—POWERS AND DUTIES OF THE BANK

Sec. 201. Powers of the Bank Board.
Sec. 202. Qualified infrastructure project ratings.
Sec. 203. Development of financing package.
Sec. 204. Coupon notes for holders of infrastructure bonds.
Sec. 205. Exemption from local taxation.

TITLE III—STUDIES AND REPORTS

Sec. 301. Report; database.
Sec. 302. Study and report on infrastructure financing mechanisms.
Sec. 303. GAO report.

SEC. 2. FINDINGS.

Congress finds that—

(1) according to the American Society of Civil Engineers, the current condition of the infrastructure of the United States earns a grade point average of D and jeopardizes the prosperity and quality of life of the citizens of the United States;

(2) according to the Federal Transit Administration—

(A) approximately $15,800,000,000 must be expended each year for a period of not less than 20 years to maintain the operational capacity of the transit systems of the United States; and

(B) approximately $21,800,000,000 must be expended each year for a period of not less than 20 years to improve the operational capacity of the transit systems of the United States to meet the growing demands of passengers in a safe and adequate manner;

(3) according to the Millennial Housing Commission, there remains a critical shortage of affordable public housing for extreme low-income individuals;

(4) there are over 1,200,000 units of public housing nationwide, with an accumulated capital needs backlog of approximately $18,000,000,000, with an additional $2,000,000,000 accruing each year;

(5) according to the Federal Highway Administration—

(A) 33 percent of all urban and rural roads in the United States are in poor, mediocre, or fair condition;

(B) approximately $131,700,000,000 must be expended each year for a period of not less than 20 years to improve the conditions of those urban and rural roads;

(C) 27.1 percent of all bridges in the United States are—

(i) structurally deficient; or

(ii) functionally obsolete; and

(D) approximately $9,400,000,000 must be expended each year for a period of not less than 20 years to eliminate the deficiencies of those bridges;

(6) according to the Environmental Protection Agency—

(A) $151,000,000,000 must be expended during the next 20 years to make necessary repairs, replacements, and upgrades to the approximately 55,000 community drinking water systems of the United States; and

(B) approximately $390,000,000,000 must be expended during the next 20 years to eliminate the deficiencies of the wastewater systems of the United States;

(7) the infrastructure financing mechanisms of the United States do not adequately—

(A) address infrastructure projects of regional or national significance;

(B) encourage an appropriate pooling of Federal, State, local, and private resources; or

(C) provide transparency to ensure the optimal return on public resources;

(8) there are no Federal financing notes, credits, or bonds which allow investors to fund only infrastructure projects;

(9) there is a need to involve pension funds and other private investors who want to invest in infrastructure, but to whom tax credits have no value; and

(10) there are no federally guaranteed investment notes of greater than 30 years in duration, whereas many federally funded assets are of durations much longer than 30 years.

SEC. 3. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) BANK.—The term ''Bank'' means the ''National Infrastructure Bank'' established under section 101.

(2) BOARD.—The term ''Board'' means the board of directors of the Bank, established under section 102.

(3) CHAIRPERSON; VICE CHAIRPERSON.—The terms ''Chairperson'' and ''Vice Chairperson'' mean the Chairperson and Vice Chairperson of the Board, respectively.

(4) FINANCING MECHANISM.—

(A) IN GENERAL.—The term ''financing mechanism'' means a method used by the Bank to pledge the full faith and credit of the United States to provide money, credit, or other capital to a qualified infrastructure project.

(B) INCLUSIONS.—The term ''financing mechanism'' includes—

(i) a direct subsidy;

(ii) a general purpose infrastructure bond; and

(iii) a project-based infrastructure bond.

(5) FINANCING PACKAGE.—The term ''financing package'' means 1 or more financing mechanisms used by the Bank to meet the Federal commitment for a qualified infrastructure project.

(6) GENERAL PURPOSE INFRASTRUCTURE BOND.—The term ''general purpose infrastructure bond'' means a bond issued as part of an issue in accordance with this Act, if—

(A) the net spendable proceeds from the sale of the issue may be used for expenditures incurred after the date of issuance with respect to any qualified infrastructure project or purpose, subject to the rules of the Bank;

(B) the bond is issued by the Bank, is in registered form, and meets the requirements of this Act and otherwise applicable law;

(C) the term of each bond which is part of the issue is greater than 30 years; and

(D) the payment of principal with respect to the bond is the obligation of the Bank.

(7) INFRASTRUCTURE PROJECT.—

(A) IN GENERAL.—The term ''infrastructure project'' means the building, improvement, or increase in capacity of a basic installation, facility, asset, or stock that is associated with—

(i) a mass transit system that meets the criteria in subparagraph (B);

(ii) a public housing property that is eligible to receive funding under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) and that meets the criteria in subparagraph (B);

(iii) a road or bridge that meets the criteria in subparagraph (B); or

(iv) a drinking water system or a wastewater system that meets the criteria in subparagraph (B).

(B) CRITERIA.—A project described in any of clauses (i) through (iv) of subparagraph (A) meets the criteria of this subparagraph if it serves any one or more of the objectives identified in paragraphs (1) through (9) of section 101(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)).

(8) PROJECT-BASED INFRASTRUCTURE BOND.—The term ''project-based infrastructure bond'' means any bond issued as part of an issue, if—

(A) the net spendable proceeds from the sale of the issue are to be used for expenditures incurred after the date of issuance only with respect to the qualified infrastructure project for which the bond is issued;

(B) the bond is issued by the Bank, meets the requirements of section 149(a) of title 26, United States Code, for registration, and otherwise meets the requirements of this Act and other applicable law;

(C) the term of each bond which is part of the issue is equal to the useful life of the qualified infrastructure project funded through use of the bond; and

(D) the payment of principal with respect to the bond is the obligation of the Bank.

(9) PUBLIC HOUSING AGENCY.—The term ''public housing agency'' means an agency described in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

(10) PUBLIC SPONSOR.—The term ''public sponsor'' includes a State or local government, an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b), a public transit agency, public housing agency, a public infrastructure agency, or a consortium of those entities, including a public entity that has partnered with a private nonprofit or for-profit entity.

(11) QUALIFIED INFRASTRUCTURE PROJECT.—The term ''qualified infrastructure project'' means an infrastructure project designated by the Board as a qualified infrastructure project in accordance with section 202.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Until such time as the Bank has received funds from the issuance of bonds sufficient to carry out this Act and the administration of the Bank, there are authorized to be appropriated to the Bank, such sums as may be necessary for such purposes, to remain available until expended.

TITLE I—NATIONAL INFRASTRUCTURE BANK

SEC. 101. ESTABLISHMENT OF BANK.

There is established the ''National Infrastructure Bank'', which shall be an independent establishment of the Federal Government, as defined in section 104 of title 5, United States Code.

SEC. 102. MANAGEMENT OF BANK.

(a) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The management of the Bank shall be vested in a Board of Directors consisting of 5 members, appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

(2) MEMBER EXPERTISE.—Not fewer than 1 member of the Board shall have demonstrated expertise in—

(A) transit infrastructure;

(B) public housing infrastructure;

(C) road and bridge infrastructure;

(D) water infrastructure; or

(E) public finance.

(3) POLITICAL AFFILIATION.—Section 2(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1812(a)(2) shall apply to members of the Board of Directors of the Bank in the same manner as it applies to the Board of Directors of the Federal Deposit Insurance Corporation.

(4) MEETINGS.—The Board shall meet not later than 90 days after the date on which all directors of the Board are first appointed, and otherwise at the call of the Chairperson.

(5) DATE OF APPOINTMENTS.—The initial nominations to the Board shall be made not later than 60 days after the date of enactment of this Act.

(b) CHAIRPERSON AND VICE CHAIRPERSON.—The Chairperson and Vice Chairperson of the Board shall be appointed and shall serve in the same manner as is provided for members of the Federal Deposit Insurance Corporation under section 2(b) of the Federal Deposit Insurance Act (12 U.S.C. 1812(b)).

(c) TERMS.—

(1) APPOINTED MEMBERS.—Except as provided in paragraph (2), each member of the Board shall be appointed for a term of 6 years.

(2) INITIAL STAGGERED TERMS.—Of the initial members of the Board—

(A) the Chairperson and Vice Chairperson shall be appointed for a term of 6 years;

(B) 1 member shall be appointed for a term of 5 years;

(C) 1 member shall be appointed for a term of 4 years; and

(D) 1 member shall be appointed for a term of 3 years.

(3) INTERIM APPOINTMENTS.—Any member of the Board appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(4) CONTINUATION OF SERVICE.—The Chairperson, Vice Chairperson, and each other member of the Board may continue to serve after the expiration of the term of office to which such member was appointed, until a successor has been appointed.

(d) VACANCY.—Any vacancy on the Board shall be filled in the manner in which the original appointment was made.

(e) INELIGIBILITY FOR OTHER OFFICES.—

(1) RESTRICTION DURING SERVICE.—No member of the Board may, during service on the Board—

(A) be an officer or director of, or otherwise be employed by, any entity engaged in or otherwise associated with an infrastructure project assisted or considered under this Act;

(B) hold stock in any such entity; or

(C) hold any other elected or appointed public office.

(2) POST SERVICE RESTRICTION.—

(A) IN GENERAL.—No member of the Board may hold any office, position, or employment in any entity engaged in or otherwise associated with an infrastructure project assisted under this Act during the 2-year period beginning on the date on which such member ceases to serve on the Board.

(B) EXCEPTION FOR MEMBERS WHO SERVE FULL TERM.—The limitation contained in subparagraph (A) does not apply to any member who has ceased to serve on the Board after serving the full term for which such member was appointed.

(3) CERTIFICATION.—Upon taking office, each member of the Board shall certify under oath that such member has complied with this subsection, and such certification shall be filed with the secretary of the Board.

SEC. 103. STAFF AND PERSONNEL MATTERS.

(a) EXECUTIVE DIRECTOR.—

(1) IN GENERAL.—The Chairperson may appoint and terminate, and fix the compensation of, an executive director of the Bank, in accordance with title 5, United States Code.

(2) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director

shall be subject to confirmation by the Board.

(3) QUALIFICATIONS OF EXECUTIVE DIRECTOR.—An individual appointed as the executive director under paragraph (1) shall have demonstrated expertise in—

(A) transit infrastructure;

(B) public housing infrastructure;

(C) road and bridge infrastructure;

(D) water infrastructure; or

(E) public finance.

(b) OTHER PERSONNEL.—The Board may appoint and terminate, and fix the compensation of, in accordance with title 5, United States Code, such personnel as are necessary to enable the Bank to perform the duties of the Bank.

(c) INSPECTOR GENERAL.—

(1) IN GENERAL.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1), by inserting ''the Chairperson of the National Infrastructure Bank;'' after ''the Chairperson of the Federal Deposit Insurance Corporation;''; and

(B) in paragraph (2), by inserting ''the National Infrastructure Bank;'' after ''the Federal Deposit Insurance Corporation;''.

(2) EXECUTIVE SCHEDULE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by inserting after the item relating to the Inspector General of the Federal Deposit Insurance Corporation, the following:

''Inspector General, National Infrastructure Bank.''.

(d) SUPPORT FROM OTHER AGENCIES.—The head of any other Federal agency may detail employees to the Bank for purposes of carrying out the duties of the Bank.

(e) COMPENSATION OF BOARD MEMBERS.—

(1) CHAIRPERSON.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation, the following:

''Chairperson, Board of Directors, National Infrastructure Bank.''.

(2) OTHER MEMBERS.—Section 5315 of title 5, United States Code, is amended by inserting after the item relating to the Inspector General of the Federal Deposit Insurance Corporation, the following:

''Member, Board of Directors of the National Infrastructure Bank.''.

TITLE II—POWERS AND DUTIES OF THE BANK

SEC. 201. POWERS OF THE BANK BOARD.

(a) HEARINGS.—The Board may, in carrying out this Act—

(1) hold such hearings, meet and act at such times and places, take such testimony, receive such evidence, and administer such oaths, as the Board considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials, as the Board considers advisable.

(b) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—A subpoena issued under subsection (a) shall—

(A) bear the signature of the Chairperson and a majority of the members of the Board; and

(B) be served by any person or class of persons designated by the Chairperson for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a)(2), the United States district court for the district in which the subpoenaed person resides, is served, or may be found may issue an order requiring the person to appear at any designated place to testify or to produce documentary or other evidence.

(3) NONCOMPLIANCE.—Any failure to obey the order of the court may be punished by the court as a contempt of court.

(c) WITNESS ALLOWANCES AND FEES.—

(1) IN GENERAL.—Section 1821 of title 28, United States Code, shall apply to a witness requested or subpoenaed to appear at a hearing of the Board.

(2) EXPENSES.—The per diem and mileage allowances for a witness shall be paid from funds available to pay the expenses of the Board.

(d) INFORMATION FROM FEDERAL AGENCIES.—The Board may, upon request, secure directly from a Federal agency, such information as the Board considers necessary to carry out this Act, and the head of such agency shall promptly respond to any such request for the provision of information.

(e) INCORPORATION OF FEDERAL TRANSIT PROCESSES FOR BOARD STATEMENTS.—Section 5334(l) of title 49, United States Code, as added by section 3032 of the Federal Public Transportation Act of 2005 (Public Law 109–59, 119 Stat. 1627), shall apply to statements of the Board in the same manner and to the same extent as that section applies to statements of the Administrator of the Federal Transit Administration.

SEC. 202. QUALIFIED INFRASTRUCTURE PROJECT RATINGS.

(a) IN GENERAL.—The Bank shall, upon application and otherwise in accordance with this section, designate infrastructure projects as qualified projects for purposes of assistance under this Act.

(b) APPLICANTS.—The Bank shall accept applications for the designation of qualified infrastructure projects under this section from among public sponsors, for any infrastructure project having—

(1) a potential Federal commitment of an amount that is not less than $75,000,000;

(2) a public sponsor; and

(3) regional or national significance.

(c) GUIDELINES FOR DEVELOPING PROJECTS.—The Secretary shall establish guidelines to assist grant recipients under this title to develop applications for funding under this section. The guidelines shall include the objectives listed in paragraphs (2) and (3) of section 105(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(e)).

(d) RATINGS.—In making a determination as to a designation of a qualified infrastructure project, the Board shall evaluate and rate each applicant based on the factors appropriate for that type of infrastructure project, which shall include—

(1) for any transit project—

(A) regional or national significance;

(B) promotion of economic growth;

(C) reduction in traffic congestion;

(D) environmental benefits, including reduction in pollution from reduced use of automobiles from direct trip reduction and indirect trip reduction through land use and density changes;

(E) urban land use policies, including those that promote smart growth; and

(F) mobility improvements;

(2) for any public housing project—

(A) regional or national significance;

(B) promotion of economic growth;

(C) improvement of the physical shape and layout of public housing;

(D) environmental improvement;

(E) urban land use policies, including those that promote smart growth;

(F) reduction of poverty concentration;

(G) mobility improvements for residents; and

(H) establishment of positive incentives for resident self-sufficiency and comprehensive services that empower residents;

(3) for any highway, bridge, or road project—

(A) regional or national significance;

(B) promotion of economic growth;

(C) reduction in traffic congestion;

(D) environmental improvement;

(E) urban land use policies, including those that promote smart growth; and

(F) mobility improvements; and

(4) for any water project—

(A) regional or national significance;

(B) promotion of economic growth;

(C) health benefits from the associated projects, including health care cost reduction due to removal of pollutants; and

(D) environmental benefits.

(e) DETERMINATION AMONG PROJECTS OF DIFFERENT INFRASTRUCTURE TYPES.—The Bank shall establish, by rule, comprehensive criteria for allocating qualified status among different types of infrastructure projects for purposes of this Act—

(1) including—

(A) a full view of the project benefits, as compared to project costs;

(B) a preference for projects that have national or substantial regional impact;

(C) a preference for projects which leverage private financing, including public-private partnerships, for either the explicit cost of the project or for enhancements which increase the benefits of the project;

(D) an understanding of the importance of balanced investment in various types of infrastructure, as emphasized in the current allocation of Federal resources between modes; and

(E) an understanding of the importance of diverse investment in infrastructure in all regions of the country; and

(2) that do not eliminate any project based on size, but rather allow for selection of the projects that are most meritorious.

(f) PROCESS AND PERSONNEL FOR CREATING RATINGS PROCESS.—

(1) IN GENERAL.—The ratings processes described in this section shall be subject to Federal notice and rulemaking procedures.

(2) PARTICIPATION BY OTHER AGENCY PERSONNEL.—The ratings, and development of the ratings process, shall be conducted by personnel on detail to the Bank from the Department of Transportation, the Department of Housing and Urban Development, the United States Army Corps of Engineers, and other relevant departments and agencies from among individuals who are familiar with and experienced in the selection criteria for competitive projects. The Bank shall reimburse those departments and agencies for the staff which are on detail to the Bank.

(g) COMPLIANCE WITH OTHER APPLICABLE LAW.—Projects receiving financial assistance from the Bank under this section shall comply with applicable provisions of Federal law and regulations, including—

(1) for transit, requirements that would apply to a project receiving funding under section 5307 of title 49, United States Code;

(2) for public housing, requirements that would apply to a project receiving funding from a grant under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v);

(3) for roads and bridges, requirements that would apply to a project that receives funds apportioned under section 104(b)(3) of title 23, United States Code; and

(4) for water, requirements that would apply to a project that receives funds through a grant or loan under—

(A) section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303);

(B) section 1452 of the Public Health Service Act (42 U.S.C. 300j-12); or

(C) section 601 of the Federal Water Pollution Control Act (33 U.S.C. 1381), as that section applied before the beginning of fiscal year 1995.

(h) AUTHORITY TO DETERMINE FUNDING.—Notwithstanding any other provision of law, the Bank shall determine the appropriate Federal share of funds for each project described in subsection (g) for purposes of this Act.

SEC. 203. DEVELOPMENT OF FINANCING PACKAGE.

(a) IN GENERAL.—Not later than 60 days after the date on which the Board determines appropriate financing packages for qualified infrastructure projects under section 202, the Board shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate.

(b) FINANCING PACKAGES.—The Board is authorized—

(1) to act as a centralized entity to provide financing for qualified infrastructure projects;

(2) to issue general purpose infrastructure bonds, and to provide direct subsidies to qualified infrastructure projects from amounts made available from the issuance of such bonds;

(3) to issue project-based infrastructure bonds for the financing of specific qualified infrastructure projects;

(4) to provide loan guarantees to State or local governments issuing debt to finance qualified infrastructure projects, under rules prescribed by the Board, in a manner similar to that described in chapter 6 of title 23, United States Code;

(5) to issue loans, at varying interest rates, including very low interest rates, to qualified project sponsors for qualified projects;

(6) to leverage resources and stimulate public and private investment in infrastructure; and

(7) to encourage States to create additional opportunities for the financing of infrastructure projects.

(c) GENERAL PURPOSE AND INFRASTRUCTURE BONDS.—General purpose and project-based infrastructure bonds issued by the Bank under this Act shall be subject to such terms and limitations as may be established by rules of the Bank, in consultation with the Secretary of the Treasury.

(d) BOND OBLIGATION LIMIT.—The aggregate outstanding amount of all bonds authorized to be issued under this Act may not exceed $60,000,000,000.

(e) FULL FAITH AND CREDIT.—Any obligation issued by the Bank under this Act shall be an obligation supported by the full faith and credit of the United States.

(f) LIMITATION ON FUNDS FROM BOND ISSUANCE.—Not more than 1 percent of funds resulting from the issuance of bonds under this Act may be used to fund the operations of the Bank.

SEC. 204. COUPON NOTES FOR HOLDERS OF INFRASTRUCTURE BONDS.

(a) ISSUANCE OF COUPON NOTES.—Under regulations prescribed by the Bank, in consultation with the Secretary of the Treasury, there may be a separation (including at issuance) of the ownership of an infrastructure bond and the entitlement to the interest with respect to such bond (in this section referred to as a ''coupon note''). In case of any such separation, such interest shall be allowed to the person who on the payment date holds the instrument evidencing the entitlement to the interest, and not to the holder of the bond.

(b) REDEMPTION OF COUPON NOTES.—A coupon note may be used by the owner thereof for the purpose of making any payment to the Federal Government, and shall be accepted for such purpose by the Secretary of the Treasury, subject to rules issued by the Bank, in consultation with the Secretary of the Treasury.

SEC. 205. EXEMPTION FROM LOCAL TAXATION.

Bonds and other obligations issued by the Bank, and the interest on or credits with respect to its bonds or other obligations, shall not be subject to taxation by any State, county, municipality, or local taxing authority.

TITLE III—STUDIES AND REPORTS

SEC. 301. REPORT; DATABASE.

(a) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the activities of the Board, for the fiscal year covered by the report, relating to—

(1) the evaluations of qualified infrastructure projects under section 202; and

(2) the financing packages of qualified infrastructure projects under section 203.

(b) DATABASE.—The Bank shall develop, maintain, and update a publicly-accessible database that contains—

(1) a description of each qualified infrastructure project that receives funding from the Bank under this Act—

(A) by project mode or modes;

(B) by project location;

(C) by project sponsor or sponsors; and

(D) by project total cost;

(2) the amount of funding that each qualified infrastructure project receives from the Bank under this Act; and

(3) the form of financing that each qualified infrastructure project receives from the Bank under section 203.

SEC. 302. STUDY AND REPORT ON INFRASTRUCTURE FINANCING MECHANISMS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, and every 3 years thereafter, the Board shall conduct a study evaluating the effectiveness of each Federal financing mechanism that is used to support an infrastructure system of the United States.

(b) REQUIREMENTS.—A study conducted under subsection (a) shall—

(1) evaluate the economic efficacy and transparency of each financing mechanism used by—

(A) the Bank to fund qualified infrastructure projects; and

(B) each agency and department of the Federal Government to support infrastructure systems, including—

(i) infrastructure formula funding;

(ii) user fees; and

(iii) modal taxes; and

(2) contain recommendations for improving each funding mechanism evaluated under subparagraphs (A) and (B) of paragraph (1) to increase the economic efficacy and transparency of the Bank, and each agency and department of the Federal Government, to finance infrastructure projects in the United States.

(c) REPORT.—Not later than 30 days after the date on which the Board completes the study conducted under subsection (a), the Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, a report containing each evaluation and recommendation contained in the study.

SEC. 303. GAO REPORT.

Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, a report evaluating the activities of the Bank for the fiscal years covered by the report, including—

(1) the evaluations of qualified infrastructure projects under section 202; and

(2) the financing packages of qualified infrastructure projects under section 203.

CENTER FOR STRATEGIC & INTERNATIONAL STUDIES,
Washington, DC, August 1, 2007.

Hon. CHRISTOPHER J. DODD,
Hon. CHUCK HAGEL,
U.S. Senate,
Washington, DC.

DEAR SENATOR DODD AND SENATOR HAGEL: I am writing to commend you for your leadership in helping to restore America's deteriorating physical infrastructure. You both have demonstrated great foresight and vision in leading on this important issue.

Three years ago, the Center for Strategic and International Studies launched a study effort under the leadership of former Ambassador Felix Rohatyn and former Senator Warren Rudman. The CSIS Commission on Public Infrastructure issued a declaration of guiding principles for the revitalization of our infrastructure. We were proud that you joined in that declaration. Signatories included senators, governors, and business leaders, all recognizing the need for action.

You have acted. While CSIS cannot endorse specific legislation, we can congratulate you as leaders. From the very first days of our republic, our national leaders saw the need for public investment in productive infrastructure. Public investment produced wealth-generating private sector activity, paying back the public investment many times over.

The commission also called for infrastructure investments made through a rigorous cost-benefit process. Too much public investment in recent years has been earmarked for projects that have not gone through an analytic justification. Your leadership here is also most welcome.

I travel extensively and see how infrastructure investments are transforming the developing world. Faced by this competition, America needs to make public infrastructure a comparable priority as a national re-investment to ensure our future prosperity.

Thank you for your leadership. This is the kind of vision that built America to greatness in the past and will be our path to prosperity in the future.

Sincerely,

JOHN J. HAMRE,
President and CEO.

AUGUST 1, 2007.

As co-chairmen of the CSIS Commission on Public Infrastructure, we strongly support the National Infrastructure Bank Act of 2007.

Introduced by Senators CHRIS DODD and CHUCK HAGEL, this bipartisan legislation will reverse decades of shortchanging our infrastructure and help restructure the federal role by allocating costs and financing more fairly and rationally. The legislation also will help ensure that infrastructure spending is unencumbered by political interference that neglects regional and national priorities. The Act will establish a policy structure for making infrastructure investments that meet our country's critical needs.

The Infrastructure Bank Act will stimulate new, long-term investments in infrastructure that will increase national productivity and improve our standard of living. The proposed Infrastructure Bank Act also will increase the ability of the private sector to play a central role in infrastructure provision and will report on the economic efficacy and transparency of all current federal financing methods. We urge that it be passed into law.

ASCE,
AMERICAN SOCIETY OF CIVIL ENGINEERS,
Washington, DC, August 1, 2007.

Hon. CHRISTOPHER J. DODD,
Hon. CHUCK HAGEL,
Washington, DC.

DEAR SENATOR DODD, SENATOR HAGEL: I am writing on behalf of the more than 140,000 members of the American Society of Civil Engineers (ASCE) to applaud your joint sponsorship of the National Infrastructure Bank Act of 2007. This legislation is a major step forward in providing meaningful financial assistance to the nation's failing infrastructure.

As you know, ASCE concluded in our 2005 Report Card for America's Infrastructure that the nation's infrastructure deserved an overall grade of ''D.'' We said then that America's aging and overburdened infrastructure threatens the economy and quality of life in every state, city, and town in the nation. In addition, we estimated that it will take an investment of $1.6 trillion over a five-year period to bring the nation's existing infrastructure into good working order. Little of significance has changed in the two years since we issued that dismal grade, and establishing a long-term development and maintenance plan remains a pressing national priority.

In creating the National Infrastructure Bank to evaluate and finance ''capacity-building'' infrastructure projects of substantial regional and national significance, the bill would prime the pump to begin meeting the staggering investment needs for our infrastructure. We believe the National Infrastructure Bank Act of 2007 will begin the process of replacing and maintaining economically vital infrastructure systems across the nation. This nation cannot afford to wait much longer to invest significant sums in its infrastructure, and your bill will lead the way.

Please do not hesitate to contact Brian Pallasch, ASCE Director of Government Relations, or Michael Charles, Senior Manager of Government Relations, of our Washington office if we can be of any assistance in passing this important legislation.

Sincerely yours,
PATRICK J. NATALE, P.E., F.ASCE,
Executive Director.

NATIONAL CONSTRUCTION ALLIANCE,
Washington, DC, July 27, 2007.

Hon. CHRISTOPHER J. DODD,
Hon. CHUCK HAGEL,
U.S. Senate Washington, DC.

DEAR SENATORS DODD AND HAGEL: The National Construction Alliance represents three of the largest construction unions, the Laborers' International Union of North America, the International Union of Operating Engineers, and the United Brotherhood of Carpenters and Joiners of America, representing over 1.7 million members.

We want to go on record in support of your National Infrastructure Bank Act of 2007.

We fully understand the need and responsibility we have to our nation and to our members to find a way to fund substantial regional and significant national infrastructure projects.

We look forward to working with you and your colleagues in making the Dodd/Hagel National Infrastructure Bank Act of 2007 a permanent part of the solution to funding our nation's most important infrastructure projects.

Sincerely,
RAYMOND J. POUPORE,
Executive Vice President.

GOLDMAN, SACHS & CO.
New York, New York, July 27, 2007.

Hon. CHRISTOPHER J. DODD,
Hon. CHUCK HAGEL,
U.S. Senate,
Washington, DC.

DEAR CHAIRMAN DODD AND SENATOR HAGEL: Thank you for the opportunity to review your proposed National Infrastructure Bank Act of 2007. Goldman Sachs shares your concern about our nation's aging infrastructure and its negative effects on our economy and our environment, and we strongly agree with you about the need to encourage additional infrastructure investment. We believe enactment of your legislation would help spur significant new investment in this area and thereby help address this urgent national problem.

We support the National Infrastructure Bank Act of 2007 and thank you for your leadership on this critical issue.

Sincerely,
TRACY R. WOLSTENCROFT.

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION,
Washington DC, August 1, 2007.

Hon. CHRISTOPHER DODD,
Hon. CHUCK HAGEL,
U.S. Senate,
Washington, DC.

DEAR SENATORS DODD AND HAGEL: On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I want to applaud your proposal to create a National Infrastructure Bank. As we look to the future, high-quality public transportation service must be available to more Americans and in more communities. Public transportation helps to reduce congestion and increases mobility. Transit also significantly reduces energy consumption, saving more than 1.4 billion gallons of gasoline every year. Americans are choosing to ride transit in record numbers, taking more than 10.1 billion trips in 2006. Unfortunately, only 54 percent of households have access to transit of any kind as they plan their daily travel.

Much of the success of public transportation is due to federal investment in public transportation infrastructure, and the creation of a National Infrastructure Bank would extend valuable new federal resources to transit investment. The innovative financing and investment tools of a National Infrastructure Bank would aid the development and expansion of fixed guideway systems. These major projects require significant investments, but they are crucial to attracting new riders. Federal support for new starts has helped to finance 127 new fixed guideway systems and system extensions which have gone into service since 1995. Looking ahead, such systems are more necessary than ever to address rapidly growing levels of congestion and to meet additional demands for travel. According to an APTA survey, new capital funds are needed for some 280 projects that will add 4,044 system miles of fixed guideway transit.

If we expect our surface transportation infrastructure system to continue to provide a competitive edge for the United States, federal, state and local investment in public transportation is necessary, and new financing mechanisms like the National Infrastructure Bank must be investigated. APTA thanks you for your commitment to the further expansion of public transportation, and we look forward to working with you to advance your proposal.

Sincerely yours,
WILLIAM W. MILLAR,
President.

By Mr. MCCONNELL (for himself and Mr. BOND):

S. 1927. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to provide additional procedures for authorizing certain acquisitions of foreign intelligence information and for other purposes; read the first time.

Mr. MCCONNELL. 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. 1927

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 ''Protect America Act of 2007''.

SEC. 2. ADDITIONAL PROCEDURE FOR AUTHORIZING CERTAIN ACQUISITIONS OF FOREIGN INTELLIGENCE INFORMATION.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after section 105 the following:

''CLARIFICATION OF ELECTRONIC SURVEILLANCE OF PERSONS OUTSIDE THE UNITED STATES

''SEC. 105A. Nothing in the definition of electronic surveillance under section 101(f) shall be construed to encompass surveillance directed at a person reasonably believed to be located outside of the United States.

''ADDITIONAL PROCEDURE FOR AUTHORIZING CERTAIN ACQUISITIONS CONCERNING PERSONS LOCATED OUTSIDE THE UNITED STATES

''SEC. 105B. (a) Notwithstanding any other law, the Director of National Intelligence and the Attorney General, may for periods of up to one year authorize the acquisition of foreign intelligence information concerning persons reasonably believed to be outside the United States if the Director of National Intelligence and the Attorney General determine, based on the information provided to them, that—

''(1) there are reasonable procedures in place for determining that the acquisition of foreign intelligence information under this section concerns persons reasonably believed to be located outside the United States, and such procedures will be subject to review of the Court pursuant to section 105C of this Act;

''(2) the acquisition does not constitute electronic surveillance;

''(3) the acquisition involves obtaining the foreign intelligence information from or with the assistance of a communications service provider, custodian, or other person (including any officer, employee, agent, or other specified person of such service provider, custodian, or other person) who has access to communications, either as they are transmitted or while they are stored, or equipment that is being or may be used to transmit or store such communications;

''(4) a significant purpose of the acquisition is to obtain foreign intelligence information; and

''(5) the minimization procedures to be used with respect to such acquisition activity meet the definition of minimization procedures under section 101(h).

''This determination shall be in the form of a written certification, under oath, supported as appropriate by affidavit of appropriate officials in the national security field occupying positions appointed by the President, by and with the consent of the Senate, or the Head of any Agency of the Intelligence Community, unless immediate action by the Government is required and time does not permit the preparation of a certification.

In such a case, the determination of the Director of National Intelligence and the Attorney General shall be reduced to a certification as soon as possible but in no event more than 72 hours after the determination is made.

''(b) A certification under subsection (a) is not required to identify the specific facilities, places, premises, or property at which the acquisition of foreign intelligence information will be directed.

''(c) The Attorney General shall transmit as soon as practicable under seal to the court established under section 103(a) a copy of a certification made under subsection (a). Such certification shall be maintained under security measures established by the Chief Justice of the United States and the Attorney General, in consultation with the Director of National Intelligence, and shall remain sealed unless the certification is necessary to determine the legality of the acquisition under section 105B.

''(d) An acquisition under this section may be conducted only in accordance with the certification of the Director of National Intelligence and the Attorney General, or their oral instructions if time does not permit the preparation of a certification, and the minimization procedures adopted by the Attorney General. The Director of National Intelligence and the Attorney General shall assess compliance with such procedures and shall report such assessments to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate under section 108(a).

''(e) With respect to an authorization of an acquisition under section 105B, the Director of National Intelligence and Attorney General may direct a person to—

''(1) immediately provide the Government with all information, facilities, and assistance necessary to accomplish the acquisition in such a manner as will protect the secrecy of the acquisition and produce a minimum of interference with the services that such person is providing to the target; and

''(2) maintain under security procedures approved by the Attorney General and the Director of National Intelligence any records concerning the acquisition or the aid furnished that such person wishes to maintain.

''(f) The Government shall compensate, at the prevailing rate, a person for providing information, facilities, or assistance pursuant to subsection (e).

''(g) In the case of a failure to comply with a directive issued pursuant to subsection (e), the Attorney General may invoke the aid of the court established under section 103(a) to compel compliance with the directive. The court shall issue an order requiring the person to comply with the directive if it finds that the directive was issued in accordance with subsection (e) and is otherwise lawful. Failure to obey an order of the court may be punished by the court as contempt of court. Any process under this section may be served in any judicial district in which the person may be found.

''(h)(1)(A) A person receiving a directive issued pursuant to subsection (e) may challenge the legality of that directive by filing a petition with the pool established under section 103(e)(1).

''(B) The presiding judge designated pursuant to section 103(b) shall assign a petition filed under subparagraph (A) to one of the judges serving in the pool established by section 103(e)(1). Not later than 48 hours after the assignment of such petition, the assigned judge shall conduct an initial review of the directive. If the assigned judge determines that the petition is frivolous, the assigned judge shall immediately deny the petition and affirm the directive or any part of the directive that is the subject of the petition. If the assigned judge determines the petition is not frivolous, the assigned judge shall, within 72 hours, consider the petition in accordance with the procedures established under section 103(e)(2) and provide a written statement for the record of the reasons for any determination under this subsection.

''(2) A judge considering a petition to modify or set aside a directive may grant such petition only if the judge finds that such directive does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the directive, the judge shall immediately affirm such directive, and order the recipient to comply with such directive.

''(3) Any directive not explicitly modified or set aside under this subsection shall remain in full effect.

''(i) The Government or a person receiving a directive reviewed pursuant to subsection (h) may file a petition with the Court of Review established under section 103(b) for review of the decision issued pursuant to subsection (h) not later than 7 days after the issuance of such decision. Such court of review shall have jurisdiction to consider such petitions and shall provide for the record a written statement of the reasons for its decision. On petition for a writ of certiorari by the Government or any person receiving such directive, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

''(j) Judicial proceedings under this section shall be concluded as expeditiously as possible. The record of proceedings, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures established by the Chief Justice of the United States, in consultation with the Attorney General and the Director of National Intelligence.

''(k) All petitions under this section shall be filed under seal. In any proceedings under this section, the court shall, upon request of the Government, review ex parte and in camera any Government submission, or portions of a submission, which may include classified information.

''(l) Notwithstanding any other law, no cause of action shall lie in any court against any person for providing any information, facilities, or assistance in accordance with a directive under this section.

''(m) A directive made or an order granted under this section shall be retained for a period of not less than 10 years from the date on which such directive or such order is made.''.

SEC. 3. SUBMISSION TO COURT REVIEW AND ASSESSMENT OF PROCEDURES.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after section 105B the following:

''SUBMISSION TO COURT REVIEW OF PROCEDURES

''SEC. 105C. (a) No later than 120 days after the effective date of this Act, the Attorney General shall submit to the Court established under section 103(a), the procedures by which the Government determines that acquisitions conducted pursuant to section 105B do not constitute electronic surveillance. The procedures submitted pursuant to this section shall be updated and submitted to the Court on an annual basis.

''(b) No later than 180 days after the effective date of this Act, the court established under section 103(a) shall assess the Government's determination under section 105B(a)(1) that those procedures are reasonably designed to ensure that acquisitions conducted pursuant to section 105B do not constitute electronic surveillance. The court's review shall be limited to whether the Government's determination is clearly erroneous.

''(c) If the court concludes that the determination is not clearly erroneous, it shall enter an order approving the continued use of such procedures. If the court concludes that the determination is clearly erroneous, it shall issue an order directing the Government to submit new procedures within 30 days or cease any acquisitions under section 105B that are implicated by the court's order.

''(d) The Government may appeal any order issued under subsection (c) to the court established under section 103(b). If such court determines that the order was properly entered, the court shall immediately provide for the record a written statement of each reason for its decision, and, on petition of the United States for a writ of certiorari, the record shall be transmitted under seal to the Supreme Court of the United States, which shall have jurisdiction to review such decision. Any acquisitions affected by the order issued under subsection (c) of this section may continue during the pendency of any appeal, the period during which a petition for writ of certiorari may be pending, and any review by the Supreme Court of the United States.''.

SEC. 4. REPORTING TO CONGRESS.

On a semi-annual basis the Attorney General shall inform the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives, concerning acquisitions under this section during the previous 6-month period. Each report made under this section shall include—

(1) a description of any incidents of noncompliance with a directive issued by the Attorney General and the Director of National Intelligence under section 105B, to include—

(A) incidents of non-compliance by an element of the Intelligence Community with guidelines or procedures established for determining that the acquisition of foreign intelligence authorized by the Attorney General and Director of National Intelligence concerns persons reasonably to be outside the United States; and

(B) incidents of noncompliance by a specified person to whom the Attorney General and Director of National Intelligence issue a directive under this section; and

(2) the number of certifications and directives issued during the reporting period.

SEC. 5. TECHNICAL AMENDMENT AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 103(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(e)) is amended—

(1) in paragraph (1), by striking ''501(f)(1)'' and inserting ''105B(h) or 501(f)(1)''; and

(2) in paragraph (2), by striking ''501(f)(1)'' and inserting ''105B(h) or 501(f)(1)''.

(b) TABLE OF CONTENTS.—The table of contents in the first section of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended by inserting after the item relating to section 105 the following:

''105A. Clarification of electronic surveillance of persons outside the United States.

''105B. Additional procedure for authorizing certain acquisitions concerning persons located outside the United States.

''105C. Submission to court review of procedures.''.

SEC. 6. EFFECTIVE DATE; TRANSITION PROCEDURES.

(a) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this Act

shall take effect immediately after the date of the enactment of this Act.

(b) TRANSITION PROCEDURES.—Notwithstanding any other provision of this Act, any order in effect on the date of enactment of this Act issued pursuant to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall remain in effect until the date of expiration of such order, and, at the request of the applicant, the court established under section 103 (a) of such Act (50 U.S.C. 1803(a)) shall reauthorize such order as long as the facts and circumstances continue to justify issuance of such order under the provisions of the Foreign Intelligence Surveillance Act of 1978, as in effect on the day before the applicable effective date of this Act. The Government also may file new applications, and the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)) shall enter orders granting such applications pursuant to such Act, as long as the application meets the requirements set forth under the provisions of such Act as in effect on the day before the effective date of this Act. At the request of the applicant, the court established under section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)), shall extinguish any extant authorization to conduct electronic surveillance or physical search entered pursuant to such Act. Any surveillance conducted pursuant to an order entered under this subsection shall be subject to the provisions of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as in effect on the day before the effective date of this Act.

By Mr. KENNEDY (for himself, Mr. DODD, Mrs. MURRAY, Mrs. CLINTON, Mr. OBAMA, Mr. LEAHY, Mr. FEINGOLD, and Ms. CANTWELL):

S. 1928. A bill to amend section 1977A of the Revised Statutes to equalize the remedies available under that section; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it is an honor to join my colleagues in introducing the Equal Remedies Act of 2007 to repeal the caps on the amount of damages available in employment discrimination cases under the Civil Rights Act of 1991.

This legislation will end the glaring inequality in the current Federal anti-discrimination laws. The Civil Rights Act of 1991 gave women, religious minorities, and disabled workers the right to recover compensatory and punitive damages for intentional employment discrimination, but only up to certain specified monetary limits. By contrast, victims of such discrimination on the basis of race or national origin can recover damages without such limitations, because they can bring their cases under another statute. The Equal Remedies Act will remove this inequity by eliminating the caps on such damages under current law.

The caps were included in the 1991 act as part of a compromise that the first President Bush would sign. That legislation also reversed a series of Supreme Court decisions that had rolled back other basic civil rights protections and made it more difficult for working Americans to challenge discrimination. The 1991 Act as a whole represented a significant advance in the ongoing battle to eliminate discrimination in the workplace.

But, it's long past time to end the double standard that consigns women, religious minorities, and the disabled to second-class remedies under the civil rights laws.

The caps are especially unfair, because they deny adequate remedies to the most severely injured victims of discrimination. For example, a woman who needs extensive medical treatment as a result of severe sexual harassment, such as an assault, she will be limited to receiving only partial compensation for her injury.

The goal of providing damages is to hold employers accountable and to make victims whole to the greatest extent possible for the discrimination they suffered. The current limit prevents accountability and keeps the victim from obtaining full relief.

The caps serve no justifiable purpose. They shield the worst employers from the full consequences of the most outrageous acts of discrimination. The deterrent purpose of damages fails when employers know that their liability is limited.

Take, for example, Sharon Deters and her case against Equifax Credit Information Services. Sharon suffered constant sexual taunts and insults from her coworkers. Her supervisor praised her harassers' behavior and allowed it to continue. The jury in her case was so outraged by her employer's conduct that it awarded her $1 million in punitive damages, finding that such an award was necessary to get her employer's attention and make it change its ways. The caps on damages, however, reduced Sharon's award to $300,000.

Results like that are not fair. They fail to fulfill the statutory purpose of such damages provision, which is to deter further violations. By passing the Equal Remedies Act of 2007, Congress will be affirming the basic principle of equal justice for all Americans. I urge my colleagues to join in supporting this important change.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1929. A bill to authorize the Secretary of the Interior, acting through the Commissioner of Reclamation, to conduct a feasibility study of water augmentation alternatives in the Sierra Vista Subwatershed; to the Committee on Energy and Natural Resources.

Mr. KYL. Mr. President, today I am pleased to join with Senator MCCAIN to introduce the Sierra Vista Sub-watershed Feasibility Study Act. This important piece of legislation is designed to authorize the Secretary of the Interior to study alternatives to augment the water supplies in a critical area of southern Arizona in the Sierra Vista Sub-watershed, which is home to a congressionally protected riparian area known as the San Pedro Riparian National Conservation Area, SPRNCA, the U.S. Army Intelligence Center at Fort Huachuca, and nearly 76,000 residents.

SPRNCA, which protects nearly 43 miles of the San Pedro River, serves as a principal passage for the migration of approximately 4 million birds. It also provides crucial habitat for 100 species of birds, 81 species of mammals, 43 species of reptiles and amphibians, and two threatened species of native fish. The Nature Conservancy has called the area one of the ''last great places on earth.''

Fort Huachuca, which is adjacent to SPRNCA, plays a critical role in this country's national security by, among other things, training soldiers in military intelligence. It also is the largest employer in the area, contributing greatly to the economy of Cochise County and the State of Arizona.

In recent years, the Fort has done an exemplary job of implementing water conservation and recharge measures as part of its responsibilities under the Endangered Species Act. Indeed, since 1995, it has reduced its groundwater pumping by more than 50 percent.

Nevertheless, water levels in certain areas of the regional aquifer in the Sierra Vista Sub-watershed are still declining due to natural causes and development near Sierra Vista. Because SPRNCA and the fort could be negatively impacted by these declining water levels, a 2007 U.S. Bureau of Reclamation Appraisal level study concluded that augmenting the local water supply is necessary. To that end, Reclamation's study recommended several augmentation alternatives for further study, all of which are supported by the Upper San Pedro Partnership, a congressionally recognized consortium of 21 local, state, and Federal agencies and private organizations.

The legislation I am introducing today would authorize the Secretary to conduct a feasibility study of the alternatives recommended by Reclamation for further study. The legislation would also authorize appropriations for the Federal share of the study's costs. Importantly, the non-Federal cost share would be at least 55 percent, indicating the non-Federal parties' strong commitment to the study.

The feasibility study authorized under this legislation is the next step in the process of determining how to best address the water challenges facing the Sierra Vista Sub-watershed. Consequently, I urge my colleagues to support this legislation.

By Mr. WYDEN (for himself, Mr. ALEXANDER, Mr. KERRY, Ms. SNOWE, Mr. FEINGOLD, Mr. BIDEN, Mr. DODD, and Mr. OBAMA):

S. 1930. A bill to amend the Lacey Act Amendments of 1981 to prevent illegal logging practices, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. WYDEN. Mr. President, about a year ago, a group of hardwood plywood

manufacturers came to me with a problem, Chinese hardwood plywood imports were threatening their businesses. They raised a whole host of issues, from tariff misclassification to subsidies to fraudulent labeling to illegal logging. These unfair and illegal practices were lowering the costs of the Chinese hardwood plywood imports, giving them an unfair advantage over U.S. hardwood plywood and putting American companies in jeopardy of going out of business and the folks that they employ out of work.

Since that time, I have been working to level the playing field for Oregon hardwood plywood manufacturers and protect the jobs of the workers that they employ. I have met with the Department of Commerce, the Office of the U.S. Trade Representative, Customs and Border Patrol, and the International Trade Commission and urged them to investigate these issues and, where appropriate, act to address them. They have, raising these troubling practices in diplomatic negotiations, opening investigations, and even filing a case before the World Trade Organization targeting Chinese subsidies that benefit the hardwood plywood industry, among others.

Today, with the support of industry, labor, and the environmental community, I am proud to introduce the Combat Illegal Logging Act of 2007 to halt the trade in illegal timber and timber products. This act will help to level the playing field, not just for Oregon hardwood plywood manufacturers affected by Chinese imports, but for all American manufacturers across the country struggling to compete against imported, low-priced wood and wood products harvested from illegal sources.

Equally important, the act helps address an illegal logging crisis. From the Amazon to the Congo Basin, from Sulawesi to Siberia, illegal logging is destroying ecosystems. It is gutting local economies. It is annihilating ways of life. Because of the speed and violence with which illegal logging is occurring, failing to curb its effects now may result in irreversible damage.

The bill that I am introducing today can help curb illegal logging and thwart its devastating consequences.

The Lacey Act currently regulates trade in fish, wildlife, and a limited subset of plants by making it unlawful to ''import, export, transport, sell, receive, acquire, or purchase'' any that are taken, possessed, transported or sold in violation of any State law or, with respect to fish and wildlife only, any foreign law. The Combat Illegal Logging Act of 2007 would expand the Lacey Act so that violations of foreign law that apply to plants and plant products fall within its protections. It would also specify the types of foreign law violations that trigger Lacey Act liability, laws intended to prevent theft or ensure the legal right to harvest the plants. Finally, the act would create a declaration requirement to facilitate the Lacey Act's enforcement for timber without placing an undue burden upon law-abiding businesses.

The declaration requirements provide basic transparency for wood shipments. The declaration will have critical value for combating illegal logging by 1. encouraging importers to ask basic questions regarding the origin of their timber and timber products; 2. providing information at the point of import that will allow authorities with limited resources to do efficient, targeted inspections and enforcement; and 3. helping enforcement agents to immediately identify ''low-hanging fruit,'' such as timber expressly prohibited to be exported.

The act will definitely change the way that folks who are importing illegally harvested timber and wood products do business, this is its intended purpose. But for the many companies who already play by the rules, the act's requirements should result in minimal changes to the way they operate. Moreover, when the act's impact from a competitiveness standpoint is factored in, the effect is a net positive for these companies. This act changes the incentives to reward due diligence, a sound long-term business strategy from any perspective.

This bill is the culmination of hundreds of hours of work by stakeholders that many might view as strange bedfellows. The principal negotiators of the compromise, the American Forest & Paper Association, the Hardwood Federation, and the Environmental Investigation Agency, deserve a tremendous amount of credit for sticking with this and finding a solution that everyone could support. I applaud them for their hard work, the maturity with which they approached the issue, and the respect that they showed each other throughout the process. Their conduct is a model for how things should work in Washington.

I would also like to applaud the work of several of my colleagues in the House, Congressman BLUMENAUER, Congressman WEXLER, and Congressman WELLER, who introduced their own illegal logging bill, the Legal Timber Protection Act, earlier this year. I understand that their bill may be taken up by the House Natural Resources Committee this fall and I am hopeful that they will substitute the broadly supported text of the Combat Illegal Logging Act for their bill, paving the way for the enactment of this important piece of legislation.

I would like to thank Senator ALEXANDER, Senator KERRY, Senator SNOWE, and Senator FEINGOLD for agreeing to be original cosponsors of the bill. I would also like to thank the following organizations, in addition to the American Forest & Paper Association, the Hardwood Federation, and the Environmental Investigation Agency for endorsing the bill: Center for International Environmental Law, Conservation International, Defenders of Wildlife, Dogwood Alliance, ForestEthics, Friends of the Earth, Global Witness, Greenpeace, International Brotherhood of Teamsters, National Hardwood Lumber Association, Natural Resources Defense Council, Rainforest Action Network, Rainforest Alliance, Sierra Club, Society of American Foresters, Sustainable Furniture Council, The Nature Conservancy, Tropical Forest Trust, United Steelworkers, Wildlife Conservation Society, World Wildlife Fund.

I ask unanimous consent that the text of the bill be inserted in the RECORD.

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

S. 1930

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 ''Combat Illegal Logging Act of 2007''.

SEC. 2. PREVENTION OF ILLEGAL LOGGING PRACTICES.

The Lacey Act Amendments of 1981 are amended—

(1) in section 2 (16 U.S.C. 3371)—

(A) by striking subsection (f) and inserting the following:

''(f) PLANT.—

''(1) IN GENERAL.—The term 'plant' means any wild member of the plant kingdom, including roots, seeds, parts, and products thereof.

''(2) EXCLUSIONS.—The term 'plant' excludes any common food crop or cultivar that is a species not listed—

''(A) in the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Washington on March 3, 1973 (27 UST 1087; TIAS 8249); or

''(B) as an endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).'';

(B) in subsection (h), by inserting ''also'' after ''plants the term''; and

(C) by striking subsection (j) and inserting the following:

''(j) TAKE.—The term 'take' means—

''(1) to capture, kill, or collect; and

''(2) with respect to a plant, also to harvest, cut, log, or remove.'';

(2) in section 3 (16 U.S.C. 3372)—

(A) in subsection (a)—

(i) in paragraph (2), by striking subparagraph (B) and inserting the following:

''(B) any plant—

''(i) taken, transported, possessed, or sold in violation of any foreign law or any law or regulation of any State that protects plants or that regulates—

''(I) the theft of plants;

''(II) the taking of plants from a park, forest reserve, or other officially protected area;

''(III) the taking of plants from an officially designated area; or

''(IV) the taking of plants without, or contrary to, required authorization;

''(ii) taken, transported, or exported without the payment of appropriate royalties, taxes, or stumpage fees required by any foreign law or by any law or regulation of any State; or

''(iii) exported or transshipped in violation of any limitation under any foreign law or by any law or regulation of any State; or''; and

(ii) in paragraph (3), by striking subparagraph (B) and inserting the following:

''(B) to possess any plant—

''(i) taken, transported, possessed, or sold in violation of any foreign law or any law or

regulation of any State that protects plants or that regulates—

''(I) the theft of plants;

''(II) the taking of plants from a park, forest reserve, or other officially protected area;

''(III) the taking of plants from an officially designated area; or

''(IV) the taking of plants without, or contrary to, required authorization;

''(ii) taken, transported, or exported without the payment of appropriate royalties, taxes, or stumpage fees required by any foreign law or by any law or regulation of any State; or

''(iii) exported or transshipped in violation of any limitation under any foreign law or by any law or regulation of any State; or''; and

(B) by adding at the end the following:

''(f) PLANT DECLARATIONS.—

''(1) IN GENERAL.—Effective 180 days from the date of enactment of this subsection, it shall be unlawful for any person to import any plant unless the person files upon importation where clearance is requested a declaration that contains—

''(A) the scientific name of any plant (including the genus and species of the plant) contained in the importation;

''(B) a description of—

''(i) the value of the importation; and

''(ii) the quantity, including the unit of measure, of the plant; and

''(C) the name of the country from which the plant was taken.

''(2) DECLARATION RELATING TO PLANT PRODUCTS.—Until the date on which the Secretary promulgates a regulation under paragraph (5), a declaration relating to a plant product shall—

''(A) in the case in which the species of plant used to produce the plant product that is the subject of the importation varies, and the species used to produce the plant product is unknown, contain the name of each species of plant that may have been used to produce the plant product; and

''(B) in the case in which the species of plant used to produce the plant product that is the subject of the importation is commonly taken from more than 1 country, and the country from which the plant was taken and used to produce the plant product is unknown, contain the name of each country from which the plant may have been taken.

''(3) REVIEW.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall review the implementation of each requirement described in paragraphs (1) and (2).

''(4) REPORT.—

''(A) IN GENERAL.—Not later than 180 days after the date on which the Secretary completes the review under paragraph (3), the Secretary shall submit to the appropriate committees of Congress a report containing—

''(i) an evaluation of—

''(I) the effectiveness of each type of information required under paragraphs (1) and (2) in assisting enforcement of section 3; and

''(II) the potential to harmonize each requirement described in paragraphs (1) and (2) with other applicable import regulations in existence as of the date of the report;

''(ii) recommendations for such legislation as the Secretary determines to be appropriate to assist in the identification of plants that are imported into the United States in violation of section 3; and

''(iii) an analysis of the effect of the provisions of subsection (a) and (f) on—

''(I) the cost of legal plant imports; and

''(II) the extent and methodology of illegal logging practices and trafficking.

''(B) PUBLIC PARTICIPATION.—In conducting the review under paragraph (3), the Secretary shall provide public notice and an opportunity for comment.

''(5) PROMULGATION OF REGULATIONS.—Not later than 180 days after the date on which the Secretary completes the review under paragraph (3), the Secretary may promulgate regulations—

''(A) to limit the applicability of any requirement described in paragraph (2) to specific plant products; and

''(B) to make any other necessary modification to any requirement described in paragraph (2), as determined by the Secretary based on the review under paragraph (3).''; and

(3) in section 7(a)(1) (16 U.S.C. 3376(a)(1)), by striking ''section 4'' and inserting ''section 3(f), section 4,''.

By Mr. TESTER:

S. 1931. A bill to amend the Mineral Leasing Act to ensure that development of certain Federal oil and gas resources will occur in a manner that protects water resources and respects the rights of surface owners, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. TESTER. Mr. President, I rise today to introduce the Surface Owner Protection Act to help protect private property on split estates.

The Western U.S. is experiencing a boom in oil and gas exploration that will contribute to the domestic supply of energy in this country, improve our National security and help control energy costs for American consumers. But if it is not done right oil and gas leasing can be damaging to wildlife, pollute our water, and scar the land. Furthermore, in many areas of the West the land is in split estates where mineral rights are owned by the Federal Government, but the surface is owned by a private land owner. Oftentimes the process of oil and gas leasing and drilling does not adequately involve surface owners or protect their agricultural livelihoods that are disrupted during energy development. Split estates cover 58 million acres in the U.S., and 11.7 million acres in Montana alone. That is just slightly smaller than the size of New Jersey, Maryland, and Delaware combined.

In states like Montana, Wyoming, and Colorado there has been a rapid increase in the number of leases and the amount of acreage that the Bureau of Land Management is approving for oil and gas exploration. It is expected that coal-bed methane development will bring tens of thousands of wells in coming decades. The rapid growth is causing general unease in some areas because surface owners have few rights when it comes to oil and gas exploration on their land.

Too often surface owners have no idea that their minerals are owned by someone else or when they are going to be leased. The legislation I am introducing today is meant to better involve surface owners in the process of oil and gas exploration by requiring notification to surface owners when their land is going to be leased, require operators to replace any water that disrupts other users, and requires bonding for the reclamation of surface land. Surface owners should have a clear role in each step of the process from the day a lease sale is announced to the time when the rigs are gone and reclamation work is completed.

Critics of this measure will argue that it gets in the way of drilling. I would say that oil and gas drilling should not get in the way of farmers and ranchers going about their business without clear legal guidelines. The protection of private property rights is crucially important as a personal freedom in the U.S. and we must take steps to protect them.

I encourage members of this body to support this measure as we move forward because I believe that we can improve the way we conduct oil and gas leases on split estates. A better balance between oil and gas interests and surface owners is possible, but we need to make sure that we develop our energy resources in an appropriate manner with respect to private property owners.

By Mr. REID (for himself, Mr. ENSIGN, Mrs. BOXER, Mr. BAUCUS, Mrs. MURRAY, Mrs. CLINTON, Mr. SANDERS, and Mr. CONRAD):

S. 1933. A bill to amend the Safe Drinking Water Act to provide grants to small public drinking water systems; to the Committee on Environment and Public Works.

Mr. REID. Mr. President, small rural water systems are facing compliance deadlines, and need assistance without burdensome matching funding requirements. The Small Community Drinking Water Funding Act that I am introducing today with Senators ENSIGN, BOXER, MURRAY, CLINTON, BAUCUS, SANDERS, and CONRAD, amends the Safe Drinking Water Act to require the Administrator of the Environmental Protection Agency to establish a Small Public Water System Assistance Program. This program is to support small water systems in complying with national primary drinking water regulations, and includes a program for Indian tribes.

The smallest public water systems, which serve fewer than 3,300 people, represent 85 percent of all public water systems. Small public water systems serving fewer than 10,000 people represent 94 percent of all public water systems. Small communities throughout Nevada would benefit from a grant program designed to provide funding for water quality projects without a difficult matching requirement; and Federal programs in effect as of the date of enactment of this act do not adequately meet the needs of small communities in Nevada with respect to public water systems. The Small Community Drinking Water Funding Act will authorize $750,000,000 for each of the fiscal years 2008 through 2014. Nevada should be able to secure a substantial portion of this funding because of the State's rural water systems needs.

The purpose of this bill is to establish a program to provide grants to small public water systems to meet applicable national primary drinking water regulations under the Safe Drinking Water Act. Second, maintain water costs at a reasonable level for the communities served by small public water systems. Third, obtain technical assistance to develop the capacity to sustain operations over the long term.

This legislation is intended to ensure that our Nation's small, disadvantaged communities have access to the financial help they need to provide safe, reliable, and affordable drinking water with the authorization of $750 million annually for 7 years starting next year. The Small Community Safe Drinking Water Act provides substantial flexibility to States.

Nevada's small communities are facing a drinking water infrastructure crisis. These communities, and other small communities nationwide, confront increasing demand for clean, reliable, and affordable drinking water. But it is simply too costly for small communities, alone, to address this water infrastructure crisis.

They need a financial helping hand from the Federal Government.

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. 1933

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 ''Small Community Drinking Water Funding Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) in some cases, drinking water standards in effect and proposed as of the date of enactment of this Act can place large financial burdens on public water systems, especially systems that serve fewer than a few thousand people;

(2) some small public water systems have experienced water contamination problems that may pose a significant risk to the health of water consumers;

(3) small communities are concerned about improving drinking water quality;

(4) the limited scientific, technical, and professional resources of many small communities make understanding and implementing regulatory requirements very difficult;

(5) small communities often struggle to meet water quality standards because of difficulty in securing funding;

(6) small communities often lack a tax base or opportunities to benefit from economics of scale and therefore face very high per capita costs in improving drinking water quality;

(7) the smallest public water systems, which serve fewer than 3,300 people, represent 85 percent of all public water systems;

(8) small public water systems serving fewer than 10,000 people represent 94 percent of all public water systems;

(9) small communities would benefit from a grant program designed to provide funding for water quality projects without a substantial matching requirement; and

(10) Federal programs in effect as of the date of enactment of this Act do not adequately meet the needs of small communities with respect to public water systems.

(b) PURPOSE.—The purpose of this Act is to establish a program to provide grants to small public water systems to—

(1) meet applicable national primary drinking water regulations under the Safe Drinking Water Act (42 U.S.C. 300f et seq.);

(2) maintain water costs at a reasonable level for the communities served by small public water systems; and

(3) obtain technical assistance to develop the capacity to sustain operations over the long term.

SEC. 3. SMALL PUBLIC WATER SYSTEM ASSISTANCE PROGRAM.

(a) DEFINITION OF INDIAN TRIBE.—Section 1401(14) of the Safe Drinking Water Act (42 U.S.C. 300f(14)) is amended in the second sentence by striking ''1452,'' and inserting ''1452 and part G,''.

(b) ESTABLISHMENT OF PROGRAM.—The Safe Drinking Water Act (42 U.S.C. 300f et seq.) is amended by adding at the end the following:

"PART G—SMALL PUBLIC WATER SYSTEM ASSISTANCE

"SEC. 1471. DEFINITIONS.

''In this part:

''(1) ELIGIBLE ACTIVITY.—

''(A) IN GENERAL.—The term 'eligible activity' means an activity concerning a small public water system (including obtaining technical assistance) that is carried out by an eligible entity for a purpose consistent with section 1473(c)(1) or 1474(c)(1), as appropriate.

''(B) EXCLUSION.—The term 'eligible activity' does not include any activity to increase the population served by a small public water system, except to the extent that the State under section 1473(b)(1) or the Administrator under section 1474(b)(1) determines an activity to be necessary to—

''(i) achieve compliance with a national primary drinking water regulation; and

''(ii) provide a water supply to a population that, as of the date of enactment of this part, is not served by a safe public water system.

''(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a small public water system that—

''(A) is located in a State or an area governed by an Indian Tribe; and

''(B)(i) if located in a State, serves a community that, under affordability criteria established by the State under section 1452(d)(3), is determined by the State to be—

''(I) a disadvantaged community; or

''(II) a community the State expects to become a disadvantaged community as a result of carrying out an eligible activity; or

''(ii) if located in an area governed by an Indian Tribe, serves a community that is determined by the Administrator, under criteria published by the Administrator under section 1452(d)(3) and in consultation with the Secretary, to be—

''(I) a disadvantaged community; or

''(II) a community the Administrator expects to become a disadvantaged community as a result of carrying out an eligible activity.

''(3) ELIGIBLE STATE.—The term 'eligible State' means a State that has—

''(A) adopted, and is implementing, an approved operator certification program under section 1419; and

''(B) established affordability criteria under section 1452(d)(3) for use in identifying disadvantaged communities.

''(4) PROGRAM.—The term 'Program' means the Small Public Water System Assistance Program established under section 1472(a).

''(5) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services, acting through the Director of the Indian Health Service.

''(6) SMALL PUBLIC WATER SYSTEM.—The term 'small public water system' means a public water system (including a community water system and a noncommunity water system) that serves a population of 10,000 or fewer.

"SEC. 1472. SMALL PUBLIC WATER SYSTEM ASSISTANCE PROGRAM.

''(a) ESTABLISHMENT.—Not later than July 1, 2008, the Administrator shall establish within the Environmental Protection Agency a Small Public Water System Assistance Program.

''(b) DUTIES.—The head of the Program shall—

''(1) in accordance with section 1474, establish and administer a small public water system assistance program for, and provide grants to, eligible entities located in areas governed by Indian Tribes, for use in carrying out eligible activities;

''(2) identify, and prepare annual prioritized lists of, activities for eligible entities located in areas governed by Indian Tribes that are eligible for grants under section 1474;

''(3) provide funds to States for use in establishing small public water system assistance programs under section 1473 that award grants to eligible entities to carry out eligible activities; and

''(4) prepare, and submit to the Administrator, the reports required under subsection (d).

''(c) ALLOCATION OF FUNDS.—

''(1) STATES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) through (D) and paragraph (2)(A), for each fiscal year, the Administrator, through the head of the Program, using the most recent available needs survey conducted by the Administrator under section 1452(h), shall allocate the funds made available to carry out the Program for the fiscal year among eligible States based on the ratio that—

''(i) the financial need associated with treatment projects for small public water systems in the State; bears to

''(ii) the total financial need associated with treatment projects for all small public water systems in all States.

''(B) ADDITIONAL REQUIREMENTS.—Any additional financial needs of small public water systems associated with the cost of treatment projects needed to comply with a national primary drinking water regulation that is promulgated after the most recent needs survey conducted under section 1452(h) shall be factored into the determination of financial need under clauses (i) and (ii) of subparagraph (A) for each fiscal year.

''(C) MINIMUM ALLOCATION.—An allocation of funds to a State for a fiscal year under subparagraph (A), taking into consideration any additional financial needs described in subparagraph (B), shall be in an amount that is at least 1 percent of the amount of funds available for that fiscal year.

''(D) REDISTRIBUTION IF NONUSE.—If a State does not qualify for, or fails to request, funds allocated to the State under subparagraph (A) in any fiscal year, the Administrator shall redistribute the funds among the States that—

''(i) request funds for that fiscal year; and

''(ii) are eligible to receive the funds under subparagraph (A) for that fiscal year.

''(2) INDIAN TRIBES.—

''(A) IN GENERAL.—For each fiscal year, in accordance with subparagraph (B), 3 percent of the total amount of funds made available to carry out the Program for the fiscal year shall be allocated by the Administrator to provide grants to eligible entities that are located in areas governed by Indian Tribes

through the program established under section 1474(a).

''(B) USE OF FUNDS.—

''(i) IN GENERAL.—For each fiscal year, the Administrator shall award, on a competitive basis, not less than 1.5 percent of the funds allocated under subparagraph (A) to nonprofit technical assistance organizations, to be used for the purposes of—

''(I) assisting the Administrator in preparing the list required under section 1474(b) (including assisting the Administrator in identifying the highest priority eligible activities for eligible entities located in areas governed by Indian Tribes for which a grant under section 1474 may be used);

''(II) assisting eligible entities located in areas governed by Indian Tribes in—

''(aa) assessing needs relating to eligible activities; and

''(bb) identifying available sources of funding to meet the cost-sharing requirement of section 1474(f)(1); and

''(III) assisting eligible entities located in areas governed by Indian Tribes that receive funding under section 1474 in—

''(aa) planning, implementing, and maintaining eligible activities that are funded under that section; and

''(bb) preparing reports required under section 1474(h).

''(ii) CONSULTATION.—Each nonprofit technical assistance organization that receives funds under clause (i) shall consult with the Administrator, through the head of the program, before carrying out any activity for the purposes described in subclauses (II)(aa) and (III)(aa) of that clause.

''(iii) NO FUNDS FOR LOBBYING EXPENSES.—None of the funds made available to a nonprofit technical assistance organization under clause (i) shall be used to pay lobbying expenses.

''(3) PROGRAM.—For each fiscal year, the Administrator may use not more than 0.1 percent of the funds made available to carry out the Program to pay reasonable costs incurred in the administration of the Program.

''(d) REPORTS.—Not later than January 1, 2009, and annually thereafter through January 1, 2014, the Administrator shall—

''(1) submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report that, for the preceding fiscal year—

''(A) lists the eligible activities for eligible entities, as prepared under sections 1473(b)(1) and 1474(b)(1), located in areas governed by Indian Tribes and in each State receiving funds under this part;

''(B) identifies the number of grants awarded by each State, and by the Administrator to eligible entities located in areas governed by Indian Tribes, under this part;

''(C) identifies each eligible entity that received a grant to carry out an eligible activity;

''(D) identifies the amount of each grant provided to an eligible entity to carry out an eligible activity; and

''(E) describes each eligible activity funded by such a grant (including the status of the eligible activity); and

''(2) make the report under paragraph (1) available to the public.

"SEC. 1473. STATE SMALL PUBLIC WATER SYSTEM ASSISTANCE PROGRAMS.

''(a) IN GENERAL.—To be eligible to receive funding under this part, a State shall—

''(1) be an eligible State;

''(2) not later than July 1, 2008 (if funding is sought for fiscal year 2008) or not later than September 30 of any of fiscal years 2008 through 2014 (if funding is sought for the following fiscal year), establish a small public water system assistance program—

''(A) under which the requirements of subsection (b), oversight, and related activities (other than financial administration) with respect to the program are administered—

''(i) in the case of a State that is exercising primary enforcement responsibility for public water systems, by the State agency having primary responsibility for administration of the State program under section 1413; and

''(ii) in the case of a State that is not exercising primary enforcement authority for public water systems, by a State agency selected by the Governor of the State; and

''(B) that meets the requirements of this section; and

''(3) for each fiscal year for which funding is sought under this section—

''(A) in preparing an intended use plan under section 1452(b), after providing for public review and comment, prepare an annual list of eligible activities for eligible entities in the State in accordance with subsection (b); and

''(B) prepare and submit to the Administrator a request for the funding, by such date and in such form as the Administrator shall prescribe.

''(b) PROGRAM PRIORITY REQUIREMENT.—

''(1) LIST OF ELIGIBLE ACTIVITIES.—A small public water system assistance program established under subsection (a) shall, for each fiscal year for which funding is sought, identify, and, using the priority criteria described in paragraph (2) and considering the additional criteria described in paragraph (3), list in descending order of priority, eligible activities for eligible entities in the State for which funds provided from a grant under this part may be used.

''(2) PRIORITY CRITERIA.—In preparing the list under paragraph (1), a small public water system assistance program shall give priority for the use of grants to eligible activities that—

''(A) address the most serious risk to human health;

''(B) are necessary to ensure compliance with national primary water regulations applicable to eligible entities under section 1412; and

''(C) assist systems most in need, as calculated on the basis of median household income, under affordability criteria established by the State under section 1452(d)(3).

''(3) ADDITIONAL CRITERIA.—In addition to the priority criteria described in paragraph (2), a small public water system assistance program shall, in preparing a list under paragraph (1), consider giving additional priority to any listed eligible activities that are to be carried out by communities that form management cooperatives (including management cooperatives between systems that do not have connections).

''(c) USE OF FUNDS.—Using any funds received by a State under this section for a fiscal year, in accordance with the list prepared under subsection (b), a small public water system assistance program established by the State under subsection (a)—

''(1) shall provide to an eligible entity, on a cost-shared basis, a grant to be used for an eligible activity (including source water protection) the purpose of which is compliance with national primary drinking water regulations applicable to the eligible entity under section 1412;

''(2) shall—

''(A) award, on a competitive basis, not less than 1.5 percent of the funds to nonprofit technical assistance organizations to be used for the purposes of—

''(i) assisting the State in preparing the list required under subsection (b) (including assisting the State in identifying the highest priority eligible activities for eligible entities located in the State for which a grant under this section may be used); and

''(ii) assisting eligible entities in—

''(I) assessing needs relating to eligible activities;

''(II) identifying available sources of funding to meet the cost-sharing requirement of subsection (f); and

''(III) planning, implementing, and maintaining any eligible activities of the eligible entities that receive funding under this section;

''(B) require each nonprofit technical assistance organization that receives funds under subparagraph (A) to consult with the State, through the head of the small public water assistance program, before carrying out any activity for the purposes described in subclauses (I) and (III) of subparagraph (A)(ii); and

''(C) require that none of the funds made available to a nonprofit technical assistance organization under subparagraph (A) be used to pay lobbying expenses; and

''(3) may use not to exceed 1 percent of the funds allocated to the State to pay reasonable costs incurred in the administration of the small public water system assistance program.

''(d) LIMITATION ON USE OF FUNDS.—For each fiscal year, not more than 5 percent of the funds received by an eligible entity under this section may be used to obtain technical assistance in planning, implementing, and maintaining eligible activities that are funded under this section.

''(e) LIMITATION ON RECEIPT OF FUNDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a grant under this section shall not be provided to an eligible entity that, as determined by the State—

''(A) does not have the technical, managerial, and financial capability to ensure compliance with national primary drinking water regulations applicable to the eligible entity under section 1412; or

''(B) is in significant noncompliance with any applicable national primary drinking water regulation.

''(2) EXCEPTION FOR RECEIPT OF GRANT.—An eligible entity described in paragraph (1) may receive a grant under this section only—

''(A) if the State determines that use of the grant will ensure compliance with national primary drinking water regulations applicable to the eligible entity under section 1412;

''(B)(i) to restructure or consolidate the facility to achieve compliance with applicable national primary drinking water regulations; or

''(ii) in a case in which restructuring or consolidation of the facility is not practicable, if the State determines that—

''(I) the eligible entity has made a good faith effort to achieve compliance with applicable national primary drinking water regulations; and

''(II) the eligible entity is adhering to an enforceable schedule for achieving those regulations; and

''(C) in a case in which paragraph (1)(A) applies to an eligible entity, and the eligible entity agrees to undertake feasible and appropriate changes in operations (including changes in ownership, management, accounting, rates, maintenance, consolidation, provision of an alternative water supply, or other procedures), if the State determines that the measures are necessary to ensure that the eligible entity has the technical, managerial, and financial capability to comply with applicable national primary drinking water regulations over the long term.

''(3) REVIEW.—Before providing assistance under this section to an eligible entity that

is in significant noncompliance with any national primary drinking water regulation applicable to the eligible entity under section 1412, the State shall conduct a review to determine whether paragraph (1)(A) applies to the entity.

''(f) COST SHARING.—

''(1) IN GENERAL.—

''(A) LIMIT.—Except as provided in paragraph (2), the share of the total cost of an eligible activity funded by a grant under this section shall not exceed 80 percent.

''(B) USE OF OTHER FEDERAL FUNDS.—To pay the portion of an eligible activity that may not be funded by a grant under this section, an eligible entity may use Federal financial assistance other than assistance received under this section.

''(2) WAIVER OF COST-SHARING REQUIREMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), a State may waive the requirement of an eligible entity to pay all or a portion of the share of an eligible activity that may not be funded by a grant under this section, based on a determination by the State that the eligible entity is unable to pay any or all of the share.

''(B) LIMITATION.—For each fiscal year in which a State receives funding under this section, the total amount of cost-share waivers provided by the State under subparagraph (A) shall not exceed 30 percent of the amount of funding received by the State for the fiscal year under section 1472(c)(1).

''(g) UNOBLIGATED FUNDS.—Any funds not obligated by the State for a purpose consistent with subsection (c) within 1 year after the date of the allocation of the funds by the Administrator under section 1472(c) shall be returned to the Administrator for reallocation under that section.

''(h) REPORTS.—Not later than November 1 following each fiscal year in which a State receives funding under this section, the State shall—

''(1) submit to the Administrator a report that, for the preceding fiscal year—

''(A) lists the eligible activities for eligible entities, as prepared under subsection (b);

''(B) identifies the number of grants awarded by the State small public water system assistance program to eligible entities;

''(C) identifies each eligible entity that received a grant to carry out an eligible activity;

''(D) identifies the amount of each grant provided to an eligible entity to carry out an eligible activity; and

''(E) describes each eligible activity funded by such grants (including the status of the eligible activity); and

''(2) make the report under paragraph (1) available to the public.

''SEC. 1474. SMALL PUBLIC WATER SYSTEM ASSISTANCE PROGRAM FOR INDIAN TRIBES.

''(a) ESTABLISHMENT.—Not later than July 1, 2008, the Administrator shall establish a small public water system assistance program for Indian Tribes, through which eligible entities located in areas governed by the Indian Tribe may receive grants for eligible activities under this part.

''(b) PROGRAM PRIORITY REQUIREMENT.—

''(1) LIST OF ELIGIBLE ACTIVITIES.—

''(A) IN GENERAL.—The Administrator, acting through the head of the small public water system assistance program for Indian Tribes, in consultation with the Secretary, shall, for each fiscal year, identify, and, using the priority criteria described in paragraph (2) and considering the additional criteria described in paragraph (3), list in descending order of priority, eligible activities for eligible entities located in areas governed by Indian Tribes for which funds provided from a grant under this part may be used.

''(B) COORDINATION.—

''(i) IN GENERAL.—To the maximum extent practicable, the Administrator shall ensure that the list under subparagraph (A) is coordinated with any needs assessment conducted under section 1452(i)(4).

''(ii) ADDITIONAL CONSIDERATION.—Any additional financial needs of small public water systems located in areas governed by Indian Tribes that are associated with the cost of complying with a national primary drinking water regulation that is promulgated after the most recent needs survey conducted under section 1452(i)(4) shall be factored into the determination of financial need for, and prioritization of, eligible activities under this section.

''(2) PRIORITY CRITERIA.—In preparing the list under paragraph (1), the Administrator shall give priority for the use of grants to eligible activities that—

''(A) address the most serious risk to human health;

''(B) are necessary to ensure compliance with national primary water regulations applicable to eligible entities under section 1412; and

''(C) assist systems most in need, as calculated on the basis of median household income, under affordability criteria published by the Administrator under section 1452(d)(3).

''(3) ADDITIONAL CRITERIA.—In addition to the priority criteria described in paragraph (2), the Administrator shall, in preparing a list under paragraph (1), consider giving additional priority to any listed eligible activities that are to be carried out by communities that form management cooperatives (including management cooperatives between systems that do not have connections).

''(c) USE OF FUNDS.—

''(1) IN GENERAL.—Using funds allocated under section 1472(c)(2)(A), the small public water system assistance program established under subsection (a) shall provide to an eligible entity located in an area governed by an Indian Tribe, on a cost-shared basis, a grant to be used for an eligible activity (including source water protection) the purpose of which is compliance with national primary drinking water regulations applicable to the eligible entity under section 1412.

''(2) ALLOCATION OF GRANT FUNDING.—For each fiscal year, taking into consideration the funding allocation under section 1472(c)(2)(A) for the fiscal year, the head of the small public water assistance program established under subsection (a), in consultation with the Secretary, shall provide grants under paragraph (1) for the maximum number of eligible activities for which the funding allocation makes assistance available, based on the priority assigned by the Administrator to eligible activities under subsection (b).

''(d) LIMITATION ON USE OF FUNDS.—For each fiscal year, not more than 5 percent of the funds received by an eligible entity under this section may be used to obtain technical assistance in planning, implementing, and maintaining eligible activities that are funded under this section.

''(e) LIMITATION ON RECEIPT OF FUNDS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a grant under this section shall not be provided to an eligible entity that, as determined by the Administrator—

''(A) does not have the technical, managerial, and financial capability to ensure compliance with national primary drinking water regulations applicable to the eligible entity under section 1412; or

''(B) is in significant noncompliance with any applicable national primary drinking water regulation.

''(2) EXCEPTION FOR RECEIPT OF GRANT.—An eligible entity described in paragraph (1) may receive a grant under this section only—

''(A) if the Administrator determines that use of the grant will ensure compliance with national primary drinking water regulations applicable to the eligible entity under section 1412;

''(B)(i) to restructure or consolidate the facility to achieve compliance with applicable national primary drinking water regulations; or

''(ii) in a case in which restructuring or consolidation of the facility is not practicable, if the Administrator determines that—

''(I) the eligible entity has made a good faith effort to achieve compliance with applicable national primary drinking water regulations; and

''(II) the eligible entity is adhering to an enforceable schedule for achieving those regulations; and

''(C) in a case in which paragraph (1)(A) applies to an eligible entity, and the eligible entity agrees to undertake feasible and appropriate changes in operations (including changes in ownership, management, accounting, rates, maintenance, consolidation, provision of an alternative water supply, or other procedures), if the Administrator determines that the measures are necessary to ensure that the eligible entity has the technical, managerial, and financial capability to comply with applicable national primary drinking water regulations over the long term.

''(3) REVIEW.—Before providing assistance under this section to an eligible entity that is in significant noncompliance with any national primary drinking water regulation applicable to the eligible entity under section 1412, the Administrator shall conduct a review to determine whether paragraph (1)(A) applies to the entity.

''(f) COST SHARING.—

''(1) IN GENERAL.—

''(A) LIMIT.—Except as provided in paragraph (2), the share of the total cost of an eligible activity funded by a grant under this section shall not exceed 80 percent.

''(B) USE OF OTHER FEDERAL FUNDS.—To pay the portion of an eligible activity that may not be funded by a grant under this section, an eligible entity may use Federal financial assistance other than assistance received under this section.

''(2) WAIVER OF COST-SHARING REQUIREMENT.—

''(A) IN GENERAL.—The Administrator may waive the requirement of an eligible entity to pay all or a portion of the share of eligible activity that may not be funded by a grant under this section based on a determination by the Administrator that the eligible entity is unable to pay any or all of the share.

''(B) LIMITATION.—For each fiscal year, the total amount of cost-share waivers provided by the Administrator under subparagraph (A) shall not exceed 30 percent of the amount of funding allocated to eligible entities located in areas governed by Indian Tribes for the fiscal year under section 1472(c)(2)(A).

''(g) UNOBLIGATED FUNDS.—Any funds not obligated by the small public water system assistance program established under subsection (a) for a purpose consistent with section 1472(c)(2)(B) and subsection (c) within 1 year after the date of allocation of the funds by the Administrator under section 1472(c)(2)(A) shall be returned to the Administrator for reallocation under that section.

''(h) REPORTS.—Not later than November 1 following each fiscal year in which an Indian Tribe receives funding under this section,

the Indian Tribe shall submit to the Administrator a report that, for the preceding fiscal year—

''(1) identifies the number of grants awarded to eligible entities located in areas governed by the Indian Tribe;

''(2) identifies each such eligible entity that received a grant to carry out an eligible activity;

''(3) identifies the amount of each grant provided to such an eligible entity to carry out an eligible activity; and

''(4) describes each eligible activity funded by such grants (including the status of the eligible activity).

''SEC. 1475. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this part $750,000,000 for each of fiscal years 2008 through 2014.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 288—DESIGNATING SEPTEMBER 2007 AS ''NATIONAL PROSTATE CANCER AWARENESS MONTH''

Mr. SESSIONS (for himself, Mr. SCHUMER, Mr. INHOFE, Ms. LANDRIEU, Mr. SPECTER, Mr. MENENDEZ, Mr. CHAMBLISS, Mrs. BOXER, Mr. CRAPO, Mrs. FEINSTEIN, Mrs. DOLE, and Ms. SNOWE) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 288

Whereas countless families in the United States live with prostate cancer;

Whereas 1 in 6 men in the United States will be diagnosed with prostate cancer in his lifetime;

Whereas over the past decade, prostate cancer has been the most commonly diagnosed non-skin cancer and the second most common cause of cancer-related deaths among men in the United States;

Whereas, in 2007, according to estimates from the American Cancer Society, over 218,890 men in the United States will be diagnosed with prostate cancer and 27,050 men in the United States will die of prostate cancer;

Whereas 30 percent of new diagnoses of prostate cancer occur in men under the age of 65;

Whereas a man in the United States turns 50 years old about every 14 seconds, increasing his odds of developing cancer, including prostate cancer;

Whereas African-American males suffer a prostate cancer incidence rate up to 65 percent higher than White males and double the mortality rates;

Whereas obesity is a significant predictor of the severity of prostate cancer and the probability that the disease will lead to death;

Whereas if a man in the United States has 1 family member diagnosed with prostate cancer, he has double the risk of prostate cancer, if he has 2 family members with such diagnoses, he has 5 times the risk, and if he has 3 family members with such diagnoses, he then has a 97 percent risk of prostate cancer;

Whereas screening by both a digital rectal examination (DRE) and a prostate specific antigen blood test (PSA) can diagnose the disease in earlier and more treatable stages and reduce prostate cancer mortality;

Whereas ongoing research promises further improvements in prostate cancer prevention, early detection, and treatments; and

Whereas educating people in the United States, including health care providers, about prostate cancer and early detection strategies is crucial to saving the lives of men and preserving and protecting families: Now, therefore, be it

Resolved, That the Senate—

(1) designates September 2007 as ''National Prostate Cancer Awareness Month'';

(2) declares that the Federal Government has a responsibility—

(A) to raise awareness about the importance of screening methods for, and treatment of, prostate cancer;

(B) to increase research funding that is commensurate with the burden of the disease so that the screening and treatment of prostate cancer may be improved, and so that the causes of, and a cure for, prostate cancer may be discovered; and

(C) to continue to consider ways for improving access to, and the quality of, health care services for detecting and treating prostate cancer; and

(3) requests the President to issue a proclamation calling on the people of the United States, interested groups, and affected persons—

(A) to promote awareness of prostate cancer;

(B) to take an active role in the fight to end the devastating effects of prostate cancer on individuals, their families, and the economy; and

(C) to observe National Prostate Cancer Awareness Month with appropriate ceremonies and activities.

SENATE RESOLUTION 289—EXPRESSING THE SENSE OF THE SENATE THAT A ''WELCOME HOME VIETNAM VETERANS DAY'' SHOULD BE ESTABLISHED

Mrs. BOXER submitted the following resolution; which was referred to the Committee on Veterans' Affairs:

S. RES. 289

Whereas the Vietnam War was fought in Vietnam from 1961 to 1975, and involved North Vietnam and the Viet Cong in conflict with the United States and South Vietnam;

Whereas the United States became involved in Vietnam because policy-makers in the United States believed that if South Vietnam fell to a Communist government that Communism would spread throughout the rest of Southeast Asia;

Whereas members of the United States Armed Forces began serving in an advisory role to the South Vietnamese in 1961;

Whereas as a result of the Gulf of Tonkin incidents on August 2 and 4, 1964, Congress overwhelmingly passed the Gulf of Tonkin Resolution (Public Law 88–408), on August 7, 1964, which effectively handed over war-making powers to President Johnson until such time as ''peace and security'' had returned to Vietnam;

Whereas, in 1965, United States Armed Forces ground combat units arrived in Vietnam;

Whereas, by the end of 1965, there were 80,000 United States troops in Vietnam, and by 1969 a peak of approximately 543,000 troops was reached;

Whereas, on January 27, 1973, the Treaty of Paris was signed, which required the release of all United States prisoners of war held in North Vietnam and the withdrawal of all United States Armed Forces from South Vietnam;

Whereas, on March 30, 1973, the United States Armed Forces completed the withdrawal of combat troops from Vietnam;

Whereas more than 58,000 members of the United States Armed Forces lost their lives in Vietnam and more than 300,000 members of the Armed Forces were wounded;

Whereas, in 1982, the Vietnam Veterans Memorial was dedicated in the District of Columbia to commemorate those members of the United States Armed Forces who died or were declared missing in action in Vietnam;

Whereas the Vietnam War was an extremely divisive issue among the people of the United States;

Whereas members of the United States Armed Forces who served bravely and faithfully for the United States during the Vietnam War were caught upon their return home in the crossfire of public debate about the involvement of the United States in the Vietnam War;

Whereas the establishment of a ''Welcome Home Vietnam Veterans Day'' would be an appropriate way to honor those members of the United States Armed Forces who served in Vietnam during the Vietnam War; and

Whereas March 30 would be an appropriate day to establish as ''Welcome Home Vietnam Veterans Day'': Now, therefore, be it

Resolved, That it is the sense of the Senate that there should be established a ''Welcome Home Vietnam Veterans Day'' to honor those members of the United States Armed Forces who served in Vietnam.

SENATE RESOLUTION 290—HONORING THE LIFE AND CAREER OF FORMER SAN FRANCISCO 49ERS HEAD COACH BILL WALSH

Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted the following resolution; which was considered and agreed to:

S. RES. 290

Whereas William Ernest Walsh was born on November 30, 1931, in Fremont, California;

Whereas Bill Walsh graduated from San Jose State University in 1955 where he was a successful amateur boxer and wide receiver;

Whereas, in 1955, he married Geri Nadini, with whom he had 3 children: Steve, Craig, and Elizabeth;

Whereas Bill Walsh began his coaching career at Washington High School in Fremont, California, and later served as an assistant coach at the University of California at Berkeley and Stanford University;

Whereas Bill Walsh served as an assistant coach with the Oakland Raiders in 1966, with the Cincinnati Bengals from 1968 to 1975, and with the San Diego Chargers in 1976;

Whereas Bill Walsh served as head coach of Stanford University from 1977 to 1978 and again from 1992 to 1994, winning the Sun Bowl in 1977, the Bluebonnet Bowl in 1978, and the Blockbuster Bowl in 1992;

Whereas Bill Walsh became Head Coach of the San Francisco 49ers in 1979 and served in that position for 10 years, winning 6 Western Division titles and 3 National Football Conference Championships;

Whereas Bill Walsh led the 49ers to 3 Super Bowl wins in the 1980s: Super Bowl XVI, Super Bowl XIX, and Super Bowl XXIII;

Whereas Bill Walsh was the Associated Press and United Press International Coach of the Year in 1981;

Whereas Bill Walsh ended his professional coaching career with a record of 102 wins, 63 losses, and 1 tie;

Whereas Bill Walsh was elected to the Pro Football Hall of Fame in 1993;

Whereas Bill Walsh developed the innovative ''West Coast Offense'', which became widely used by many National Football League (NFL) teams;

Whereas Bill Walsh drafted and developed a countless number of NFL greats such as Joe Montana, Ronnie Lott, Dwight Clark, Steve Young, and Jerry Rice;

Whereas 14 of the NFL's 32 head coaches have some connection to Bill Walsh;

Whereas Bill Walsh developed the Minority Coaching Fellowship program to help African American coaches find jobs in the NFL and Division I college football;

Whereas Bill Walsh and the 49ers brought the people of San Francisco together following some of the most difficult times in the City's history and gave them much pride, joy, and excitement; and

Whereas Bill Walsh embodied the qualities of hard work, tenacity, dedication, attention to detail, respect, teamwork, and living up to one's potential: Now, therefore, be it

Resolved, That the Senate honors the life of William Ernest Walsh, a pioneer in the field of football, a true leader and teacher, and a dedicated husband, father, and friend.

SENATE RESOLUTION 291—DESIGNATING THE WEEK BEGINNING SEPTEMBER 9, 2007, AS ''NATIONAL HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK''

Mr. GRAHAM (for himself, Mr. ALEXANDER, Mr. BAYH, Mr. BIDEN, Mr. BOND, Mrs. BOXER, Mr. BROWN, Mr. BROWNBACK, Mr. BUNNING, Mr. BURR, Mr. CARDIN, Mr. CHAMBLISS, Mr. COCHRAN, Mr. CORNYN, Mr. DEMINT, Mr. DODD, Mrs. DOLE, Mr. DURBIN, Mrs. HUTCHISON, Mr. ISAKSON, Mr. LEVIN, Mrs. LINCOLN, Mr. LOTT, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Mr. NELSON of Florida, Mr. OBAMA, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SCHUMER, Mr. SESSIONS, Mr. SPECTER, Mr. VITTER, and Mr. WARNER) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 291

Whereas there are 103 historically Black colleges and universities in the United States;

Whereas historically Black colleges and universities provide the quality education essential to full participation in a complex, highly technological society;

Whereas historically Black colleges and universities have a rich heritage and have played a prominent role in the history of the United States;

Whereas historically Black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically Black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved, that the Senate—

(1) designates the week beginning September 9, 2007, as ''National Historically Black Colleges and Universities Week''; and

(2) calls on the people of the United States and interested groups to observe the week with appropriate ceremonies, activities, and programs to demonstrate support for historically Black colleges and universities in the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2593. Mr. LOTT (for himself, Mr. MCCONNELL, Mr. KYL, Mr. GREGG, Mr. CORNYN, Mr. BUNNING, Mr. COBURN, Mr. DEMINT, and Mrs. DOLE) proposed an amendment to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

SA 2594. Mrs. MCCASKILL submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 2595. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table.

SA 2596. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2597. Mr. VOINOVICH (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2598. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2599. Mr. MCCONNELL (for himself, Mr. SPECTER, and Mr. THUNE) proposed an amendment to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra.

SA 2600. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2601. Mr. LEVIN (for himself, Ms. STABENOW, and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2602. Mr. KERRY (for himself, Mr. BINGAMAN, Mr. SANDERS, Mr. CASEY, Mr. MENENDEZ, Mr. DURBIN, Mr. REED, Mr. BROWN, Mr. WHITEHOUSE, and Mr. BIDEN) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra.

SA 2603. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2604. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2605. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1, to provide greater transparency in the legislative process; which was ordered to lie on the table.

SA 2606. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 180, to require the identification of companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes; which was ordered to lie on the table.

SA 2607. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 180, supra; which was ordered to lie on the table.

SA 2608. Ms. SNOWE (for herself, Mr. BINGAMAN, Mr. CARDIN, Ms. MIKULSKI, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table.

SA 2609. Ms. SNOWE (for herself, Mr. BINGAMAN, Mr. CARDIN, Ms. MIKULSKI, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2610. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2611. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2612. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1, to provide greater transparency in the legislative process; which was ordered to lie on the table.

SA 2613. Mr. FEINGOLD (for himself, Mr. GRAHAM, Mr. VOINOVICH, and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table.

SA 2614. Mr. FEINGOLD (for himself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2615. Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2616. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2617. Mrs. MCCASKILL (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 2618. Mr. WEBB submitted an amendment intended to be proposed to amendment

SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes.

SA 2619. Mr. NELSON of Florida (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2620. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2621. Mrs. LINCOLN (for herself, Ms. SNOWE, Mr. NELSON of Nebraska, Mr. BAUCUS, Mr. GRASSLEY, Mr. KENNEDY, Mr. ENZI, Mr. DURBIN, Mr. CRAPO, and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, supra; which was ordered to lie on the table.

SA 2622. Mr. CASEY (for Mr. ENZI (for himself and Ms. MIKULSKI)) proposed an amendment to the bill S. 845, to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls.

SA 2623. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2593. Mr. LOTT (for himself, Mr. MCCONNELL, Mr. KYL, Mr. GREGG, Mr. CORNYN, Mr. BUNNING, Mr. COBURN, Mr. DEMINT, and Mrs. DOLE) proposed an amendment to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; as follows:

On page 1, line 3, strike all after ''Section'' and insert the following:

1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Kids First Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION

Sec. 101. 5-Year reauthorization.
Sec. 102. Allotments for the 50 States and the District of Columbia based on expenditures and numbers of low-income children.
Sec. 103. Limitations on matching rates for populations other than low-income children or pregnant women covered through a section 1115 waiver.
Sec. 104. Prohibition on new section 1115 waivers for coverage of adults other than pregnant women.
Sec. 105. Standardization of determination of family income.
Sec. 106. Grants for outreach and enrollment.
Sec. 107. Improved State option for offering premium assistance for coverage through private plans.
Sec. 108. Treatment of unborn children.
Sec. 109. 50 percent matching rate for all Medicaid administrative costs.
Sec. 110. Reduction in payments for Medicaid administrative costs to prevent duplication of such costs under TANF.
Sec. 111. Effective date.

TITLE II—HEALTH INSURANCE MARKETPLACE MODERNIZATION AND AFFORDABILITY

Sec. 200. Short title; purpose.

Subtitle A—Small Business Health Plans

Sec. 201. Rules governing small business health plans.
Sec. 202. Cooperation between Federal and State authorities.
Sec. 203. Effective date and transitional and other rules.

Subtitle B—Market Relief

Sec. 211. Market relief.

Subtitle C—Harmonization of Health Insurance Standards

Sec. 221. Health Insurance Standards Harmonization.

TITLE III—HEALTH SAVINGS ACCOUNTS

Sec. 301. Special rule for certain medical expenses incurred before establishment of health savings account.
Sec. 302. Use of account for individual high deductible health plan premiums.
Sec. 303. Exception to requirement for employers to make comparable health savings account contributions.
Sec. 304. Certain health reimbursement arrangement coverage disregarded coverage for health savings accounts.

TITLE IV—STUDY

Sec. 401. Study on tax treatment of and access to private health insurance.

TITLE I—STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION

SEC. 101. 5-YEAR REAUTHORIZATION.

(a) INCREASE IN NATIONAL ALLOTMENT.—Section 2104(a) of the Social Security Act (42 U.S.C. 1397dd(a)) is amended—

(1) in paragraph (9), by striking ''and'' at the end;

(2) in paragraph (10), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(11) for fiscal year 2008, $7,000,000,000;

''(12) for fiscal year 2009, $7,200,000,000;

''(13) for fiscal year 2010, $7,600,000,000;

''(14) for fiscal year 2011, $8,300,000,000; and

''(15) for fiscal year 2012, $8,800,000,000.''.

(b) CONTINUATION OF ADDITIONAL ALLOTMENTS TO TERRITORIES.—Section 2104(c)(4)(B) of the Social Security Act (42 U.S.C. 1397dd(c)(4)(B)) is amended—

(1) by striking ''and'' after ''2006,''; and

(2) by inserting before the period the following: '', $56,000,000 for fiscal year 2008, $58,000,000 for fiscal year 2009, $61,000,000 for fiscal year 2010, $66,000,000 for fiscal year 2011, and $70,000,000 for fiscal year 2012''.

SEC. 102. ALLOTMENTS FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA BASED ON EXPENDITURES AND NUMBERS OF LOW-INCOME CHILDREN.

(a) IN GENERAL.—Section 2104 of the Social Security Act (42 U.S.C. 1397dd) is amended by adding at the end the following new subsection:

''(i) DETERMINATION OF ALLOTMENTS FOR THE 50 STATES AND THE DISTRICT OF COLUMBIA FOR FISCAL YEARS 2008 THROUGH 2012.—

''(1) IN GENERAL.—Notwithstanding the preceding provisions of this subsection and subject to paragraph (3), the Secretary shall allot to each subsection (b) State for each of fiscal years 2008 through 2012,, the amount determined for the fiscal year that is equal to the product of—

''(A) the amount available for allotment under subsection (a) for the fiscal year, reduced by the amount of allotments made under subsection (c) (determined without regard to paragraph (4) thereof) for the fiscal year; and

''(B) the sum of the State allotment factors determined under paragraph (2) with respect to the State and weighted in accordance with subparagraph (B) of that paragraph for the fiscal year.

''(2) STATE ALLOTMENT FACTORS.—

''(A) IN GENERAL.—For purposes of paragraph (1)(B), the State allotment factors are the following:

''(i) The ratio of the projected expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the fiscal year to the sum of such projected expenditures for all States for the fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(ii) The ratio of the number of low-income children who have not attained age 19 with no health insurance coverage in the State, as determined by the Secretary on the basis of the arithmetic average of the number of such children for the 3 most recent Annual Social and Economic Supplements to the Current Population Survey of the Bureau of the Census available before the beginning of the calendar year before such fiscal year begins, to the sum of the number of such children determined for all States for such fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(iii) The ratio of the projected expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the preceding fiscal year to the sum of such projected expenditures for all States for such preceding fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(iv) The ratio of the actual expenditures for targeted low-income children under the State child health plan and pregnant women under a waiver of such plan for the second preceding fiscal year to the sum of such actual expenditures for all States for such second preceding fiscal year, multiplied by the applicable percentage weight assigned under subparagraph (B).

''(B) ASSIGNMENT OF WEIGHTS.—For each of fiscal years 2008 through 2012, the following percentage weights shall be applied to the ratios determined under subparagraph (A) for each such fiscal year:

''(i) 40 percent for the ratio determined under subparagraph (A)(i).

''(ii) 5 percent for the ratio determined under subparagraph (A)(ii).

''(iii) 50 percent for the ratio determined under subparagraph (A)(iii).

''(iv) 5 percent for the ratio determined under subparagraph (A)(iv).

''(C) DETERMINATION OF PROJECTED AND ACTUAL EXPENDITURES.—For purposes of subparagraph (A):

''(i) PROJECTED EXPENDITURES.—The projected expenditures described in clauses (i) and (iii) of such subparagraph with respect to a fiscal year shall be determined on the basis of amounts reported by States to the Secretary on the May 15th submission of Form CMS–37 and Form CMS–21B submitted not later than June 30th of the fiscal year preceding such year.

''(ii) ACTUAL EXPENDITURES.—The actual expenditures described in clause (iv) of such subparagraph with respect to a second preceding fiscal year shall be determined on the basis of amounts reported by States to the Secretary on Form CMS–64 and Form CMS–21 submitted not later than November 30 of the preceding fiscal year.''.

(b) 2-YEAR AVAILABILITY OF ALLOTMENTS; EXPENDITURES COUNTED AGAINST OLDEST ALLOTMENTS.—Section 2104(e) of the Social Security Act (42 U.S.C. 1397dd(e)) is amended to read as follows:

''(e) AVAILABILITY OF AMOUNTS ALLOTTED.—

''(1) IN GENERAL.—Except as provided in the succeeding paragraphs of this subsection, amounts allotted to a State pursuant to this section—

''(A) for each of fiscal years 1998 through 2007, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

''(B) for each of fiscal years 2008 through 2012, shall remain available for expenditure by the State only through the end of the succeeding fiscal year for which such amounts are allotted.

''(2) ELIMINATION OF REDISTRIBUTION OF ALLOTMENTS NOT EXPENDED WITHIN 3 YEARS.—Notwithstanding subsection (f), amounts allotted to a State under this section for fiscal years beginning with fiscal year 2008 that remain unexpended as of the end of the second succeeding fiscal year shall not be redistributed to other States and shall revert to the Treasury on October 1 of the third succeeding fiscal year.

''(3) RULE FOR COUNTING EXPENDITURES AGAINST FISCAL YEAR ALLOTMENTS.—Expenditures under the State child health plan made on or after October 1, 2007, shall be counted against allotments for the earliest fiscal year for which funds are available for expenditure under this subsection.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 2104(b)(1) of the Social Security Act (42 U.S.C. 1397dd(b)(1)) is amended by striking ''subsection (d)'' and inserting ''the succeeding subsections of this section''.

(2) Section 2104(f) of such Act (42 U.S.C. 1397dd(f)) is amended by striking ''The'' and inserting ''Subject to subsection (e)(2), the''.

SEC. 103. LIMITATIONS ON MATCHING RATES FOR POPULATIONS OTHER THAN LOW-INCOME CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER.

(a) LIMITATION ON PAYMENTS.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) LIMITATIONS ON MATCHING RATE FOR POPULATIONS OTHER THAN TARGETED LOW-INCOME CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER.—For child health assistance or health benefits coverage furnished in any fiscal year beginning with fiscal year 2008:

''(A) FMAP APPLIED TO PAYMENTS FOR COVERAGE OF CHILDREN OR PREGNANT WOMEN COVERED THROUGH A SECTION 1115 WAIVER ENROLLED IN THE STATE CHILD HEALTH PLAN ON THE DATE OF ENACTMENT OF THE KIDS FIRST ACT AND WHOSE GROSS FAMILY INCOME IS DETERMINED TO EXCEED THE INCOME ELIGIBILITY LEVEL SPECIFIED FOR A TARGETED LOW-INCOME CHILD.—Notwithstanding subsections (b)(1)(B) and (d) of section 2110, in the case of any individual described in subsection (c) of section 105 of the Kids First Act who the State elects to continue to provide child health assistance for under the State child health plan in accordance with the requirements of such subsection, the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to such assistance.

''(B) FMAP APPLIED TO PAYMENTS ONLY FOR NONPREGNANT CHILDLESS ADULTS AND PARENTS AND CARETAKER RELATIVES ENROLLED UNDER A SECTION 1115 WAIVER ON THE DATE OF ENACTMENT OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION OF 2007.—The Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to payments for child health assistance or health benefits coverage provided under the State child health plan for any of the following:

''(i) PARENTS OR CARETAKER RELATIVES ENROLLED UNDER A WAIVER ON THE DATE OF ENACTMENT OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION OF 2007.—A nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child who is enrolled in the State child health plan under a waiver, experimental, pilot, or demonstration project on the date of enactment of the Kids First Act and whose family income does not exceed the income eligibility applied under such waiver with respect to that population on such date.

''(ii) NONPREGNANT CHILDLESS ADULTS ENROLLED UNDER A WAIVER ON SUCH DATE.—A nonpregnant childless adult enrolled in the State child health plan under a waiver, experimental, pilot, or demonstration project described in section 6102(c)(3) of the Deficit Reduction Act of 2005 (42 U.S.C. 1397gg note) on the date of enactment of the Kids First Act and whose family income does not exceed the income eligibility applied under such waiver with respect to that population on such date.

''(iii) NO REPLACEMENT ENROLLEES.—Nothing in clauses (i) or (ii) shall be construed as authorizing a State to provide child health assistance or health benefits coverage under a waiver described in either such clause to a nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child, or a nonpregnant childless adult, who is not enrolled under the waiver on the date of enactment of the Kids First Act.

''(C) NO FEDERAL PAYMENT FOR ANY NEW NONPREGNANT ADULT ENROLLEES OR FOR SUCH ENROLLEES WHO NO LONGER SATISFY INCOME ELIGIBILITY REQUIREMENTS.—Payment shall not be made under this section for child health assistance or other health benefits coverage provided under the State child health plan or under a waiver under section 1115 for any of the following:

''(i) PARENTS OR CARETAKER RELATIVES UNDER A SECTION 1115 WAIVER APPROVED AFTER THE DATE OF ENACTMENT OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION OF 2007.—A nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child under a waiver, experimental, pilot, or demonstration project that is approved on or after the date of enactment of the Kids First Act.

''(ii) PARENTS, CARETAKER RELATIVES, AND NONPREGNANT CHILDLESS ADULTS WHOSE FAMILY INCOME EXCEEDS THE INCOME ELIGIBILITY LEVEL SPECIFIED UNDER A SECTION 1115 WAIVER APPROVED PRIOR TO THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION OF 2007.—Any nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child whose family income exceeds the income eligibility level referred to in subparagraph (B)(i), and any nonpregnant childless adult whose family income exceeds the income eligibility level referred to in subparagraph (B)(ii).

''(iii) NONPREGNANT CHILDLESS ADULTS, PARENTS, OR CARETAKER RELATIVES NOT ENROLLED UNDER A SECTION 1115 WAIVER ON THE DATE OF ENACTMENT OF THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION OF 2007.—Any nonpregnant parent or a nonpregnant caretaker relative of a targeted low-income child who is not enrolled in the State child health plan under a section 1115 waiver, experimental, pilot, or demonstration project referred to in subparagraph (B)(i) on the date of enactment of the Kids First Act, and any nonpregnant childless adult who is not enrolled in the State child health plan under a section 1115 waiver, experimental, pilot, or demonstration project referred to in subparagraph (B)(ii)(I) on such date.

''(D) DEFINITION OF CARETAKER RELATIVE.—In this subparagraph, the term 'caretaker relative' has the meaning given that term for purposes of carrying out section 1931.

''(E) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as implying that payments for coverage of populations for which the Federal medical assistance percentage (as so determined) is to be substituted for the enhanced FMAP under subsection (a)(1) in accordance with this paragraph are to be made from funds other than the allotments determined for a State under section 2104.''.

(b) CONFORMING AMENDMENT.—Section 2105(a)(1) of the Social Security Act (42 U.S.C. 1397dd(a)(1)) is amended, in the matter preceding subparagraph (A), by inserting ''or subsection (c)(8)'' after ''subparagraph (B)''.

SEC. 104. PROHIBITION ON NEW SECTION 1115 WAIVERS FOR COVERAGE OF ADULTS OTHER THAN PREGNANT WOMEN.

(a) IN GENERAL.—Section 2107(f) of the Social Security Act (42 U.S.C. 1397gg(f)) is amended—

(1) by striking '', the Secretary'' and inserting '':

''(1) The Secretary''; and

(2) by adding at the end the following new paragraphs:

''(2) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage for any other adult other than a pregnant woman whose family income does not exceed the income eligibility level specified for a targeted low-income child in that State under a waiver or project approved as of such date.

''(3) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would waive or modify the requirements of section 2105(c)(8).''.

(b) CLARIFICATION OF AUTHORITY FOR COVERAGE OF PREGNANT WOMEN.—Section 2106 of the Social Security Act (42 U.S.C. 1397ff) is amended by adding at the end the following new subsection:

''(f) NO AUTHORITY TO COVER PREGNANT WOMEN THROUGH STATE PLAN.—For purposes of this title, a State may provide assistance to a pregnant woman under the State child health plan only—

''(1) by virtue of a waiver under section 1115; or

''(2) through the application of sections 457.10, 457.350(b)(2), 457.622(c)(5), and 457.626(a)(3) of title 42, Code of Federal Regulations (as in effect on the date of enactment of the Kids First Act).''.

(c) ASSURANCE OF NOTICE TO AFFECTED ENROLLEES.—The Secretary of Health and Human Services shall establish procedures to ensure that States provide adequate public notice for parents, caretaker relatives, and nonpregnant childless adults whose eligibility for child health assistance or health

benefits coverage under a waiver under section 1115 of the Social Security Act will be terminated as a result of the amendments made by subsection (a), and that States otherwise adhere to regulations of the Secretary relating to procedures for terminating waivers under section 1115 of the Social Security Act.

SEC. 105. STANDARDIZATION OF DETERMINATION OF FAMILY INCOME.

(a) ELIGIBILITY BASED ON GROSS INCOME.—

(1) IN GENERAL.—Section 2110 of the Social Security Act (42 U.S.C. 1397jj) is amended by adding at the end the following new subsection:

''(d) STANDARDIZATION OF DETERMINATION OF FAMILY INCOME.—A State shall determine family income for purposes of determining income eligibility for child health assistance or other health benefits coverage under the State child health plan (or under a waiver of such plan under section 1115) solely on the basis of the gross income (as defined by the Secretary) of the family.''.

(2) PROHIBITION ON WAIVER OF REQUIREMENTS.—Section 2107(f) (42 U.S.C. 1397gg(f)), as amended by section 104(a), is amended by adding at the end the following new paragraph:

''(4) The Secretary may not approve a waiver, experimental, pilot, or demonstration project with respect to a State after the date of enactment of the Kids First Act that would waive or modify the requirements of section 2110(d) (relating to determining income eligibility on the basis of gross income) and regulations promulgated to carry out such requirements.''.

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate interim final regulations defining gross income for purposes of section 2110(d) of the Social Security Act, as added by subsection (a).

(c) APPLICATION TO CURRENT ENROLLEES.—The interim final regulations promulgated under subsection (b) shall not be used to determine the income eligibility of any individual enrolled in a State child health plan under title XXI of the Social Security Act on the date of enactment of this Act before the date on which such eligibility of the individual is required to be redetermined under the plan as in effect on such date. In the case of any individual enrolled in such plan on such date who, solely as a result of the application of subsection (d) of section 2110 of the Social Security Act (as added by subsection (a)) and the regulations promulgated under subsection (b), is determined to be ineligible for child health assistance under the State child health plan, a State may elect, subject to substitution of the Federal medical assistance percentage for the enhanced FMAP under section 2105(c)(8)(A) of the Social Security Act (as added by section 103(a)), to continue to provide the individual with such assistance for so long as the individual otherwise would be eligible for such assistance and the individual's family income, if determined under the income and resource standards and methodologies applicable under the State child health plan on September 30, 2007, would not exceed the income eligibility level applicable to the individual under the State child health plan.

SEC. 106. GRANTS FOR OUTREACH AND ENROLLMENT.

(a) GRANTS.—Title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) is amended by adding at the end the following:

''SEC. 2111. GRANTS TO IMPROVE OUTREACH AND ENROLLMENT.

''(a) OUTREACH AND ENROLLMENT GRANTS; NATIONAL CAMPAIGN.—

''(1) IN GENERAL.—From the amounts appropriated for a fiscal year under subsection (f), subject to paragraph (2), the Secretary shall award grants to eligible entities to conduct outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX.

''(2) 10 PERCENT SET ASIDE FOR NATIONAL ENROLLMENT CAMPAIGN.—An amount equal to 10 percent of such amounts for the fiscal year shall be used by the Secretary for expenditures during the fiscal year to carry out a national enrollment campaign in accordance with subsection (g).

''(b) AWARD OF GRANTS.—

''(1) PRIORITY FOR AWARDING.—

''(A) IN GENERAL.—In awarding grants under subsection (a), the Secretary shall give priority to eligible entities that—

''(i) propose to target geographic areas with high rates of—

''(I) eligible but unenrolled children, including such children who reside in rural areas; or

''(II) racial and ethnic minorities and health disparity populations, including those proposals that address cultural and linguistic barriers to enrollment; and

''(ii) submit the most demonstrable evidence required under paragraphs (1) and (2) of subsection (c).

''(B) 10 PERCENT SET ASIDE FOR OUTREACH TO INDIAN CHILDREN.—An amount equal to 10 percent of the funds appropriated under subsection (f) for a fiscal year shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

''(2) 2-YEAR AVAILABILITY.—A grant awarded under this section for a fiscal year shall remain available for expenditure through the end of the succeeding fiscal year.

''(c) APPLICATION.—An eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

''(1) evidence demonstrating that the entity includes members who have access to, and credibility with, ethnic or low-income populations in the communities in which activities funded under the grant are to be conducted;

''(2) evidence demonstrating that the entity has the ability to address barriers to enrollment, such as lack of awareness of eligibility, stigma concerns and punitive fears associated with receipt of benefits, and other cultural barriers to applying for and receiving child health assistance or medical assistance;

''(3) specific quality or outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section; and

''(4) an assurance that the eligible entity shall—

''(A) conduct an assessment of the effectiveness of such activities against the performance measures;

''(B) cooperate with the collection and reporting of enrollment data and other information in order for the Secretary to conduct such assessments.

''(C) in the case of an eligible entity that is not the State, provide the State with enrollment data and other information as necessary for the State to make necessary projections of eligible children and pregnant women.

''(d) SUPPLEMENT, NOT SUPPLANT.—Federal funds awarded under this section shall be used to supplement, not supplant, non-Federal funds that are otherwise available for activities funded under this section.

''(e) DEFINITIONS.—In this section:

''(1) ELIGIBLE ENTITY.—The term 'eligible entity' means any of the following:

''(A) A State with an approved child health plan under this title.

''(B) A local government.

''(C) An Indian tribe or tribal consortium, a tribal organization, an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider.

''(D) A Federal health safety net organization.

''(E) A State, national, local, or community-based public or nonprofit private organization.

''(F) A faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act (42 U.S.C. 300x–65) relating to a grant award to non-governmental entities.

''(G) An elementary or secondary school.

''(H) A national, local, or community-based public or nonprofit private organization, including organizations that use community health workers or community-based doula programs.

''(2) FEDERAL HEALTH SAFETY NET ORGANIZATION.—The term 'Federal health safety net organization' means—

''(A) a Federally-qualified health center (as defined in section 1905(1)(2)(B));

''(B) a hospital defined as a disproportionate share hospital for purposes of section 1923;

''(C) a covered entity described in section 340B(a)(4) of the Public Health Service Act (42 U.S.C. 256b(a)(4)); and

''(D) any other entity or consortium that serves children under a federally-funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the head start and early head start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act, and an elementary or secondary school.

''(3) INDIANS; INDIAN TRIBE; TRIBAL ORGANIZATION; URBAN INDIAN ORGANIZATION.—The terms 'Indian', 'Indian tribe', 'tribal organization', and 'urban Indian organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

''(4) COMMUNITY HEALTH WORKER.—The term 'community health worker' means an individual who promotes health or nutrition within the community in which the individual resides—

''(A) by serving as a liaison between communities and health care agencies;

''(B) by providing guidance and social assistance to community residents;

''(C) by enhancing community residents' ability to effectively communicate with health care providers;

''(D) by providing culturally and linguistically appropriate health or nutrition education;

''(E) by advocating for individual and community health or nutrition needs; and

''(F) by providing referral and followup services.

''(f) APPROPRIATION.—

''(1) IN GENERAL.—There is appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of awarding grants under this section—

''(A) $100,000,000 for each of fiscal years 2008 and 2009;

''(B) $75,000,000 for each of fiscal years 2010 and 2011; and

''(C) $50,000,000 for fiscal year 2012.

''(2) GRANTS IN ADDITION TO OTHER AMOUNTS PAID.—Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 2104 and paid to States in accordance with section 2105, including with respect to expenditures for outreach activities in accordance with subsections (a)(1)(D)(iii) and (c)(2)(C) of that section.

''(g) NATIONAL ENROLLMENT CAMPAIGN.—From the amounts made available under subsection (a)(2) for a fiscal year, the Secretary shall develop and implement a national enrollment campaign to improve the enrollment of underserved child populations in the programs established under this title and title XIX. Such campaign may include—

''(1) the establishment of partnerships with the Secretary of Education and the Secretary of Agriculture to develop national campaigns to link the eligibility and enrollment systems for the assistance programs each Secretary administers that often serve the same children;

''(2) the integration of information about the programs established under this title and title XIX in public health awareness campaigns administered by the Secretary;

''(3) increased financial and technical support for enrollment hotlines maintained by the Secretary to ensure that all States participate in such hotlines;

''(4) the establishment of joint public awareness outreach initiatives with the Secretary of Education and the Secretary of Labor regarding the importance of health insurance to building strong communities and the economy;

''(5) the development of special outreach materials for Native Americans or for individuals with limited English proficiency; and

''(6) such other outreach initiatives as the Secretary determines would increase public awareness of the programs under this title and title XIX.''.

(b) NONAPPLICATION OF ADMINISTRATIVE EXPENDITURES CAP.—Section 2105(c)(2) of the Social Security Act (42 U.S.C. 1397ee(c)(2)) is amended by adding at the end the following:

''(C) NONAPPLICATION TO EXPENDITURES FOR OUTREACH AND ENROLLMENT.—The limitation under subparagraph (A) shall not apply with respect to expenditures for outreach activities under section 2102(c)(1), or for enrollment activities, for children eligible for child health assistance under the State child health plan or medical assistance under the State plan under title XIX.''.

SEC. 107. IMPROVED STATE OPTION FOR OFFERING PREMIUM ASSISTANCE FOR COVERAGE THROUGH PRIVATE PLANS.

(a) IN GENERAL.—Section 2105(c) of the Social Security Act (42 U.S.C. 1397ee(c)), as amended by section 103(a) is amended by adding at the end the following:

''(9) ADDITIONAL STATE OPTION FOR OFFERING PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a State may elect to offer a premium assistance subsidy (as defined in subparagraph (C)) for qualified employer sponsored coverage (as defined in subparagraph (B)) to all targeted low-income children who are eligible for child health assistance under the plan and have access to such coverage in accordance with the requirements of this paragraph.

''(B) QUALIFIED EMPLOYER SPONSORED COVERAGE.—

''(i) IN GENERAL.—In this paragraph, the term 'qualified employer sponsored coverage' means a group health plan or health insurance coverage offered through an employer that is—

''(I) substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2);

''(II) made similarly available to all of the employer's employees and for which the employer makes a contribution to the premium that is not less for employees receiving a premium assistance subsidy under any option available under the State child health plan under this title or the State plan under title XIX to provide such assistance than the employer contribution provided for all other employees; and

''(III) cost-effective, as determined under clause (ii).

''(ii) COST-EFFECTIVENESS.—A group health plan or health insurance coverage offered through an employer shall be considered to be cost-effective if—

''(I) the marginal premium cost to purchase family coverage through the employer is less than the State cost of providing child health assistance through the State child health plan for all the children in the family who are targeted low-income children; or

''(II) the marginal premium cost between individual coverage and purchasing family coverage through the employer is not greater than 175 percent of the cost to the State to provide child health assistance through the State child health plan for a targeted low-income child.

''(iii) HIGH DEDUCTIBLE HEALTH PLANS INCLUDED.—The term 'qualified employer sponsored coverage' includes a high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986) purchased through a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan, subject to the annual aggregate cost-sharing limit applied under section 2103(e)(3)(B).

''(ii) STATE PAYMENT OPTION.—Subject to clause (iii), a State may provide a premium assistance subsidy directly to an employer or as reimbursement to an employee for out-of-pocket expenditures.

''(iii) REQUIREMENT FOR DIRECT PAYMENT TO EMPLOYEE.—A State shall not pay a premium assistance subsidy directly to the employee, unless the State has established procedures to ensure that the targeted low-income child on whose behalf such payments are made are actually enrolled in the qualified employer sponsored coverage.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(v) STATE OPTION TO REQUIRE ACCEPTANCE OF SUBSIDY.—A State may condition the provision of child health assistance under the State child health plan for a targeted low-income child on the receipt of a premium assistance subsidy for enrollment in qualified employer sponsored coverage if the State determines the provision of such a subsidy to be more cost-effective in accordance with subparagraph (B)(ii).

''(vi) NOT TREATED AS INCOME.—Notwithstanding any other provision of law, a premium assistance subsidy provided in accordance with this paragraph shall not be treated as income to the child or the parent of the child for whom such subsidy is provided.

''(D) NO REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND ADDITIONAL COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—A State that elects the option to provide a premium assistance subsidy under this paragraph shall not be required to provide a targeted low-income child enrolled in qualified employer sponsored coverage with supplemental coverage for items or services that are not covered, or are only partially covered, under the qualified employer sponsored coverage or cost-sharing protection other than the protection required under section 2103(e)(3)(B).

''(ii) NOTICE OF COST-SHARING REQUIREMENTS.—A State shall provide a targeted low-income child or the parent of such a child (as appropriate) who is provided with a premium assistance subsidy in accordance with this paragraph with notice of the cost-sharing requirements and limitations imposed under the qualified employer sponsored coverage in which the child is enrolled upon the enrollment of the child in such coverage and annually thereafter.

''(iii) RECORD KEEPING REQUIREMENTS.—A State may require a parent of a targeted low-income child that is enrolled in qualified employer-sponsored coverage to bear the responsibility for keeping track of out-of-pocket expenditures incurred for cost-sharing imposed under such coverage and to notify the State when the limit on such expenditures imposed under section 2103(e)(3)(B) has been reached for a year from the effective date of enrollment for such year.

''(iv) STATE OPTION FOR REIMBURSEMENT.—A State may retroactively reimburse a parent of a targeted low-income child for out-of-pocket expenditures incurred after reaching the 5 percent cost-sharing limitation imposed under section 2103(e)(3)(B) for a year.

''(E) 6-MONTH WAITING PERIOD REQUIRED.—A State shall impose at least a 6-month waiting period from the time an individual is enrolled in private health insurance prior to the provision of a premium assistance subsidy for a targeted low-income child in accordance with this paragraph.

''(F) NON APPLICATION OF WAITING PERIOD FOR ENROLLMENT IN THE STATE MEDICAID PLAN OR THE STATE CHILD HEALTH PLAN.—A targeted low-income child provided a premium assistance subsidy in accordance with this paragraph who loses eligibility for such subsidy shall not be treated as having been enrolled in private health insurance coverage for purposes of applying any waiting period imposed under the State child health plan or the State plan under title XIX for the enrollment of the child under such plan.

''(G) ASSURANCE OF SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF ELIGIBILITY FOR PREMIUM SUBSIDY ASSISTANCE.—No payment shall be made under subsection (a) for amounts expended for the provision of premium assistance subsidies under this paragraph unless a State provides assurances to the Secretary that the State has in effect laws requiring a group health plan, a health insurance issuer offering group health insurance coverage in connection with a group health plan, and a self-funded health plan, to permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a child of such an employee if the child is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if the employee's child becomes eligible for a premium assistance subsidy under this paragraph.

''(H) NO EFFECT ON PREVIOUSLY APPROVED PREMIUM ASSISTANCE PROGRAMS.—Nothing in this paragraph shall be construed as limiting

the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect on June 28, 2007.

''(I) NOTICE OF AVAILABILITY.—A State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are informed of the availability of such subsidies under the State child health plan.''.

(b) APPLICATION TO MEDICAID.—Section 1906 of the Social Security Act (42 U.S.C. 1396e) is amended by inserting after subsection (c) the following:

''(d) The provisions of section 2105(c)(9) shall apply to a child who is eligible for medical assistance under the State plan in the same manner as such provisions apply to a targeted low-income child under a State child health plan under title XXI. Section 1902(a)(34) shall not apply to a child who is provided a premium assistance subsidy under the State plan in accordance with the preceding sentence.''.

SEC. 108. TREATMENT OF UNBORN CHILDREN.

(a) CODIFICATION OF CURRENT REGULATIONS.—Section 2110(c)(1) of the Social Security Act (42 U.S.C. 1397jj(c)(1)) is amended by striking the period at the end and inserting the following: '', and includes, at the option of a State, an unborn child. For purposes of the previous sentence, the term 'unborn child' means a member of the species Homo sapiens, at any stage of development, who is carried in the womb.''.

(b) CLARIFICATIONS REGARDING COVERAGE OF MOTHERS.—Section 2103 of such Act (42 U.S.C. 1397cc) is amended by adding at the end the following new subsection:

''(g) CLARIFICATIONS REGARDING AUTHORITY TO PROVIDE POSTPARTUM SERVICES AND MATERNAL HEALTH CARE.—Any State that provides child health assistance to an unborn child under the option described in section 2110(c)(1) may—

''(1) continue to provide such assistance to the mother, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of pregnancy) ends; and

''(2) in the interest of the child to be born, have flexibility in defining and providing services to benefit either the mother or unborn child consistent with the health of both.''.

SEC. 109. 50 PERCENT MATCHING RATE FOR ALL MEDICAID ADMINISTRATIVE COSTS.

Section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) is amended—

(1) by striking paragraph (2);

(2) by redesignating paragraph (3)(E) as paragraph (2) and re-locating and indenting it appropriately;

(3) in paragraph (2), as so redesignated, by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), and indenting them appropriately;

(4) by striking paragraphs (3) and (4);

(5) in paragraph (5), by striking ''which are attributable to the offering, arranging, and furnishing'' and inserting ''which are for the medical assistance costs of furnishing'';

(6) by striking paragraph (6);

(7) in paragraph (7), by striking ''subject to section 1919(g)(3)(B),''; and

(8) by redesignating paragraphs (5) and (7) as paragraphs (3) and (4), respectively.

SEC. 110. REDUCTION IN PAYMENTS FOR MEDICAID ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF SUCH PAYMENTS UNDER TANF.

Section 1903 of such Act (42 U.S.C. 1396b) is amended—

(1) in subsection (a)(7), by striking ''section 1919(g)(3)(B)'' and inserting ''subsection (h)'';

(2) in subsection (a)(2)(D) by inserting '', subject to subsection (g)(3)(C) of such section'' after ''as are attributable to State activities under section 1919(g)''; and

(3) by adding after subsection (g) the following new subsection:

''(h) REDUCTION IN PAYMENTS FOR ADMINISTRATIVE COSTS TO PREVENT DUPLICATION OF PAYMENTS UNDER TITLE IV.—Beginning with the calendar quarter commencing October 1, 2007, the Secretary shall reduce the amount paid to each State under subsection (a)(7) for each quarter by an amount equal to ¼ of the annualized amount determined for the Medicaid program under section 16(k)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(2)(B)).''.

SEC. 111. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this title take effect on October 1, 2007.

(b) DELAY IF STATE LEGISLATION REQUIRED.—In the case of a State child health plan under title XXI of the Social Security Act or a waiver of such plan under section 1115 of such Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan or waiver to meet the additional requirements imposed by the amendments made by this title, the State child health plan or waiver shall not be regarded as failing to comply with the requirements of such title XXI solely on the basis of its failure to meet such additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this title. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

TITLE II—HEALTH INSURANCE MARKETPLACE MODERNIZATION AND AFFORDABILITY

SEC. 200. SHORT TITLE; PURPOSE.

(a) SHORT TITLE.—This title may be cited as the ''Health Insurance Marketplace Modernization and Affordability Act of 2007''.

(b) PURPOSES.—It is the purpose of this title to—

(1) make more affordable health insurance options available to small businesses, working families, and all Americans;

(2) assure effective State regulatory protection of the interests of health insurance consumers; and

(3) create a more efficient and affordable health insurance marketplace through collaborative development of uniform regulatory standards.

Subtitle A—Small Business Health Plans

SEC. 201. RULES GOVERNING SMALL BUSINESS HEALTH PLANS.

(a) IN GENERAL.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding after part 7 the following new part:

''PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

''SEC. 801. SMALL BUSINESS HEALTH PLANS.

''(a) IN GENERAL.—For purposes of this part, the term 'small business health plan' means a fully insured group health plan whose sponsor is (or is deemed under this part to be) described in subsection (b).

''(b) SPONSORSHIP.—The sponsor of a group health plan is described in this subsection if such sponsor—

''(1) is organized and maintained in good faith, with a constitution and bylaws specifically stating its purpose and providing for periodic meetings on at least an annual basis, as a bona fide trade association, a bona fide industry association (including a rural electric cooperative association or a rural telephone cooperative association), a bona fide professional association, or a bona fide chamber of commerce (or similar bona fide business association, including a corporation or similar organization that operates on a cooperative basis (within the meaning of section 1381 of the Internal Revenue Code of 1986)), for substantial purposes other than that of obtaining medical care;

''(2) is established as a permanent entity which receives the active support of its members and requires for membership payment on a periodic basis of dues or payments necessary to maintain eligibility for membership;

''(3) does not condition membership, such dues or payments, or coverage under the plan on the basis of health status-related factors with respect to the employees of its members (or affiliated members), or the dependents of such employees, and does not condition such dues or payments on the basis of group health plan participation; and

''(4) does not condition membership on the basis of a minimum group size.

Any sponsor consisting of an association of entities which meet the requirements of paragraphs (1), (2), (3), and (4) shall be deemed to be a sponsor described in this subsection.

''SEC. 802. CERTIFICATION OF SMALL BUSINESS HEALTH PLANS.

''(a) IN GENERAL.—Not later than 6 months after the date of enactment of this part, the applicable authority shall prescribe by interim final rule a procedure under which the applicable authority shall certify small business health plans which apply for certification as meeting the requirements of this part.

''(b) REQUIREMENTS APPLICABLE TO CERTIFIED PLANS.—A small business health plan with respect to which certification under this part is in effect shall meet the applicable requirements of this part, effective on the date of certification (or, if later, on the date on which the plan is to commence operations).

''(c) REQUIREMENTS FOR CONTINUED CERTIFICATION.—The applicable authority may provide by regulation for continued certification of small business health plans under this part. Such regulation shall provide for the revocation of a certification if the applicable authority finds that the small business health plan involved is failing to comply with the requirements of this part.

''(d) EXPEDITED AND DEEMED CERTIFICATION.—

''(1) IN GENERAL.—If the Secretary fails to act on an application for certification under this section within 90 days of receipt of such application, the applying small business health plan shall be deemed certified until such time as the Secretary may deny for cause the application for certification.

''(2) CIVIL PENALTY.—The Secretary may assess a civil penalty against the board of trustees and plan sponsor (jointly and severally) of a small business health plan that is deemed certified under paragraph (1) of up to $500,000 in the event the Secretary determines that the application for certification

of such small business health plan was willfully or with gross negligence incomplete or inaccurate.

"SEC. 803. REQUIREMENTS RELATING TO SPONSORS AND BOARDS OF TRUSTEES.

''(a) SPONSOR.—The requirements of this subsection are met with respect to a small business health plan if the sponsor has met (or is deemed under this part to have met) the requirements of section 801(b) for a continuous period of not less than 3 years ending with the date of the application for certification under this part.

''(b) BOARD OF TRUSTEES.—The requirements of this subsection are met with respect to a small business health plan if the following requirements are met:

''(1) FISCAL CONTROL.—The plan is operated, pursuant to a plan document, by a board of trustees which pursuant to a trust agreement has complete fiscal control over the plan and which is responsible for all operations of the plan.

''(2) RULES OF OPERATION AND FINANCIAL CONTROLS.—The board of trustees has in effect rules of operation and financial controls, based on a 3-year plan of operation, adequate to carry out the terms of the plan and to meet all requirements of this title applicable to the plan.

''(3) RULES GOVERNING RELATIONSHIP TO PARTICIPATING EMPLOYERS AND TO CONTRACTORS.—

''(A) BOARD MEMBERSHIP.—

''(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the members of the board of trustees are individuals selected from individuals who are the owners, officers, directors, or employees of the participating employers or who are partners in the participating employers and actively participate in the business.

''(ii) LIMITATION.—

''(I) GENERAL RULE.—Except as provided in subclauses (II) and (III), no such member is an owner, officer, director, or employee of, or partner in, a contract administrator or other service provider to the plan.

''(II) LIMITED EXCEPTION FOR PROVIDERS OF SERVICES SOLELY ON BEHALF OF THE SPONSOR.—Officers or employees of a sponsor which is a service provider (other than a contract administrator) to the plan may be members of the board if they constitute not more than 25 percent of the membership of the board and they do not provide services to the plan other than on behalf of the sponsor.

''(III) TREATMENT OF PROVIDERS OF MEDICAL CARE.—In the case of a sponsor which is an association whose membership consists primarily of providers of medical care, subclause (I) shall not apply in the case of any service provider described in subclause (I) who is a provider of medical care under the plan.

''(iii) CERTAIN PLANS EXCLUDED.—Clause (i) shall not apply to a small business health plan which is in existence on the date of the enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2007.

''(B) SOLE AUTHORITY.—The board has sole authority under the plan to approve applications for participation in the plan and to contract with insurers.

''(c) TREATMENT OF FRANCHISE NETWORKS.—In the case of a group health plan which is established and maintained by a franchiser for a franchise network consisting of its franchisees—

''(1) the requirements of subsection (a) and section 801(a) shall be deemed met if such requirements would otherwise be met if the franchiser were deemed to be the sponsor referred to in section 801(b), such network were deemed to be an association described in section 801(b), and each franchisee were deemed to be a member (of the association and the sponsor) referred to in section 801(b); and

''(2) the requirements of section 804(a)(1) shall be deemed met.

The Secretary may by regulation define for purposes of this subsection the terms 'franchiser', 'franchise network', and 'franchisee'.

"SEC. 804. PARTICIPATION AND COVERAGE REQUIREMENTS.

''(a) COVERED EMPLOYERS AND INDIVIDUALS.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan—

''(1) each participating employer must be—

''(A) a member of the sponsor;

''(B) the sponsor; or

''(C) an affiliated member of the sponsor, except that, in the case of a sponsor which is a professional association or other individual-based association, if at least one of the officers, directors, or employees of an employer, or at least one of the individuals who are partners in an employer and who actively participates in the business, is a member or such an affiliated member of the sponsor, participating employers may also include such employer; and

''(2) all individuals commencing coverage under the plan after certification under this part must be—

''(A) active or retired owners (including self-employed individuals), officers, directors, or employees of, or partners in, participating employers; or

''(B) the dependents of individuals described in subparagraph (A).

''(b) INDIVIDUAL MARKET UNAFFECTED.—The requirements of this subsection are met with respect to a small business health plan if, under the terms of the plan, no participating employer may provide health insurance coverage in the individual market for any employee not covered under the plan which is similar to the coverage contemporaneously provided to employees of the employer under the plan, if such exclusion of the employee from coverage under the plan is based on a health status-related factor with respect to the employee and such employee would, but for such exclusion on such basis, be eligible for coverage under the plan.

''(c) PROHIBITION OF DISCRIMINATION AGAINST EMPLOYERS AND EMPLOYEES ELIGIBLE TO PARTICIPATE.—The requirements of this subsection are met with respect to a small business health plan if—

''(1) under the terms of the plan, all employers meeting the preceding requirements of this section are eligible to qualify as participating employers for all geographically available coverage options, unless, in the case of any such employer, participation or contribution requirements of the type referred to in section 2711 of the Public Health Service Act are not met;

''(2) information regarding all coverage options available under the plan is made readily available to any employer eligible to participate; and

''(3) the applicable requirements of sections 701, 702, and 703 are met with respect to the plan.

"SEC. 805. OTHER REQUIREMENTS RELATING TO PLAN DOCUMENTS, CONTRIBUTION RATES, AND BENEFIT OPTIONS.

''(a) IN GENERAL.—The requirements of this section are met with respect to a small business health plan if the following requirements are met:

''(1) CONTENTS OF GOVERNING INSTRUMENTS.—

''(A) IN GENERAL.—The instruments governing the plan include a written instrument, meeting the requirements of an instrument required under section 402(a)(1), which—

''(i) provides that the board of trustees serves as the named fiduciary required for plans under section 402(a)(1) and serves in the capacity of a plan administrator (referred to in section 3(16)(A)); and

''(ii) provides that the sponsor of the plan is to serve as plan sponsor (referred to in section 3(16)(B)).

''(B) DESCRIPTION OF MATERIAL PROVISIONS.—The terms of the health insurance coverage (including the terms of any individual certificates that may be offered to individuals in connection with such coverage) describe the material benefit and rating, and other provisions set forth in this section and such material provisions are included in the summary plan description.

''(2) CONTRIBUTION RATES MUST BE NONDISCRIMINATORY.—

''(A) IN GENERAL.—The contribution rates for any participating small employer shall not vary on the basis of any health status-related factor in relation to employees of such employer or their beneficiaries and shall not vary on the basis of the type of business or industry in which such employer is engaged.

''(B) EFFECT OF TITLE.—Nothing in this title or any other provision of law shall be construed to preclude a health insurance issuer offering health insurance coverage in connection with a small business health plan, and at the request of such small business health plan, from—

''(i) setting contribution rates for the small business health plan based on the claims experience of the plan so long as any variation in such rates complies with the requirements of clause (ii), except that small business health plans shall not be subject to paragraphs (1)(A) and (3) of section 2911(b) of the Public Health Service Act; or

''(ii) varying contribution rates for participating employers in a small business health plan in a State to the extent that such rates could vary using the same methodology employed in such State for regulating small group premium rates, subject to the terms of part I of subtitle A of title XXIX of the Public Health Service Act (relating to rating requirements), as added by subtitle B of the Health Insurance Marketplace Modernization and Affordability Act of 2007.

''(3) EXCEPTIONS REGARDING SELF-EMPLOYED AND LARGE EMPLOYERS.—

''(A) SELF EMPLOYED.—

''(i) IN GENERAL.—Small business health plans with participating employers who are self-employed individuals (and their dependents) shall enroll such self-employed participating employers in accordance with rating rules that do not violate the rating rules for self-employed individuals in the State in which such self-employed participating employers are located.

''(ii) GUARANTEE ISSUE.—Small business health plans with participating employers who are self-employed individuals (and their dependents) may decline to guarantee issue to such participating employers in States in which guarantee issue is not otherwise required for the self-employed in that State.

''(B) LARGE EMPLOYERS.—Small business health plans with participating employers that are larger than small employers (as defined in section 808(a)(10)) shall enroll such large participating employers in accordance with rating rules that do not violate the rating rules for large employers in the State in which such large participating employers are located.

''(4) REGULATORY REQUIREMENTS.—Such other requirements as the applicable authority determines are necessary to carry out the purposes of this part, which shall be prescribed by the applicable authority by regulation.

''(b) ABILITY OF SMALL BUSINESS HEALTH PLANS TO DESIGN BENEFIT OPTIONS.—Nothing in this part or any provision of State law (as

defined in section 514(c)(1)) shall be construed to preclude a small business health plan or a health insurance issuer offering health insurance coverage in connection with a small business health plan from exercising its sole discretion in selecting the specific benefits and services consisting of medical care to be included as benefits under such plan or coverage, except that such benefits and services must meet the terms and specifications of part II of subtitle A of title XXIX of the Public Health Service Act (relating to lower cost plans), as added by subtitle B of the Health Insurance Marketplace Modernization and Affordability Act of 2007.

''(c) DOMICILE AND NON-DOMICILE STATES.—

''(1) DOMICILE STATE.—Coverage shall be issued to a small business health plan in the State in which the sponsor's principal place of business is located.

''(2) NON-DOMICILE STATES.—With respect to a State (other than the domicile State) in which participating employers of a small business health plan are located but in which the insurer of the small business health plan in the domicile State is not yet licensed, the following shall apply:

''(A) TEMPORARY PREEMPTION.—If, upon the expiration of the 90-day period following the submission of a licensure application by such insurer (that includes a certified copy of an approved licensure application as submitted by such insurer in the domicile State) to such State, such State has not approved or denied such application, such State's health insurance licensure laws shall be temporarily preempted and the insurer shall be permitted to operate in such State, subject to the following terms:

''(i) APPLICATION OF NON-DOMICILE STATE LAW.—Except with respect to licensure and with respect to the terms of subtitle A of title XXIX of the Public Health Service Act (relating to rating and benefits as added by the Health Insurance Marketplace Modernization and Affordability Act of 2007), the laws and authority of the non-domicile State shall remain in full force and effect.

''(ii) REVOCATION OF PREEMPTION.—The preemption of a non-domicile State's health insurance licensure laws pursuant to this subparagraph, shall be terminated upon the occurrence of either of the following:

''(I) APPROVAL OR DENIAL OF APPLICATION.—The approval of denial of an insurer's licensure application, following the laws and regulations of the non-domicile State with respect to licensure.

''(II) DETERMINATION OF MATERIAL VIOLATION.—A determination by a non-domicile State that an insurer operating in a non-domicile State pursuant to the preemption provided for in this subparagraph is in material violation of the insurance laws (other than licensure and with respect to the terms of subtitle A of title XXIX of the Public Health Service Act (relating to rating and benefits added by the Health Insurance Marketplace Modernization and Affordability Act of 2007)) of such State.

''(B) NO PROHIBITION ON PROMOTION.—Nothing in this paragraph shall be construed to prohibit a small business health plan or an insurer from promoting coverage prior to the expiration of the 90-day period provided for in subparagraph (A), except that no enrollment or collection of contributions shall occur before the expiration of such 90-day period.

''(C) LICENSURE.—Except with respect to the application of the temporary preemption provision of this paragraph, nothing in this part shall be construed to limit the requirement that insurers issuing coverage to small business health plans shall be licensed in each State in which the small business health plans operate.

''(D) SERVICING BY LICENSED INSURERS.—Notwithstanding subparagraph (C), the requirements of this subsection may also be satisfied if the participating employers of a small business health plan are serviced by a licensed insurer in that State, even where such insurer is not the insurer of such small business health plan in the State in which such small business health plan is domiciled.

''SEC. 806. REQUIREMENTS FOR APPLICATION AND RELATED REQUIREMENTS.

''(a) FILING FEE.—Under the procedure prescribed pursuant to section 802(a), a small business health plan shall pay to the applicable authority at the time of filing an application for certification under this part a filing fee in the amount of $5,000, which shall be available in the case of the Secretary, to the extent provided in appropriation Acts, for the sole purpose of administering the certification procedures applicable with respect to small business health plans.

''(b) INFORMATION TO BE INCLUDED IN APPLICATION FOR CERTIFICATION.—An application for certification under this part meets the requirements of this section only if it includes, in a manner and form which shall be prescribed by the applicable authority by regulation, at least the following information:

''(1) IDENTIFYING INFORMATION.—The names and addresses of—

''(A) the sponsor; and

''(B) the members of the board of trustees of the plan.

''(2) STATES IN WHICH PLAN INTENDS TO DO BUSINESS.—The States in which participants and beneficiaries under the plan are to be located and the number of them expected to be located in each such State.

''(3) BONDING REQUIREMENTS.—Evidence provided by the board of trustees that the bonding requirements of section 412 will be met as of the date of the application or (if later) commencement of operations.

''(4) PLAN DOCUMENTS.—A copy of the documents governing the plan (including any bylaws and trust agreements), the summary plan description, and other material describing the benefits that will be provided to participants and beneficiaries under the plan.

''(5) AGREEMENTS WITH SERVICE PROVIDERS.—A copy of any agreements between the plan, health insurance issuer, and contract administrators and other service providers.

''(c) FILING NOTICE OF CERTIFICATION WITH STATES.—A certification granted under this part to a small business health plan shall not be effective unless written notice of such certification is filed with the applicable State authority of each State in which the small business health plans operate.

''(d) NOTICE OF MATERIAL CHANGES.—In the case of any small business health plan certified under this part, descriptions of material changes in any information which was required to be submitted with the application for the certification under this part shall be filed in such form and manner as shall be prescribed by the applicable authority by regulation. The applicable authority may require by regulation prior notice of material changes with respect to specified matters which might serve as the basis for suspension or revocation of the certification.

''SEC. 807. NOTICE REQUIREMENTS FOR VOLUNTARY TERMINATION.

''A small business health plan which is or has been certified under this part may terminate (upon or at any time after cessation of accruals in benefit liabilities) only if the board of trustees, not less than 60 days before the proposed termination date—

''(1) provides to the participants and beneficiaries a written notice of intent to terminate stating that such termination is intended and the proposed termination date;

''(2) develops a plan for winding up the affairs of the plan in connection with such termination in a manner which will result in timely payment of all benefits for which the plan is obligated; and

''(3) submits such plan in writing to the applicable authority.

Actions required under this section shall be taken in such form and manner as may be prescribed by the applicable authority by regulation.

''SEC. 808. DEFINITIONS AND RULES OF CONSTRUCTION.

''(a) DEFINITIONS.—For purposes of this part—

''(1) AFFILIATED MEMBER.—The term 'affiliated member' means, in connection with a sponsor—

''(A) a person who is otherwise eligible to be a member of the sponsor but who elects an affiliated status with the sponsor, or

''(B) in the case of a sponsor with members which consist of associations, a person who is a member or employee of any such association and elects an affiliated status with the sponsor.

''(2) APPLICABLE AUTHORITY.—The term 'applicable authority' means the Secretary of Labor, except that, in connection with any exercise of the Secretary's authority with respect to which the Secretary is required under section 506(d) to consult with a State, such term means the Secretary, in consultation with such State.

''(3) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner or official or officials designated by the State to enforce the requirements of title XXVII of the Public Health Service Act for the State involved with respect to such issuer.

''(4) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning provided in section 733(a)(1) (after applying subsection (b) of this section).

''(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning provided in section 733(b)(1), except that such term shall not include excepted benefits (as defined in section 733(c)).

''(6) HEALTH INSURANCE ISSUER.—The term 'health insurance issuer' has the meaning provided in section 733(b)(2).

''(7) INDIVIDUAL MARKET.—

''(A) IN GENERAL.—The term 'individual market' means the market for health insurance coverage offered to individuals other than in connection with a group health plan.

''(B) TREATMENT OF VERY SMALL GROUPS.—

''(i) IN GENERAL.—Subject to clause (ii), such term includes coverage offered in connection with a group health plan that has fewer than 2 participants as current employees or participants described in section 732(d)(3) on the first day of the plan year.

''(ii) STATE EXCEPTION.—Clause (i) shall not apply in the case of health insurance coverage offered in a State if such State regulates the coverage described in such clause in the same manner and to the same extent as coverage in the small group market (as defined in section 2791(e)(5) of the Public Health Service Act) is regulated by such State.

''(8) MEDICAL CARE.—The term 'medical care' has the meaning provided in section 733(a)(2).

''(9) PARTICIPATING EMPLOYER.—The term 'participating employer' means, in connection with a small business health plan, any employer, if any individual who is an employee of such employer, a partner in such employer, or a self-employed individual who is such employer (or any dependent, as defined under the terms of the plan, of such individual) is or was covered under such plan

in connection with the status of such individual as such an employee, partner, or self-employed individual in relation to the plan.

''(10) SMALL EMPLOYER.—The term 'small employer' means, in connection with a group health plan with respect to a plan year, a small employer as defined in section 2791(e)(4).

''(11) TRADE ASSOCIATION AND PROFESSIONAL ASSOCIATION.—The terms 'trade association' and 'professional association' mean an entity that meets the requirements of section 1.501(c)(6)-1 of title 26, Code of Federal Regulations (as in effect on the date of enactment of this section).

''(b) RULE OF CONSTRUCTION.—For purposes of determining whether a plan, fund, or program is an employee welfare benefit plan which is a small business health plan, and for purposes of applying this title in connection with such plan, fund, or program so determined to be such an employee welfare benefit plan—

''(1) in the case of a partnership, the term 'employer' (as defined in section 3(5)) includes the partnership in relation to the partners, and the term 'employee' (as defined in section 3(6)) includes any partner in relation to the partnership; and

''(2) in the case of a self-employed individual, the term 'employer' (as defined in section 3(5)) and the term 'employee' (as defined in section 3(6)) shall include such individual.

''(c) RENEWAL.—Notwithstanding any provision of law to the contrary, a participating employer in a small business health plan shall not be deemed to be a plan sponsor in applying requirements relating to coverage renewal.

''(d) HEALTH SAVINGS ACCOUNTS.—Nothing in this part shall be construed to inhibit the development of health savings accounts pursuant to section 223 of the Internal Revenue Code of 1986.''.

(b) CONFORMING AMENDMENTS TO PREEMPTION RULES.—

(1) Section 514(b)(6) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(6)) is amended by adding at the end the following new subparagraph:

''(E) The preceding subparagraphs of this paragraph do not apply with respect to any State law in the case of a small business health plan which is certified under part 8.''.

(2) Section 514 of such Act (29 U.S.C. 1144) is amended—

(A) in subsection (b)(4), by striking ''Subsection (a)'' and inserting ''Subsections (a) and (d)'';

(B) in subsection (b)(5), by striking ''subsection (a)'' in subparagraph (A) and inserting ''subsection (a) of this section and subsections (a)(2)(B) and (b) of section 805'', and by striking ''subsection (a)'' in subparagraph (B) and inserting ''subsection (a) of this section or subsection (a)(2)(B) or (b) of section 805'';

(C) by redesignating subsection (d) as subsection (e); and

(D) by inserting after subsection (c) the following new subsection:

''(d)(1) Except as provided in subsection (b)(4), the provisions of this title shall supersede any and all State laws insofar as they may now or hereafter preclude a health insurance issuer from offering health insurance coverage in connection with a small business health plan which is certified under part 8.

''(2) In any case in which health insurance coverage of any policy type is offered under a small business health plan certified under part 8 to a participating employer operating in such State, the provisions of this title shall supersede any and all laws of such State insofar as they may establish rating and benefit requirements that would otherwise apply to such coverage, provided the requirements of subtitle A of title XXIX of the Public Health Service Act (as added by title II of the Health Insurance Marketplace Modernization and Affordability Act of 2007) (concerning health plan rating and benefits) are met.''.

(c) PLAN SPONSOR.—Section 3(16)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 102(16)(B)) is amended by adding at the end the following new sentence: ''Such term also includes a person serving as the sponsor of a small business health plan under part 8.''.

(d) SAVINGS CLAUSE.—Section 731(c) of the Employee Retirement Income Security Act of 1974 is amended by inserting ''or part 8'' after ''this part''.

(e) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 is amended by inserting after the item relating to section 734 the following new items:

''PART 8—RULES GOVERNING SMALL BUSINESS HEALTH PLANS

''801. Small business health plans.
''802. Certification of small business health plans.
''803. Requirements relating to sponsors and boards of trustees.
''804. Participation and coverage requirements.
''805. Other requirements relating to plan documents, contribution rates, and benefit options.
''806. Requirements for application and related requirements.
''807. Notice requirements for voluntary termination.
''808. Definitions and rules of construction.''.

SEC. 202. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Section 506 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by adding at the end the following new subsection:

''(d) CONSULTATION WITH STATES WITH RESPECT TO SMALL BUSINESS HEALTH PLANS.—

''(1) AGREEMENTS WITH STATES.—The Secretary shall consult with the State recognized under paragraph (2) with respect to a small business health plan regarding the exercise of—

''(A) the Secretary's authority under sections 502 and 504 to enforce the requirements for certification under part 8; and

''(B) the Secretary's authority to certify small business health plans under part 8 in accordance with regulations of the Secretary applicable to certification under part 8.

''(2) RECOGNITION OF DOMICILE STATE.—In carrying out paragraph (1), the Secretary shall ensure that only one State will be recognized, with respect to any particular small business health plan, as the State with which consultation is required. In carrying out this paragraph such State shall be the domicile State, as defined in section 805(c).''.

SEC. 203. EFFECTIVE DATE AND TRANSITIONAL AND OTHER RULES.

(a) EFFECTIVE DATE.—The amendments made by this subtitle shall take effect 12 months after the date of the enactment of this Act. The Secretary of Labor shall first issue all regulations necessary to carry out the amendments made by this subtitle within 6 months after the date of the enactment of this Act.

(b) TREATMENT OF CERTAIN EXISTING HEALTH BENEFITS PROGRAMS.—

(1) IN GENERAL.—In any case in which, as of the date of the enactment of this Act, an arrangement is maintained in a State for the purpose of providing benefits consisting of medical care for the employees and beneficiaries of its participating employers, at least 200 participating employers make contributions to such arrangement, such arrangement has been in existence for at least 10 years, and such arrangement is licensed under the laws of one or more States to provide such benefits to its participating employers, upon the filing with the applicable authority (as defined in section 808(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by this subtitle)) by the arrangement of an application for certification of the arrangement under part 8 of subtitle B of title I of such Act—

(A) such arrangement shall be deemed to be a group health plan for purposes of title I of such Act;

(B) the requirements of sections 801(a) and 803(a) of the Employee Retirement Income Security Act of 1974 shall be deemed met with respect to such arrangement;

(C) the requirements of section 803(b) of such Act shall be deemed met, if the arrangement is operated by a board of trustees which—

(i) is elected by the participating employers, with each employer having one vote; and

(ii) has complete fiscal control over the arrangement and which is responsible for all operations of the arrangement;

(D) the requirements of section 804(a) of such Act shall be deemed met with respect to such arrangement; and

(E) the arrangement may be certified by any applicable authority with respect to its operations in any State only if it operates in such State on the date of certification.

The provisions of this subsection shall cease to apply with respect to any such arrangement at such time after the date of the enactment of this Act as the applicable requirements of this subsection are not met with respect to such arrangement or at such time that the arrangement provides coverage to participants and beneficiaries in any State other than the States in which coverage is provided on such date of enactment.

(2) DEFINITIONS.—For purposes of this subsection, the terms ''group health plan'', ''medical care'', and ''participating employer'' shall have the meanings provided in section 808 of the Employee Retirement Income Security Act of 1974, except that the reference in paragraph (7) of such section to an ''small business health plan'' shall be deemed a reference to an arrangement referred to in this subsection.

Subtitle B—Market Relief

SEC. 211. MARKET RELIEF.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following:

''TITLE XXX—HEALTH CARE INSURANCE MARKETPLACE MODERNIZATION

''SEC. 3001. GENERAL INSURANCE DEFINITIONS.

''In this title, the terms 'health insurance coverage', 'health insurance issuer', 'group health plan', and 'individual health insurance' shall have the meanings given such terms in section 2791.

''Subtitle A—Market Relief

''PART I—RATING REQUIREMENTS

''SEC. 3011. DEFINITIONS.

''(a) GENERAL DEFINITIONS.—In this part:

''(1) ADOPTING STATE.—The term 'adopting State' means a State that, with respect to the small group market, has enacted either the Model Small Group Rating Rules or, if applicable to such State, the Transitional Model Small Group Rating Rules, each in their entirety and as the exclusive laws of the State that relate to rating in the small group insurance market.

''(2) APPLICABLE STATE AUTHORITY.—The term 'applicable State authority' means, with respect to a health insurance issuer in a State, the State insurance commissioner

or official or officials designated by the State to enforce the insurance laws of such State.

''(3) BASE PREMIUM RATE.—The term 'base premium rate' means, for each class of business with respect to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business by the small employer carrier to small employers with similar case characteristics for health benefit plans with the same or similar coverage

''(4) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a State and that—

''(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the Model Small Group Rating Rules or, as applicable, transitional small group rating rules in a State;

''(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer small group health insurance coverage in that State consistent with the Model Small Group Rating Rules, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency); and

''(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description in the insurer's contract of the Model Small Group Rating Rules and an affirmation that such Rules are included in the terms of such contract.

''(5) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the small group health insurance market, except that such term shall not include excepted benefits (as defined in section 2791(c)).

''(6) INDEX RATE.—The term 'index rate' means for each class of business with respect to the rating period for small employers with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

''(7) MODEL SMALL GROUP RATING RULES.—The term ' Model Small Group Rating Rules' means the rules set forth in subsection (b).

''(8) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

''(9) SMALL GROUP INSURANCE MARKET.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

''(10) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

''(b) DEFINITION RELATING TO MODEL SMALL GROUP RATING RULES.—The term 'Model Small Group Rating Rules' means adapted rating rules drawn from the Adopted Small Employer Health Insurance Availability Model Act of 1993 of the National Association of Insurance Commissioners consisting of the following:

''(1) PREMIUM RATES.—Premium rates for health benefit plans to which this title applies shall be subject to the following provisions relating to premiums:

''(A) INDEX RATE.—The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business by more than 20 percent.

''(B) CLASS OF BUSINESSES.—With respect to a class of business, the premium rates charged during a rating period to small employers with similar case characteristics for the same or similar coverage or the rates that could be charged to such employers under the rating system for that class of business, shall not vary from the index rate by more than 25 percent of the index rate under subparagraph (A).

''(C) INCREASES FOR NEW RATING PERIODS.—The percentage increase in the premium rate charged to a small employer for a new rating period may not exceed the sum of the following:

''(i) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a health benefit plan into which the small employer carrier is no longer enrolling new small employers, the small employer carrier shall use the percentage change in the base premium rate, except that such change shall not exceed, on a percentage basis, the change in the new business premium rate for the most similar health benefit plan into which the small employer carrier is actively enrolling new small employers.

''(ii) Any adjustment, not to exceed 15 percent annually and adjusted pro rata for rating periods of less then 1 year, due to the claim experience, health status or duration of coverage of the employees or dependents of the small employer as determined from the small employer carrier's rate manual for the class of business involved.

''(iii) Any adjustment due to change in coverage or change in the case characteristics of the small employer as determined from the small employer carrier's rate manual for the class of business.

''(D) UNIFORM APPLICATION OF ADJUSTMENTS.—Adjustments in premium rates for claim experience, health status, or duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

''(E) USE OF INDUSTRY AS A CASE CHARACTERISTIC.—A small employer carrier may utilize industry as a case characteristic in establishing premium rates, so long as the highest rate factor associated with any industry classification does not exceed the lowest rate factor associated with any industry classification by more than 15 percent.

''(F) CONSISTENT APPLICATION OF FACTORS.—Small employer carriers shall apply rating factors, including case characteristics, consistently with respect to all small employers in a class of business. Rating factors shall produce premiums for identical groups which differ only by the amounts attributable to plan design and do not reflect differences due to the nature of the groups assumed to select particular health benefit plans.

''(G) TREATMENT OF PLANS AS HAVING SAME RATING PERIOD.—A small employer carrier shall treat all health benefit plans issued or renewed in the same calendar month as having the same rating period.

''(H) RESTRICTED NETWORK PROVISIONS.—For purposes of this subsection, a health benefit plan that contains a restricted network provision shall not be considered similar coverage to a health benefit plan that does not contain a similar provision if the restriction of benefits to network providers results in substantial differences in claims costs.

''(I) PROHIBITION ON USE OF CERTAIN CASE CHARACTERISTICS.—The small employer carrier shall not use case characteristics other than age, gender, industry, geographic area, family composition, group size, and participation in wellness programs without prior approval of the applicable State authority.

''(J) REQUIRE COMPLIANCE.—Premium rates for small business health benefit plans shall comply with the requirements of this subsection notwithstanding any assessments paid or payable by a small employer carrier as required by a State's small employer carrier reinsurance program.

''(2) ESTABLISHMENT OF SEPARATE CLASS OF BUSINESS.—Subject to paragraph (3), a small employer carrier may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative costs related to the following:

''(A) The small employer carrier uses more than one type of system for the marketing and sale of health benefit plans to small employers.

''(B) The small employer carrier has acquired a class of business from another small employer carrier.

''(C) The small employer carrier provides coverage to one or more association groups that meet the requirements of this title.

''(3) LIMITATION.—A small employer carrier may establish up to 9 separate classes of business under paragraph (2), excluding those classes of business related to association groups under this title.

''(4) ADDITIONAL GROUPINGS.—The applicable State authority may approve the establishment of additional distinct groupings by small employer carriers upon the submission of an application to the applicable State authority and a finding by the applicable State authority that such action would enhance the efficiency and fairness of the small employer insurance marketplace.

''(5) LIMITATION ON TRANSFERS.—A small employer carrier shall not transfer a small employer involuntarily into or out of a class of business. A small employer carrier shall not offer to transfer a small employer into or out of a class of business unless such offer is made to transfer all small employers in the class of business without regard to case characteristics, claim experience, health status or duration of coverage since issue.

''(6) SUSPENSION OF THE RULES.—The applicable State authority may suspend, for a specified period, the application of paragraph (1) to the premium rates applicable to one or more small employers included within a class of business of a small employer carrier for one or more rating periods upon a filing by the small employer carrier and a finding by the applicable State authority either that the suspension is reasonable when considering the financial condition of the small employer carrier or that the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

"SEC. 3012. RATING RULES.

''(a) IMPLEMENTATION OF MODEL SMALL GROUP RATING RULES.—Not later than 6 months after the enactment of this title, the Secretary shall promulgate regulations implementing the Model Small Group Rating Rules pursuant to section 3011(b).

''(b) TRANSITIONAL MODEL SMALL GROUP RATING RULES.—

''(1) IN GENERAL.—Not later than 6 months after the date of enactment of this title and to the extent necessary to provide for a graduated transition to the Model Small Group Rating Rules, the Secretary, in consultation with the NAIC, shall promulgate Transitional Model Small Group Rating Rules in accordance with this subsection, which shall be applicable with respect to certain nonadopting States for a period of not to exceed 5 years from the date of the promulgation of

the Model Small Group Rating Rules pursuant to subsection (a). After the expiration of such 5-year period, the transitional model small group rating rules shall expire, and the Model Small Group Rating Rules shall then apply with respect to all non-adopting States pursuant to the provisions of this part.

''(2) PREMIUM VARIATION DURING TRANSITION.—

''(A) TRANSITION STATES.—During the transition period described in paragraph (1), small group health insurance coverage offered in a non-adopting State that had in place premium rating band requirements or premium limits that varied by less than 12.5 percent from the index rate within a class of business on the date of enactment of this title, shall not be subject to the premium variation provision of section 3011(b)(1) of the Model Small Group Rating Rules and shall instead be subject to the Transitional Model Small Group Rating Rules as promulgated by the Secretary pursuant to paragraph (1).

''(B) NON-TRANSITION STATES.—During the transition period described in paragraph (1), and thereafter, small group health insurance coverage offered in a non-adopting State that had in place premium rating band requirements or premium limits that varied by more than 12.5 percent from the index rate within a class of business on the date of enactment of this title, shall not be subject to the Transitional Model Small Group Rating Rules as promulgated by the Secretary pursuant to paragraph (1), and instead shall be subject to the Model Small Group Rating Rules effective beginning with the first plan year or calendar year following the promulgation of such Rules, at the election of the eligible insurer.

''(3) TRANSITIONING OF OLD BUSINESS.—In developing the transitional model small group rating rules under paragraph (1), the Secretary shall, after consultation with the National Association of Insurance Commissioners and representatives of insurers operating in the small group health insurance market, promulgate special transition standards and timelines with respect to independent rating classes for old and new business, to the extent reasonably necessary to protect health insurance consumers and to ensure a stable and fair transition for old and new market entrants.

''(4) OTHER TRANSITIONAL AUTHORITY.—In developing the Transitional Model Small Group Rating Rules under paragraph (1), the Secretary shall provide for the application of the Transitional Model Small Group Rating Rules in transition States as the Secretary may determine necessary for a an effective transition.

''(c) MARKET RE-ENTRY.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, a health insurance issuer that has voluntarily withdrawn from providing coverage in the small group market prior to the date of enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2007 shall not be excluded from re-entering such market on a date that is more than 180 days after such date of enactment.

''(2) TERMINATION.—The provision of this subsection shall terminate on the date that is 24 months after the date of enactment of the Health Insurance Marketplace Modernization and Affordability Act of 2007.

"SEC. 3013. APPLICATION AND PREEMPTION.

''(a) SUPERSEDING OF STATE LAW.—

''(1) IN GENERAL.—This part shall supersede any and all State laws of a non-adopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle) relate to rating in the small group insurance market as applied to an eligible insurer, or small group health insurance coverage issued by an eligible insurer, including with respect to coverage issued to a small employer through a small business health plan, in a State.

''(2) NONADOPTING STATES.—This part shall supersede any and all State laws of a non-adopting State insofar as such State laws (whether enacted prior to or after the date of enactment of this subtitle)—

''(A) prohibit an eligible insurer from offering, marketing, or implementing small group health insurance coverage consistent with the Model Small Group Rating Rules or transitional model small group rating rules; or

''(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing small group health insurance coverage consistent with the Model Small Group Rating Rules or transitional model small group rating rules.

''(b) SAVINGS CLAUSE AND CONSTRUCTION.—

''(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting states.

''(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers that offer small group health insurance coverage in a nonadopting State.

''(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law in a non-adopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the Model Small Group Rating Rules or transitional model small group rating rules.

''(4) NO EFFECT ON PREEMPTION.—In no case shall this part be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this part be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974

''(c) EFFECTIVE DATE.—This section shall apply, at the election of the eligible insurer, beginning in the first plan year or the first calendar year following the issuance of the final rules by the Secretary under the Model Small Group Rating Rules or, as applicable, the Transitional Model Small Group Rating Rules, but in no event earlier than the date that is 12 months after the date of enactment of this title.

"SEC. 3014. CIVIL ACTIONS AND JURISDICTION.

''(a) IN GENERAL.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

''(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 3013.

''(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

''(d) EXPEDITED REVIEW.—

''(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

''(2) COURT OF APPEALS.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

''(e) STANDARD OF REVIEW.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

"SEC. 3015. ONGOING REVIEW.

''Not later than 5 years after the date on which the Model Small Group Rating Rules are issued under this part, and every 5 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners, shall prepare and submit to the appropriate committees of Congress a report that assesses the effect of the Model Small Group Rating Rules on access, cost, and market functioning in the small group market. Such report may, if the Secretary, in consultation with the National Association of Insurance Commissioners, determines such is appropriate for improving access, costs, and market functioning, contain legislative proposals for recommended modification to such Model Small Group Rating Rules.

"PART II—AFFORDABLE PLANS

"SEC. 3021. DEFINITIONS.

''In this part:

''(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted the Benefit Choice Standards in their entirety and as the exclusive laws of the State that relate to benefit, service, and provider mandates in the group and individual insurance markets.

''(2) BENEFIT CHOICE STANDARDS.—The term 'Benefit Choice Standards' means the Standards issued under section 3022.

''(3) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

''(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the Benefit Choice Standards in a nonadopting State;

''(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the Benefit Choice Standards, and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

''(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such group health coverage) and filed with the State pursuant to subparagraph (B), a description

in the insurer's contract of the Benefit Choice Standards and that adherence to such Standards is included as a term of such contract.

''(4) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the group or individual health insurance markets, except that such term shall not include excepted benefits (as defined in section 2791(c)).

''(5) NONADOPTING STATE.—The term 'nonadopting State' means a State that is not an adopting State.

''(6) SMALL GROUP INSURANCE MARKET.—The term 'small group insurance market' shall have the meaning given the term 'small group market' in section 2791(e)(5).

''(7) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

"SEC. 3022. OFFERING AFFORDABLE PLANS.

''(a) BENEFIT CHOICE OPTIONS.—

''(1) DEVELOPMENT.—Not later than 6 months after the date of enactment of this title, the Secretary shall issue, by interim final rule, Benefit Choice Standards that implement the standards provided for in this part.

''(2) BASIC OPTIONS.—The Benefit Choice Standards shall provide that a health insurance issuer in a State, may offer a coverage plan or plan in the small group market, individual market, large group market, or through a small business health plan, that does not comply with one or more mandates regarding covered benefits, services, or category of provider as may be in effect in such State with respect to such market or markets (either prior to or following the date of enactment of this title), if such issuer also offers in such market or markets an enhanced option as provided for in paragraph (3).

''(3) ENHANCED OPTION.—A health insurance issuer issuing a basic option as provided for in paragraph (2) shall also offer to purchasers (including, with respect to a small business health plan, the participating employers of such plan) an enhanced option, which shall at a minimum include such covered benefits, services, and categories of providers as are covered by a State employee coverage plan in one of the 5 most populous States as are in effect in the calendar year in which such enhanced option is offered.

''(4) PUBLICATION OF BENEFITS.—Not later than 3 months after the date of enactment of this title, and on the first day of every calendar year thereafter, the Secretary shall publish in the Federal Register such covered benefits, services, and categories of providers covered in that calendar year by the State employee coverage plans in the 5 most populous States.

''(b) EFFECTIVE DATES.—

''(1) SMALL BUSINESS HEALTH PLANS.—With respect to health insurance provided to participating employers of small business health plans, the requirements of this part (concerning lower cost plans) shall apply beginning on the date that is 12 months after the date of enactment of this title.

''(2) NON-ASSOCIATION COVERAGE.—With respect to health insurance provided to groups or individuals other than participating employers of small business health plans, the requirements of this part shall apply beginning on the date that is 15 months after the date of enactment of this title.

"SEC. 3023. APPLICATION AND PREEMPTION.

''(a) SUPERCEDING OF STATE LAW.—

''(1) IN GENERAL.—This part shall supersede any and all State laws insofar as such laws relate to mandates relating to covered benefits, services, or categories of provider in the health insurance market as applied to an eligible insurer, or health insurance coverage issued by an eligible insurer, including with respect to coverage issued to a small business health plan, in a nonadopting State.

''(2) NONADOPTING STATES.—This part shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as such laws—

''(A) prohibit an eligible insurer from offering, marketing, or implementing health insurance coverage consistent with the Benefit Choice Standards, as provided for in section 3022(a); or

''(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing health insurance coverage consistent with the Benefit Choice Standards.

''(b) SAVINGS CLAUSE AND CONSTRUCTION.—

''(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting States.

''(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

''(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the Benefit Choice Standards.

''(4) NO EFFECT ON PREEMPTION.—In no case shall this part be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this part be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974

"SEC. 3024. CIVIL ACTIONS AND JURISDICTION.

''(a) IN GENERAL.—The courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this part.

''(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 3023.

''(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

''(d) EXPEDITED REVIEW.—

''(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

''(2) COURT OF APPEALS.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

''(e) STANDARD OF REVIEW.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

"SEC. 3025. RULES OF CONSTRUCTION.

''(a) IN GENERAL.—Notwithstanding any other provision of Federal or State law, a health insurance issuer in an adopting State or an eligible insurer in a non-adopting State may amend its existing policies to be consistent with the terms of this subtitle (concerning rating and benefits).

''(b) HEALTH SAVINGS ACCOUNTS.—Nothing in this subtitle shall be construed to inhibit the development of health savings accounts pursuant to section 223 of the Internal Revenue Code of 1986.''.

Subtitle C—Harmonization of Health Insurance Standards

SEC. 221. HEALTH INSURANCE STANDARDS HARMONIZATION.

Title XXIX of the Public Health Service Act (as added by section 201) is amended by adding at the end the following:

"Subtitle B—Standards Harmonization

"SEC. 3031. DEFINITIONS.

''In this subtitle:

''(1) ADOPTING STATE.—The term 'adopting State' means a State that has enacted the harmonized standards adopted under this subtitle in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

''(2) ELIGIBLE INSURER.—The term 'eligible insurer' means a health insurance issuer that is licensed in a nonadopting State and that—

''(A) notifies the Secretary, not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage consistent with the harmonized standards in a nonadopting State;

''(B) notifies the insurance department of a nonadopting State (or other State agency), not later than 30 days prior to the offering of coverage described in this subparagraph, that the issuer intends to offer health insurance coverage in that State consistent with the harmonized standards published pursuant to section 3032(d), and provides with such notice a copy of any insurance policy that it intends to offer in the State, its most recent annual and quarterly financial reports, and any other information required to be filed with the insurance department of the State (or other State agency) by the Secretary in regulations; and

''(C) includes in the terms of the health insurance coverage offered in nonadopting States (including in the terms of any individual certificates that may be offered to individuals in connection with such health coverage) and filed with the State pursuant to subparagraph (B), a description of the harmonized standards published pursuant to section 3032(g)(2) and an affirmation that such standards are a term of the contract.

''(3) HARMONIZED STANDARDS.—The term 'harmonized standards' means the standards certified by the Secretary under section 3032(d).

''(4) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' means any coverage issued in the health insurance market, except that such term shall not include excepted benefits (as defined in section 2791(c).

''(5) NONADOPTING STATE.—The term 'nonadopting State' means a State that fails to

enact, within 18 months of the date on which the Secretary certifies the harmonized standards under this subtitle, the harmonized standards in their entirety and as the exclusive laws of the State that relate to the harmonized standards.

''(6) STATE LAW.—The term 'State law' means all laws, decisions, rules, regulations, or other State actions (including actions by a State agency) having the effect of law, of any State.

''SEC. 3032. HARMONIZED STANDARDS.

''(a) BOARD.—

''(1) ESTABLISHMENT.—Not later than 3 months after the date of enactment of this title, the Secretary, in consultation with the NAIC, shall establish the Health Insurance Consensus Standards Board (referred to in this subtitle as the 'Board') to develop recommendations that harmonize inconsistent State health insurance laws in accordance with the procedures described in subsection (b).

''(2) COMPOSITION.—

''(A) IN GENERAL.—The Board shall be composed of the following voting members to be appointed by the Secretary after considering the recommendations of professional organizations representing the entities and constituencies described in this paragraph:

''(i) Four State insurance commissioners as recommended by the National Association of Insurance Commissioners, of which 2 shall be Democrats and 2 shall be Republicans, and of which one shall be designated as the chairperson and one shall be designated as the vice chairperson.

''(ii) Four representatives of State government, two of which shall be governors of States and two of which shall be State legislators, and two of which shall be Democrats and two of which shall be Republicans.

''(iii) Four representatives of health insurers, of which one shall represent insurers that offer coverage in the small group market, one shall represent insurers that offer coverage in the large group market, one shall represent insurers that offer coverage in the individual market, and one shall represent carriers operating in a regional market.

''(iv) Two representatives of insurance agents and brokers.

''(v) Two independent representatives of the American Academy of Actuaries who have familiarity with the actuarial methods applicable to health insurance.

''(B) EX OFFICIO MEMBER.—A representative of the Secretary shall serve as an ex officio member of the Board.

''(3) ADVISORY PANEL.—The Secretary shall establish an advisory panel to provide advice to the Board, and shall appoint its members after considering the recommendations of professional organizations representing the entities and constituencies identified in this paragraph:

''(A) Two representatives of small business health plans.

''(B) Two representatives of employers, of which one shall represent small employers and one shall represent large employers.

''(C) Two representatives of consumer organizations.

''(D) Two representatives of health care providers.

''(4) QUALIFICATIONS.—The membership of the Board shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, health plans, providers of health services, and other related fields, who provide a mix of different professionals, broad geographic representation, and a balance between urban and rural representatives.

''(5) ETHICAL DISCLOSURE.—The Secretary shall establish a system for public disclosure by members of the Board of financial and other potential conflicts of interest relating to such members. Members of the Board shall be treated as employees of Congress for purposes of applying title I of the Ethics in Government Act of 1978 (Public Law 95–521).

''(6) DIRECTOR AND STAFF.—Subject to such review as the Secretary deems necessary to assure the efficient administration of the Board, the chair and vice-chair of the Board may—

''(A) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

''(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

''(C) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Board (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

''(D) make advance, progress, and other payments which relate to the work of the Board;

''(E) provide transportation and subsistence for persons serving without compensation; and

''(F) prescribe such rules as it deems necessary with respect to the internal organization and operation of the Board.

''(7) TERMS.—The members of the Board shall serve for the duration of the Board. Vacancies in the Board shall be filled as needed in a manner consistent with the composition described in paragraph (2).

''(b) DEVELOPMENT OF HARMONIZED STANDARDS.—

''(1) IN GENERAL.—In accordance with the process described in subsection (c), the Board shall identify and recommend nationally harmonized standards for each of the following process categories:

''(A) FORM FILING AND RATE FILING.—Form and rate filing standards shall be established which promote speed to market and include the following defined areas for States that require such filings:

''(i) Procedures for form and rate filing pursuant to a streamlined administrative filing process.

''(ii) Timeframes for filings to be reviewed by a State if review is required before they are deemed approved.

''(iii) Timeframes for an eligible insurer to respond to State requests following its review.

''(iv) A process for an eligible insurer to self-certify.

''(v) State development of form and rate filing templates that include only non-preempted State law and Federal law requirements for eligible insurers with timely updates.

''(vi) Procedures for the resubmission of forms and rates.

''(vii) Disapproval rationale of a form or rate filing based on material omissions or violations of non-preempted State law or Federal law with violations cited and explained.

''(viii) For States that may require a hearing, a rationale for hearings based on violations of non-preempted State law or insurer requests.

''(B) MARKET CONDUCT REVIEW.—Market conduct review standards shall be developed which provide for the following:

''(i) Mandatory participation in national databases.

''(ii) The confidentiality of examination materials.

''(iii) The identification of the State agency with primary responsibility for examinations.

''(iv) Consultation and verification of complaint data with the eligible insurer prior to State actions.

''(v) Consistency of reporting requirements with the recordkeeping and administrative practices of the eligible insurer.

''(vi) Examinations that seek to correct material errors and harmful business practices rather than infrequent errors.

''(vii) Transparency and publishing of the State's examination standards.

''(viii) Coordination of market conduct analysis.

''(ix) Coordination and nonduplication between State examinations of the same eligible insurer.

''(x) Rationale and protocols to be met before a full examination is conducted.

''(xi) Requirements on examiners prior to beginning examinations such as budget planning and work plans.

''(xii) Consideration of methods to limit examiners' fees such as caps, competitive bidding, or other alternatives.

''(xiii) Reasonable fines and penalties for material errors and harmful business practices.

''(C) PROMPT PAYMENT OF CLAIMS.—The Board shall establish prompt payment standards for eligible insurers based on standards similar to those applicable to the Social Security Act as set forth in section 1842(c)(2) of such Act (42 U.S.C. 1395u(c)(2)). Such prompt payment standards shall be consistent with the timing and notice requirements of the claims procedure rules to be specified under subparagraph (D), and shall include appropriate exceptions such as for fraud, nonpayment of premiums, or late submission of claims.

''(D) INTERNAL REVIEW.—The Board shall establish standards for claims procedures for eligible insurers that are consistent with the requirements relating to initial claims for benefits and appeals of claims for benefits under the Employee Retirement Income Security Act of 1974 as set forth in section 503 of such Act (29 U.S.C. 1133) and the regulations thereunder.

''(2) RECOMMENDATIONS.—The Board shall recommend harmonized standards for each element of the categories described in subparagraph (A) through (D) of paragraph (1) within each such market. Notwithstanding the previous sentence, the Board shall not recommend any harmonized standards that disrupt, expand, or duplicate the benefit, service, or provider mandate standards provided in the Benefit Choice Standards pursuant to section 3022(a).

''(c) PROCESS FOR IDENTIFYING HARMONIZED STANDARDS.—

''(1) IN GENERAL.—The Board shall develop recommendations to harmonize inconsistent State insurance laws with respect to each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

''(2) REQUIREMENTS.—In adopting standards under this section, the Board shall consider the following:

''(A) Any model acts or regulations of the National Association of Insurance Commissioners in each of the process categories described in subparagraphs (A) through (D) of subsection (b)(1).

''(B) Substantially similar standards followed by a plurality of States, as reflected in existing State laws, relating to the specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

''(C) Any Federal law requirement related to specific process categories described in subparagraphs (A) through (D) of subsection (b)(1).

''(D) In the case of the adoption of any standard that differs substantially from those referred to in subparagraphs (A), (B), or (C), the Board shall provide evidence to the Secretary that such standard is necessary to protect health insurance consumers or promote speed to market or administrative efficiency.

''(E) The criteria specified in clauses (i) through (iii) of subsection (d)(2)(B).

''(d) RECOMMENDATIONS AND CERTIFICATION BY SECRETARY.—

''(1) RECOMMENDATIONS.—Not later than 18 months after the date on which all members of the Board are selected under subsection (a), the Board shall recommend to the Secretary the certification of the harmonized standards identified pursuant to subsection (c).

''(2) CERTIFICATION.—

''(A) IN GENERAL.—Not later than 120 days after receipt of the Board's recommendations under paragraph (1), the Secretary shall certify the recommended harmonized standards as provided for in subparagraph (B), and issue such standards in the form of an interim final regulation.

''(B) CERTIFICATION PROCESS.—The Secretary shall establish a process for certifying the recommended harmonized standard, by category, as recommended by the Board under this section. Such process shall—

''(i) ensure that the certified standards for a particular process area achieve regulatory harmonization with respect to health plans on a national basis;

''(ii) ensure that the approved standards are the minimum necessary, with regard to substance and quantity of requirements, to protect health insurance consumers and maintain a competitive regulatory environment; and

''(iii) ensure that the approved standards will not limit the range of group health plan designs and insurance products, such as catastrophic coverage only plans, health savings accounts, and health maintenance organizations, that might otherwise be available to consumers.

''(3) EFFECTIVE DATE.—The standards certified by the Secretary under paragraph (2) shall be effective on the date that is 18 months after the date on which the Secretary certifies the harmonized standards.

''(e) TERMINATION.—The Board shall terminate and be dissolved after making the recommendations to the Secretary pursuant to subsection (d)(1).

''(f) ONGOING REVIEW.—Not earlier than 3 years after the termination of the Board under subsection (e), and not earlier than every 3 years thereafter, the Secretary, in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the Advisory Panel, shall prepare and submit to the appropriate committees of Congress a report that assesses the effect of the harmonized standards on access, cost, and health insurance market functioning. The Secretary may, based on such report and applying the process established for certification under subsection (d)(2)(B), in consultation with the National Association of Insurance Commissioners and the entities and constituencies represented on the Board and the Advisory Panel, update the harmonized standards through notice and comment rulemaking.

''(g) PUBLICATION.—

''(1) LISTING.—The Secretary shall maintain an up to date listing of all harmonized standards certified under this section on the Internet website of the Department of Health and Human Services.

''(2) SAMPLE CONTRACT LANGUAGE.—The Secretary shall publish on the Internet website of the Department of Health and Human Services sample contract language that incorporates the harmonized standards certified under this section, which may be used by insurers seeking to qualify as an eligible insurer. The types of harmonized standards that shall be included in sample contract language are the standards that are relevant to the contractual bargain between the insurer and insured.

''(h) STATE ADOPTION AND ENFORCEMENT.—Not later than 18 months after the certification by the Secretary of harmonized standards under this section, the States may adopt such harmonized standards (and become an adopting State) and, in which case, shall enforce the harmonized standards pursuant to State law.

''SEC. 3033. APPLICATION AND PREEMPTION.

''(a) SUPERCEDING OF STATE LAW.—

''(1) IN GENERAL.—The harmonized standards certified under this subtitle shall supersede any and all State laws of a non-adopting State insofar as such State laws relate to the areas of harmonized standards as applied to an eligible insurer, or health insurance coverage issued by a eligible insurer, including with respect to coverage issued to a small business health plan, in a nonadopting State.

''(2) NONADOPTING STATES.—This subtitle shall supersede any and all State laws of a nonadopting State (whether enacted prior to or after the date of enactment of this title) insofar as they may—

''(A) prohibit an eligible insurer from offering, marketing, or implementing health insurance coverage consistent with the harmonized standards; or

''(B) have the effect of retaliating against or otherwise punishing in any respect an eligible insurer for offering, marketing, or implementing health insurance coverage consistent with the harmonized standards under this subtitle.

''(b) SAVINGS CLAUSE AND CONSTRUCTION.—

''(1) NONAPPLICATION TO ADOPTING STATES.—Subsection (a) shall not apply with respect to adopting States.

''(2) NONAPPLICATION TO CERTAIN INSURERS.—Subsection (a) shall not apply with respect to insurers that do not qualify as eligible insurers who offer health insurance coverage in a nonadopting State.

''(3) NONAPPLICATION WHERE OBTAINING RELIEF UNDER STATE LAW.—Subsection (a)(1) shall not supercede any State law of a nonadopting State to the extent necessary to permit individuals or the insurance department of the State (or other State agency) to obtain relief under State law to require an eligible insurer to comply with the harmonized standards under this subtitle.

''(4) NO EFFECT ON PREEMPTION.—In no case shall this subtitle be construed to limit or affect in any manner the preemptive scope of sections 502 and 514 of the Employee Retirement Income Security Act of 1974. In no case shall this subtitle be construed to create any cause of action under Federal or State law or enlarge or affect any remedy available under the Employee Retirement Income Security Act of 1974.

''(c) EFFECTIVE DATE.—This section shall apply beginning on the date that is 18 months after the date on harmonized standards are certified by the Secretary under this subtitle.

''SEC. 3034. CIVIL ACTIONS AND JURISDICTION.

''(a) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction over civil actions involving the interpretation of this subtitle.

''(b) ACTIONS.—An eligible insurer may bring an action in the district courts of the United States for injunctive or other equitable relief against any officials or agents of a nonadopting State in connection with any conduct or action, or proposed conduct or action, by such officials or agents which violates, or which would if undertaken violate, section 3033.

''(c) DIRECT FILING IN COURT OF APPEALS.—At the election of the eligible insurer, an action may be brought under subsection (b) directly in the United States Court of Appeals for the circuit in which the nonadopting State is located by the filing of a petition for review in such Court.

''(d) EXPEDITED REVIEW.—

''(1) DISTRICT COURT.—In the case of an action brought in a district court of the United States under subsection (b), such court shall complete such action, including the issuance of a judgment, prior to the end of the 120-day period beginning on the date on which such action is filed, unless all parties to such proceeding agree to an extension of such period.

''(2) COURT OF APPEALS.—In the case of an action brought directly in a United States Court of Appeal under subsection (c), or in the case of an appeal of an action brought in a district court under subsection (b), such Court shall complete all action on the petition, including the issuance of a judgment, prior to the end of the 60-day period beginning on the date on which such petition is filed with the Court, unless all parties to such proceeding agree to an extension of such period.

''(e) STANDARD OF REVIEW.—A court in an action filed under this section, shall render a judgment based on a review of the merits of all questions presented in such action and shall not defer to any conduct or action, or proposed conduct or action, of a nonadopting State.

''SEC. 3035. AUTHORIZATION OF APPROPRIATIONS; RULE OF CONSTRUCTION.

''(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

''(b) HEALTH SAVINGS ACCOUNTS.—Nothing in this subtitle shall be construed to inhibit the development of health savings accounts pursuant to section 223 of the Internal Revenue Code of 1986.''.

TITLE III—HEALTH SAVINGS ACCOUNTS

SEC. 301. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF HEALTH SAVINGS ACCOUNT.

(a) IN GENERAL.—Paragraph (2) of section 223(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(D) CERTAIN MEDICAL EXPENSES INCURRED BEFORE ESTABLISHMENT OF ACCOUNT TREATED AS QUALIFIED.—An expense shall not fail to be treated as a qualified medical expense solely because such expense was incurred before the establishment of the health savings account if such expense was incurred—

''(i) during either—

''(I) the taxable year in which the health savings account was established, or

''(II) the preceding taxable year in the case of a health savings account established after the taxable year in which such expense was incurred but before the time prescribed by law for filing the return for such taxable year (not including extensions thereof), and

''(ii) for medical care of an individual during a period that such individual was an eligible individual.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 302. USE OF ACCOUNT FOR INDIVIDUAL HIGH DEDUCTIBLE HEALTH PLAN PREMIUMS.

(a) IN GENERAL.—Section 223(d)(2)(C) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking ''or'' at the end of clause (iii), by striking the period at

the end of clause (iv) and inserting ''. or'', and by adding at the end the following new clause:

''(v) a high deductible health plan, other than a group health plan (as defined in section 5000(b)(1)).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 303. EXCEPTION TO REQUIREMENT FOR EMPLOYERS TO MAKE COMPARABLE HEALTH SAVINGS ACCOUNT CONTRIBUTIONS.

(a) GREATER EMPLOYER-PROVIDED CONTRIBUTIONS TO HSAS FOR CHRONICALLY ILL EMPLOYEES TREATED AS MEETING COMPARABILITY REQUIREMENTS.—Subsection (b) of section 4980G of the Internal Revenue Code of 1986 (relating to failure of employer to make comparable health savings account contributions) is amended to read as follows:

''(b) RULES AND REQUIREMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), rules and requirements similar to the rules and requirements of section 4980E shall apply for purposes of this section.

''(2) TREATMENT OF EMPLOYER-PROVIDED CONTRIBUTIONS TO HSAS FOR CHRONICALLY ILL EMPLOYEES.—For purposes of this section—

''(A) IN GENERAL.—Any contribution by an employer to a health savings account of an employee who is (or the spouse or any dependent of the employee who is) a chronically ill individual in an amount which is greater than a contribution to a health savings account of a comparable participating employee who is not a chronically ill individual shall not fail to be considered a comparable contribution.

''(B) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A) shall not apply unless the excess employer contributions described in subparagraph (A) are the same for all chronically ill individuals who are similarly situated.

''(C) CHRONICALLY ILL INDIVIDUAL.—For purposes of this paragraph, the term 'chronically ill individual' means any individual whose qualified medical expenses for any taxable year are more than 50 percent greater than the average qualified medical expenses of all employees of the employer for such year.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

SEC. 304. CERTAIN HEALTH REIMBURSEMENT ARRANGEMENT COVERAGE DISREGARDED COVERAGE FOR HEALTH SAVINGS ACCOUNTS.

(a) IN GENERAL.—Section 223(c)(1)(B)(iii) of the Internal Revenue Code of 1986 is amended by inserting ''or a health reimbursement arrangement'' after ''health flexible a spending arrangement''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

TITLE IV—STUDY

SEC. 401. STUDY ON TAX TREATMENT OF AND ACCESS TO PRIVATE HEALTH INSURANCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury shall study various options and make recommendations—

(A) for reforming the tax treatment of health insurance to improve tax equity and increase access to private health care coverage; and

(B) for providing meaningful assistance to low-income individuals and families to purchase private health insurance.

(2) CONSIDERATION OF VARIOUS OPTIONS.—In carrying out the study under paragraph (1), the Secretary of the Treasury shall consider—

(A) options which rely on changes to Federal law not included in the Internal Revenue Code of 1986;

(B) options which have a goal of minimizing Federal Government outlays;

(C) options which minimize tax increases;

(D) at least one option which retains the Federal tax exclusion for employer-provided health coverage;

(E) at least one option which is budget neutral; and

(F) at least one option which maintains the current distribution of the Federal income tax burden.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Treasury shall report the results of the study and the recommendations required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SA 2594. Mrs. McCASKILL submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VI, add the following:

SEC. 673. INDEPENDENT STUDENT.

Section 480(d)(3) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(d)(3)) is amended by inserting ''or is a current active member of the National Guard or Reserve forces of the United States who has completed initial military training'' after ''purposes''.

SA 2595. Mr. DeMINT submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

On page 217, after line 25, insert the following:

SEC. __. DISPOSITION OF UNUSED HEALTH BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following:

''(h) CONTRIBUTIONS OF CERTAIN UNUSED HEALTH BENEFITS.—

''(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan solely because qualified benefits under such plan include a health flexible spending arrangement under which not more than $500 of unused health benefits may be—

''(A) carried forward to the succeeding plan year of such health flexible spending arrangement, or

''(B) to the extent permitted by section 106(d), contributed by the employer to a health savings account (as defined in section 223(d)) maintained for the benefit of the employee.

''(2) HEALTH FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, the term 'health flexible spending arrangement' means a flexible spending arrangement (as defined in section 106(c)) that is a qualified benefit and only permits reimbursement for expenses for medical care (as defined in section 213(d)(1), without regard to subparagraphs (C) and (D) thereof).

''(3) UNUSED HEALTH BENEFITS.—For purposes of this subsection, with respect to an employee, the term 'unused health benefits' means the excess of—

''(A) the maximum amount of reimbursement allowable to the employee for a plan year under a health flexible spending arrangement, over

''(B) the actual amount of reimbursement for such year under such arrangement.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2007.

SA 2596. Mr. VITTER submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I, insert the following:

SEC. _____. REQUIREMENT THAT INDIVIDUALS WHO ARE ELIGIBLE FOR CHIP AND EMPLOYER-SPONSORED COVERAGE USE THE EMPLOYER-SPONSORED COVERAGE INSTEAD OF CHIP.

Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 401(a), is amended by adding at the end the following new paragraph:

''(12) REQUIREMENT REGARDING EMPLOYER-SPONSORED COVERAGE.—

''(A) IN GENERAL.—Subject to subparagraph (B), no payment may be made under this title with respect to an individual who is eligible for coverage under a group health plan or health insurance coverage offered through an employer, either as an individual or as part of family coverage.

''(B) STATE OPTION TO OFFER PREMIUM ASSISTANCE FOR HIGH-COST PLANS.—

''(i) IN GENERAL.—In the case of an individual who is otherwise eligible for coverage under this title but for the application of subparagraph (A) and who is eligible for high-cost heath insurance coverage, a State may elect to offer a premium assistance subsidy for such coverage.

''(ii) AMOUNT.—The amount of a premium assistance subsidy under this paragraph shall be determined by the State but in no case shall exceed the lesser of—

''(I) an amount equal to the value of the coverage under this title that would otherwise apply with respect to the individual but for the application of subparagraph (A); or

''(II) an amount equal to the difference between—

''(aa) the amount of the employee's share of the premium costs for the high-cost health insurance coverage (for the family or the individual, as the case may be); and

''(bb) an amount equal to 20 percent of the total premium costs for such coverage, including both the employer and employee share, (for the family or the individual, as the case may be).

''(C) HIGH-COST HEALTH INSURANCE COVERAGE.—For purposes of this paragraph, the term 'high cost health insurance coverage' means a group health plan or health insurance coverage offered through an employer in which the employee is required to pay more than 20 percent of the premium costs.

''(D) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies under this paragraph shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.''.

SA 2597. Mr. VOINOVICH (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—HEALTH PARTNERSHIP

SEC. __01. SHORT TITLE.

This title may be cited as the ''Health Partnership Act''.

SEC. __02. STATE HEALTH REFORM PROJECTS.

(a) PURPOSE; ESTABLISHMENT OF STATE HEALTH CARE EXPANSION AND IMPROVEMENT PROGRAM.—The purposes of the programs approved under this section shall include, but not be limited to—

(1) achieving the goals of increased health coverage and access;

(2) ensuring that patients receive high-quality, appropriate health care;

(3) improving the efficiency of health care spending; and

(4) testing alternative reforms, such as building on the public or private health systems, or creating new systems, to achieve the objectives of this Act.

(b) APPLICATIONS BY STATES, LOCAL GOVERNMENTS, AND TRIBES.—

(1) ENTITIES THAT MAY APPLY.—

(A) IN GENERAL.—A State, in consultation with local governments, Indian tribes, and Indian organizations involved in the provision of health care, may apply for a State health care expansion and improvement program for the entire State (or for regions of the State) under paragraph (2).

(B) REGIONAL GROUPS.—A regional entity consisting of more than one State may apply for a multi-State health care expansion and improvement program for the entire region involved under paragraph (2).

(C) DEFINITION.—In this Act, the term ''State'' means the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico. Such term shall include a regional entity described in subparagraph (B).

(2) SUBMISSION OF APPLICATION.—In accordance with this section, each State desiring to implement a State health care expansion and improvement program may submit an application to the State Health Innovation Commission under subsection (c) (referred to in this section as the ''Commission'') for approval.

(3) LOCAL GOVERNMENT APPLICATIONS.—

(A) IN GENERAL.—Where a State declines to submit an application under this section, a unit of local government of such State, or a consortium of such units of local governments, may submit an application directly to the Commission for programs or projects under this subsection. Such an application shall be subject to the requirements of this section.

(B) OTHER APPLICATIONS.—Subject to such additional guidelines as the Secretary may prescribe, a unit of local government, Indian tribe, or Indian health organization may submit an application under this section, whether or not the State submits such an application, if such unit of local government can demonstrate unique demographic needs or a significant population size that warrants a substate program under this subsection.

(c) STATE HEALTH INNOVATION COMMISSION.—

(1) IN GENERAL.—Within 90 days after the date of the enactment of this Act, the Secretary shall establish a State Health Innovation Commission that shall—

(A) be comprised of—

(i) the Secretary;

(ii) four State governors to be appointed by the National Governors Association on a bipartisan basis;

(iii) two members of a State legislature to be appointed by the National Conference of State Legislators on a bipartisan basis;

(iv) two county officials to be appointed by the National Association of Counties on a bipartisan basis;

(v) two mayors to be appointed by the United States Conference of Mayors and the National League of Cities on a joint and bipartisan basis;

(vi) two individuals to be appointed by the Speaker of the House of Representatives;

(vii) two individuals to be appointed by the minority leader of the House of Representatives;

(viii) two individuals to be appointed by the majority leader of the Senate;

(ix) two individuals to be appointed by the minority leader of the Senate; and

(x) two individuals who are members of federally-recognized Indian tribes to be appointed on a bipartisan basis by the National Congress of American Indians;

(B) upon approval of ⅔ of the members of the Commission, provide the States with a variety of reform options for their applications, such as tax credit approaches, expansions of public programs such as medicaid and the State Children's Health Insurance Program, the creation of purchasing pooling arrangements similar to the Federal Employees Health Benefits Program, individual market purchasing options, single risk pool or single payer systems, health savings accounts, a combination of the options described in this clause, or other alternatives determined appropriate by the Commission, including options suggested by States, Indian tribes, or the public;

(C) establish, in collaboration with a qualified and independent organization such as the Institute of Medicine, minimum performance measures and goals with respect to coverage, quality, and cost of State programs, as described under subsection (d)(1);

(D) conduct a thorough review of the grant application from a State and carry on a dialogue with all State applicants concerning possible modifications and adjustments;

(E) submit the recommendations and legislative proposal described in subsection (d)(4)(B);

(F) be responsible for monitoring the status and progress achieved under program or projects granted under this section;

(G) report to the public concerning progress made by States with respect to the performance measures and goals established under this Act, the periodic progress of the State relative to its State performance measures and goals, and the State program application procedures, by region and State jurisdiction;

(H) promote information exchange between States and the Federal Government; and

(I) be responsible for making recommendations to the Secretary and the Congress, using equivalency or minimum standards, for minimizing the negative effect of State program on national employer groups, provider organizations, and insurers because of differing State requirements under the programs.

(2) PERIOD OF APPOINTMENT; REPRESENTATION REQUIREMENTS; VACANCIES.—Members shall be appointed for a term of 5 years. In appointing such members under paragraph (1)(A), the designated appointing individuals shall ensure the representation of urban and rural areas and an appropriate geographic distribution of such members. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(3) CHAIRPERSON, MEETINGS.—

(A) CHAIRPERSON.—The Commission shall select a Chairperson from among its members.

(B) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(C) MEETINGS.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting. The Commission shall meet at the call of the Chairperson.

(4) POWERS OF THE COMMISSION.—

(A) NEGOTIATIONS WITH STATES.—The Commission may conduct detailed discussions and negotiations with States submitting applications under this section, either individually or in groups, to facilitate a final set of recommendations for purposes of subsection (d)(4)(B). Such negotiations shall include consultations with Indian tribes, and be conducted in a public forum.

(B) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subsection.

(C) MEETINGS.—In addition to other meetings the Commission may hold, the Commission shall hold an annual meeting with the participating States under this section for the purpose of having States report progress toward the purposes in subsection (a)(1) and for an exchange of information.

(D) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subsection. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission if the head of the department or agency involved determines it appropriate.

(E) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(5) PERSONNEL MATTERS.—

(A) COMPENSATION.—Each member of the Commission who is not an officer or employee of the Federal Government or of a State or local government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(B) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(C) STAFF.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and

terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(D) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(E) TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(6) FUNDING.—For the purpose of carrying out this subsection, there are authorized to be appropriated $3,000,000 for fiscal year 2007 and each fiscal year thereafter.

(d) REQUIREMENTS FOR PROGRAMS.—

(1) STATE PLAN.—A State that seeks to receive a grant under subsection (f) to operate a program under this section shall prepare and submit to the Commission, as part of the application under subsection (b), a State health care plan that shall have as its goal improvements in coverage, quality and costs. To achieve such goal, the State plan shall comply with the following:

(A) COVERAGE.—With respect to coverage, the State plan shall—

(i) provide and describe the manner in which the State will ensure that an increased number of individuals residing within the State will have expanded access to health care coverage with a specific 5-year target for reduction in the number of uninsured individuals through either private or public program expansion, or both, in accordance with the options established by the Commission;

(ii) describe the number and percentage of current uninsured individuals who will achieve coverage under the State health program;

(iii) describe the minimum benefits package that will be provided to all classes of beneficiaries under the State health program;

(iv) identify Federal, State, or local and private programs that currently provide health care services in the State and describe how such programs could be coordinated with the State health program, to the extent practicable; and

(v) provide for improvements in the availability of appropriate health care services that will increase access to care in urban, rural, and frontier areas of the State with medically underserved populations or where there is an inadequate supply of health care providers.

(B) QUALITY.—With respect to quality, the State plan shall—

(i) provide a plan to improve health care quality in the State, including increasing effectiveness, efficiency, timeliness, patient focused, equity while reducing health disparities, and medical errors; and

(ii) contain appropriate results-based quality indicators established by the Commission that will be addressed by the State as well as State-specific quality indicators.

(C) COSTS.—With respect to costs, the State plan shall—

(i) provide that the State will develop and implement systems to improve the efficiency of health care, including a specific 5-year target for reducing administrative costs (including paperwork burdens);

(ii) describe the public and private sector financing to be provided for the State health program;

(iii) estimate the amount of Federal, State, and local expenditures, as well as, the costs to business and individuals under the State health program;

(iv) describe how the State plan will ensure the financial solvency of the State health program; and

(v) provide that the State will prepare and submit to the Secretary and the Commission such reports as the Secretary or Commission may require to carry out program evaluations.

(D) HEALTH INFORMATION TECHNOLOGY.—With respect to health information technology, the State plan shall provide methodology for the appropriate use of health information technology to improve infrastructure, such as improving the availability of evidence-based medical and outcomes data to providers and patients, as well as other health information (such as electronic health records, electronic billing, and electronic prescribing).

(2) TECHNICAL ASSISTANCE.—The Secretary shall, if requested, provide technical assistance to States to assist such States in developing applications and plans under this section, including technical assistance by private sector entities if determined appropriate by the Commission.

(3) INITIAL REVIEW.—With respect to a State application for a grant under subsection (b), the Secretary and the Commission shall complete an initial review of such State application within 60 days of the receipt of such application, analyze the scope of the proposal, and determine whether additional information is needed from the State. The Commission shall advise the State within such period of the need to submit additional information.

(4) FINAL DETERMINATION.—

(A) IN GENERAL.—Not later than 90 days after completion of the initial review under paragraph (3), the Commission shall determine whether to submit a State proposal to Congress for approval.

(B) VOTING.—

(i) IN GENERAL.—The determination to submit a State proposal to Congress under subparagraph (A) shall be approved by ⅔ of the members of the Commission who are eligible to participate in such determination subject to clause (ii).

(ii) ELIGIBILITY.—A member of the Commission shall not participate in a determination under subparagraph (A) if—

(I) in the case of a member who is a Governor, such determination relates to the State of which the member is the Governor; or

(II) in the case of member not described in subclause (I), such determination relates to the geographic area of a State of which such member serves as a State or local official.

(C) SUBMISSION.—Not later than 90 days prior to October 1 of each fiscal year, the Commission shall submit to Congress a list, in the form of a legislative proposal, of the State applications that the Commission recommends for approval under this section.

(D) APPROVAL.—With respect to a fiscal year, a State proposal that has been recommended under subparagraph (B) shall be deemed to be approved, and subject to the availability of appropriations, Federal funds shall be provided to such program, unless a joint resolution has been enacted disapproving such proposal as provided for in subsection (e). Nothing in the preceding sentence shall be construed to include the approval of State proposals that involve waivers or modifications in applicable Federal law.

(5) PROGRAM OR PROJECT PERIOD.—A State program or project may be approved for a period of 5 years and may be extended for subsequent 5-year periods upon approval by the Commission and the Secretary, based upon achievement of targets, except that a shorter period may be requested by a State and granted by the Secretary.

(e) EXPEDITED CONGRESSIONAL CONSIDERATION.—

(1) INTRODUCTION AND COMMITTEE CONSIDERATION.—

(A) INTRODUCTION.—The legislative proposal submitted pursuant to subsection (d)(4)(B) shall be in the form of a joint resolution (in this subsection referred to as the ''resolution''). Such resolution shall be introduced in the House of Representatives by the Speaker, and in the Senate, by the majority leader, immediately upon receipt of the language and shall be referred to the appropriate committee of Congress. If the resolution is not introduced in accordance with the preceding sentence, the resolution may be introduced in either House of Congress by any member thereof.

(B) COMMITTEE CONSIDERATION.—A resolution introduced in the House of Representatives shall be referred to the Committee on Ways and Means of the House of Representatives. A resolution introduced in the Senate shall be referred to the Committee on Finance of the Senate. Not later than 15 calendar days after the introduction of the resolution, the committee of Congress to which the resolution was referred shall report the resolution or a committee amendment thereto. If the committee has not reported such resolution (or an identical resolution) at the end of 15 calendar days after its introduction or at the end of the first day after there has been reported to the House involved a resolution, whichever is earlier, such committee shall be deemed to be discharged from further consideration of such reform bill and such reform bill shall be placed on the appropriate calendar of the House involved.

(2) EXPEDITED PROCEDURE.—

(A) CONSIDERATION.—Not later than 5 days after the date on which a committee has been discharged from consideration of a resolution, the Speaker of the House of Representatives, or the Speaker's designee, or the majority leader of the Senate, or the leader's designee, shall move to proceed to the consideration of the committee amendment to the resolution, and if there is no such amendment, to the resolution. It shall also be in order for any member of the House of Representatives or the Senate, respectively, to move to proceed to the consideration of the resolution at any time after the conclusion of such 5-day period. All points of order against the resolution (and against consideration of the resolution) are waived. A motion to proceed to the consideration of the resolution is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, to a motion to postpone consideration of the resolution, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion to proceed is agreed to or not agreed to shall not be in order. If the motion to proceed is agreed to, the House of Representatives or the Senate, as the case may be, shall immediately proceed to consideration of the resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the House of Representatives or the Senate, as the case may be, until disposed of.

(B) CONSIDERATION BY OTHER HOUSE.—If, before the passage by one House of the resolution that was introduced in such House, such

House receives from the other House a resolution as passed by such other House—

(i) the resolution of the other House shall not be referred to a committee and may only be considered for final passage in the House that receives it under clause (iii);

(ii) the procedure in the House in receipt of the resolution of the other House, with respect to the resolution that was introduced in the House in receipt of the resolution of the other House, shall be the same as if no resolution had been received from the other House; and

(iii) notwithstanding clause (ii), the vote on final passage shall be on the reform bill of the other House.

Upon disposition of a resolution that is received by one House from the other House, it shall no longer be in order to consider the resolution bill that was introduced in the receiving House.

(C) CONSIDERATION IN CONFERENCE.—Immediately upon a final passage of the resolution that results in a disagreement between the two Houses of Congress with respect to the resolution, conferees shall be appointed and a conference convened. Not later than 10 days after the date on which conferees are appointed, the conferees shall file a report with the House of Representatives and the Senate resolving the differences between the Houses on the resolution. Notwithstanding any other rule of the House of Representatives or the Senate, it shall be in order to immediately consider a report of a committee of conference on the resolution filed in accordance with this subclause. Debate in the House of Representatives and the Senate on the conference report shall be limited to 10 hours, equally divided and controlled by the Speaker of the House of Representatives and the minority leader of the House of Representatives or their designees and the majority and minority leaders of the Senate or their designees. A vote on final passage of the conference report shall occur immediately at the conclusion or yielding back of all time for debate on the conference report.

(3) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(4) LIMITATION.—The amount of Federal funds provided with respect to any State proposal that is deemed approved under subsection (d)(3) shall not exceed the cost provided for such proposals within the concurrent resolution on the budget as enacted by Congress for the fiscal year involved.

(f) FUNDING.—

(1) IN GENERAL.—The Secretary shall provide a grant to a State that has an application approved under subsection (b) to enable such State to carry out an innovative State health program in the State.

(2) AMOUNT OF GRANT.—The amount of a grant provided to a State under paragraph (1) shall be determined based upon the recommendations of the Commission, subject to the amount appropriated under subsection (k).

(3) PERFORMANCE-BASED FUNDING ALLOCATION AND PRIORITIZATION.—In awarding grants under paragraph (1), the Secretary shall—

(A) fund a diversity of approaches as provided for by the Commission in subsection (c)(1)(B);

(B) give priority to those State programs that the Commission determines have the greatest opportunity to succeed in providing expanded health insurance coverage and in providing children, youth, and other vulnerable populations with improved access to health care items and services; and

(C) link allocations to the State to the meeting of the goals and performance measures relating to health care coverage, quality, and health care costs established under this Act through the State project application process.

(4) MAINTENANCE OF EFFORT.—A State, in utilizing the proceeds of a grant received under paragraph (1), shall maintain the expenditures of the State for health care coverage purposes for the support of direct health care delivery at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the grant is received.

(5) REPORT.—At the end of the 5-year period beginning on the date on which the Secretary awards the first grant under paragraph (1), the State Health Innovation Advisory Commission established under subsection (c) shall prepare and submit to the appropriate committees of Congress, a report on the progress made by States receiving grants under paragraph (1) in meeting the goals of expanded coverage, improved quality, and cost containment through performance measures established during the 5-year period of the grant. Such report shall contain the recommendation of the Commission concerning any future action that Congress should take concerning health care reform, including whether or not to extend the program established under this subsection.

(g) MONITORING AND EVALUATION.—

(1) ANNUAL REPORTS AND PARTICIPATION BY STATES.—Each State that has received a program approval shall—

(A) submit to the Commission an annual report based on the period representing the respective State's fiscal year, detailing compliance with the requirements established by the Commission and the Secretary in the approval and in this section; and

(B) participate in the annual meeting under subsection (c)(4)(B).

(2) EVALUATIONS BY COMMISSION.—The Commission, in consultation with a qualified and independent organization such as the Institute of Medicine, shall prepare and submit to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce, the Committee on Education and Labor, and the Committee on Ways and Means of the House of Representatives annual reports that shall contain—

(A) a description of the effects of the reforms undertaken in States receiving approvals under this section;

(B) a description of the recommendations of the Commission and actions taken based on these recommendations;

(C) an evaluation of the effectiveness of such reforms in—

(i) expanding health care coverage for State residents;

(ii) improving the quality of health care provided in the States; and

(iii) reducing or containing health care costs in the States;

(D) recommendations regarding the advisability of increasing Federal financial assistance for State ongoing or future health program initiatives, including the amount and source of such assistance; and

(E) as required by the Commission or the Secretary under subsection (f)(5), a periodic, independent evaluation of the program.

(h) NONCOMPLIANCE.—

(1) CORRECTIVE ACTION PLANS.—If a State is not in compliance with a requirement of this section, the Secretary shall develop a corrective action plan for such State.

(2) TERMINATION.—For good cause and in consultation with the Commission, the Secretary may revoke any program granted under this section. Such decisions shall be subject to a petition for reconsideration and appeal pursuant to regulations established by the Secretary.

(i) RELATIONSHIP TO FEDERAL PROGRAMS.—

(1) IN GENERAL.—Nothing in this Act, or in section 1115 of the Social Security Act (42 U.S.C. 1315) shall be construed as authorizing the Secretary, the Commission, a State, or any other person or entity to alter or affect in any way the provisions of title XIX of such Act (42 U.S.C. 1396 et seq.) or the regulations implementing such title.

(2) MAINTENANCE OF EFFORT.—No payment may be made under this section if the State adopts criteria for benefits, income, and resource standards and methodologies for purposes of determining an individual's eligibility for medical assistance under the State plan under title XIX that are more restrictive than those applied as of the date of enactment of this Act.

(j) MISCELLANEOUS PROVISIONS.—

(1) APPLICATION OF CERTAIN REQUIREMENTS.—

(A) RESTRICTION ON APPLICATION OF PREEXISTING CONDITION EXCLUSIONS.—

(i) IN GENERAL.—Subject to subparagraph (B), a State shall not permit the imposition of any preexisting condition exclusion for covered benefits under a program or project under this section.

(ii) GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.—If the State program or project provides for benefits through payment for, or a contract with, a group health plan or group health insurance coverage, the program or project may permit the imposition of a preexisting condition exclusion but only insofar and to the extent that such exclusion is permitted under the applicable provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 and title XXVII of the Public Health Service Act.

(B) COMPLIANCE WITH OTHER REQUIREMENTS.—Coverage offered under the program or project shall comply with the requirements of subpart 2 of part A of title XXVII of the Public Health Service Act insofar as such requirements apply with respect to a health insurance issuer that offers group health insurance coverage.

(2) PREVENTION OF DUPLICATIVE PAYMENTS.—

(A) OTHER HEALTH PLANS.—No payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided health assistance under the plan.

(B) OTHER FEDERAL GOVERNMENTAL PROGRAMS.—Except as provided in any other provision of law, no payment shall be made to a State under this section for expenditures for health assistance provided for an individual to the extent that payment has been made or

can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program, other than an insurance program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1903(d)(2) of the Social Security Act shall apply.

(3) APPLICATION OF CERTAIN GENERAL PROVISIONS.—The following sections of the Social Security Act shall apply to States under this section in the same manner as they apply to a State under such title XIX:

(A) TITLE XI PROVISIONS.—

(i) Section 1902(a)(4)(C) (relating to conflict of interest standards).

(ii) Paragraphs (2), (16), and (17) of section 1903(i) (relating to limitations on payment).

(iii) Section 1903(w) (relating to limitations on provider taxes and donations).

(iv) Section 1920A (relating to presumptive eligibility for children).

(B) TITLE xi PROVISIONS.—

(i) Section 1116 (relating to administrative and judicial review), but only insofar as consistent with this title.

(ii) Section 1124 (relating to disclosure of ownership and related information).

(iii) Section 1126 (relating to disclosure of information about certain convicted individuals).

(iv) Section 1128A (relating to civil monetary penalties).

(v) Section 1128B(d) (relating to criminal penalties for certain additional charges).

(vi) Section 1132 (relating to periods within which claims must be filed).

(4) RELATION TO OTHER LAWS.—

(A) HIPAA.—Health benefits coverage provided under a State program or project under this section shall be treated as creditable coverage for purposes of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, title XXVII of the Public Health Service Act, and subtitle K of the Internal Revenue Code of 1986.

(B) ERISA.—Nothing in this section shall be construed as affecting or modifying section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) with respect to a group health plan (as defined in section 2791(a)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(1))).

(k) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary in each fiscal year. Amounts appropriated for a fiscal year under this subsection and not expended may be used in subsequent fiscal years to carry out this section.

SA 2598. Mr. CRAIG submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

On page 217, after line 25, insert the following:

SEC. 61__. REPEAL OF IMPOSITION OF WITHHOLDING ON CERTAIN PAYMENTS MADE TO VENDORS BY GOVERNMENT ENTITIES.

The amendment made by section 511 of the Tax Increase Prevention and Reconciliation Act of 2005 is repealed and the Internal Revenue Code of 1986 shall be applied as if such amendment had never been enacted.

SA 2599. Mr. MCCONNELL (for himself, Mr. SPECTER, and Mr. THUNE) proposed an amendment to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; as follows:

At the end of the substitute, insert the following:

SEC. _____. SENSE OF THE SENATE REGARDING THE NOMINATION OF JUDGE LESLIE SOUTHWICK.

(a) FINDINGS.—The Senate makes the following findings:

(1) Judge Leslie Southwick served on the Mississippi Court of Appeals from January 1995 to December 2006, during which time he was honored by his peers for his outstanding service on the bench.

(2) The Mississippi State Bar honored Judge Southwick in 2004 with its judicial excellence award, which is awarded annually to a judge who is ''an example of judicial excellence; a leader in advancing the quality and integrity of justice; and a person of high ideals, character and integrity''.

(3) The American Bar Association has twice rated Judge Southwick well-qualified for Federal judicial service, its highest rating. As part of its evaluation, the American Bar Association considers a nominee's ''compassion,'' ''open-mindedness,'' ''freedom from bias and commitment to equal justice under law''.

(4) In 2006, the President nominated Judge Southwick to the United States District Court for the Southern District of Mississippi.

(5) Last fall, the Senate Judiciary Committee unanimously reported Judge Southwick's nomination to the full Senate for its favorable consideration.

(6) In 2007, the President nominated Judge Southwick to the United States Court of Appeals for the Fifth Circuit.

(7) The Administrative Office of the Courts has declared the Fifth Circuit vacancy to which Judge Southwick has been nominated a ''judicial emergency'' with one of the highest case filing rates in the country.

(8) Judge Southwick is the third consecutive Mississippian whom the President has nominated to address this judicial emergency.

(9) Both Senators from Mississippi strongly support Judge Southwick's nomination to the Fifth Circuit, and they strongly supported his 2 predecessor nominees to that vacancy.

(10) The only material change in Judge Southwick's qualifications between last fall when the Senate Judiciary Committee unanimously reported his district court nomination to the floor, and this year when the Committee is considering his nomination to the Fifth Circuit is that the American Bar Association has increased its rating of him from well-qualified to unanimously well-qualified.

(11) While on the State appellate bench, Judge Southwick has continued to serve his country admirably in her armed forces.

(12) In 1992, Judge Southwick sought an age waiver to join the Army Reserves, and in 2003, he volunteered to serve in a line combat unit, the 155th Separate Armor Brigade. In 2004, he took a leave of absence from the bench to serve in Iraq with the 155th Brigade Combat Team of the Mississippi National Guard. There he distinguished himself at Forward Operating Base Duke near Najaf and at Forward Operating Base Kalsu.

(b) SENSE OF SENATE.—It is the sense of the Senate that the nomination of Judge Leslie Southwick to the United States Court of Appeals for the Fifth Circuit should receive an up or down vote by the full Senate.

SA 2600. Mr. SANDERS submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

On page 83, strike line 2 and insert the following:

level.

''(C) USE OF FUNDS.—Payments under this paragraph may only be used to provide health care coverage or to expand health care access or infrastructure, including, but not limited to, the provision of school-based health services, dental care, mental health services, Federally-qualified health center services, and educational debt forgiveness for health care practitioners in fields experiencing local shortages.''.

SA 2601. Mr. LEVIN (for himself, Ms. STABENOW, and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 42, strike line 14 and all that follows through page 49, line 4 and insert the following:

''(a) TERMINATION OF COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(1) NO NEW CHIP WAIVERS; AUTOMATIC EXTENSIONS AT STATE OPTION THROUGH FISCAL YEAR 2010.—Notwithstanding section 1115 or any other provision of this title, except as provided in this subsection—

''(A) the Secretary shall not on or after the date of the enactment of the Children's Health Insurance Program Reauthorization Act of 2007, approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this title to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult; and

''(B) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraphs (2) and (3) shall apply for purposes of any fiscal year beginning on or after October 1, 2010, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this title.

''(2) TERMINATION OF CHIP COVERAGE UNDER APPLICABLE EXISTING WAIVERS AT THE END OF FISCAL YEAR 2010.—

''(A) IN GENERAL.—No funds shall be available under this title for child health assistance or other health benefits coverage that is provided to a nonpregnant childless adult under an applicable existing waiver after September 30, 2010.

''(B) EXTENSION UPON STATE REQUEST.—If an applicable existing waiver described in subparagraph (A) would otherwise expire before October 1, 2010, and the State requests an extension of such waiver, the Secretary shall grant such an extension, but only through September 30, 2010.

''(C) APPLICATION OF ENHANCED FMAP.—The enhanced FMAP determined under section

2105(b) shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a nonpregnant childless adult during each of fiscal years 2008 through 2010.

''(3) OPTIONAL 1-YEAR TRANSITIONAL COVERAGE BLOCK GRANT FUNDED FROM STATE ALLOTMENT.—Subject to paragraph (4)(B), each State for which coverage under an applicable existing waiver is terminated under paragraph (2)(A) may elect to provide nonpregnant childless adults who were provided child health assistance or health benefits coverage under the applicable existing waiver at any time during fiscal year 2010 with such assistance or coverage during fiscal year 2011, as if the authority to provide such assistance or coverage under an applicable existing waiver was extended through that fiscal year, but subject to the following terms and conditions:

''(A) BLOCK GRANT SET ASIDE FROM STATE ALLOTMENT.—The Secretary shall set aside for the State an amount equal to the Federal share of the State's projected expenditures under the applicable existing waiver for providing child health assistance or health benefits coverage to all nonpregnant childless adults under such waiver for fiscal year 2010 (as certified by the State and submitted to the Secretary by not later than August 31, 2010, and without regard to whether any such individual lost coverage during fiscal year 2010 and was later provided child health assistance or other health benefits coverage under the waiver in that fiscal year), increased by the annual adjustment for fiscal year 2011 determined under section 2104(i)(2)(B)(i). The Secretary may adjust the amount set aside under the preceding sentence, as necessary, on the basis of the expenditure data for fiscal year 2010 reported by States on CMS Form 64 or CMS Form 21 not later than November 30, 2010, but in no case shall the Secretary adjust such amount after December 31, 2010.

''(B) NO COVERAGE FOR NONPREGNANT CHILDLESS ADULTS WHO WERE NOT COVERED DURING FISCAL YEAR 2010.—

''(i) FMAP APPLIED TO EXPENDITURES.—The Secretary shall pay the State for each quarter of fiscal year 2011, from the amount set aside under subparagraph (A), an amount equal to the Federal medical assistance percentage (as determined under section 1905(b) without regard to clause (4) of such section) of expenditures in the quarter for providing child health assistance or other health benefits coverage to a nonpregnant childless adult but only if such adult was enrolled in the State program under this title during fiscal year 2010 (without regard to whether the individual lost coverage during fiscal year 2010 and was reenrolled in that fiscal year or in fiscal year 2011).

''(ii) FEDERAL PAYMENTS LIMITED TO AMOUNT OF BLOCK GRANT SET-ASIDE.—No payments shall be made to a State for expenditures described in this subparagraph after the total amount set aside under subparagraph (A) for fiscal year 2011 has been paid to the State.

''(4) STATE OPTION TO APPLY FOR MEDICAID WAIVER TO CONTINUE COVERAGE FOR NONPREGNANT CHILDLESS ADULTS.—

''(A) IN GENERAL.—Each State for which coverage under an applicable existing waiver is terminated under paragraph (2)(A) may submit, not later than June 30, 2011, an application to the Secretary for a waiver under section 1115 of the State plan under title XIX to provide medical assistance to a nonpregnant childless adult whose coverage is so terminated (in this subsection referred to as a ''Medicaid nonpregnant childless adults waiver'').

''(B) DEADLINE FOR APPROVAL.—The Secretary shall make a decision to approve or deny an application for a Medicaid nonpregnant childless adults waiver submitted under subparagraph (A) within 90 days of the date of the submission of the application. If no decision has been made by the Secretary as of September 30, 2011, on the application of a State for a Medicaid nonpregnant childless adults waiver that was submitted to the Secretary by June 30, 2011, the application shall be deemed approved.

''(C) STANDARD FOR BUDGET NEUTRALITY.—The budget neutrality requirement applicable with respect to expenditures for medical assistance under a Medicaid nonpregnant childless adults waiver shall—

''(i) in the case of fiscal year 2012, allow expenditures for medical assistance under title XIX for all such adults to not exceed the total amount of payments made to the State under paragraph (3)(B) for fiscal year 2011, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for calendar year 2012 over calendar year 2011, as most recently published by the Secretary; and

''(ii) in the case of any succeeding fiscal year, allow such expenditures to not exceed the amount in effect under this subparagraph for the preceding fiscal year, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for the calendar year that begins during the fiscal year involved over the preceding calendar year, as most recently published by the Secretary.

''(5) SPECIAL RULES.—Notwithstanding the amendments made by the Children's Health Insurance Program Reauthorization Act of 2007:

''(A) Section 2104(e)(4)(C)(i) shall be applied by substituting '2011' for '2009'.

''(B) Section 2104(j)(1)(B)(ii)(V) shall be applied by substituting '2011' for '2009' each place it appears.

SA 2602. Mr. KERRY (for himself, Mr. BINGAMAN, Mr. SANDERS, Mr. CASEY, Mr. MENENDEZ, Mr. DURBIN, Mr. REED, Mr. BROWN, Mr. WHITEHOUSE, and Mr. BIDEN) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; as follows:

At the end, add the following:

TITLE IX—IMPROVED INCENTIVES TO ENROLL UNINSURED CHILDREN AND PROTECT EXISTING COVERAGE OPTIONS

SEC. 901. IMPROVEMENTS TO THE INCENTIVE BONUSES FOR STATES.

Paragraphs (2) and (3) of section 2104(j), as added by section 105(a), are amended to read as follows:

''(2) PAYMENTS TO STATES INCREASING ENROLLMENT.—

''(A) IN GENERAL.—Subject to paragraph (3)(D), with respect to each of fiscal years 2008 through 2012, the Secretary shall make payments to States from the Incentive Pool determined under subparagraph (B).

''(B) AMOUNT.—The amount described in this subparagraph for a State for a fiscal year is equal to the sum of the following amounts:

''(i) FIRST TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of first tier above baseline child enrollees (as determined under paragraph (3)(A)(i)) under title XIX for the State and fiscal year multiplied by 6 percent of the projected per capita State Medicaid expenditures (as determined under paragraph (3)(B)) for the State and fiscal year under title XIX.

''(ii) SECOND TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of second tier above baseline child enrollees (as determined under paragraph (3)(A)(ii)) under title XIX for the State and fiscal year multiplied by 35 percent of the projected per capita State Medicaid expenditures (as determined under paragraph (3)(B)) for the State and fiscal year under title XIX.

''(iii) THIRD TIER ABOVE BASELINE MEDICAID ENROLLEES.—An amount equal to the number of third tier above baseline child enrollees (as determined under paragraph (3)(A)(iii)) under title XIX for the State and fiscal year multiplied by 90 percent of the projected per capita State Medicaid expenditures (as determined under paragraph (3)(B)) for the State and fiscal year under title XIX.

''(3) DEFINITIONS AND RULES.—For purposes of this paragraph and paragraph (2):

''(A) TIERS ABOVE BASELINE.—

''(i) FIRST TIER ABOVE BASELINE CHILD ENROLLEES.—The number of first tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (C)) enrolled during the fiscal year under the State plan under title XIX; exceeds

''(II) the baseline number of enrollees described in clause (iv) for the State and fiscal year under title XIX, respectively;

but not to exceed 2 percent of the baseline number of enrollees described in subclause (II).

''(ii) SECOND TIER ABOVE BASELINE CHILD ENROLLEES.—The number of second tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (C)) enrolled during the fiscal year under title XIX, as described in clause (i)(I); exceeds

''(II) the sum of the baseline number of child enrollees described in clause (iv) for the State and fiscal year under title XIX, as described in clause (i)(II), and the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i),

but not to exceed 7 percent of the baseline number of enrollees described in clause (i)(II), reduced by the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i).

''(iii) THIRD TIER ABOVE BASELINE CHILD ENROLLEES.—The number of second tier above baseline child enrollees for a State for a fiscal year under title XIX is equal to the number (if any, as determined by the Secretary) by which—

''(I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (C)) enrolled during the fiscal year under title XIX, as described in clause (i)(I); exceeds

''(II) the sum of the baseline number of child enrollees described in clause (iv) for the State and fiscal year under title XIX, as described in clause (i)(II), the maximum number of first tier above baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (i), and the maximum number of second tier above

baseline child enrollees for the State and fiscal year under title XIX, as determined under clause (ii).

''(iv) BASELINE NUMBER OF CHILD ENROLLEES.—The baseline number of child enrollees for a State under title XIX—

''(I) for fiscal year 2008 is equal to the monthly average unduplicated number of qualifying children enrolled in the State plan under title XIX, respectively, during fiscal year 2007 increased by the population growth for children in that State for the year ending on June 30, 2006 (as estimated by the Bureau of the Census) plus 1 percentage point; or

''(II) for a subsequent fiscal year is equal to the baseline number of child enrollees for the State for the previous fiscal year under this title or title XIX, respectively, increased by the population growth for children in that State for the year ending on June 30 before the beginning of the fiscal year (as estimated by the Bureau of the Census) plus 1 percentage point.

''(B) PROJECTED PER CAPITA STATE MEDICAID EXPENDITURES.—For purposes of subparagraph (A), the projected per capita State Medicaid expenditures for a State and fiscal year under title XIX is equal to the average per capita expenditures (including both State and Federal financial participation) for children under the State plan under such title, including under waivers but not including such children eligible for assistance by virtue of the receipt of benefits under title XVI, for the most recent fiscal year for which actual data are available (as determined by the Secretary), increased (for each subsequent fiscal year up to and including the fiscal year involved) by the annual percentage increase in per capita amount of National Health Expenditures (as estimated by the Secretary) for the calendar year in which the respective subsequent fiscal year ends and multiplied by a State matching percentage equal to 100 percent minus the Federal medical assistance percentage (as defined in section 1905(b)) for the fiscal year involved.

''(C) QUALIFYING CHILDREN DEFINED.—For purposes of this subsection, the term 'qualifying children' means, with respect to this title or title XIX, children who meet the eligibility criteria (including income, categorical eligibility, age, and immigration status criteria) in effect as of July 1, 2007, for enrollment under this title or title XIX, respectively, taking into account criteria applied as of such date under this title or title XIX, respectively, pursuant to a waiver under section 1115.''.

SEC. 902. OPTIONAL COVERAGE OF OLDER CHILDREN UNDER MEDICAID AND CHIP.

(a) MEDICAID.—

(1) IN GENERAL.—Section 1902(l)(1)(D) (42 U.S.C. 1396a(l)(1)(D)) is amended by striking ''but have not attained 19 years of age'' and inserting ''but is under 19 years of age (or, at the option of a State, under such higher age, not to exceed 21 years of age, as the State may elect)''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(e)(3)(A) (42 U.S.C. 1396a(e)(3)(A)) is amended by striking ''18 years of age or younger'' and inserting ''under 19 years of age (or under such higher age as the State has elected under subsection (l)(1)(D))'' after ''18 years of age''.

(B) Section 1902(e)(12) (42 U.S.C. 1396a(e)(12)) is amended by inserting ''or such higher age as the State has elected under subsection (l)(1)(D)'' after ''19 years of age''.

(C) Section 1905(a) (42 U.S.C. 1396d(a)) is amended, in clause (i), by inserting ''or under such higher age as the State has elected under subsection (l)(1)(D)'' after ''as the State may choose''.

(D) Section 1920A(b)(1) (42 U.S.C. 1396r–1a(b)(1)) is amended by inserting ''or under such higher age as the State has elected under section 1902(l)(1)(D)'' after ''19 years of age''.

(E) Section 1928(h)(1) (42 U.S.C. 1396s(h)(1)) is amended by striking ''18 years of age or younger'' and inserting ''under 19 years of age or under such higher age as the State has elected under section 1902(l)(1)(D)''.

(F) Section 1932(a)(2)(A) (42 U.S.C. 1396u–2(a)(2)(A)) is amended by inserting ''(or under such higher age as the State has elected under section 1902(l)(1)(D))'' after ''19 years of age''.

(b) TITLE XXI.—Section 2110(c)(1) (42 U.S.C. 1397jj(c)(1)) is amended by inserting ''(or, at the option of the State, under such higher age as the State has elected under section 1902(l)(1)(D))''.

SEC. 903. MODERNIZING TRANSITIONAL MEDICAID.

(a) FOUR-YEAR EXTENSION.—

(1) IN GENERAL.—Sections 1902(e)(1)(B) and 1925(f) (42 U.S.C. 1396a(e)(1)(B), 1396r–6(f)) are each amended by striking ''September 30, 2003'' and inserting ''September 30, 2011''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2007.

(b) STATE OPTION OF INITIAL 12-MONTH ELIGIBILITY.—Section 1925 (42 U.S.C. 1396r–6) is amended—

(1) in subsection (a)(1), by inserting ''but subject to paragraph (5)'' after ''Notwithstanding any other provision of this title'';

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

''(5) OPTION OF 12-MONTH INITIAL ELIGIBILITY PERIOD.—A State may elect to treat any reference in this subsection to a 6-month period (or 6 months) as a reference to a 12-month period (or 12 months). In the case of such an election, subsection (b) shall not apply.''; and

(3) in subsection (b)(1), by inserting ''but subject to subsection (a)(5)'' after ''Notwithstanding any other provision of this title''.

(c) REMOVAL OF REQUIREMENT FOR PREVIOUS RECEIPT OF MEDICAL ASSISTANCE.—Section 1925(a)(1) (42 U.S.C. 1396r–6(a)(1)), as amended by subsection (b)(1), is further amended—

(1) by inserting ''subparagraph (B) and'' before ''paragraph (5)'';

(2) by redesignating the matter after ''REQUIREMENT.—'' as a subparagraph (A) with the heading ''IN GENERAL.—'' and with the same indentation as subparagraph (B) (as added by paragraph (3)); and

(3) by adding at the end the following:

''(B) STATE OPTION TO WAIVE REQUIREMENT FOR 3 MONTHS BEFORE RECEIPT OF MEDICAL ASSISTANCE.—A State may, at its option, elect also to apply subparagraph (A) in the case of a family that was receiving such aid for fewer than three months or that had applied for and was eligible for such aid for fewer than 3 months during the 6 immediately preceding months described in such subparagraph.''.

(d) CMS REPORT ON ENROLLMENT AND PARTICIPATION RATES UNDER TMA.—Section 1925 (42 U.S.C. 1396r–6), as amended by this section, is further amended by adding at the end the following new subsection:

''(g) COLLECTION AND REPORTING OF PARTICIPATION INFORMATION.—

''(1) COLLECTION OF INFORMATION FROM STATES.—Each State shall collect and submit to the Secretary (and make publicly available), in a format specified by the Secretary, information on average monthly enrollment and average monthly participation rates for adults and children under this section and of the number and percentage of children who become ineligible for medical assistance under this section whose medical assistance is continued under another eligibility category or who are enrolled under the State's child health plan under title XXI. Such information shall be submitted at the same time and frequency in which other enrollment information under this title is submitted to the Secretary.

''(2) ANNUAL REPORTS TO CONGRESS.—Using the information submitted under paragraph (1), the Secretary shall submit to Congress annual reports concerning enrollment and participation rates described in such paragraph.''.

(e) EFFECTIVE DATE.—The amendments made by subsections (b) through (d) shall take effect on the date of the enactment of this Act.

SEC. 904. REPEAL OF TOP INCOME TAX RATE REDUCTION FOR TAXPAYERS WITH $1,000,000 OR MORE OF TAXABLE INCOME.

(a) IN GENERAL.—Section 1(i) of the Internal Revenue Code of 1986 (relating to rate reductions) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

''(3) EXCEPTION FOR TAXPAYERS WITH TAXABLE INCOME OF $1,000,000, OR MORE.—

''(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of taxable years beginning in a calender year after 2007, the last item in the fourth column of the table under paragraph (2) shall be applied by substituting '39.6%' for '35.0%' with respect to taxable income in excess of $1,000,000 (one-half of such amount in the case of taxpayers to whom subsection (d) applies).

''(B) INFLATION ADJUSTMENT.—In the case of the dollar amount under subparagraph (A), paragraph (1)(C) shall be applied by substituting '2008' for '2003' and '2007' for '2002'.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2007.

(c) APPLICATION OF EGTRRA SUNSET.—The amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

SA 2603. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title I add the following:

SEC. 112. FUNDING PRIORITY FOR STATES WITH AN EFFECTIVE INCOME ELIGIBILITY LEVEL FOR CHILDREN THAT DOES NOT EXCEED 200 PERCENT OF THE POVERTY LINE.

(a) PRIORITY FOR DETERMINATION OF FISCAL YEAR 2008 ALLOTMENTS.—Subparagraph (D) of section 2104(i)(2) (42 U.S.C. 1397dd(i)(2))), as added by section 102, is amended to read as follows:

''(D) PRIORITY AND PRORATION RULES.—If, after the application of this paragraph without regard to this subparagraph, the sum of the State allotments determined under this paragraph for fiscal year 2008 exceeds the available national allotment for fiscal year 2008, the Secretary shall—

''(i) first, provide the allotments for all subsection (b) States for which the effective income eligibility level for child health assistance for targeted low-income children under the State child health plan does not exceed 200 percent of the poverty line (and if, the sum of such allotments exceeds the available national allotment for fiscal year

2008, reduce each such allotment on a proportional basis); and

''(ii) only to the extent there are any amounts remaining available for allotment from the available national allotment for fiscal year 2008 after the application of clause (i), provide, on a proportional basis, allotments for any other subsection (b) States.''.

(b) PRIORITY FOR DETERMINATION OF FISCAL YEAR 2009 THROUGH 2012 ALLOTMENTS.—Subparagraph (A) of section 2104(i)(3) (42 U.S.C. 1397dd(i)(3)), as so added, is amended to read as follows:

''(A) IN GENERAL.—If the sum of the State allotments determined under paragraph (1)(A)(ii) for any of fiscal years 2009 through 2011 exceeds the available national allotment for the fiscal year, the Secretary shall—

''(i) first, allot to each subsection (b) State for which the effective income eligibility level for child health assistance for targeted low-income children under the State child health plan does not exceed 200 percent of the poverty line from the available national allotment for the fiscal year an amount equal to the product of—

''(I) the available national allotment for the fiscal year; and

''(II) the percentage equal to the sum of the State allotment factors for the fiscal year determined under paragraph (4) with respect to the State; and

''(ii) only to the extent there are any amounts remaining available for allotment from the available national allotment for the fiscal year after the application of clause (i), determine the allotments for any other subsection (b) States in the same manner as how allotments are determined under clause (i).''.

(c) CHIP CONTINGENCY FUND.—Section 2104(k)(3) (42 U.S.C. 1397dd(k)(3)), as added by section 108, is amended by adding at the end the following new subparagraph:

''(I) PRIORITY FOR STATES WITH AN EFFECTIVE INCOME ELIGIBILITY LEVEL FOR CHILDREN THAT DOES NOT EXCEED 200 PERCENT OF THE POVERTY LINE.—Notwithstanding subparagraph (E), the Secretary shall make monthly payments from the Fund—

''(i) first, to those States that are determined to be eligible States with respect to a month and for which the effective income eligibility level for child health assistance for targeted low-income children under the State child health plan does not exceed 200 percent of the poverty line (and, if the sum of such payments exceed the amount in the Fund, reduced on a proportional basis); and

''(ii) only to the extent that there are any amounts remaining in the Fund for a month, to any other States that are determined to be eligible States with respect to the month (and reduced, if necessary, on a proportional basis).''.

SA 2604. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

On page 142, strike lines 14 through 23 and insert the following:

''(J) NO EFFECT ON PREVIOUSLY APPROVED PREMIUM ASSISTANCE PROGRAMS OR PENDING WAIVERS FOR SUCH PROGRAMS.—Nothing in this paragraph shall be construed as—

''(i) limiting the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect prior to the date of enactment of the Children's Health Insurance Program Reauthorization Act of 2007; or

''(ii) limiting the authority of a State to offer premium assistance under a waiver pending approval by the Secretary prior to such date of enactment that is approved on or after such date of enactment.''.

SA 2605. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1, to provide greater transparency in the legislative process; which was ordered to lie on the table; as follows:

Strike subtitle B of title V of the amendment and insert the following:

Subtitle B—Earmark, Conference, and Conflict of Interest Reform

SEC. 521. OUT OF SCOPE MATTERS IN CONFERENCE REPORTS.

(a) IN GENERAL.—A point of order may be made by any Senator against any item contained in a conference report that includes or consists of any matter not committed to the conferees by either House. The point of order may be made and disposed of separately for each item in violation of this section.

(b) DISPOSITION.—If the point of order raised against an item in a conference report under subsection (a) is sustained—

(1) the matter in such conference report shall be stricken; and

(2) when all other points of order under this section have been disposed of—

(A) the Senate shall proceed to consider the question of whether the Senate should recede from its amendment to the House bill, or its disagreement to the amendment of the House, and concur with a further amendment, which further amendment shall consist of only that portion of the conference report that has not been stricken (any modification of total amounts appropriated necessary to reflect the deletion of the matter struck from the conference report shall be made);

(B) the question shall be debatable; and

(C) no further amendment shall be in order.

(c) LIMITATION.—

(1) IN GENERAL.—In this section, the term ''matter not committed to the conferees by either House'' shall include any item which consists of a specific provision containing a specific level of funding for any specific account, specific program, specific project, or specific activity, when no such specific funding was provided for such specific account, specific program, specific project, or specific activity in the measure originally committed to the conferees by either House.

(2) RULE XXVIII.—For the purpose of rule XXVIII of the Standing Rules of the Senate, the term ''matter not committed'' shall include any item which consists of a specific provision containing a specific level of funding for any specific account, specific program, specific project, or specific activity, when no such specific funding was provided for such specific account, specific program, specific project, or specific activity in the measure originally committed to the conferees by either House.

(d) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. 522. CONGRESSIONAL EARMARK REFORM.

The Standing Rules of the Senate are amended by adding at the end the following:

''RULE XLIV

''EARMARKS

''1. It shall not be in order to consider—

''(a) a bill or joint resolution reported by a committee unless the report includes a list, which shall be made available on the Internet in a searchable format to the general public for at least 48 hours before consideration of the bill or joint resolution, of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill or in the report (and the name of any Member who submitted a request to the committee for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits;

''(b) a bill or joint resolution not reported by a committee unless the chairman of each committee of jurisdiction has caused a list, which shall be made available on the Internet in a searchable format to the general public for at least 48 hours before consideration of the bill or joint resolution, of congressional earmarks, limited tax benefits, and limited tariff benefits in the bill (and the name of any Member who submitted a request to the committee for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits to be printed in the Congressional Record prior to its consideration; or

''(c) a conference report to accompany a bill or joint resolution unless the joint explanatory statement prepared by the managers on the part of the House and the managers on the part of the Senate includes a list, which shall be made available on the Internet in a searchable format to the general public for at least 48 hours before consideration of the conference report, of congressional earmarks, limited tax benefits, and limited tariff benefits in the conference report or joint statement (and the name of any Member, Delegate, Resident Commissioner, or Senator who submitted a request to the House or Senate committees of jurisdiction for each respective item included in such list) or a statement that the proposition contains no congressional earmarks, limited tax benefits, or limited tariff benefits.

''2. For the purpose of this rule—

''(a) the term 'congressional earmark' means a provision or report language included primarily at the request of a Member, Delegate, Resident Commissioner, or Senator providing, authorizing or recommending a specific amount of discretionary budget authority, credit authority, or other spending authority for a contract, loan, loan guarantee, grant, loan authority, or other expenditure with or to an entity, or targeted to a specific State, locality or Congressional district, other than through a statutory or administrative formula-driven or competitive award process;

''(b) the term 'limited tax benefit' means—

''(1) any revenue provision that—

''(A) provides a Federal tax deduction, credit, exclusion, or preference to a particular beneficiary or limited group of beneficiaries under the Internal Revenue Code of 1986; and

''(B) contains eligibility criteria that are not uniform in application with respect to potential beneficiaries of such provision; or

''(2) any Federal tax provision which provides one beneficiary temporary or permanent transition relief from a change to the Internal Revenue Code of 1986; and

''(c) the term 'limited tariff benefit' means a provision modifying the Harmonized Tariff

Schedule of the United States in a manner that benefits 10 or fewer entities.

''3. A Member may not condition the inclusion of language to provide funding for a congressional earmark, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (including an accompanying joint explanatory statement of managers) on any vote cast by another Member, Delegate, or Resident Commissioner.

''4. (a) A Member who requests a congressional earmark, a limited tax benefit, or a limited tariff benefit in any bill or joint resolution (or an accompanying report) or in any conference report on a bill or joint resolution (or an accompanying joint statement of managers) shall provide a written statement to the chairman and ranking member of the committee of jurisdiction, including—

''(1) the name of the Member;

''(2) in the case of a congressional earmark, the name and address of the intended recipient or, if there is no specifically intended recipient, the intended location of the activity;

''(3) in the case of a limited tax or tariff benefit, identification of the individual or entities reasonably anticipated to benefit, to the extent known to the Member;

''(4) the purpose of such congressional earmark or limited tax or tariff benefit; and

''(5) a certification that the Member or spouse has no financial interest in such congressional earmark or limited tax or tariff benefit.

''(b) Each committee shall maintain the written statements transmitted under subparagraph (a). The written statements transmitted under subparagraph (a) for any congressional earmarks, limited tax benefits, or limited tariff benefits included in any measure reported by the committee or conference report filed by the chairman of the committee or any subcommittee thereof shall be published in a searchable format on the committee's or subcommittee's website not later than 48 hours after receipt on such information.

''5. It shall not be in order to consider any bill, resolution, or conference report that contains an earmark included in any classified portion of a report accompanying the measure unless the bill, resolution, or conference report includes to the greatest extent practicable, consistent with the need to protect national security (including intelligence sources and methods), in unclassified language, a general program description, funding level, and the name of the sponsor of that earmark.''.

SEC. 523. PROHIBITION ON FINANCIAL GAIN FROM EARMARKS BY MEMBERS, IMMEDIATE FAMILY OF MEMBERS, STAFF OF MEMBERS, OR IMMEDIATE FAMILY OF STAFF OF MEMBERS.

Rule XXXVII of the Standing Rules of the Senate is amended by adding at the end the following:

''15. (a) No Member shall use his official position to introduce, request, or otherwise aid the progress or passage of a congressional earmark that will financially benefit or otherwise further the pecuniary interest of such Member, the spouse of such Member, the immediate family member of such Member, any employee on the staff of such Member, the spouse of an employee on the staff of such Member, or immediate family member of an employee on the staff of such Member.

''(b) For purposes of this paragraph—

''(1) the term 'immediate family member' means the son, daughter, stepson, stepdaughter, son-in-law, daughter-in-law, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, sister, stepbrother, or stepsister of a Member or any employee on the staff (including staff in personal, committee and leadership offices) of a Member; and

''(2) the term 'congressional earmark' shall have the same meaning as in rule XLIV of the Standing Rules of the Senate.''.

SA 2606. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 180, to require the identification of companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 3 and insert the following:

SEC. 3. TRANSPARENCY IN CAPITAL MARKETS.

(a) LIST OF PERSONS DIRECTLY INVESTING IN OR CONDUCTING BUSINESS OPERATIONS IN CERTAIN SUDANESE SECTORS.—

(1) PUBLICATION OF LIST.—Not later than 6 months after the date of the enactment of this Act and every 6 months thereafter, the President, in consultation with the Secretary of the Treasury, the Secretary of Energy, the Secretary of State, the Securities and Exchange Commission, and the heads of other appropriate Federal departments and agencies, shall, using only publicly available (including proprietary) information, ensure publication in the Federal Register of a list of each person, whether within or outside of the United States, that, as of the date of the publication, has a direct investment in, or is conducting, business operations in Sudan's power production, mineral extraction, oil-related, or military equipment industries, subject to paragraph (2). To the extent practicable, the list shall include a description of the investment made by each such person, including the dollar value, intended purpose, and status of the investment, as of the date of the publication.

(2) EXCEPTIONS.—The President shall exclude a person from the list if all of the business operations by reason of which the person would otherwise be included on the list—

(A) are conducted under contract directly and exclusively with the regional government of southern Sudan;

(B) are conducted under a license from the Office of Foreign Assets Control, or are expressly exempted under Federal law from the requirement to be conducted under such a license;

(C) consist of providing goods or services to marginalized populations of Sudan;

(D) consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(E) consist of providing goods or services that are used only to promote health or education;

(F) are conducted by a person that has also undertaken significant humanitarian efforts as described in section 10(14)(B);

(G) have been voluntarily suspended; or

(H) will cease within 1 year after the adoption of a formal plan to cease the operations, as determined by the President.

(3) CONSIDERATION OF SCRUTINIZED BUSINESS OPERATIONS.—The President should give serious consideration to including on the list any company that has a scrutinized business operation with respect to Sudan (within the meaning of section 10(4)).

(4) PRIOR NOTICE TO PERSONS.—The President shall, at least 30 days before the list is published under paragraph (1), notify each person that the President intends to include on the list.

(5) DELAY IN INCLUDING PERSONS ON THE LIST.—After notifying a person under paragraph (4), the President may delay including that person on the list for up to 60 days if the President determines and certifies to the Congress that the person has taken specific and effective actions to terminate the involvement of the person in the activities that resulted in the notification under paragraph (4).

(6) REMOVAL OF PERSONS FROM THE LIST.—The President may remove a person from the list before the next publication of the list under paragraph (1) if the President determines that the person no longer has a direct investment in or is no longer conducting business operations as described in paragraph (1).

(7) ADVANCE NOTICE TO CONGRESS.—Not later than 30 days (or, in the case of the 1st such list, 60 days) before the date by which paragraph (1) requires the list to be published, the President shall submit to the Committees on Financial Services, on Education and Labor, and on Oversight and Government Reform of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs, on Health, Education, Labor, and Pensions, and on Homeland Security and Governmental Affairs of the Senate a copy of the list which the President intends to publish under paragraph (1).

(b) PUBLICATION ON WEBSITE.—The President shall ensure that the list is published on an appropriate, publicly accessible Government website, updating the list as necessary to take into account any person removed from the list under subsection (a)(6).

(c) DEFINITION.—In this section, the term ''investment'' has the meaning given the term in section 4(b)(3).

SA 2607. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 180, to require the identification of companies that conduct business operations in Sudan, to prohibit United States Government contracts with such companies, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, between lines 4 and 5, insert the following:

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for the purposes of carrying out this section.

SA 2608. Ms. SNOWE (for herself, Mr. BINGAMAN, Mr. CARDIN, Ms. MIKULSKI, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 213, strike line 13 and all that follows through page 216, line 6 and insert the following:

SEC. 608. REQUIRING COVERAGE OF DENTAL SERVICES.

(a) REQUIRED COVERAGE OF DENTAL SERVICES.—

(1) IN GENERAL.—Section 2103 (42 U.S.C. 1397cc) is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking ''subsection (c)(5)'' and inserting ''paragraphs (5) and (6) of subsection (c)''; and

(B) in subsection (c)—

(i) by redesignating paragraph (5) as paragraph (6); and

(ii) by inserting after paragraph (4), the following new paragraph:

''(5) DENTAL SERVICES.—The child health assistance provided to a targeted low-income

child (whether through benchmark coverage or benchmark-equivalent coverage or otherwise) shall include coverage of dental services necessary to—

''(A) prevent disease and promote oral health;

''(B) restore oral structures to health and function; and

''(C) treat emergency conditions.''.

(2) STATE CHILD HEALTH PLAN REQUIREMENT.—Section 2102(a)(7)(B) (42 U.S.C. 1397bb(a)(7)(B)) is amended by inserting ''and services described in section 2103(c)(5)'' after ''emergency services''.

(3) INCLUSION IN BASIC SERVICES FOR BENCHMARK-EQUIVALENT COVERAGE.—Section 2103(c)(1) (42 U.S.C. 1397cc(c)(1)) is amended by adding at the end the following new subparagraph:

''(E) Services described in paragraph (5).''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to health benefits coverage provided on or after October 1, 2008.

(b) DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.—

(1) DISALLOWANCE OF DEDUCTION.—

(A) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(ii) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(iii) by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(B) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(2) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(A) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(B) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(h) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(C) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to damages paid or incurred on or after the date of the enactment of this Act.

(c) DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.—

(1) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

A taxpayer shall not meet the requirements of subparagraph (A) solely by reason an identification under subparagraph (B). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(2) REPORTING OF DEDUCTIBLE AMOUNTS.—

(A) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050V the following new section:

''SEC. 6050W. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(B) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050V the following new item:

''Sec. 6050W. Information with respect to certain fines, penalties, and other amounts.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SA 2609. Ms. SNOWE (for herself, Mr. BINGAMAN, Mr. CARDIN, Ms. MIKULSKI, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

On page 216, between lines 6 and 7, insert the following:

(b) AMOUNT APPROPRIATED FOR DENTAL HEALTH GRANTS.—Notwithstanding subsection (e) of section 2114 of the Social Security Act, as added by this section, out of any

funds in the Treasury not otherwise appropriated, there is appropriated, $500,000,000 for the period of fiscal years 2008 through 2012, to remain available until expended, for the purpose of awarding grants to States under such section. Amounts appropriated under this subsection and paid under the authority of such section 2114 shall be in addition to amounts appropriated under section 2104 of the Social Security Act (42 U.S.C. 1397dd) and paid to States in accordance with section 2105 of such Act (42 U.S.C. 1397ee).

(c) DENIAL OF DEDUCTION FOR PUNITIVE DAMAGES.—

(1) DISALLOWANCE OF DEDUCTION.—

(A) IN GENERAL.—Section 162(g) (relating to treble damage payments under the antitrust laws) is amended—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(ii) by striking ''If'' and inserting:

''(1) TREBLE DAMAGES.—If'', and

(iii) by adding at the end the following new paragraph:

''(2) PUNITIVE DAMAGES.—No deduction shall be allowed under this chapter for any amount paid or incurred for punitive damages in connection with any judgment in, or settlement of, any action. This paragraph shall not apply to punitive damages described in section 104(c).''.

(B) CONFORMING AMENDMENT.—The heading for section 162(g) is amended by inserting ''OR PUNITIVE DAMAGES'' after ''LAWS''.

(2) INCLUSION IN INCOME OF PUNITIVE DAMAGES PAID BY INSURER OR OTHERWISE.—

(A) IN GENERAL.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end the following new section:

''SEC. 91. PUNITIVE DAMAGES COMPENSATED BY INSURANCE OR OTHERWISE.

''Gross income shall include any amount paid to or on behalf of a taxpayer as insurance or otherwise by reason of the taxpayer's liability (or agreement) to pay punitive damages.''.

(B) REPORTING REQUIREMENTS.—Section 6041 (relating to information at source) is amended by adding at the end the following new subsection:

''(h) SECTION TO APPLY TO PUNITIVE DAMAGES COMPENSATION.—This section shall apply to payments by a person to or on behalf of another person as insurance or otherwise by reason of the other person's liability (or agreement) to pay punitive damages.''.

(C) CONFORMING AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end the following new item:

''Sec. 91. Punitive damages compensated by insurance or otherwise.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to damages paid or incurred on or after the date of the enactment of this Act.

(d) DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.—

(1) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

''(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

''(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION OR PAID TO COME INTO COMPLIANCE WITH LAW.—Paragraph (1) shall not apply to any amount which—

''(A) the taxpayer establishes—

''(i) constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, or

''(ii) is paid to come into compliance with any law which was violated or involved in the investigation or inquiry, and

''(B) is identified as restitution or as an amount paid to come into compliance with the law, as the case may be, in the court order or settlement agreement.

A taxpayer shall not meet the requirements of subparagraph (A) solely by reason an identification under subparagraph (B). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

''(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

''(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

''(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

''(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

''(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.''.

(2) REPORTING OF DEDUCTIBLE AMOUNTS.—

(A) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 is amended by inserting after section 6050V the following new section:

''SEC. 6050W. INFORMATION WITH RESPECT TO CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

''(a) REQUIREMENT OF REPORTING.—

''(1) IN GENERAL.—The appropriate official of any government or entity which is described in section 162(f)(4) which is involved in a suit or agreement described in paragraph (2) shall make a return in such form as determined by the Secretary setting forth—

''(A) the amount required to be paid as a result of the suit or agreement to which paragraph (1) of section 162(f) applies,

''(B) any amount required to be paid as a result of the suit or agreement which constitutes restitution or remediation of property, and

''(C) any amount required to be paid as a result of the suit or agreement for the purpose of coming into compliance with any law which was violated or involved in the investigation or inquiry.

''(2) SUIT OR AGREEMENT DESCRIBED.—

''(A) IN GENERAL.—A suit or agreement is described in this paragraph if—

''(i) it is—

''(I) a suit with respect to a violation of any law over which the government or entity has authority and with respect to which there has been a court order, or

''(II) an agreement which is entered into with respect to a violation of any law over which the government or entity has authority, or with respect to an investigation or inquiry by the government or entity into the potential violation of any law over which such government or entity has authority, and

''(ii) the aggregate amount involved in all court orders and agreements with respect to the violation, investigation, or inquiry is $600 or more.

''(B) ADJUSTMENT OF REPORTING THRESHOLD.—The Secretary may adjust the $600 amount in subparagraph (A)(ii) as necessary in order to ensure the efficient administration of the internal revenue laws.

''(3) TIME OF FILING.—The return required under this subsection shall be filed not later than—

''(A) 30 days after the date on which a court order is issued with respect to the suit or the date the agreement is entered into, as the case may be, or

''(B) the date specified Secretary.

''(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS INVOLVED IN THE SETTLEMENT.—Every person required to make a return under subsection (a) shall furnish to each person who is a party to the suit or agreement a written statement showing—

''(1) the name of the government or entity, and

''(2) the information supplied to the Secretary under subsection (a)(1).

The written statement required under the preceding sentence shall be furnished to the person at the same time the government or entity provides the Secretary with the information required under subsection (a).

''(c) APPROPRIATE OFFICIAL DEFINED.—For purposes of this section, the term 'appropriate official' means the officer or employee having control of the suit, investigation, or inquiry or the person appropriately designated for purposes of this section.''.

(B) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050V the following new item:

''Sec. 6050W. Information with respect to certain fines, penalties, and other amounts.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendments shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

SA 2610. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 133, strike line 4 and all that follows through page 165, line 2, and insert the following:

SEC. 401. IMPROVED STATE OPTION FOR OFFERING PREMIUM ASSISTANCE FOR COVERAGE THROUGH PRIVATE PLANS.

(a) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 301(c) is amended by adding at the end the following:

''(10) ADDITIONAL STATE OPTION FOR OFFERING PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this paragraph, a State may elect to offer a premium assistance subsidy (as defined in subparagraph (C)) for qualified employer sponsored coverage (as defined in subparagraph (B)) to all targeted low-income children who are eligible for child health assistance under the plan and

have access to such coverage in accordance with the requirements of this paragraph.

''(B) QUALIFIED EMPLOYER SPONSORED COVERAGE.—

''(i) IN GENERAL.—In this paragraph, the term 'qualified employer sponsored coverage' means a group health plan or health insurance coverage offered through an employer that is—

''(I) substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2);

''(II) made similarly available to all of the employer's employees and for which the employer makes a contribution to the premium that is not less for employees receiving a premium assistance subsidy under any option available under the State child health plan under this title or the State plan under title XIX to provide such assistance than the employer contribution provided for all other employees; and

''(III) cost-effective, as determined under clause (ii).

''(ii) COST-EFFECTIVENESS.—A group health plan or health insurance coverage offered through an employer shall be considered to be cost-effective if—

''(I) the marginal premium cost to purchase family coverage through the employer is less than the State cost of providing child health assistance through the State child health plan for all the children in the family who are targeted low-income children; or

''(II) the marginal premium cost between individual coverage and purchasing family coverage through the employer is not greater than 175 percent of the cost to the State to provide child health assistance through the State child health plan for a targeted low-income child.

''(iii) HIGH DEDUCTIBLE HEALTH PLANS INCLUDED.—The term 'qualified employer sponsored coverage' includes a high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986) purchased through a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan, subject to the annual aggregate cost-sharing limit applied under section 2103(e)(3)(B).

''(ii) STATE PAYMENT OPTION.—Subject to clause (iii), a State may provide a premium assistance subsidy directly to an employer or as reimbursement to an employee for out-of-pocket expenditures.

''(iii) REQUIREMENT FOR DIRECT PAYMENT TO EMPLOYEE.—A State shall not pay a premium assistance subsidy directly to the employee, unless the State has established procedures to ensure that the targeted low-income child on whose behalf such payments are made are actually enrolled in the qualified employer sponsored coverage.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(v) STATE OPTION TO REQUIRE ACCEPTANCE OF SUBSIDY.—A State may condition the provision of child health assistance under the State child health plan for a targeted low-income child on the receipt of a premium assistance subsidy for enrollment in qualified employer sponsored coverage if the State determines the provision of such a subsidy to be more cost-effective in accordance with subparagraph (B)(ii).

''(vi) NOT TREATED AS INCOME.—Notwithstanding any other provision of law, a premium assistance subsidy provided in accordance with this paragraph shall not be treated as income to the child or the parent of the child for whom such subsidy is provided.

''(D) NO REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND ADDITIONAL COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—A State that elects the option to provide a premium assistance subsidy under this paragraph shall not be required to provide a targeted low-income child enrolled in qualified employer sponsored coverage with supplemental coverage for items or services that are not covered, or are only partially covered, under the qualified employer sponsored coverage or cost-sharing protection other than the protection required under section 2103(e)(3)(B).

''(ii) NOTICE OF COST-SHARING REQUIREMENTS.—A State shall provide a targeted low-income child or the parent of such a child (as appropriate) who is provided with a premium assistance subsidy in accordance with this paragraph with notice of the cost-sharing requirements and limitations imposed under the qualified employer sponsored coverage in which the child is enrolled upon the enrollment of the child in such coverage and annually thereafter.

''(iii) RECORD KEEPING REQUIREMENTS.—A State may require a parent of a targeted low-income child that is enrolled in qualified employer-sponsored coverage to bear the responsibility for keeping track of out-of-pocket expenditures incurred for cost-sharing imposed under such coverage and to notify the State when the limit on such expenditures imposed under section 2103(e)(3)(B) has been reached for a year from the effective date of enrollment for such year.

''(iv) STATE OPTION FOR REIMBURSEMENT.—A State may retroactively reimburse a parent of a targeted low-income child for out-of-pocket expenditures incurred after reaching the 5 percent cost-sharing limitation imposed under section 2103(e)(3)(B) for a year.

''(E) 6-MONTH WAITING PERIOD REQUIRED.—A State shall impose at least a 6-month waiting period from the time an individual is enrolled in private health insurance prior to the provision of a premium assistance subsidy for a targeted low-income child in accordance with this paragraph.

''(F) NON APPLICATION OF WAITING PERIOD FOR ENROLLMENT IN THE STATE MEDICAID PLAN OR THE STATE CHILD HEALTH PLAN.—A targeted low-income child provided a premium assistance subsidy in accordance with this paragraph who loses eligibility for such subsidy shall not be treated as having been enrolled in private health insurance coverage for purposes of applying any waiting period imposed under the State child health plan or the State plan under title XIX for the enrollment of the child under such plan.

''(G) ASSURANCE OF SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF ELIGIBILITY FOR PREMIUM SUBSIDY ASSISTANCE.—No payment shall be made under subsection (a) for amounts expended for the provision of premium assistance subsidies under this paragraph unless a State provides assurances to the Secretary that the State has in effect laws requiring a group health plan, a health insurance issuer offering group health insurance coverage in connection with a group health plan, and a self-funded health plan, to permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a child of such an employee if the child is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if the employee's child becomes eligible for a premium assistance subsidy under this paragraph.

''(H) NO EFFECT ON PREVIOUSLY APPROVED PREMIUM ASSISTANCE PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect on June 28, 2007.

''(I) NOTICE OF AVAILABILITY.—A State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer sponsored coverage;

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are informed of the availability of such subsidies under the State child health plan.''.

(b) APPLICATION TO MEDICAID.—Section 1906 (42 U.S.C. 1396e) is amended by inserting after subsection (c) the following:

''(d) The provisions of section 2105(c)(10) shall apply to a child who is eligible for medical assistance under the State plan in the same manner as such provisions apply to a targeted low-income child under a State child health plan under title XXI. Section 1902(a)(34) shall not apply to a child who is provided a premium assistance subsidy under the State plan in accordance with the preceding sentence.''.

SA 2611. Mr. COBURN submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 133, strike line 4 and all that follows through page 165, line 2, and insert the following:

SEC. 401. PREMIUM ASSISTANCE FOR HIGHER INCOME CHILDREN AND PREGNANT WOMEN WITH ACCESS TO EMPLOYER-SPONSORED COVERAGE.

(a) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)), as amended by section 301(c) is amended by adding at the end the following:

''(10) PREMIUM ASSISTANCE.—

''(A) IN GENERAL.—Beginning with fiscal year 2008, a State may only provide child health assistance for a targeted low-income child or a pregnant woman whose family income exceeds 200 percent of the poverty line and who has access to qualified employer sponsored coverage (as defined in subparagraph (B)) through the provision of a premium assistance subsidy in accordance with the requirements of this paragraph. The enhanced FMAP under subsection (a)(1) shall be zero with respect to any expenditures for providing child health assistance for a targeted low-income child or pregnant woman described in the preceding sentence in any manner other than through the provision of such a subsidy.

''(B) QUALIFIED EMPLOYER SPONSORED COVERAGE.—

''(i) IN GENERAL.—In this paragraph, the term 'qualified employer sponsored coverage' means a group health plan or health insurance coverage offered through an employer that is—

''(I) substantially equivalent to the benefits coverage in a benchmark benefit package described in section 2103(b) or benchmark-equivalent coverage that meets the requirements of section 2103(a)(2);

''(II) for which the employer contribution toward any premium for such coverage is at least 50 percent (75 percent, in the case of an employer with more than 50 employees);

''(III) made similarly available to all of the employer's employees and for which the employer makes a contribution to the premium that is not less for employees receiving a premium assistance subsidy under any option available under the State child health plan under this title or the State plan under title XIX to provide such assistance than the employer contribution provided for all other employees; and

''(IV) cost-effective, as determined under clause (ii).

''(ii) COST-EFFECTIVENESS.—A group health plan or health insurance coverage offered through an employer shall be considered to be cost-effective if—

''(I) the marginal premium cost to purchase family coverage through the employer is less than the State cost of providing child health assistance through the State child health plan for all the children in the family who are targeted low-income children; or

''(II) the marginal premium cost between individual coverage and purchasing family coverage through the employer is not greater than 175 percent of the cost to the State to provide child health assistance through the State child health plan for a targeted low-income child.

''(iii) HIGH DEDUCTIBLE HEALTH PLANS INCLUDED.—The term 'qualified employer sponsored coverage' includes a high deductible health plan (as defined in section 223(c)(2) of the Internal Revenue Code of 1986) purchased through a health savings account (as defined under section 223(d) of such Code).

''(C) PREMIUM ASSISTANCE SUBSIDY.—

''(i) IN GENERAL.—In this paragraph, the term 'premium assistance subsidy' means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan, subject to the annual aggregate cost-sharing limit applied under section 2103(e)(3)(B).

''(ii) STATE PAYMENT OPTION.—Subject to clause (iii), a State may provide a premium assistance subsidy directly to an employer or as reimbursement to an employee for out-of-pocket expenditures.

''(iii) REQUIREMENT FOR DIRECT PAYMENT TO EMPLOYEE.—A State shall not pay a premium assistance subsidy directly to the employee, unless the State has established procedures to ensure that the targeted low-income child on whose behalf such payments are made are actually enrolled in the qualified employer sponsored coverage.

''(iv) TREATMENT AS CHILD HEALTH ASSISTANCE.—Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

''(v) STATE OPTION TO REQUIRE ACCEPTANCE OF SUBSIDY.—A State may condition the provision of child health assistance under the State child health plan for a targeted low-income child on the receipt of a premium assistance subsidy for enrollment in qualified employer sponsored coverage if the State determines the provision of such a subsidy to be more cost-effective in accordance with subparagraph (B)(ii).

''(vi) NOT TREATED AS INCOME.—Notwithstanding any other provision of law, a premium assistance subsidy provided in accordance with this paragraph shall not be treated as income to the child or the parent of the child for whom such subsidy is provided.

''(D) NO REQUIREMENT TO PROVIDE SUPPLEMENTAL COVERAGE FOR BENEFITS AND ADDITIONAL COST-SHARING PROTECTION PROVIDED UNDER THE STATE CHILD HEALTH PLAN.—

''(i) IN GENERAL.—A State that elects the option to provide a premium assistance subsidy under this paragraph shall not be required to provide a targeted low-income child enrolled in qualified employer sponsored coverage with supplemental coverage for items or services that are not covered, or are only partially covered, under the qualified employer sponsored coverage or cost-sharing protection other than the protection required under section 2103(e)(3)(B).

''(ii) NOTICE OF COST-SHARING REQUIREMENTS.—A State shall provide a targeted low-income child or the parent of such a child (as appropriate) who is provided with a premium assistance subsidy in accordance with this paragraph with notice of the cost-sharing requirements and limitations imposed under the qualified employer sponsored coverage in which the child is enrolled upon the enrollment of the child in such coverage and annually thereafter.

''(iii) RECORD KEEPING REQUIREMENTS.—A State may require a parent of a targeted low-income child that is enrolled in qualified employer-sponsored coverage to bear the responsibility for keeping track of out-of-pocket expenditures incurred for cost-sharing imposed under such coverage and to notify the State when the limit on such expenditures imposed under section 2103(e)(3)(B) has been reached for a year from the effective date of enrollment for such year.

''(iv) STATE OPTION FOR REIMBURSEMENT.—A State may retroactively reimburse a parent of a targeted low-income child for out-of-pocket expenditures incurred after reaching the 5 percent cost-sharing limitation imposed under section 2103(e)(3)(B) for a year.

''(E) 6-MONTH WAITING PERIOD REQUIRED.—A State shall impose at least a 6-month waiting period from the time an individual is enrolled in private health insurance prior to the provision of a premium assistance subsidy for a targeted low-income child in accordance with this paragraph.

''(F) NON APPLICATION OF WAITING PERIOD FOR ENROLLMENT IN THE STATE MEDICAID PLAN OR THE STATE CHILD HEALTH PLAN.—A targeted low-income child provided a premium assistance subsidy in accordance with this paragraph who loses eligibility for such subsidy shall not be treated as having been enrolled in private health insurance coverage for purposes of applying any waiting period imposed under the State child health plan or the State plan under title XIX for the enrollment of the child under such plan.

''(G) ASSURANCE OF SPECIAL ENROLLMENT PERIOD UNDER GROUP HEALTH PLANS IN CASE OF ELIGIBILITY FOR PREMIUM SUBSIDY ASSISTANCE.—No payment shall be made under subsection (a) for amounts expended for the provision of premium assistance subsidies under this paragraph unless a State provides assurances to the Secretary that the State has in effect laws requiring a group health plan, a health insurance issuer offering group health insurance coverage in connection with a group health plan, and a self-funded health plan, to permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a child of such an employee if the child is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan if the employee's child becomes eligible for a premium assistance subsidy under this paragraph.

''(H) NO EFFECT ON PREVIOUSLY APPROVED PREMIUM ASSISTANCE PROGRAMS.—Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1906, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1115, or other authority in effect on June 28, 2007, for targeted low-income children or pregnant women whose family income does not exceed 200 percent of the poverty line.

''(I) NOTICE OF AVAILABILITY.—A State shall—

''(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer sponsored coverage and the requirement to provide such subsidies to the individuals described in subparagraph (A);

''(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy, or if required, to obtain such subsidies; and

''(iii) establish such other procedures as the State determines necessary to ensure that parents are informed of the availability of such subsidies under the State child health plan.''.

(b) APPLICATION TO MEDICAID.—Section 1906 (42 U.S.C. 1396e) is amended by inserting after subsection (c) the following:

''(d) The provisions of section 2105(c)(10) shall apply to a child who is eligible for medical assistance under the State plan in the same manner as such provisions apply to a targeted low-income child under a State child health plan under title XXI. Section 1902(a)(34) shall not apply to a child who is provided a premium assistance subsidy under the State plan in accordance with the preceding sentence.''.

SA 2612. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 1, to provide greater transparency in the legislative process; which was ordered to lie on the table; as follows:

Strike section 544 (c) of the amendment and insert the following:

(c) LIMITED FLIGHT EXCEPTION.—

(1) IN GENERAL.—Paragraph 1 of rule XXXV of the Standing Rules of the Senate is amended by adding at the end the following:

''(h) For purposes of subparagraph (c)(1) and rule XXXVIII, if there is not more than 1 regularly scheduled flight daily from a point in a Member's State to another point within that Member's State, the Select Committee on Ethics may provide a waiver to the requirements in subparagraph (c)(1) (except in those cases where regular air service is not available between 2 cities) if—

''(1) there is no appearance of or actual conflict of interest; and

''(2) the Member has the trip approved by the committee at a rate determined by the committee.

In determining rates under clause (2), the committee may consider Ethics Committee Interpretive Ruling 412.''.

(2) DISCLOSURE.—

(A) RULES.—Paragraph 2 of rule XXXV of the Standing Rules of the Senate is amended by adding at the end the following:

''(g) A Member, officer, or employee of the Senate shall—

''(1) disclose a flight on an aircraft that is not licensed by the Federal Aviation Administration to operate for compensation or hire, excluding a flight on an aircraft owned, operated, or leased by a governmental entity, taken in connection with the duties of the Member, officer, or employee as an officeholder or Senate officer or employee; and

''(2) with respect to the flight, file a report with the Secretary of the Senate, including the date, destination, and owner or lessee of the aircraft, the purpose of the trip, and the persons on the trip, except for any person flying the aircraft.

This subparagraph shall apply to flights approved under paragraph 1(h).''.

(B) FECA.—Section 304(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)) is amended—

(i) by striking ''and'' at the end of paragraph (7);

(ii) by striking the period at the end of paragraph (8) and inserting ''; and''; and

(iii) by adding at the end the following:

''(9) in the case of a principal campaign committee of a candidate (other than a candidate for election to the office of President or Vice President), any flight taken by the candidate (other than a flight designated to transport the President, Vice President, or a candidate for election to the office of President or Vice President) during the reporting period on an aircraft that is not licensed by the Federal Aviation Administration to operate for compensation or hire, together with the following information:

''(A) The date of the flight.

''(B) The destination of the flight.

''(C) The owner or lessee of the aircraft.

''(D) The purpose of the flight.

''(E) The persons on the flight, except for any person flying the aircraft.''.

(C) PUBLIC AVAILABILITY.—Paragraph 2(e) of rule XXXV of the Standing Rules of the Senate is amended to read as follows:

''(e) The Secretary of the Senate shall make available to the public all disclosures filed pursuant to subparagraphs (f) and (g) as soon as possible after they are received and such matters shall be posted on the Member's official website but no later than 30 days after the trip or flight.''.

(D) REPEAL.—Section 601 of this Act shall be null and void.

SA 2613. Mr. FEINGOLD (for himself, Mr. GRAHAM, Mr. VOINOVICH, and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. GAO REPORT ON STATE HEALTH CARE REFORM INITIATIVES.

(a) REPORT.—Not later than November 30, 2008, the Comptroller General of the United States shall submit to Congress a report on State health care reform initiatives.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) ASSESSMENT.—An assessment of State efforts to reexamine health care delivery and health insurance systems and to expand access of residents to health insurance and health care services, including the following:

(A) An overview of State approaches to reexamining health care delivery and insurance.

(B) Whether and to what extent State health care initiatives have resulted in improved access to health care and insurance.

(C) The extent to which public and private cooperation has occurred in State health care initiatives.

(D) Outcomes of State insurance coverage mandates.

(E) The effects of increased health care costs on State fiscal choices.

(F) The effects of Federal law and funding on State health care initiatives and fiscal choices.

(G) Outcomes of State efforts to increase health care quality and control costs.

(2) POTENTIAL ROLE OF CONGRESS.—Recommendations regarding the potential role of Congress in supporting State-based reform efforts, including (but not limited to) the following:

(A) Enacting changes in Federal law that would facilitate State-based health reform and expansion efforts.

(B) Creating new or realigning existing Federal funding mechanisms to support State-based reform and expansion efforts.

(C) Expanding existing Federal health insurance programs and increasing other sources of Federal health care funding to support State-based health reform and expansion efforts.

SA 2614. Mr. FEINGOLD (for himself, and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. AUTOMATED DEFIBRILLATION IN ADAM'S MEMORY REAUTHORIZATION.

Section 312(e) of the Public Health Service Act (42 U.S.C. 244(e)) is amended in the first sentence by striking ''fiscal year 2003'' and all that follows through ''2006'' and inserting ''for each of fiscal years 2003 through 2011''.

SA 2615. Mrs. FEINSTEIN (for herself and Mrs. BOXER) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. AUTHORITY TO CONTINUE PROVIDING ADULT DAY HEALTH SERVICES APPROVED UNDER A STATE MEDICAID PLAN.

(a) IN GENERAL.—During the period described in subsection (b), the Secretary shall not—

(1) withhold, suspend, disallow, or otherwise deny Federal financial participation under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) for the provision of adult day health care services, day activity and health services, or adult medical day care services, as defined under a State medicaid plan approved during or before 1994, during such period if such services are provided consistent with such definition and the requirements of such plan; or

(2) withdraw Federal approval of any such State plan or part thereof regarding the provision of such services (by regulation or otherwise).

(b) PERIOD DESCRIBED.—The period described in this subsection is the period that begins on November 3, 2005, and ends on March 1, 2009.

SA 2616. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. PERMITTING LOCAL PUBLIC AGENCIES TO ACT AS MEDICAID ENROLLMENT BROKERS.

Section 1903(b)(4) (42 U.S.C. 1396b(b)(4)) is amended by adding at the end the following new subparagraph:

''(C)(i) Subparagraphs (A) and (B) shall not apply in the case of a local public agency that is acting as an enrollment broker under a contract or memorandum with a State medicaid agency, provided the local public agency does not have a direct or indirect financial interest with any medicaid managed care plan for which it provides enrollment broker services.

''(ii) In determining whether a local public agency has a direct or indirect financial interest with a medicaid managed care plan under clause (i), the status of a local public agency as a contractor of the plan does not constitute having a direct or indirect financial interest with the plan.''.

SA 2617. Mrs. MCCASKILL (for herself and Ms. COLLINS) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 223, strike line 20 and all that follows through page 227, line 19, and insert the following:

(2) by striking ''information relating to a substantial violation of law related to a contract (including the competition for or negotiation of a contract)'' and inserting ''information that the employee reasonably believes is evidence of gross mismanagement of a Department of Defense contract, grant, or direct payment if the United States Government provides any portion of the money or property which is requested or demanded, a gross waste of Department of Defense funds, a substantial and specific danger to public health or safety, or a violation of law related to a Department of Defense contract (including the competition for or negotiation of a contract), grant, or direct payment if the United States Government provides any portion of the money or property which is requested or demanded''.

(b) ACCELERATION OF SCHEDULE FOR DENYING RELIEF OR PROVIDING REMEDY.—Subsection (c) of such section is amended—

(1) in paragraph (1)—

(A) by inserting after ''(1)'' the following: ''Not later than 90 days after receiving an Inspector General report pursuant to subsection (b), the head of the agency concerned shall determine whether the contractor concerned has subjected the complainant to a reprisal prohibited under subsection (a).''; and

(B) by adding at the end the following new subparagraphs:

''(D) In the event the disclosure relates to a cost-plus contract, prohibit the contractor from receiving one or more award fee payments to which the contractor would otherwise be eligible until such time as the contractor takes the actions ordered by the head of the agency pursuant to subparagraphs (A) through (C).

''(E) Take the reprisal into consideration in any past performance evaluation of the contractor for the purpose of a contract award.'';

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

(3) by inserting after paragraph (2) the following new paragraph:

''(3)(A) In the case of a contract covered by subsection (f), an employee of a contractor who has been discharged, demoted, or otherwise discriminated against as a reprisal for a disclosure covered by subsection (a) or who is aggrieved by the determination made pursuant to paragraph (1) or by an action that the agency head has taken or failed to take pursuant to such determination may, after exhausting his or her administrative remedies, bring a de novo action at law or equity against the contractor to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury.

''(B) An employee shall be deemed to have exhausted his or her administrative remedies for the purpose of this paragraph—

''(i) 90 days after the receipt of a written determination under paragraph (1); or

''(ii) 15 months after a complaint is submitted under subsection (b), if a determination by an agency head has not been made by that time and such delay is not shown to be due to the bad faith of the complainant.''.

(c) LEGAL BURDEN OF PROOF.—Such section is further amended—

(1) by redesignating subsection (e) as subsection (g); and

(2) by inserting after subsection (d) the following new subsection:

''(e) LEGAL BURDEN OF PROOF.—The legal burdens of proof specified in section 1221(e) of title 5 shall be controlling for the purposes of any investigation conducted by an inspector general, decision by the head of an agency, or hearing to determine whether discrimination prohibited under this section has occurred.''.

(d) REQUIREMENT TO NOTIFY EMPLOYEES OF RIGHTS RELATED TO PROTECTION FROM REPRISAL.—Such section, as amended by subsection (c), is further amended by inserting after subsection (e) the following new subsection:

''(f) NOTICE OF RIGHTS RELATED TO PROTECTION FROM REPRISAL.—

''(1) IN GENERAL.—Each Department of Defense contract in excess of $5,000,000, other than a contract for the purchase of commercial items, shall include a clause requiring the contractor to ensure that all employees of the contractor who are working on Department of Defense contracts are notified of—

''(A) their rights under this section;

''(B) the fact that the restrictions imposed by any employee contract, employee agreement, or non-disclosure agreement may not supersede, conflict with, or otherwise alter the employee rights provided for under this section; and

''(C) the telephone number for the whistleblower hotline of the Inspector General of the Department of Defense.

''(2) FORM OF NOTICE.—The notice required by paragraph (1) shall be made by posting the required information at a prominent place in each workplace where employees working on the contract regularly work.''.

(e) DEFINITIONS.—Subsection (g) of such section, as redesignated by subsection (c)(1), is amended—

(1) in paragraph (4), by inserting after ''an agency'' the following: ''and includes any person receiving funds covered by the prohibition against reprisals in subsection (a)'';

(2) in paragraph (5), by inserting after ''1978'' the following: ''and any Inspector General that receives funding from or is under the jurisdiction of the Secretary of Defense''; and

(3) by adding at the end the following new paragraphs:

''(6) The term 'employee' means an individual (as defined by section 2105 of title 5) or any individual or organization performing services for a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded (including as an employee of an organization).

''(7) The term 'Department of Defense funds' includes funds controlled by the Department of Defense and funds for which the Department of Defense may be reasonably regarded as responsible to a third party.''.

SA 2618. Mr. WEBB submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; as follows:

At the end of title VII, insert the following:

SEC. ___. ELIMINATION OF DEFERRAL OF TAXATION OF CERTAIN INCOME OF CONTROLLED FOREIGN CORPORATIONS.

(a) IN GENERAL.—Section 952 (relating to subpart F income defined) is amended by adding at the end the following new subsection:

''(e) SPECIAL APPLICATION OF SUBPART.—

''(1) IN GENERAL.—For taxable years beginning after December 31, 2007, notwithstanding any other provision of this subpart, the term 'subpart F income' means, in the case of any controlled foreign corporation, the income of such corporation derived from any foreign country.

''(2) APPLICABLE RULES.—Rules similar to the rules under the last sentence of subsection (a) and subsection (d) shall apply to this subsection.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years of controlled foreign corporations beginning after December 31, 2007, and to taxable years of United States shareholders with or within which such taxable years of such corporations end.

SA 2619. Mr. NELSON of Florida (for himself and Mr. ALEXANDER) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

On page 218, line 16, strike ''$10.00'' and insert ''$3.00''.

SA 2620. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 110 and insert the following:

SEC. 110. COVERAGE FOR INDIVIDUALS RESIDING IN HIGH COST AREAS WITH FAMILY INCOME ABOVE 200 PERCENT OF THE FEDERAL POVERTY LINE.

(a) IN GENERAL.—Section 2105(c) (42 U.S.C. 1397ee(c)) is amended by adding at the end the following new paragraph:

''(8) COVERAGE OF INDIVIDUALS RESIDING IN HIGH-COST AREAS.—

''(A) IN GENERAL.—For fiscal years beginning with fiscal year 2008, a State shall receive payments under subsection (a)(1) with respect to child health assistance provided to an individual who resides in a high cost county or metropolitan statistical area (as defined by the Secretary, taking into account the national average cost-of-living) and whose effective family income exceeds 200 percent of the poverty line (as determined under the State child health plan), only if such family income does not exceed 200 percent of the poverty line as adjusted for the cost-of-living in the State under subparagraph (B)).

''(B) ADJUSTED POVERTY LINE.—The Secretary shall adjust the poverty line applicable to a family of the size involved with respect to each State to take into account the cost-of-living for each county or metropolitan statistical area in the State, based on the most recent index data from the Council for Community and Economic Research (previously known as the American Chamber of Commerce Research Association),the 2004 Consumer Expenditure Survey of the Bureau of Labor Statistics, and the Bureau of Economic Analysis of the Department of Commerce.''.

(b) CONFORMING AMENDMENT.—Section 2105(a)(1) (42 U.S.C. 1397dd(a)(1)) is amended, in the matter preceding subparagraph (A), by inserting ''or subsection (c)(8)'' after ''subparagraph (B)''.

(c) REGULATIONS.—Not later than 90 days after the date of enactment of this subparagraph, the Secretary shall promulgate interim final regulations to carry out the amendments made by subsections (a) and (b).

SA 2621. Mrs. LINCOLN (for herself, Ms. SNOWE, Mr. NELSON of Nebraska, Mr. BAUCUS, Mr. GRASSLEY, Mr. KENNEDY, Mr. ENZI, Mr. DURBIN, Mr. CRAPO, and Mr. SMITH) submitted an amendment intended to be proposed to amendment SA 2530 proposed by Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. ROCKEFELLER, and Mr. HATCH) to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VI, insert the following:

SEC. ___. SENSE OF SENATE REGARDING ACCESS TO AFFORDABLE AND MEANINGFUL HEALTH INSURANCE COVERAGE.

(a) FINDINGS.—The Senate finds the following:

(1) There are approximately 45 million Americans currently without health insurance.

(2) More than half of uninsured workers are employed by businesses with less than 25 employees or are self-employed.

(3) Health insurance premiums continue to rise at more than twice the rate of inflation for all consumer goods.

(4) Individuals in the small group and individual health insurance markets usually pay more for similar coverage than those in the large group market.

(5) The rapid growth in health insurance costs over the last few years has forced many employers, particularly small employers, to increase deductibles and co-pays or to drop coverage completely.

(b) SENSE OF THE SENATE.—The Senate—

(1) recognizes the necessity to improve affordability and access to health insurance for all Americans;

(2) acknowledges the value of building upon the existing private health insurance market; and

(3) affirms its intent to enact legislation this year that, with appropriate protection for consumers, improves access to affordable and meaningful health insurance coverage for employees of small businesses and individuals by—

(A) facilitating pooling mechanisms, including pooling across State lines, and

(B) providing assistance to small businesses and individuals, including financial assistance and tax incentives, for the purchase of private insurance coverage.

SA 2622. Mr. CASEY (for Mr. ENZI (for himself and Ms. MIKULSKI)) proposed an amendment to the bill S. 845, to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safety of Seniors Act of 2007''.

SEC. 2. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended—

(1) by redesignating section 393B (as added by section 1401 of Public Law 106–386) as section 393C and transferring such section so that it appears after section 393B (as added by section 1301 of Public Law 106–310); and

(2) by inserting after section 393C (as redesignated by paragraph (1)) the following:

''SEC. 393D. PREVENTION OF FALLS AMONG OLDER ADULTS.

''(a) PUBLIC EDUCATION.—The Secretary may—

''(1) oversee and support a national education campaign to be carried out by a nonprofit organization with experience in designing and implementing national injury prevention programs, that is directed principally to older adults, their families, and health care providers, and that focuses on reducing falls among older adults and preventing repeat falls; and

''(2) award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, for the purpose of organizing State-level coalitions of appropriate State and local agencies, safety, health, senior citizen, and other organizations to design and carry out local education campaigns, focusing on reducing falls among older adults and preventing repeat falls.

''(b) RESEARCH.—

''(1) IN GENERAL.—The Secretary may—

''(A) conduct and support research to—

''(i) improve the identification of older adults who have a high risk of falling;

''(ii) improve data collection and analysis to identify fall risk and protective factors;

''(iii) design, implement, and evaluate the most effective fall prevention interventions;

''(iv) improve strategies that are proven to be effective in reducing falls by tailoring these strategies to specific populations of older adults;

''(v) conduct research in order to maximize the dissemination of proven, effective fall prevention interventions;

''(vi) intensify proven interventions to prevent falls among older adults;

''(vii) improve the diagnosis, treatment, and rehabilitation of elderly fall victims and older adults at high risk for falls; and

''(viii) assess the risk of falls occurring in various settings;

''(B) conduct research concerning barriers to the adoption of proven interventions with respect to the prevention of falls among older adults;

''(C) conduct research to develop, implement, and evaluate the most effective approaches to reducing falls among high-risk older adults living in communities and long-term care and assisted living facilities; and

''(D) evaluate the effectiveness of community programs designed to prevent falls among older adults.

''(2) EDUCATIONAL SUPPORT.—The Secretary, either directly or through awarding grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, may provide professional education for physicians and allied health professionals, and aging service providers in fall prevention, evaluation, and management.

''(c) DEMONSTRATION PROJECTS.—The Secretary may carry out the following:

''(1) Oversee and support demonstration and research projects to be carried out by qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, in the following areas:

''(A) A multistate demonstration project assessing the utility of targeted fall risk screening and referral programs.

''(B) Programs designed for community-dwelling older adults that utilize multicomponent fall intervention approaches, including physical activity, medication assessment and reduction when possible, vision enhancement, and home modification strategies.

''(C) Programs that are targeted to new fall victims who are at a high risk for second falls and which are designed to maximize independence and quality of life for older adults, particularly those older adults with functional limitations.

''(D) Private sector and public-private partnerships to develop technologies to prevent falls among older adults and prevent or reduce injuries if falls occur.

''(2)(A) Award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, to design, implement, and evaluate fall prevention programs using proven intervention strategies in residential and institutional settings.

''(B) Award 1 or more grants, contracts, or cooperative agreements to 1 or more qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, in order to carry out a multistate demonstration project to implement and evaluate fall prevention programs using proven intervention strategies designed for single and multifamily residential settings with high concentrations of older adults, including—

''(i) identifying high-risk populations;

''(ii) evaluating residential facilities;

''(iii) conducting screening to identify high-risk individuals;

''(iv) providing fall assessment and risk reduction interventions and counseling;

''(v) coordinating services with health care and social service providers; and

''(vi) coordinating post-fall treatment and rehabilitation.

''(3) Award 1 or more grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, to conduct evaluations of the effectiveness of the demonstration projects described in this subsection.

''(d) PRIORITY.—In awarding grants, contracts, or cooperative agreements under this section, the Secretary may give priority to entities that explore the use of cost-sharing with respect to activities funded under the grant, contract, or agreement to ensure the institutional commitment of the recipients of such assistance to the projects funded under the grant, contract, or agreement. Such non-Federal cost sharing contributions may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

''(e) STUDY OF EFFECTS OF FALLS ON HEALTH CARE COSTS.—

''(1) IN GENERAL.—The Secretary may conduct a review of the effects of falls on health care costs, the potential for reducing falls, and the most effective strategies for reducing health care costs associated with falls.

''(2) REPORT.—If the Secretary conducts the review under paragraph (1), the Secretary shall, not later than 36 months after the date of enactment of the Safety of Seniors Act of 2007, submit to Congress a report describing the findings of the Secretary in conducting such review.''.

SA 2623. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 976, to amend the Internal Revenue Code of 1986 to provide tax relief for small businesses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DEMONSTRATION PROJECT TO PROVIDE NURSE HOME VISITATION SERVICES UNDER MEDICAID AND CHIP.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress makes the following findings:

(A) Medicaid and CHIP have collectively provided health insurance coverage to over 38,000,000 low-income pregnant women and children.

(B) Evidence-based home visitation programs can improve the health status of low-income pregnant women and children enrolled in Medicaid and CHIP by promoting access to prenatal and well-baby care, reducing pre-term births, reducing high-risk pregnancies, increasing time intervals between first and subsequent births, and improving child cognitive, social, and behavioral skills, and development.

(C) In addition to health benefits, evidence-based home visitation programs have been proven to increase maternal employment and economic self-sufficiency and significantly reduce child abuse and neglect, child arrests, maternal arrests, and involvement in the criminal justice system.

(D) Evidence-based nurse home visitation programs are cost effective, yielding a 5-to-1 return on investment for every dollar spent on services, and producing a net benefit to society of $34,000 per high risk family served.

(2) PURPOSE.—The purpose of this section is to establish a demonstration project to evaluate the cost-effectiveness and impact on the health and well-being of low-income pregnant mothers and children of providing evidence-based home visitation services for low-income pregnant mothers and children under Medicaid and CHIP, particularly with respect to the impact of such services on—

(A) improving the prenatal health of children;

(B) improving pregnancy outcomes;

(C) improving child health and development;

(D) improving child development and mental health related to elementary school readiness;

(E) improving family stability and economic self-sufficiency;

(F) reducing the incidence of child abuse and neglect; and

(G) increasing birth intervals between pregnancies.

(b) REQUIREMENT TO CONDUCT DEMONSTRATION PROJECT.—

(1) IN GENERAL.—The Secretary shall establish a demonstration project under which a State may apply under section 1115 of the Social Security Act (42 U.S.C. 1315) to provide, in accordance with the provisions of this section, medical assistance under the State plan under title XIX of the Social Security Act, child health assistance under the State child health plan under title XXI of such Act, or both for evidence-based home visitation services to children and pregnant women who are eligible for such assistance under such plans.

(2) LIMITATION ON NUMBER OF APPROVED APPLICATIONS.—The Secretary shall only approve as many State applications to provide medical assistance or child health assistance in accordance with this section as will not exceed the limitation on aggregate payments under subsection (d)(2)(A).

(3) AUTHORITY TO WAIVE RESTRICTIONS ON PAYMENTS TO TERRITORIES.—The Secretary shall waive the limitations on payment under subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308) in the case of a State that is subject to such limitations and submits an approved application to provide medical assistance, child health assistance, or both in accordance with this section.

(c) LENGTH OF PERIOD FOR PROVISION OF ASSISTANCE.—A State shall not be approved to provide medical assistance or child health assistance for evidence-based home visitation services in accordance with the demonstration project established under this section for a period of more than 5 consecutive years.

(d) LIMITATIONS ON FEDERAL FUNDING.—

(1) APPROPRIATION.—

(A) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out this section, $25,000,000 for the period of fiscal years 2008 through 2012.

(B) BUDGET AUTHORITY.—Subparagraph (A) constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of the amounts appropriated under that subparagraph.

(2) LIMITATION ON PAYMENTS.—In no case may—

(A) the aggregate amount of payments made by the Secretary to eligible States under this section exceed $25,000,000; or

(B) payments be provided by the Secretary under this section after September 30, 2012.

(3) FUNDS ALLOCATED TO STATES.—The Secretary shall allocate funds to States with approved applications under this section based on their applications and the availability of funds.

(4) PAYMENTS TO STATES.—The Secretary shall pay to each State, from its allocation under paragraph (3), an amount each quarter equal to the Federal medical assistance percentage, as defined with respect to the State in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), or the enhanced FMAP, as defined with respect to the State in section 2105(b) of such Act (42 U.S.C. 1397ee(b)) (as applicable) of expenditures in the quarter for medical assistance or child health assistance for evidence-based home visitation services provided to low-income pregnant mothers and children who are eligible for such assistance under a State plan under title XIX or XXI of such Act in accordance with the demonstration project established under this section.

(e) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall conduct an evaluation of the demonstration project established under this section. Such evaluation shall include an analysis of the cost-effectiveness of the project with differentiation between the different types of home health programs and the impact of the programs on Medicaid and CHIP. For purposes of conducting such evaluation, the Secretary shall require a State that submits an application to participate in the demonstration project established under this section to agree, as a condition of approval of such application, to maintain data related to, and be subject to, periodic evaluations based on performance outcomes regarding the following:

(A) Substance abuse during pregnancy.

(B) Prematurity.

(C) Immunizations.

(D) Developmental delay.

(E) Language development.

(F) Emergency room visits and hospitalizations for injury.

(G) Interval between pregnancies.

(H) Workforce participation.

(I) Government assistance use.

(2) REPORT TO CONGRESS.—Not later than December 31, 2012, the Secretary shall submit a report to Congress on the results of the evaluation of the demonstration project established under this section.

(f) DEFINITION.—In this section, the term ''evidence-based home visitation services'' means services (such as services related to improving prenatal health, pregnancy outcomes, child health and development, school readiness, family stability and economic self-sufficiency, reducing child abuse, neglect, and injury, reducing maternal and child involvement in the criminal justice system, and increasing birth intervals between pregnancies) on behalf of a targeted low-income child who has not attained age 2 and is born to a first-time pregnant mother, but only if such services are provided in accordance with outcome standards that have been replicated in multiple, rigorous, randomized clinical trials in multiple sites, with outcomes that improve prenatal health of children, pregnancy outcomes, child health and development, child development, and mental health related to elementary school readiness, reduce child abuse, neglect, and injury, increase birth intervals between pregnancies, and improve maternal employment.

(g) RULE OF CONSTRUCTION.—Nothing in the demonstration project established under this section shall be construed as affecting the ability of a State under Medicaid or CHIP to provide home visitation services as part of medical assistance, child health assistance, or an administrative expense, for which any State received payment under section 1903(a) or 2105(a) of the Social Security Act (42 U.S.C. 1396b(a), 1397ee(a)) for the provision of such services before, on, or after the date of enactment of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mrs. BOXER. 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 August 1, 2007, at 9:30 a.m., to mark up S. 1677, the Currency Reform and Financial Markets Access Act of 2007; S. 1518, the Community Partnership to End Homelessness Act of 2007; an original bill entitled the FHA Modernization Act of 2007; an original bill entitled the Housing Assistance Authorization Act of 2007; an original bill entitled the Private Student Loan Transparency and Improvement Act of 2007; and an original bill entitled the Commission on National Catastrophe Risk Management and Insurance Act of 2007.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a hearing during the session of the Senate on Wednesday, August 1, 2007, at 2:30 p.m., in room 253 of the Russell Senate Office Building.

The U.S. Department of Commerce and its component bureaus are responsible for the stewardship, protection, and scientific understanding of our ocean environment and its resources, effective use and growth of the Nation's technological resources, and promoting U.S. trade and tourism. The oversight hearing will examine the Department's effectiveness in implementing these goals.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Wednesday, August 1, 2007, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony on recent advances in clean coal technology, including the prospects for deploying these technologies at a commercial scale in the near future.

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

COMMITTEE ON FOREIGN RELATIONS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, August 1, 2007, at 9:30 a.m. to hold a hearing on Africa.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, August 1, 2007 at 10 a.m. in the LBJ Room, S–211, of the Capitol building. We will be considering the following:

1. S. 625, Family Smoking Prevention and Tobacco Control Act
2. S. 1183, Christopher and Dana Reeve Paralysis Act
3. S. 579, Breast Cancer and Environmental Research Act of 2007
4. S. 898, Alzheimer's Breakthrough Act of 2007
5. S. 1858, Newborn Screening Saves Lives Act of 2007
6. The Following Nominations: Diane Auer Jones, of Maryland, to be Assistant Secretary for Postsecondary Education, Department of Education; David C. Geary, of Missouri, to be a member of the Board of Directors of the National Board for Education Sciences; Miguel Campaneria, of Puerto Rico, to be a member of the National Council on the Arts; and any nominations ready for action.

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

COMMITTEE ON THE HOMELAND SECURITY

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, August 1, 2007, at 10 a.m. in order to conduct business meeting to consider pending committee business.

Agenda

Nominations: The Honorable James A. Nussle to be Director, Office of Management and Budget; Dennis R. Schrader to be Deputy Administrator for National Preparedness, Federal Emergency Management Agency, U.S. Department of Homeland Security.

Legislation: S. 680, Accountability in Government Contracting Act of 2007; H.R. 1254, Presidential Library Donation Reform Act of 2007; S. ____, an original bill to provide for the flexibility of certain disaster relief funds, and for improved evacuation and sheltering during disasters and catastrophes; S. 1000, Telework Enhancement Act of 2007; S. 1446, National Capital Transportation Amendments Act of 2007; S. 547, Effective Homeland Security Management Act of 2007; S. 1245, a bill to reform mutual aid agreements for the National Capital Region; S. 597, a bill to extend the special postage stamp for breast cancer research for 2 years.

Post Office Naming Bills: H.R. 2570/S. 1732, a bill to designate the facility of the United States Postal Service located at 301 Boardwalk Drive in Fort Collins, Colorado, as the ''Dr. Karl E. Carson Post Office Building''; S. 1772, a bill to designate the facility of the United States Postal Service located at 127 South Elm Street in Gardner, Kansas, as the ''Private First Class Shane R. Austin Post Office''; S. 1781, a bill to designate the facility of the United States Postal Service located at 118 Minner Avenue in Bakersfield, California, as the ''Buck Owens Post Office''; H.R. 2127, a bill to designate the facility of the United States Postal Service located at 408 West 6th Street in Chelsea, Oklahoma, as the ''Clem Rogers McSpadden Post Office Building''; H.R. 2563/S. 1539, a bill to designate the facility of the United States Postal Service located at 309 East Linn Street in Marshalltown, Iowa, as the ''Major Scott Nisely Post Office''; S. 1596, a bill to designate the facility of the United States Postal Service located at 103 South Getty Street in Uvalde, Texas, as the ''Dolph S. Briscoe, Jr., Post Office Building''; H.R. 1722, a bill to designate the facility of the United States Postal Service located at 601 Banyan Trail in Boca Raton, Florida, as the ''Leonard W. Herman Post Office''; H.R. 1425, a bill to designate the facility of the United States Postal Service located at 4551 East 52nd Street in Odessa, Texas, as the ''Staff Sergeant Marvin 'Rex' Young Post Office Building''; H.R. 2078, a bill to designate the facility of the United States Postal Service located at 14536 State Route 136 in Cherry Fork, Ohio, as the ''Staff Sergeant Omer 'O.T.' Hawkins Post Office''; H.R. 2077, a bill to designate the facility of the United States Postal Service located at 20805 State Route 125 in Blue Creek, Ohio, as the ''George B. Lewis Post Office Building''; H.R. 1617, a bill to designate the facility of the United States Postal service located at 561 Kingsland Avenue in University City, Missouri, as the ''Harriet F. Woods Post Office Building''; H.R. 2025, a bill to designate the facility of the United States Postal service located at 11033 South State Street in Chicago, Illinois, as the ''Willye B. White Post Office Building''; H.R. 1335, a bill to designate the facility of the United States Postal service located at 508 East Main Street in Seneca, South Carolina, as the ''S/Sgt Lewis G. Watkins Post Office Building''; H.R. 1260, a bill to designate the facility of the United States Postal service located at 6301 Highway 58 in Harrison, Tennessee, as the ''Claude Ramsey Post Office''; H.R. 1434, a bill to designate the facility of the United States Postal Service located at 896 Pittsburgh Street in Springdale, Pennsylvania, as the ''Rachel Carson Post Office Building.''

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

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate in order to conduct a roundtable entitled ''Reauthorization of the Small Business Innovation Research Programs: National Academies' Findings and Recommendations,'' on August 1, 2007, at 10 a.m. in room 428A of the Russell Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mrs. BOXER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on August 1, 2007, at 2:30 p.m. to hold an open hearing.

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

COMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mrs. BOXER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Government Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet on Wednesday, August 1, 2007, at 2:30 p.m. in order to conduct a hearing entitled Building a Stronger American Diplomatic.

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

SUBCOMMITTEE ON WATER AND POWER

Mrs. BOXER. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to hold a hearing during the session of the Senate on Wednesday, August 1, 2007, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills: S. 1054 and H.R. 122, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Inland Empire regional recycling project and in the Cucamonga Valley Water District recycling project; S. 1472, to authorize the Secretary of the Interior to create a Bureau of Reclamation partnership with the North Bay Water Reuse Authority and other regional partners to achieve objectives relating to water supply, water quality, and environmental restoration; S. 1475 and H.R. 1526, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Bay Area Regional Water Recycling Program, and for other purposes; H.R. 30, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Eastern Municipal Water District Recycled Water

System Pressurization and Expansion Project; H.R. 609, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Central Texas Recycling and Reuse Project, and for other purposes; and H.R. 1175, to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to increase the ceiling on the Federal share of the costs of phase I of the Orange County, California, Regional Water Reclamation Project.

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

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Michael Kimberly of my staff be granted floor privileges for the duration of today's session.

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

Mr. REED. Mr. President, I ask unanimous consent that Jessica Gerrity, a fellow in my office, be granted floor privileges for the duration of the Senate consideration of H.R. 976, the Small Business Tax Relief Act of 2007.

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

Mr. HATCH. Mr. President, I ask unanimous consent that my legislative fellow, Dr. Guy Clifton, be granted floor privileges during the consideration of the CHIP reauthorization bill.

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

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DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2008

On Thursday, July 26, 2007, the Senate passed H.R. 2638, U.S. amended as follows:

H.R. 2638

Resolved, That the bill from the House of Representatives (H.R. 2638) entitled ''An Act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2008, and for other purposes.'', do pass with the following *amendment:*

Strike out all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2008, for the Department of Homeland Security and for other purposes, namely:

TITLE I

DEPARTMENT OF HOMELAND SECURITY

DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $100,000,000: Provided, That not to exceed $40,000 shall be for official reception and representation expenses: Provided further, That $15,000,000 shall not be available for obligation until the Secretary certifies and reports to the Committees on Appropriations of the Senate and the House of Representatives that the Department has revised Departmental guidance with respect to relations with the Government Accountability Office to specifically provide for: (1) expedited timeframes for providing the Government Accountability Office with access to records not to exceed 20 days from the date of request; (2) expedited timeframes for interviews of program officials by the Government Accountability Office after reasonable notice has been furnished to the Department by the Government Accountability Office; and (3) a significant streamlining of the review process for documents and interview requests by liaisons, counsel, and program officials, consistent with the objective that the Government Accountability Office be given timely and complete access to documents and agency officials: Provided further, That the Secretary shall make the revisions to Departmental guidance with respect to relations with the Government Accountability Office in consultation with the Comptroller General of the United States.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701 through 705 of the Homeland Security Act of 2002 (6 U.S.C. 341 through 345), $234,883,000, of which not to exceed $3,000 shall be for official reception and representation expenses: Provided, That of the total amount, $6,000,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations; and $88,000,000 shall remain available until expended for the Consolidated Headquarters Project.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $30,076,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $321,100,000; of which $82,400,000 shall be available for salaries and expenses; and of which $238,700,000, to remain available until expended, shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, of which $97,300,000 shall be for the National Center for Critical Information Processing and Storage: Provided, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment.

ANALYSIS AND OPERATIONS

For necessary expenses for information analysis and operations coordination activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $306,000,000, to remain available until September 30, 2009, of which not to exceed $5,000 shall be for official reception and representation expenses: Provided, That the Director of Operations Coordination shall encourage rotating State and local fire service representation at the National Operations Center.

OFFICE OF THE FEDERAL COORDINATOR FOR GULF COAST REBUILDING

For necessary expenses of the Office of the Federal Coordinator for Gulf Coast Rebuilding, $3,000,000: Provided, That $1,000,000 shall not be available for obligation until the Committees on Appropriations of the Senate and the House of Representatives receive an expenditure plan for fiscal year 2008.

OFFICE OF INSPECTOR GENERAL

OPERATING EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $95,211,000, of which not to exceed $150,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General: Provided, That the Inspector General shall investigate decisions made regarding, and the policy of the Federal Emergency Management Agency relating to, formaldehyde in trailers in the Gulf Coast region, the process used by the Federal Emergency Management Agency for collecting, reporting, and responding to health and safety concerns of occupants of housing supplied by the Federal Emergency Management Agency (including such housing supplied through a third party), and whether the Federal Emergency Management Agency adequately addressed public health and safety issues of households to which the Federal Emergency Management Agency provides disaster housing (including whether the Federal Emergency Management Agency adequately notified recipients of such housing, as appropriate, of potential health and safety concerns and whether the institutional culture of the Federal Emergency Management Agency properly prioritizes health and safety concerns of recipients of assistance from the Federal Emergency Management Agency), and submit a report to Congress relating to that investigation, including any recommendations.

TITLE II

SECURITY, ENFORCEMENT, AND INVESTIGATIONS

U.S. CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; purchase and lease of up to 4,500 (2,400 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $6,601,058,000; of which $230,316,000 shall remain available until September 30, 2009, to support software development, equipment, contract services, and the implementation of inbound lanes and modification to vehicle primary processing lanes at ports of entry; of which $15,000,000 shall be used to procure commercially available technology in order to expand and improve the risk-based approach of the Department of Homeland Security to target and inspect cargo containers under the Secure Freight Initiative and the Global Trade Exchange; of which $3,093,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(c)(3)) and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $45,000 shall be for official reception and representation expenses; of which not less than $226,740,000 shall be for Air and Marine Operations; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; of which $40,000,000 shall be utilized to develop and implement a Model Ports of Entry program and provide resources necessary for 200 additional U.S. Customs and Border Protection officers at the 20 United States international airports that

have the highest number of foreign visitors arriving annually as determined pursuant to the most recent data collected by U.S. Customs and Border Protection available on the date of enactment of this Act, to provide a more efficient and welcoming international arrival process in order to facilitate and promote business and leisure travel to the United States while also improving security; and of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security: Provided, That for fiscal year 2008, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated by this Act may be available to compensate any employee of U.S. Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Secretary of Homeland Security, or the designee of the Secretary, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies.

AUTOMATION MODERNIZATION

For expenses for customs and border protection automated systems, $476,609,000, to remain available until expended, of which not less than $316,969,000 shall be for the development of the Automated Commercial Environment: Provided, That of the total amount made available under this heading, $216,969,000 may not be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive a plan for expenditure prepared by the Secretary of Homeland Security that includes:

(1) a detailed accounting of the program's progress to date relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, and program management capabilities;

(2) an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities;

(3) a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Department of Homeland Security actions to address the recommendations, including milestones for fully addressing them;

(4) a certification by the Chief Financial Officer of the Department that the program has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including Circular A–11, part 7;

(5) a certification by the Chief Information Officer of the Department that an independent validation and verification agent has and will continue to actively review the program;

(6) a certification by the Chief Information Officer of the Department that the system architecture of the program is sufficiently aligned with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architectures that were and were not assessed in making the alignment determination, the date of the alignment determination, any known areas of misalignment along with the associated risks and corrective actions to address any such areas;

(7) a certification by the Chief Procurement Officer of the Department that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with them along with any plans for addressing these risks and the status of their implementation;

(8) a certification by the Chief Information Officer of the Department that the program has a risk management process that regularly identifies, evaluates, mitigates, and monitors risks throughout the system life cycle, and communicates high-risk conditions to agency and department heads, as well as a listing of all the program's high risks and the status of efforts to address them; and

(9) a certification by the Chief Human Capital Officer of the Department that the human capital needs of the program are being strategically and proactively managed, and that current human capital capabilities are sufficient to execute the plans discussed in the report.

BORDER SECURITY FENCING, INFRASTRUCTURE, AND TECHNOLOGY

For expenses for customs and border protection fencing, infrastructure, and technology, $1,000,000,000, to remain available until expended: Provided, That of the amount provided under this heading, $500,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure, prepared by the Secretary of Homeland Security and submitted within 90 days after the date of enactment of this Act, that includes:

(1) a detailed accounting of the program's progress to date relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, and program management capabilities;

(2) an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities;

(3) a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Department of Homeland Security actions to address the recommendations, including milestones for fully addressing them;

(4) a certification by the Chief Financial Officer of the Department that the program has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including Circular A–11, part 7;

(5) a certification by the Chief Information Officer of the Department that an independent validation and verification agent has and will continue to actively review the program;

(6) a certification by the Chief Information Officer of the Department that the system architecture of the program is sufficiently aligned with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architectures that were and were not assessed in making the alignment determination, the date of the alignment determination, any known areas of misalignment along with the associated risks and corrective actions to address any such areas;

(7) a certification by the Chief Procurement Officer of the Department that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with them along with any plans for addressing these risks and the status of their implementation;

(8) a certification by the Chief Information Officer of the Department that the program has a risk management process that regularly identifies, evaluates, mitigates, and monitors risks throughout the system life cycle, and communicates high-risk conditions to agency and department heads, as well as a listing of all the program's high risks and the status of efforts to address them;

(9) a certification by the Chief Human Capital Officer of the Department that the human capital needs of the program are being strategically and proactively managed, and that current human capital capabilities are sufficient to execute the plans discussed in the report;

(10) a description of initial plans for securing the Northern border and United States maritime border; and

(11) which is reviewed by the Government Accountability Office.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, unmanned aircraft systems, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $488,947,000, to remain available until expended: Provided, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to United States Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2008 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $274,863,000, to remain available until expended; of which $40,200,000 shall be for the Advanced Training Center.

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 3,790 (2,350 for replacement only) police-type vehicles; $4,401,643,000, of which not to exceed $7,500,000 shall be available until expended for conducting special operations under section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; of which not less than $102,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than $203,000 shall be for Project Alert; of which not less than $5,400,000 shall be used to facilitate agreements consistent with section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: Provided, That none of the funds made available under this heading shall be available to compensate any employee

for overtime in an annual amount in excess of $35,000, except that the Secretary of Homeland Security, or the designee of the Secretary, may waive that amount as necessary for national security purposes and in cases of immigration emergencies: Provided further, That of the total amount provided, $15,770,000 shall be for activities to enforce laws against forced child labor in fiscal year 2008, of which not to exceed $6,000,000 shall remain available until expended.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service: Provided, That the Secretary of Homeland Security and the Director of the Office of Management and Budget shall certify in writing to the Committees on Appropriations of the Senate and the House of Representatives no later than November 1, 2007, that the operations of the Federal Protective Service will be fully funded in fiscal year 2008 through revenues and collection of security fees: Provided further, That a certification shall be provided no later than February 10, 2008, for fiscal year 2009: Provided further, That the Secretary of Homeland Security shall ensure that the workforce of the Federal Protective Service includes not fewer than 1,200 Commanders, Police Officers, Inspectors, and Special Agents engaged on a daily basis in protecting Federal buildings (under this heading referred to as ''in-service'') contingent on the availability of sufficient revenue in collections of security fees in this account for this purpose: Provided further, That the Secretary of Homeland Security and the Director of the Office of Management and Budget shall adjust fees as necessary to ensure full funding of not fewer than 1,200 in-service Commanders, Police Officers, Inspectors, and Special Agents at the Federal Protective Service.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $15,000,000, to remain available until expended: Provided, That of the funds made available under this heading, $5,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive a plan for expenditure prepared by the Secretary of Homeland Security.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $16,250,000, to remain available until expended.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $5,042,559,000, to remain available until September 30, 2009, of which not to exceed $10,000 shall be for official reception and representation expenses: Provided, That of the total amount made available under this heading, not to exceed $4,074,889,000 shall be for screening operations, of which $529,400,000 shall be available only for procurement and installation of checked baggage explosive detection systems; and not to exceed $967,445,000 shall be for aviation security direction and enforcement: Provided further, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections and shall be available only for aviation security: Provided further, That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2008, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,332,344,000: Provided further, That any security service fees collected in excess of the amount made available under this heading shall become available during fiscal year 2009: Provided further, That Members of the United States House of Representatives and United States Senate, including the leadership; and the heads of Federal agencies and commissions, including the Secretary, Under Secretaries, and Assistant Secretaries of the Department of Homeland Security; the United States Attorney General and Assistant Attorneys General and the United States attorneys; and senior members of the Executive Office of the President, including the Director of the Office of Management and Budget; shall not be exempt from Federal passenger and baggage screening.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, $41,413,000, to remain available until September 30, 2009.

TRANSPORTATION THREAT ASSESSMENT AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs of the Office of Transportation Threat Assessment and Credentialing, $67,490,000, to remain available until September 30, 2009.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $521,515,000, to remain available until September 30, 2009: Provided, That of the funds appropriated under this heading, $20,000,000 may not be obligated until the Secretary of Homeland Security submits to the Committees on Appropriations of the Senate and the House of Representatives a strategic plan required for checkpoint technologies as described in the joint explanatory statement of managers accompanying the fiscal year 2007 conference report (H. Rept. 109–699): Provided further, That this plan shall be submitted no later than 60 days after the date of enactment of this Act.

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, $722,000,000.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the United States Coast Guard not otherwise provided for; purchase or lease of not to exceed 25 passenger motor vehicles, which shall be for replacement only; payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note; 96 Stat. 1920); and recreation and welfare; $5,930,545,000, of which $340,000,000 shall be for defense-related activities; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); and of which not to exceed $10,000 shall be for official reception and representation expenses: Provided, That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds made available by this Act shall be for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the United States Coast Guard under chapter 19 of title 14, United States Code, $12,079,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $126,883,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(INCLUDING RESCISSIONS OF FUNDS)

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law; $1,048,068,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which $9,200,000 shall be available until September 30, 2012, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $173,600,000 shall be available until September 30, 2010, for other equipment; of which $37,897,000 shall be available until September 30, 2010, for shore facilities and aids to navigation facilities; of which $505,000 shall be available for personnel related costs; and of which $770,079,000 shall be available until September 30, 2012, for the Integrated Deepwater Systems program: Provided, That no funds shall be available for procurements related to the acquisition of additional major assets as part of the Integrated Deepwater Systems program not already under contract until an Alternatives Analysis has been completed by an independent qualified third party: Provided further, That no funds contained in this Act shall be available for procurement of the third National Security Cutter until an Alternatives Analysis has been completed by an independent qualified third party: Provided further, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2010: Provided further, That of amounts made available under this heading in Public Law 109–90, $48,787,000 for the Offshore Patrol Cutter are rescinded: Provided further, That of the amounts made available under this heading in Public Law 109–295, $8,000,000 for the Fast Response Cutter (FRC–A) are rescinded: Provided further, That the Secretary shall submit an expenditure plan to the Committees on Appropriations of the Senate and the House of Representatives within 60 days after the date of enactment of this Act for funds made available for the Integrated Deepwater Program, that: (1) defines activities, milestones, yearly costs, and life-cycle costs for each procurement of a major asset; (2) identifies life-cycle staffing and training needs of Coast Guard project managers and of procurement and contract staff; (3) includes a certification by the Chief Human Capital Officer of the Department that current human capital capabilities are sufficient to execute the plans discussed in the report; (4) identifies individual project balances by fiscal year, including planned carryover into fiscal year 2009 by project; (5) identifies operational gaps for all Deepwater assets and an explanation of how funds provided in this Act address the shortfalls between current operational capabilities and requirements; (6) includes a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Coast Guard actions to address the recommendations, including milestones for fully addressing them; (7) includes a certification by the Chief Financial Officer of the Department that the program has been reviewed and approved in accordance with

the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including Circular A–11, part 7; (8) identifies competition to be conducted in each procurement; (9) includes a certification by the head of contracting activity for the Coast Guard and the Chief Procurement Officer of the Department that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with them along with plans for addressing these risks and the status of their implementation; (10) identifies the use of independent validation and verification; and (11) is reviewed by the Government Accountability Office: Provided further, That the Secretary of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives, in conjunction with the President's fiscal year 2009 budget, a review of the Revised Deepwater Implementation Plan that identifies any changes to the plan for the fiscal year; an annual performance comparison of Deepwater assets to pre-Deepwater legacy assets; a status report of legacy assets; a detailed explanation of how the costs of legacy assets are being accounted for within the Deepwater program; and the earned value management system gold card data for each Deepwater asset: Provided further, That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a comprehensive review of the Revised Deepwater Implementation Plan every five years, beginning in fiscal year 2011, that includes a complete projection of the acquisition costs and schedule for the duration of the plan through fiscal year 2027: Provided further, That the Secretary shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, United States Code, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

(1) the proposed appropriation included in that budget;

(2) the total estimated cost of completion;

(3) projected funding levels for each fiscal year for the next five fiscal years or until project completion, whichever is earlier;

(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committees on Appropriations of the Senate and the House of Representatives: Provided further, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31, United States Code, for that fiscal year: Provided further, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), $16,000,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation; and for maintenance, rehabilitation, lease, and operation of facilities and equipment; as authorized by law; $25,583,000, to remain available until expended, of which $500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)): Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,184,720,000, to remain available until expended.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 645 vehicles for police-type use, which shall be for replacement only, and hire of passenger motor vehicles; purchase of motorcycles made in the United States; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director of the Secret Service; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms matches; presentation of awards; travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $1,392,171,000, of which not to exceed $25,000 shall be for official reception and representation expenses; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $6,000,000 shall be a grant for activities related to the investigations of missing and exploited children and shall remain available until expended: Provided, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2009: Provided further, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from Federal agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $3,725,000, to remain available until expended.

TITLE III

PROTECTION, PREPAREDNESS, RESPONSE, AND RECOVERY

NATIONAL PROTECTION AND PROGRAMS DIRECTORATE

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for National Protection and Programs, the National Protection Planning Office, support services for business operations and information technology, and facility costs, $30,000,000: Provided, That of the amount provided, $15,000,000 shall not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve in full an expenditure plan by program, project, and activity; prepared by the Secretary of Homeland Security that has been reviewed by the Government Accountability Office.

INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For necessary expenses for infrastructure protection and information security programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) or subtitle J of title VIII of the Homeland Security Act of 2002, as added by this Act, $527,099,000, of which $497,099,000 shall remain available until September 30, 2009, and of which, $2,000,000 shall be to carry out subtitle J of title VIII of the Homeland Security Act of 2002, as added by this Act: Provided, That $10,043,000 shall be for the Office of Bombing Prevention and not more than $26,100,000 shall be for the Next Generation Network.

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a), $362,000,000, to remain available until expended: Provided, That of the total amount made available under this heading, $100,000,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that includes:

(1) a detailed accounting of the program's progress to date relative to system capabilities or services, system performance levels, mission benefits and outcomes, milestones, cost targets, and program management capabilities;

(2) an explicit plan of action defining how all funds are to be obligated to meet future program commitments, with the planned expenditure of funds linked to the milestone-based delivery of specific capabilities, services, performance levels, mission benefits and outcomes, and program management capabilities;

(3) a listing of all open Government Accountability Office and Office of Inspector General recommendations related to the program and the status of Department of Homeland Security actions to address the recommendations, including milestones for fully addressing them;

(4) a certification by the Chief Financial Officer of the Department that the program has been reviewed and approved in accordance with the investment management process of the Department, and that the process fulfills all capital planning and investment control requirements and reviews established by the Office of Management and Budget, including Circular A–11, part 7;

(5) a certification by the Chief Information Officer of the Department that an independent validation and verification agent has and will continue to actively review the program;

(6) a certification by the Chief Information Officer of the Department that the system architecture of the program is sufficiently aligned

with the information systems enterprise architecture of the Department to minimize future rework, including a description of all aspects of the architectures that were and were not assessed in making the alignment determination, the date of the alignment determination, any known areas of misalignment along with the associated risks and corrective actions to address any such areas;

(7) a certification by the Chief Procurement Officer of the Department that the plans for the program comply with the Federal acquisition rules, requirements, guidelines, and practices, and a description of the actions being taken to address areas of non-compliance, the risks associated with them along with any plans for addressing these risks and the status of their implementation;

(8) a certification by the Chief Information Officer of the Department that the program has a risk management process that regularly identifies, evaluates, mitigates, and monitors risks throughout the system life cycle, and communicates high-risk conditions to agency and department heads, as well as a listing of all the program's high risks and the status of efforts to address them;

(9) a certification by the Chief Human Capital Officer of the Department that the human capital needs of the program are being strategically and proactively managed, and that current human capital capabilities are sufficient to execute the plans discussed in the report; and

(10) which is reviewed by the Government Accountability Office.

OFFICE OF HEALTH AFFAIRS

For the necessary expenses of the Office of Health Affairs, $115,000,000; of which $20,817,000 is for salaries and expenses; and of which $94,183,000 is for biosurveillance, biowatch, chemical response, and related activities for the Department of Homeland Security, to remain available until September 30, 2009: Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

FEDERAL EMERGENCY MANAGEMENT AGENCY

MANAGEMENT AND ADMINISTRATION

For necessary expenses for management and administration, $678,600,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), and the Post-Katrina Emergency Management Reform Act of 2006 (Public Law 109–295; 120 Stat. 1394): Provided, That not to exceed $3,000 shall be for official reception and representation expenses: Provided further, That $426,020,000 shall be for Operations Activities: Provided further, That $216,580,000 shall be for Management Activities: Provided further, That $6,000,000 shall be for the Office of the National Capital Region Coordination: Provided further, That for purposes of planning, coordination, execution, and decisionmaking related to mass evacuation during a disaster, the Governors of the State of West Virginia and the Commonwealth of Pennsylvania, or their designees, shall be incorporated into efforts to integrate the activities of Federal, State, and local governments in the National Capital Region, as defined in section 882 of Public Law 107–296, the Homeland Security Act of 2002: Provided further, That of the total amount made available under this heading, $30,000,000 shall be for Urban Search and Rescue Teams, of which not to exceed $1,600,000 may be made available for administrative costs: Provided further, That of the total amount made available under this heading, $1,000,000 shall be to develop a web-based version of the National Fire Incident Reporting System that will ensure that fire-related data can be submitted and accessed by fire departments in real time: Provided further, That not later than 30 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall, as appropriate, update training practices for all customer service employees, employees in the Office of General Counsel, and other appropriate employees of the Federal Emergency Management Agency relating to addressing health concerns of recipients of assistance from the Federal Emergency Management Agency.

STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $3,130,500,000, which shall be allocated as follows:

(1) $525,000,000 for formula-based grants and $375,000,000 for law enforcement terrorism prevention grants, to be allocated in accordance with section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): Provided, That not to exceed 3 percent of these amounts shall be available for program administration: Provided further, That the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and the Federal Emergency Management Agency shall act within 90 days after receipt of an application: Provided further, That, in the event established timeframes detailed in the preceding proviso for departmental actions are missed, funding for the Immediate Office of the Deputy Secretary shall be reduced by $1,000 per day until such actions are executed: Provided further, That not less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds; except in the case of Puerto Rico, where not less than 50 percent of any grant under this paragraph shall be made available to local governments within 60 days after the receipt of the funds.

(2) $1,836,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—

(A) $820,000,000 shall be for use in high-threat, high-density urban areas, of which $20,000,000 shall be available for assistance to organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax section 501(a) of such code) determined by the Secretary to be at high-risk of a terrorist attack;

(B) $50,000,000 shall be for the Regional Catastrophic Preparedness Grants;

(C) $400,000,000 shall be for infrastructure protection grants related to port security pursuant to 46 U.S.C. 70107;

(D) $16,000,000 shall be for infrastructure protection grants related to trucking industry security;

(E) $12,000,000 shall be for infrastructure protection grants related to intercity bus security;

(F) $400,000,000 shall be for infrastructure protection grants related to intercity rail passenger transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security;

(G) $50,000,000 shall be for infrastructure protection grants related to buffer zone protection;

(H) $40,000,000 shall be available for the Commercial Equipment Direct Assistance Program;

(I) $33,000,000 shall be for the Metropolitan Medical Response System; and

(J) $15,000,000 shall be for Citizens Corps:

Provided, That not to exceed 3 percent of subparagraphs (A)–(J) shall be available for program administration: Provided further, That for grants under subparagraphs (A), (B), and (J), the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Federal Emergency Management Agency shall act within 90 days after receipt of an application: Provided further, That, in the event established timeframes detailed in the preceding proviso for departmental actions are missed, funding for the Immediate Office of the Deputy Secretary shall be reduced by $1,000 per day until such actions are executed: Provided further, That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds: Provided further, That for grants under subparagraphs (C) through (G), the applications for such grants shall be made available to eligible applicants not later than 75 days after the date of enactment of this Act, eligible applicants shall submit applications not later than 45 days after the date of the grant announcement, and the Federal Emergency Management Agency shall act on such applications not later than 60 days after the date on which such an application is received: Provided further, That, in the event established timeframes detailed in the preceding proviso for departmental actions are missed, funding for the Immediate Office of the Deputy Secretary shall be reduced by $1,000 per day until such actions are executed.

(3) $294,500,000 for training, exercises, technical assistance, and other programs.

(4) $100,000,000 for grants under the Interoperable Emergency Communications Grants Program established under title XVIII of the Homeland Security Act of 2002: Provided, That the amounts appropriated to the Department of Homeland Security for discretionary spending in this Act shall be reduced on a pro rata basis by the percentage necessary to reduce the overall amount of such spending by $100,000,000:

Provided further, That none of the grants provided under this heading shall be used for the construction or renovation of facilities, except for a minor perimeter security project, not to exceed $1,000,000, as determined necessary by the Secretary of Homeland Security: Provided further, That the preceding proviso shall not apply to grants under subparagraphs (B), (C), (F), and (G) of paragraph (2) of this heading: Provided further, That funds appropriated for law enforcement terrorism prevention grants under paragraph (1) of this heading and discretionary grants under paragraph (2)(A) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with the Federal Emergency Management Agency certified training, as needed: Provided further, That the Government Accountability Office shall report on the validity, relevance, reliability, timeliness, and availability of the risk factors (including threat, vulnerability, and consequence) used by the Secretary of Homeland Security and an analysis of the Department's policy of ranking States, cities, and other grantees by tiered groups, for the purpose of allocating grants funded under this heading, and the application of those factors in the allocation of funds to the Committees on Appropriations of the Senate and the House of Representatives on its findings not later than 45 days after the date of enactment of this Act: Provided further, That within seven days after the date of enactment of this Act, the Secretary of Homeland Security shall provide the Government Accountability Office with the risk methodology and other factors that will be used to allocate grants funded under this heading: Provided further, That not later than 15 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency shall submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report detailing the actions taken as of that date, and any actions the Administrator will take, regarding the response of

the Federal Emergency Management Agency to concerns over formaldehyde exposure, which shall include a description of any disciplinary or other personnel actions taken, a detailed policy for responding to any reports of potential health hazards posed by any materials provided by the Federal Emergency Management Agency (including housing, food, water, or other materials), and a description of any additional resources needed to implement such policy: Provided further, That the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall design a program to scientifically test a representative sample of travel trailers and mobile homes provided by the Federal Emergency Management Agency, and surplus travel trailers and mobile homes to be sold or transferred by the Federal government on or after the date of enactment of this Act, for formaldehyde and, not later than 15 days after the date of enactment of this Act, submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report regarding the program designed, including a description of the design of the testing program and the quantity of and conditions under which trailers and mobile homes shall be tested and the justification for such design of the testing: Provided further, That in order to protect the health and safety of disaster victims, the testing program designed under the previous proviso shall provide for initial short-term testing, and longer-term testing, as required: Provided further, That not later than 45 days after the date of enactment of this Act, the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall, at a minimum, complete the initial short-term testing described in the previous proviso: Provided further, That, to the extent feasible, the Administrator of the Federal Emergency Management Agency shall use a qualified contractor residing or doing business primarily in the Gulf Coast Area to carry out the testing program designed under this heading: Provided further, That, not later than 30 days after the date that the Administrator of the Federal Emergency Management Agency completes the short-term testing under this heading, the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report describing the results of the testing, analyzing such results, providing an assessment of whether there are any health risks associated with the results and the nature of any such health risks, and detailing the plans of the Administrator of the Federal Emergency Management Agency to act on the results of the testing, including any need to relocate individuals living in the trailers or mobile homes provided by the Federal Emergency Management Agency or otherwise assist individuals affected by the results, plans for the sale or transfer of any trailers or mobile homes (which shall be made in coordination with the Administrator of General Services), and plans to conduct further testing: Provided further, That after completing longer-term testing under this heading, the Administrator of the Federal Emergency Management Agency, in conjunction with the head of the Office of Health Affairs of the Department of Homeland Security, the Director of the Centers for Disease Control and Prevention, and the Administrator of the Environmental Protection Agency, shall submit to the Committee on Appropriations and the Committee on Homeland Security and Governmental Affairs of the Senate a report describing the results of the testing, analyzing such results, providing an assessment of whether any health risks are associated with the results and the nature of any such health risks, incorporating any additional relevant information from the shorter-term testing completed under this heading, and detailing the plans and recommendations of the Administrator of the Federal Emergency Management Agency to act on the results of the testing.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $700,000,000: Provided, That not to exceed five percent of this amount shall be available for program administration: Provided further, That funds shall be allocated as follows: (1) $560,000,000 shall be available to carry out section 33 of that Act (15 U.S.C. 2229), to remain available until September 30, 2009; and (2) $140,000,000 shall be available to carry out section 34 of that Act (15 U.S.C. 2229a).

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $300,000,000: Provided, That total administrative costs shall not exceed three percent of the total appropriation.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2008, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: Provided, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: Provided further, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2008, and remain available until expended.

UNITED STATES FIRE ADMINISTRATION

For necessary expenses of the United States Fire Administration, as authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.), $43,300,000.

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,700,000,000, to remain available until expended: Provided, That of the total amount provided, $13,500,000 shall be transferred to the Department of Homeland Security Office of Inspector General for audits and investigations related to disasters, subject to section 503 of this Act: Provided further, That up to $48,000,000 and 250 positions may be transferred to ''Management and Administration'', Federal Emergency Management Agency, for management and administration functions, subject to section 503 of this Act.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For activities under section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $875,000, of which $580,000 is for administrative expenses to carry out the direct loan program and $295,000 is for the cost of direct loans: Provided, That gross obligations for the principal amount of direct loans shall not exceed $25,000,000: Provided further, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses under section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $200,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: Provided, That total administrative costs shall not exceed three percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), and the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), $145,000,000, which is available as follows: (1) not to exceed $45,642,000 for salaries and expenses associated with flood mitigation and flood insurance operations; and (2) not to exceed $99,358,000 for flood hazard mitigation, which shall be derived from offsetting collections assessed and collected under section 1307 of the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), to remain available until September 30, 2009, including up to $34,000,000 for flood mitigation expenses under section 1366 of that Act, which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2009: Provided, That in fiscal year 2008, no funds shall be available from the National Flood Insurance Fund in excess of: (1) $70,000,000 for operating expenses; (2) $773,772,000 for commissions and taxes of agents; (3) such sums as are necessary for interest on Treasury borrowings; and (4) $90,000,000 for flood mitigation actions with respect to severe repetitive loss properties under section 1361A of that Act (42 U.S.C. 4102a) and repetitive insurance claims properties under section 1323 of that Act (42 U.S.C. 4030), which shall remain available until expended: Provided further, That total administrative costs shall not exceed four percent of the total appropriation.

NATIONAL FLOOD MITIGATION FUND

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f), of section 1366 of the National Flood Insurance Act of 1968, $34,000,000 (42 U.S.C. 4104c), to remain available until September 30, 2009, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which $34,000,000 shall be derived from the National Flood Insurance Fund.

NATIONAL PRE-DISASTER MITIGATION FUND

For a pre-disaster mitigation grant program under title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), $120,000,000, to remain available until expended: Provided, That grants made for pre-disaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of such Act (42 U.S.C. 5133(g)): Provided further, That total administrative costs shall not exceed three percent of the total appropriation.

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11331 et seq.), $153,000,000, to remain available until expended: Provided, That total administrative costs shall not exceed 3.5 percent of the total appropriation.

TITLE IV

RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, $50,523,000: Provided, That of the total, $20,000,000 provided to address backlogs of security checks associated with pending applications and petitions shall not be available for obligation until the Secretary of Homeland Security and the United States Attorney General submit to the Committees on Appropriations of the Senate and the House of Representatives a plan to eliminate the backlog of security checks that establishes information sharing protocols to ensure United States Citizenship and Immigration Services has the information it needs to carry out its mission.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $221,076,000, of which up to $43,910,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2009; of which $300,000 shall remain available until expended for Federal law enforcement agencies participating in training accreditation, to be distributed as determined by the Federal Law Enforcement Training Center for the needs of participating agencies; and of which not to exceed $12,000 shall be for official reception and representation expenses: Provided, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: Provided further, That section 1202(a) of Public Law 107–206 (42 U.S.C. 3771 note) as amended by Public Law 109–295 (120 Stat. 1374) is further amended by striking ''December 31, 2007'' and inserting ''December 31, 2011''.

ACQUISITIONS, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $44,470,000, to remain available until expended: Provided, That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $140,632,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.); $697,364,000, to remain available until expended; and of which $103,814,000 shall be for necessary expenses of the field laboratories and assets of the Science and Technology Directorate.

DOMESTIC NUCLEAR DETECTION OFFICE

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the Domestic Nuclear Detection Office and for management and administration of programs and activities, $32,000,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for radiological and nuclear research, development, testing, evaluation and operations, $336,000,000, to remain available until expended, of which $10,000,000 shall be available to support the implementation of the Securing the Cities initiative at the level requested in the President's budget.

SYSTEMS ACQUISITION

For expenses for the Domestic Nuclear Detection Office acquisition and deployment of radiological detection systems in accordance with the global nuclear detection architecture, $182,000,000, to remain available until September 30, 2010, of which $30,000,000 shall be available to support the implementation of the Securing the Cities initiative at the level requested in the President's budget: Provided, That none of the funds appropriated under this heading shall be obligated for full-scale procurement of Advanced Spectroscopic Portal Monitors until the Secretary of Homeland Security has certified through a report to the Committees on Appropriations of the Senate and the House of Representatives that a significant increase in operational effectiveness will be achieved.

TITLE V

GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds available in this Act shall be available to carry out section 872 of Public Law 107–296.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either of the Committees on Appropriations of the Senate or the House of Representatives for a different purpose; or (5) contracts out any function or activity for which funding levels were requested for Federal full-time equivalents in the object classification tables contained in the fiscal year 2008 Budget Appendix for the Department of Homeland Security, as modified by the joint explanatory statement accompanying this Act; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2008, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: Provided, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

(d) Notwithstanding subsections (a), (b), and (c) of this section, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.

SEC. 504. None of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the ''Department of Homeland Security Working Capital Fund'', except for the activities and amounts allowed in the President's fiscal year 2008 budget, excluding sedan service, shuttle service, transit subsidy, mail operations, parking, and competitive sourcing: Provided, That any additional activities and amounts shall be approved by the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of obligation.

SEC. 505. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2008 from appropriations for salaries and expenses for fiscal year 2008 in this Act shall remain available through September 30, 2009, in the account and for the purposes for which the appropriations were provided: Provided, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 506. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2008 until the enactment of an Act authorizing intelligence activities for fiscal year 2008.

SEC. 507. The Federal Law Enforcement Training Accreditation Board shall lead the Federal law enforcement training accreditation process, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

SEC. 508. None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000, or to announce publicly the intention to make such an award, unless the Secretary of

Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least three full business days in advance: Provided, That no notification shall involve funds that are not available for obligation: Provided further, That the notification shall include the amount of the award, the fiscal year in which the funds for the award were appropriated, and the account for which the funds are being drawn from: Provided further, That the Federal Emergency Management Agency shall brief the Committees on Appropriations of the Senate and the House of Representatives five full business days in advance of announcing publicly the intention of making an award of formula-based grants; law enforcement terrorism prevention grants; high-threat, high-density urban areas grants; or regional catastrophic preparedness grants.

SEC. 509. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 510. The Director of the Federal Law Enforcement Training Center shall schedule basic and/or advanced law enforcement training at all four training facilities under the control of the Federal Law Enforcement Training Center to ensure that these training centers are operated at the highest capacity throughout the fiscal year.

SEC. 511. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959 (40 U.S.C. 3301), has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 512. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 513. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow on or successor passenger prescreening program, until the Secretary of Homeland Security certifies, and the Government Accountability Office reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the conditions contained in paragraphs (1) through (10) of section 522(a) of Public Law 108–334 (118 Stat. 1319) have been successfully met.

(b) The report required by subsection (a) shall be submitted within 90 days after the Secretary provides the requisite certification, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten conditions have been successfully met.

(c) Within 90 days of enactment of this Act, the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a detailed plan that describes: (1) the dates for achieving key milestones, including the date or timeframes that the Secretary will certify the program under subsection (a); and (2) the methodology to be followed to support the Secretary's certification, as required under subsection (a).

(d) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a Government watch list.

(e) None of the funds provided in this or previous appropriations Acts may be utilized to develop or test algorithms assigning risk to passengers whose names are not on Government watch lists.

(f) None of the funds provided in this or previous appropriations Acts may be utilized for data or a database that is obtained from or remains under the control of a non-Federal entity: Provided, That this restriction shall not apply to Passenger Name Record data obtained from air carriers.

SEC. 514. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 515. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of United States Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 516. (a) None of the funds appropriated to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: Provided, That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis.

(b) None of the funds appropriated by this or any other Act to the United States Secret Service shall be made available for the protection of a Federal official, other than persons granted protection under section 3056(a) of title 18, United States Code, and the Secretary of Homeland Security: Provided, That the Director of the United States Secret Service may enter into an agreement to perform such protection on a fully reimbursable basis for protectees not designated under section 3056(a) of title 18, United States Code.

SEC. 517. (a) The Secretary of Homeland Security is directed to research, develop, and procure new technologies to inspect and screen air cargo carried on passenger aircraft at the earliest date possible.

(b) Existing checked baggage explosive detection equipment and screeners shall be utilized to screen air cargo carried on passenger aircraft to the greatest extent practicable at each airport until technologies developed under subsection (a) are available.

(c) The Transportation Security Administration shall report air cargo inspection statistics quarterly to the Committees on Appropriations of the Senate and the House of Representatives, by airport and air carrier, within 45 days after the end of the quarter including any reason for non-compliance with the second proviso of section 513 of the Department of Homeland Security Appropriations Act, 2005 (Public Law 108–334, 118 Stat. 1317).

SEC. 518. None of the funds made available in this Act may be used by any person other than the Privacy Officer appointed under section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) to alter, direct that changes be made to, delay, or prohibit the transmission to Congress of any report prepared under paragraph (6) of such section.

SEC. 519. No funding provided by this or previous appropriation Acts shall be available to pay the salary of any employee serving as a contracting officer's technical representative (COTR), or anyone acting in a similar or like capacity, who has not received COTR training.

SEC. 520. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to Transportation Security Administration ''Aviation Security'', ''Administration'' and ''Transportation Security Support'' in fiscal years 2004, 2005, 2006, and 2007 that are recovered or deobligated shall be available only for procurement and installation of explosive detection systems for air cargo, baggage, and checkpoint screening systems, subject to notification.

SEC. 521. Section 525(d) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 120 Stat. 1382) shall apply to fiscal year 2008.

(RESCISSION OF FUNDS)

SEC. 522. From the unobligated balances of funds transferred to the Department of Homeland Security when it was created in 2003, excluding mandatory appropriations, $45,000,000 is rescinded, of which $12,000,000 shall be rescinded from Departmental Operations; $12,000,000 shall be rescinded from the Office of State and Local Government Coordination; and $6,000,000 shall be rescinded from the Working Capital Fund.

SEC. 523. Any funds appropriated to United States Coast Guard, ''Acquisition, Construction, and Improvements'' in fiscal years 2002, 2003, 2004, 2005, and 2006 for the 110–123 foot patrol boat conversion that are recovered, collected, or otherwise received as the result of negotiation, mediation, or litigation, shall be available until expended for the Replacement Patrol Boat (FRC–B) program.

SEC. 524. The Department of Homeland Security Working Capital Fund, established, pursuant to section 403 of Public Law 103–356 (31 U.S.C. 501 note), shall continue operations during fiscal year 2008.

SEC. 525. (a) The Federal Emergency Management Agency (FEMA) shall submit a quarterly report to the Committees on Appropriations of the Senate and the House of Representatives detailing the allocation and obligation of funds for ''Disaster Relief'' to include:

(1) status of the Disaster Relief Fund (DRF) including obligations, allocations, and amounts undistributed/unallocated;

(2) allocations, obligations, and expenditures for all open disasters;

(3) information on national flood insurance claims;

(4) obligations, allocations and expenditures by State for unemployment, crisis counseling, inspections, housing assistance, manufactured housing, public assistance and individual assistance;

(5) mission assignment obligations by agency, including:

(A) the amounts reimbursed to other agencies that are in suspense because FEMA has not yet reviewed and approved the documentation supporting the expenditure; and

(B) a disclaimer if the amounts of reported obligations and expenditures do not reflect the status of such obligations and expenditures from a government-wide perspective;

(6) the amount of credit card purchases by agency and mission assignment;

(7) specific reasons for all waivers granted and a description of each waiver;

(8) a list of all contracts that were awarded on a sole source or limited competition basis, including the dollar amount, the purpose of the contract and the reason for the lack of competitive award; and

(9) an estimate of when available appropriations will be exhausted, assuming an average disaster season.

(b) The Secretary of Homeland Security shall at least quarterly obtain from agencies performing mission assignments each such agency's actual obligation and expenditure data and report to the Committees on Appropriations of the Senate and the House of Representatives.

(c) For any request for reimbursement from a Federal agency to the Department of Homeland Security to cover expenditures under the Stafford Act (42 U.S.C. 5121 et seq.), or any mission assignment orders issued by the Department of

Homeland Security for such purposes, the Secretary of Homeland Security shall take appropriate steps to ensure that each agency is periodically reminded of Department of Homeland Security policies on—

(1) the detailed information required in supporting documentation for reimbursements, and

(2) the necessity for timeliness of agency billings.

(d) Notwithstanding section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c), projects relating to Hurricanes Katrina and Rita for which the non-Federal share of assistance under that section is funded by amounts appropriated to the Community Development Fund under chapter 9 of title I of division B of the Department of Defense, Emergency Supplemental Appropriations to Address Hurricanes in the Gulf of Mexico, and Pandemic Influenza Act, 2006 (Public Law 109–148; 119 Stat. 2779) or chapter 9 of title II of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 472) shall not be subject to any precertification requirements.

SEC. 526. Within 45 days after the close of each month, the Chief Financial Officer of the Department of Homeland Security shall submit to the Committees on Appropriations of the Senate and the House of Representatives a monthly budget and staffing report that includes total obligations, on-board versus funded full-time equivalent staffing levels, and the number of contract employees by office.

SEC. 527. Section 532(a) of Public Law 109–295 is amended by striking ''2007'' and inserting ''2008''.

SEC. 528. The Federal Law Enforcement Training Center instructor staff shall be classified as inherently governmental for the purpose of the Federal Activities Inventory Reform Act of 1998 (31 U.S.C. 501 note).

SEC. 529. None of the funds provided in this Act may be used to alter or reduce operations within the Civil Engineering Program of the Coast Guard nationwide, including the civil engineering units, facilities, design, and construction centers, maintenance and logistics command centers, and the Coast Guard Academy, except as specifically authorized by a statute enacted after the date of enactment of this Act.

SEC. 530. EXTENSION OF THE IMPLEMENTATION DEADLINE FOR THE WESTERN HEMISPHERE TRAVEL INITIATIVE. Subparagraph (A) of section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note) is amended by striking ''This plan shall be implemented not later than three months after the Secretary of State and the Secretary of Homeland Security make the certifications required in subsection (B), or June 1, 2009, whichever is earlier.'' and inserting ''Such plan may not be implemented earlier than the date that is the later of 3 months after the Secretary of State and the Secretary of Homeland Security make the certification required in subparagraph (B) or June 1, 2009.''.

SEC. 531. Section 550 of the Department of Homeland Security Appropriations Act, 2007 (6 U.S.C. 121 note) is amended by adding at the end the following:

''(h) This section shall not preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance with respect to chemical facility security that is more stringent than a regulation, requirement, or standard of performance issued under this section, or otherwise impair any right or jurisdiction of any State with respect to chemical facilities within that State, unless there is an actual conflict between this section and the law of that State.''.

SEC. 532. None of the funds provided in this Act under the heading ''Office of the Chief Information Officer'' shall be used for data center development other than for the National Center for Critical Information Processing and Storage until the Chief Information Officer certifies that the National Center for Critical Information Processing and Storage is fully utilized as the Department's primary data storage center at the highest capacity throughout the fiscal year.

SEC. 533. None of the funds in this Act shall be used to reduce the United States Coast Guard's Operations Systems Center mission or its government-employed or contract staff levels.

SEC. 534. (a) Notwithstanding section 503 of this Act, up to $25,000,000 from prior year balances currently available to the Transportation Security Administration may be transferred to ''Transportation Threat Assessment and Credentialing'' for the Secure Flight program.

(b) In carrying out the transfer authority under subsection (a), the Transportation Security Administration shall not utilize any prior year balances from the following programs: screener partnership program; explosive detection system purchase; explosive detection system installation; checkpoint support; aviation regulation and other enforcement; air cargo; and air cargo research and development: Provided, That any funds proposed to be transferred under this section shall not be available for obligation until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure for such funds that is submitted by the Secretary of Homeland Security: Provided further, That the plan shall be submitted simultaneously to the Government Accountability Office for review consistent with its ongoing assessment of the Secure Flight Program as mandated by section 522(a) of Public Law 108–334 (118 Stat. 1319).

SEC. 535. DISASTER ASSISTANCE FOR SCHOOLS. (a) DEFINITIONS.—In this section—

(1) the term ''Administrator'' means the Administrator of the Federal Emergency Management Agency;

(2) the term ''covered assistance'' means assistance—

(A) provided under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172);

(B) to be used to—

(i) repair, restore, reconstruct, or replace school facilities; or

(ii) replace lost contents of a school; and

(C) for damage caused by Hurricane Katrina of 2005 or Hurricane Rita of 2005; and

(3) the term ''local educational agency'' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(b) ASSISTANCE TO SCHOOLS.—

(1) IN GENERAL.—A local educational agency that has applied for covered assistance before the date of enactment of this Act may request that such assistance (including any eligible costs discovered after the date of the estimate of eligible costs under section 406(e)(1)(A) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(e)(1)(A)) and any cost that was determined to be an eligible cost after an appeal or review) be provided in a single payment.

(2) DISBURSEMENT OF ASSISTANCE.—Not later than 30 days after the date that a local educational agency makes a request under paragraph (1), the Administrator shall provide in a single payment any covered assistance for any eligible cost that was approved by the Administrator on or before the date of that request.

(3) FLOOD INSURANCE REDUCTION.—For any covered assistance provided under paragraph (2), the Administrator shall make not more than 1 reduction under section 406(d) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(d)) in the amount of assistance provided.

(c) ALTERNATE USE.—For any covered assistance provided under subsection (b)(2), the amount of that assistance shall not be reduced under section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(1)).

(d) APPLICABILITY.—This section shall apply to any covered assistance provided on or after the date of enactment of this Act.

SEC. 536. TECHNICAL CORRECTIONS. (a) IN GENERAL.—

(1) REDESIGNATIONS.—Chapter 27 of title 18, United States Code, is amended by redesignating section 554 added by section 551(a) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 120 Stat. 1389) (relating to border tunnels and passages) as section 555.

(2) TABLE OF SECTIONS.—The table of sections for chapter 27 of title 18, United States Code, is amended by striking the item relating to section 554, ''Border tunnels and passages'', and inserting the following:

''555. Border tunnels and passages.''.

(b) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by striking ''554'' and inserting ''555''.

(c) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Section 551(d) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295; 120 Stat. 1390) is amended in paragraphs (1) and (2)(A) by striking ''554'' and inserting ''555''.

SEC. 537. SEXUAL ABUSE. Sections 2241, 2242, 2243, and 2244 of title 18, United States Code, are each amended by striking ''the Attorney General'' each place that term appears and inserting ''the head of any Federal department or agency''.

SEC. 538. PLAN FOR THE CONTROL AND MANAGEMENT OF ARUNDO DONAX. (a) DEFINITIONS.—In this section:

(1) ARUNDO DONAX.—The term ''Arundo donax'' means a tall perennial reed commonly known as ''Carrizo cane'', ''Spanish cane'', ''wild cane'', and ''giant cane''.

(2) PLAN.—The term ''plan'' means the plan for the control and management of Arundo donax developed under subsection (b).

(3) RIVER.—The term ''River'' means the Rio Grande River.

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

(b) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—The Secretary shall develop a plan for the control and management of Arundo donax along the portion of the River that serves as the international border between the United States and Mexico.

(2) COMPONENTS.—In developing the plan, the Secretary shall address—

(A) information derived by the Secretary of Agriculture and the Secretary of the Interior from ongoing efforts to identify the most effective biological, mechanical, and chemical means of controlling and managing Arundo donax;

(B) past and current efforts to understand—

(i) the ecological damages caused by Arundo donax; and

(ii) the dangers Arundo donax poses to Federal and local law enforcement;

(C) any international agreements and treaties that need to be completed to allow for the control and management of Arundo donax on both sides of the River;

(D) the long-term efforts that the Secretary considers to be necessary to control and manage Arundo donax, including the cost estimates for the implementation of the efforts; and

(E) whether a waiver of applicable Federal environmental laws (including regulations) is necessary.

(3) CONSULTATION.—The Secretary shall develop the plan in consultation with the Secretary of Agriculture, the Secretary of the Interior, the Secretary of State, the Chief of Engineers, and any other Federal and State agencies that have appropriate expertise regarding the control and management of Arundo donax.

(c) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit the plan to—

(1) the Committees on the Judiciary of the Senate and the House of Representatives; and

(2) the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 539. REPORTING OF WASTE, FRAUD, AND ABUSE. Not later than 30 days after the date of enactment of this Act—

(1) the Secretary of Homeland Security shall establish and maintain on the homepage of the website of the Department of Homeland Security, a direct link to the website of the Office of Inspector General of the Department of Homeland Security; and

(2) the Inspector General of the Department of Homeland Security shall establish and maintain on the homepage of the website of the Office of Inspector General a direct link for individuals to anonymously report waste, fraud, or abuse.

SEC. 540. The Secretary of Homeland Security shall require that all contracts of the Department of Homeland Security that provide award fees link such fees to successful acquisition outcomes (which outcomes shall be specified in terms of cost, schedule, and performance).

SEC. 541. None of the funds made available to the Office of the Secretary and Executive Management under this Act may be expended for any new hires by the Department of Homeland Security that are not verified through the basic pilot program required under section 401 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).

SEC. 542. None of the funds made available in this Act for U.S. Customs and Border Protection or any agency or office within the Department of Homeland Security may be used to prevent an individual from importing a prescription drug from Canada if—

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

(2) such drug—

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

(B) is not—

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

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

SEC. 543. PROHIBITION ON USE OF FUNDS FOR RULEMAKING RELATED TO PETITIONS FOR ALIENS. None of the funds made available in this Act may be used by the Secretary of Homeland Security or any delegate of the Secretary to issue any rule or regulation which implements the Notice of Proposed Rulemaking related to Petitions for Aliens To Perform Temporary Nonagricultural Services or Labor (H–2B) set out beginning on 70 Federal Register 3984 (January 27, 2005).

SEC. 544. None of the funds appropriated or otherwise made available by this Act may be obligated or expended by the Secretary of Homeland Security to remove offenses from the list of criminal offenses disqualifying individuals from receiving a Transportation Worker Identification Credential under section 1572.103 of title 49, Code of Federal Regulations.

SEC. 545. (a)(1)(A) None of the funds appropriated or otherwise made available by this Act may be used to make any payment in connection with a contract awarded through a congressional initiative unless the contract is awarded using competitive procedures in accordance with the requirements of section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), section 2304 of title 10, United States Code, and the Federal Acquisition Regulation.

(B) Except as provided in paragraph (3), none of the funds appropriated or otherwise made available by this Act may be used to make any payment in connection with a contract awarded through a congressional initiative unless more than one bid is received for such contract.

(2) Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be awarded by grant or cooperative agreement through a congressional initiative unless the process used to award such grant or cooperative agreement uses competitive procedures to select the grantee or award recipient. Except as provided in paragraph (3), no such grant may be awarded unless applications for such grant or cooperative agreement are received from two or more applicants that are not from the same organization and do not share any financial, fiduciary, or other organizational relationship.

(3)(A) If the Secretary of Homeland Security does not receive more than one bid for a contract under paragraph (1)(B) or does not receive more than one application from unaffiliated applicants for a grant or cooperative agreement under paragraph (2), the Secretary may waive such bid or application requirement if the Secretary determines that the contract, grant, or cooperative agreement is essential to the mission of the Department of Homeland Security.

(b)(1) Not later than December 31, 2008, the Secretary of Homeland Security shall submit to Congress a report on congressional initiatives for which amounts were appropriated during fiscal year 2008.

(2) The report submitted under paragraph (1) shall include with respect to each contract and grant awarded through a congressional initiative—

(A) the name of the recipient of the funds awarded through such contract or grant;

(B) the reason or reasons such recipient was selected for such contract or grant; and

(C) the number of entities that competed for such contract or grant.

(3) The report submitted under paragraph (1) shall be made publicly available through the Internet website of the Department of Homeland Security.

(c) In this section:

(1) The term ''congressional initiative'' means a provision of law or a directive contained within a committee report or joint statement of managers of an appropriations Act that specifies—

(A) the identity of a person or entity selected to carry out a project, including a defense system, for which funds are appropriated or otherwise made available by that provision of law or directive and that was not requested by the President in a budget submitted to Congress; and

(B) the amount of the funds appropriated or otherwise made available for such project.

(2) The term ''executive agency'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SEC. 546. BORDER SECURITY REQUIREMENTS FOR LAND AND MARITIME BORDERS OF THE UNITED STATES. (a) OPERATIONAL CONTROL OF THE UNITED STATES BORDERS.—The President shall ensure that operational control of all international land and maritime borders is achieved.

(b) ACHIEVING OPERATIONAL CONTROL.—The Secretary of Homeland Security shall establish and demonstrate operational control of 100 percent of the international land and maritime borders of the United States, including the ability to monitor such borders through available methods and technology.

(1) STAFF ENHANCEMENTS FOR BORDER PATROL.—The United States Customs and Border Protection Border Patrol may hire, train, and report for duty additional full-time agents. These additional agents shall be deployed along all international borders.

(2) STRONG BORDER BARRIERS.—The United States Customs and Border Protection Border Patrol may:

(A) Install along all international borders of the United States vehicle barriers;

(B) Install along all international borders of the United States ground-based radar and cameras; and

(C) Deploy for use along all international borders of the United States unmanned aerial vehicles, and the supporting systems for such vehicles;

(c) PRESIDENTIAL PROGRESS REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the President shall submit a report to Congress detailing the progress made in funding, meeting or otherwise satisfying each of the requirements described under paragraphs (1) and (2).

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

(d) APPROPRIATIONS FOR SECURING LAND AND MARITIME BORDERS OF THE UNITED STATES.—Any funds appropriated under division B of this Act shall be used to ensure operational control is achieved for all international land and maritime borders of the United States.

SEC. 547. IMPROVEMENTS TO THE EMPLOYMENT ELIGIBILITY VERIFICATION BASIC PILOT PROGRAM. Of the amounts appropriated for border security and employment verification improvements under section 1003 of Division B, $60,000,000 shall be made available to—

(1) ensure that State and local programs have sufficient access to, and are sufficiently coordinated with, the Federal Government's Employment Eligibility Verification System;

(2) ensure that such system has sufficient capacity to timely and accurately—

(A) register employers in States with employer verification requirements;

(B) respond to inquiries by employers; and

(C) enter into memoranda of understanding with States to ensure responses to subparagraphs (A) and (B); and

(3) develop policies and procedures to ensure protection of the privacy and security of personally identifiable information and identifiers contained in the basic pilot program, including appropriate privacy and security training for State employees;

(4) ensure that the Office for Civil Rights and Civil Liberties of the Department of Justice has sufficient capacity to conduct audits of the Federal Government's Employment Eligibility Verification System to assess employer compliance with System requirements, including the applicable Memorandum of Understanding;

(5) these amounts are designated as an emergency requirement pursuant to section 204 of S. Con. Res. 21 (110th Congress).

SEC. 548. IN-LIEU CONTRIBUTION. The Administrator of the Federal Emergency Management Agency shall authorize a large in-lieu contribution under section 406(c)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(1)) to the Peebles School in Iberia Parish, Louisiana for damages relating to Hurricane Katrina of 2005 or Hurricane Rita of 2005, notwithstanding section 406(c)(1)(C) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(c)(1)(C)).

SEC. 549. NATIONAL STRATEGY ON CLOSED CIRCUIT TELEVISION SYSTEMS. (a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall—

(1) develop a national strategy for the effective and appropriate use of closed circuit television to prevent and respond to acts of terrorism, which shall include—

(A) an assessment of how closed circuit television and other public surveillance systems can be used most effectively as part of an overall terrorism preparedness, prevention, and response program, and its appropriate role in such a program;

(B) a comprehensive examination of the advantages and limitations of closed circuit television and, as appropriate, other public surveillance technologies;

(C) best practices on camera use and data storage;

(D) plans for coordination between the Federal Government and State and local governments, and the private sector—

(i) in the development and use of closed circuit television systems; and

(ii) for Federal assistance and support for State and local utilization of such systems;

(E) plans for pilot programs or other means of determining the real-world efficacy and limitations of closed circuit televisions systems;

(F) an assessment of privacy and civil liberties concerns raised by use of closed circuit television and other public surveillance systems, and guidelines to address such concerns; and

(G) an assessment of whether and how closed circuit television systems and other public surveillance systems are effectively utilized by other democratic countries in combating terrorism; and

(2) provide to the Committees on Homeland Security and Governmental Affairs, Appropriations, and the Judiciary of the Senate and the Committees on Homeland Security, Appropriations, and the Judiciary of the House of Representatives a report that includes—

(A) the strategy required under paragraph (1);

(B) the status and findings of any pilot program involving closed circuit televisions or other public surveillance systems conducted by, in coordination with, or with the assistance of the Department of Homeland Security up to the time of the report; and

(C) the annual amount of funds used by the Department of Homeland Security, either directly by the Department or through grants to State, local, or tribal governments, to support closed circuit television and the public surveillance systems of the Department, since fiscal year 2004.

(b) CONSULTATION.—In preparing the strategy and report required under subsection (a), the Secretary of Homeland Security shall consult with the Attorney General, the Chief Privacy Officer of the Department of Homeland Security, and the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security.

SEC. 550. SECURE HANDLING OF AMMONIUM NITRATE.—(a) IN GENERAL.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by adding at the end the following:

"Subtitle J—Secure Handling of Ammonium Nitrate

"SEC. 899A. DEFINITIONS.

''In this subtitle:

''(1) AMMONIUM NITRATE.—The term 'ammonium nitrate' means—

''(A) solid ammonium nitrate that is chiefly the ammonium salt of nitric acid and contains not less than 33 percent nitrogen by weight; and

''(B) any mixture containing a percentage of ammonium nitrate that is equal to or greater than the percentage determined by the Secretary under section 899B(b).

''(2) AMMONIUM NITRATE FACILITY.—The term 'ammonium nitrate facility' means any entity that produces, sells or otherwise transfers ownership of, or provides application services for ammonium nitrate.

''(3) AMMONIUM NITRATE PURCHASER.—The term 'ammonium nitrate purchaser' means any person who buys and takes possession of ammonium nitrate from an ammonium nitrate facility.

"SEC. 899B. REGULATION OF THE SALE AND TRANSFER OF AMMONIUM NITRATE.

''(a) IN GENERAL.—The Secretary shall regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility in accordance with this subtitle to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.

''(b) AMMONIUM NITRATE MIXTURES.—Not later than 90 days after the date of the enactment of this subtitle, the Secretary, in consultation with the heads of appropriate Federal departments and agencies (including the Secretary of Agriculture), shall, after notice and an opportunity for comment, establish a threshold percentage for ammonium nitrate in a substance.

''(c) REGISTRATION OF OWNERS OF AMMONIUM NITRATE FACILITIES.—

''(1) REGISTRATION.—The Secretary shall establish a process by which any person that—

''(A) owns an ammonium nitrate facility is required to register with the Department; and

''(B) registers under subparagraph (A) is issued a registration number for purposes of this subtitle.

''(2) REGISTRATION INFORMATION.—Any person applying to register under paragraph (1) shall submit to the Secretary—

''(A) the name, address, and telephone number of each ammonium nitrate facility owned by that person;

''(B) the name of the person designated by that person as the point of contact for each such facility, for purposes of this subtitle; and

''(C) such other information as the Secretary may determine is appropriate.

''(d) REGISTRATION OF AMMONIUM NITRATE PURCHASERS.—

''(1) REGISTRATION.—The Secretary shall establish a process by which any person that—

''(A) intends to be an ammonium nitrate purchaser is required to register with the Department; and

''(B) registers under subparagraph (A) is issued a registration number for purposes of this subtitle.

''(2) REGISTRATION INFORMATION.—Any person applying to register under paragraph (1) as an ammonium nitrate purchaser shall submit to the Secretary—

''(A) the name, address, and telephone number of the applicant; and

''(B) the intended use of ammonium nitrate to be purchased by the applicant.

''(e) RECORDS.—

''(1) MAINTENANCE OF RECORDS.—The owner of an ammonium nitrate facility shall—

''(A) maintain a record of each sale or transfer of ammonium nitrate, during the two-year period beginning on the date of that sale or transfer; and

''(B) include in such record the information described in paragraph (2).

''(2) SPECIFIC INFORMATION REQUIRED.—For each sale or transfer of ammonium nitrate, the owner of an ammonium nitrate facility shall—

''(A) record the name, address, telephone number, and registration number issued under subsection (c) or (d) of each person that takes possession of ammonium nitrate, in a manner prescribed by the Secretary;

''(B) if applicable, record the name, address, and telephone number of each individual who takes possession of the ammonium nitrate on behalf of the person described in subparagraph (A), at the point of sale;

''(C) record the date and quantity of ammonium nitrate sold or transferred; and

''(D) verify the identity of the persons described in subparagraphs (A) and (B), as applicable, in accordance with a procedure established by the Secretary.

''(3) PROTECTION OF INFORMATION.—In maintaining records in accordance with paragraph (1), the owner of an ammonium nitrate facility shall take reasonable actions to ensure the protection of the information included in such records.

''(f) EXEMPTION FOR EXPLOSIVE PURPOSES.—The Secretary may exempt from this subtitle a person producing, selling, or purchasing ammonium nitrate exclusively for use in the production of an explosive under a license issued under chapter 40 of title 18, United States Code.

''(g) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Agriculture, States, and appropriate private sector entities, to ensure that the access of agricultural producers to ammonium nitrate is not unduly burdened.

''(h) DATA CONFIDENTIALITY.—

''(1) IN GENERAL.—Notwithstanding section 552 of title 5, United States Code, or the USA PATRIOT ACT (Public Law 107–56; 115 Stat. 272), and except as provided in paragraph (2), the Secretary may not disclose to any person any information obtained under this subtitle.

''(2) EXCEPTION.—The Secretary may disclose any information obtained by the Secretary under this subtitle to—

''(A) an officer or employee of the United States, or a person that has entered into a contract with the United States, who has a need to know the information to perform the duties of the officer, employee, or person; or

''(B) to a State agency under section 899D, under appropriate arrangements to ensure the protection of the information.

''(i) REGISTRATION PROCEDURES AND CHECK OF TERRORIST SCREENING DATABASE.—

''(1) REGISTRATION PROCEDURES.—

''(A) GENERALLY.—The Secretary shall establish procedures to efficiently receive applications for registration numbers under this subtitle, conduct the checks required under paragraph (2), and promptly issue or deny a registration number.

''(B) INITIAL SIX-MONTH REGISTRATION PERIOD.—The Secretary shall take steps to maximize the number of registration applications that are submitted and processed during the six-month period described in section 899F(e).

''(2) CHECK OF TERRORIST SCREENING DATABASE.—

''(A) CHECK REQUIRED.—The Secretary shall conduct a check of appropriate identifying information of any person seeking to register with the Department under subsection (c) or (d) against identifying information that appears in the terrorist screening database of the Department.

''(B) AUTHORITY TO DENY REGISTRATION NUMBER.—If the identifying information of a person seeking to register with the Department under subsection (c) or (d) appears in the terrorist screening database of the Department, the Secretary may deny issuance of a registration number under this subtitle.

''(3) EXPEDITED REVIEW OF APPLICATIONS.—

''(A) IN GENERAL.—Following the six-month period described in section 899F(e), the Secretary shall, to the extent practicable, issue or deny registration numbers under this subtitle not later than 72 hours after the time the Secretary receives a complete registration application, unless the Secretary determines, in the interest of national security, that additional time is necessary to review an application.

''(B) NOTICE OF APPLICATION STATUS.—In all cases, the Secretary shall notify a person seeking to register with the Department under subsection (c) or (d) of the status of the application of that person not later than 72 hours after the time the Secretary receives a complete registration application.

''(4) EXPEDITED APPEALS PROCESS.—

''(A) REQUIREMENT.—

''(i) APPEALS PROCESS.—The Secretary shall establish an expedited appeals process for persons denied a registration number under this subtitle.

''(ii) TIME PERIOD FOR RESOLUTION.—The Secretary shall, to the extent practicable, resolve appeals not later than 72 hours after receiving a complete request for appeal unless the Secretary determines, in the interest of national security, that additional time is necessary to resolve an appeal.

''(B) CONSULTATION.—The Secretary, in developing the appeals process under subparagraph (A), shall consult with appropriate stakeholders.

''(C) GUIDANCE.—The Secretary shall provide guidance regarding the procedures and information required for an appeal under subparagraph (A) to any person denied a registration number under this subtitle.

''(5) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—

''(A) IN GENERAL.—Any information constituting grounds for denial of a registration number under this section shall be maintained confidentially by the Secretary and may be used only for making determinations under this section.

''(B) SHARING OF INFORMATION.—Notwithstanding any other provision of this subtitle, the Secretary may share any such information with Federal, State, local, and tribal law enforcement agencies, as appropriate.

''(6) REGISTRATION INFORMATION.—

''(A) AUTHORITY TO REQUIRE INFORMATION.—The Secretary may require a person applying for a registration number under this subtitle to submit such information as may be necessary to carry out the requirements of this section.

''(B) REQUIREMENT TO UPDATE INFORMATION.—The Secretary may require persons issued a registration under this subtitle to update registration information submitted to the Secretary under this subtitle, as appropriate.

''(7) RE-CHECKS AGAINST TERRORIST SCREENING DATABASE.—

''(A) RE-CHECKS.—The Secretary shall, as appropriate, recheck persons provided a registration number pursuant to this subtitle against the terrorist screening database of the Department, and may revoke such registration number if the Secretary determines such person may pose a threat to national security.

''(B) NOTICE OF REVOCATION.—The Secretary shall, as appropriate, provide prior notice to a person whose registration number is revoked under this section and such person shall have an opportunity to appeal, as provided in paragraph (4).

''SEC. 899C. INSPECTION AND AUDITING OF RECORDS.

''The Secretary shall establish a process for the periodic inspection and auditing of the records maintained by owners of ammonium nitrate facilities for the purpose of monitoring compliance with this subtitle or for the purpose of deterring or preventing the misappropriation or use of ammonium nitrate in an act of terrorism.

''SEC. 899D. ADMINISTRATIVE PROVISIONS.

''(a) COOPERATIVE AGREEMENTS.—The Secretary—

''(1) may enter into a cooperative agreement with the Secretary of Agriculture, or the head of any State department of agriculture or its designee involved in agricultural regulation, in consultation with the State agency responsible for homeland security, to carry out the provisions of this subtitle; and

''(2) wherever possible, shall seek to cooperate with State agencies or their designees that oversee ammonium nitrate facility operations when seeking cooperative agreements to implement the registration and enforcement provisions of this subtitle.

''(b) DELEGATION.—

''(1) AUTHORITY.—The Secretary may delegate to a State the authority to assist the Secretary in the administration and enforcement of this subtitle.

''(2) DELEGATION REQUIRED.—At the request of a Governor of a State, the Secretary shall delegate to that State the authority to carry out functions under sections 899B and 899C, if the Secretary determines that the State is capable of satisfactorily carrying out such functions.

''(3) FUNDING.—Subject to the availability of appropriations, if the Secretary delegates functions to a State under this subsection, the Secretary shall provide to that State sufficient funds to carry out the delegated functions.

''(c) PROVISION OF GUIDANCE AND NOTIFICATION MATERIALS TO AMMONIUM NITRATE FACILITIES.—

''(1) GUIDANCE.—The Secretary shall make available to each owner of an ammonium nitrate facility registered under section 899B(c)(1) guidance on—

''(A) the identification of suspicious ammonium nitrate purchases or transfers or attempted purchases or transfers;

''(B) the appropriate course of action to be taken by the ammonium nitrate facility owner with respect to such a purchase or transfer or attempted purchase or transfer, including—

''(i) exercising the right of the owner of the ammonium nitrate facility to decline sale of ammonium nitrate; and

''(ii) notifying appropriate law enforcement entities; and

''(C) additional subjects determined appropriate by to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.

''(2) USE OF MATERIALS AND PROGRAMS.—In providing guidance under this subsection, the Secretary shall, to the extent practicable, leverage any relevant materials and programs.

''(3) NOTIFICATION MATERIALS.—

''(A) IN GENERAL.—The Secretary shall make available materials suitable for posting at locations where ammonium nitrate is sold.

''(B) DESIGN OF MATERIALS.—Materials made available under subparagraph (A) shall be designed to notify prospective ammonium nitrate purchasers of—

''(i) the record-keeping requirements under section 899B; and

''(ii) the penalties for violating such requirements.

''SEC. 899E. THEFT REPORTING REQUIREMENT.

''Any person who is required to comply with section 899B(e) who has knowledge of the theft or unexplained loss of ammonium nitrate shall report such theft or loss to the appropriate Federal law enforcement authorities not later than 1 calendar day of the date on which the person becomes aware of such theft or loss. Upon receipt of such report, the relevant Federal authorities shall inform State, local, and tribal law enforcement entities, as appropriate.

''SEC. 899F. PROHIBITIONS AND PENALTY.

''(a) PROHIBITIONS.—

''(1) TAKING POSSESSION.—No person shall take possession of ammonium nitrate from an ammonium nitrate facility unless such person is registered under subsection (c) or (d) of section 899B, or is an agent of a person registered under subsection (c) or (d) of that section.

''(2) TRANSFERRING POSSESSION.—An owner of an ammonium nitrate facility shall not transfer possession of ammonium nitrate from the ammonium nitrate facility to any person who is not registered under subsection (c) or (d) of section 899B, or is not an agent of a person registered under subsection (c) or (d) of that section.

''(3) OTHER PROHIBITIONS.—No person shall—

''(A) buy and take possession of ammonium nitrate without a registration number required under subsection (c) or (d) of section 899B;

''(B) own or operate an ammonium nitrate facility without a registration number required under section 899B(c); or

''(C) fail to comply with any requirement or violate any other prohibition under this subtitle.

''(b) CIVIL PENALTY.—A person that violates this subtitle may be assessed a civil penalty by the Secretary of not more than $50,000 per violation.

''(c) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section, the Secretary shall consider—

''(1) the nature and circumstances of the violation;

''(2) with respect to the person who commits the violation, any history of prior violations, the ability to pay the penalty, and any effect the penalty is likely to have on the ability of such person to do business; and

''(3) any other matter that the Secretary determines that justice requires.

''(d) NOTICE AND OPPORTUNITY FOR A HEARING.—No civil penalty may be assessed under this subtitle unless the person liable for the penalty has been given notice and an opportunity for a hearing on the violation for which the penalty is to be assessed in the county, parish, or incorporated city of residence of that person.

''(e) DELAY IN APPLICATION OF PROHIBITION.—Paragraphs (1) and (2) of subsection (a) shall apply on and after the date that is 6 months after the date that the Secretary issues of a final rule implementing this subtitle.

''SEC. 899G. PROTECTION FROM CIVIL LIABILITY.

''(a) IN GENERAL.—Notwithstanding any other provision of law, an owner of an ammonium nitrate facility that in good faith refuses to sell or transfer ammonium nitrate to any person, or that in good faith discloses to the Department or to appropriate law enforcement authorities an actual or attempted purchase or transfer of ammonium nitrate, based upon a reasonable belief that the person seeking purchase or transfer of ammonium nitrate may use the ammonium nitrate to create an explosive device to be employed in an act of terrorism (as defined in section 3077 of title 18, United States Code), or to use ammonium nitrate for any other unlawful purpose, shall not be liable in any civil action relating to that refusal to sell ammonium nitrate or that disclosure.

''(b) REASONABLE BELIEF.—A reasonable belief that a person may use ammonium nitrate to create an explosive device to be employed in an act of terrorism under subsection (a) may not solely be based on the race, sex, national origin, creed, religion, status as a veteran, or status as a member of the Armed Forces of the United States of that person.

''SEC. 899H. PREEMPTION OF OTHER LAWS.

''(a) OTHER FEDERAL REGULATIONS.—Except as provided in section 899G, nothing in this subtitle affects any regulation issued by any agency other than an agency of the Department.

''(b) STATE LAW.—Subject to section 899G, this subtitle preempts the laws of any State to the extent that such laws are inconsistent with this subtitle, except that this subtitle shall not preempt any State law that provides additional protection against the acquisition of ammonium nitrate by terrorists or the use of ammonium nitrate in explosives in acts of terrorism or for other illicit purposes, as determined by the Secretary.

''SEC. 899I. DEADLINES FOR REGULATIONS.

''The Secretary—

''(1) shall issue a proposed rule implementing this subtitle not later than 6 months after the date of the enactment of this subtitle; and

''(2) issue a final rule implementing this subtitle not later than 1 year after such date of enactment.

''SEC. 899J. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Secretary—

''(1) $2,000,000 for fiscal year 2008; and

''(2) $10,750,000 for each of fiscal years 2009 through 2012.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 899 the following:

''Subtitle J—Secure Handling of Ammonium Nitrate

''Sec. 899A. Definitions.
''Sec. 899B. Regulation of the sale and transfer of ammonium nitrate.
''Sec. 899C. Inspection and auditing of records.
''Sec. 899D. Administrative provisions.
''Sec. 899E. Theft reporting requirement.
''Sec. 899F. Prohibitions and penalty.
''Sec. 899G. Protection from civil liability.
''Sec. 899H. Preemption of other laws.
''Sec. 899I. Deadlines for regulations.
''Sec. 899J. Authorization of appropriations.''.

SEC. 552. RISK MANAGEMENT AND ANALYSIS SPECIAL EVENT; 2010 VANCOUVER OLYMPIC AND PARALYMPIC GAMES. As soon as practicable, but not later than 3 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Appropriations, the Committee on Homeland Security

and Governmental Affairs, and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Appropriations, the Committee on Homeland Security, and the Committee on Transportation and Infrastructure of the House of Representatives a report regarding the plans of the Secretary of Homeland Security relating to—

(1) implementing the recommendations regarding the 2010 Vancouver Olympic and Paralympic Games in the Joint Explanatory Statement of the Committee of Conference on H.R. 5441 (109th Congress), the Department of Homeland Security Appropriations Act, 2007, with specific funding strategies for—

(A) the Multiagency Coordination Center; and

(B) communications exercises to validate communications pathways, test equipment, and support the training and familiarization of personnel on the operations of the different technologies used to support the 2010 Vancouver Olympic and Paralympic Games; and

(2) the feasibility of implementing a program to prescreen individuals traveling by rail between Vancouver, Canada and Seattle, Washington during the 2010 Vancouver Olympic and Paralympic Games, while those individuals are located in Vancouver, Canada, similar to the preclearance arrangements in effect in Vancouver, Canada for certain flights between the United States and Canada.

SEC. 553. IMPROVEMENT OF BARRIERS AT BORDER. Section 102 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended—

(1) in subsection (a), by striking ''Attorney General, in consultation with the Commissioner of Immigration and Naturalization,'' and inserting ''Secretary of Homeland Security''; and

(2) in subsection (b)—

(A) in the subsection heading, by striking ''IN THE BORDER AREA'' and inserting ''ALONG THE BORDER'';

(B) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5), respectively;

(C) in paragraph (2), as redesignated—

(i) in the paragraph heading, by striking ''SECURITY FEATURES'' and inserting ''ADDITIONAL FENCING ALONG SOUTHWEST BORDER''; and

(ii) by striking subparagraphs (A) through (C) and inserting the following:

''(A) REINFORCED FENCING.—In carrying out subsection (a), the Secretary of Homeland Security shall construct reinforced fencing along not less than 700 miles of the southwest border where fencing would be most practical and effective and provide for the installation of additional physical barriers, roads, lighting, cameras, and sensors to gain operational control of the southwest border.

''(B) PRIORITY AREAS.—In carrying out this section, the Secretary of Homeland Security shall—

''(i) identify the 370 miles along the southwest border where fencing would be most practical and effective in deterring smugglers and aliens attempting to gain illegal entry into the United States; and

''(ii) not later than December 31, 2008, complete construction of reinforced fencing along the 370 miles identified under clause (i).

''(C) CONSULTATION.—

''(i) IN GENERAL.—In carrying out this section, the Secretary of Homeland Security shall consult with the Secretary of Interior, the Secretary of Agriculture, States, local governments, Indian tribes, and property owners in the United States to minimize the impact on the environment, culture, commerce, and quality of life for the communities and residents located near the sites at which such fencing is to be constructed.

''(ii) SAVINGS PROVISION.—Nothing in this subparagraph may be construed to—

''(I) create any right of action for a State, local government, or other person or entity affected by this subsection; or

''(II) affect the eminent domain laws of the United States or of any State.

''(D) LIMITATION ON REQUIREMENTS.—Notwithstanding subparagraph (A), nothing in this paragraph shall require the Secretary of Homeland Security to install fencing, physical barriers, roads, lighting, cameras, and sensors in a particular location along an international border of the United States, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain operational control over the international border at such location.''; and

(D) in paragraph (5), as redesignated, by striking ''to carry out this subsection not to exceed $12,000,000'' and inserting ''such sums as may be necessary to carry out this subsection''.

SEC. 554. ACCOUNTABILITY IN GRANT AND CONTRACT ADMINISTRATION. The Department of Homeland Security, through the Federal Emergency Management Agency, shall—

(1) consider implementation, through fair and open competition, of management, tracking and accountability systems to assist in managing grant allocations, distribution, expenditures, and asset tracking; and

(2) consider any efficiencies created through cooperative purchasing agreements.

SEC. 555. None of the funds made available in this Act may be used to destroy or put out to pasture any horse or other equine belonging to the Federal Government that has become unfit for service, unless the trainer or handler is first given the option to take possession of the equine through an adoption program that has safeguards against slaughter and inhumane treatment.

SEC. 556. INTERNATIONAL REGISTERED TRAVELER PROGRAM. Section 7208(k)(3) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b(k)(3)) is amended to read as follows:

''(3) INTERNATIONAL REGISTERED TRAVELER PROGRAM.—

''(A) IN GENERAL.—The Secretary of Homeland Security shall establish an international registered traveler program that incorporates available technologies, such as biometrics and e-passports, and security threat assessments to expedite the screening and processing of international travelers, including United States Citizens and residents, who enter and exit the United States. The program shall be coordinated with the US–VISIT program, other pre-screening initiatives, and the Visa Waiver Program within the Department of Homeland Security.

''(B) FEES.—The Secretary may impose a fee for the program established under subparagraph (A) and may modify such fee from time to time. The fee may not exceed the aggregate costs associated with the program and shall be credited to the Department of Homeland Security for purposes of carrying out the program. Amounts so credited shall remain available until expended.

''(C) RULEMAKING.—Within 365 days after the date of enactment of this paragraph, the Secretary shall initiate a rulemaking to establish the program, criteria for participation, and the fee for the program.

''(D) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall establish a phased-implementation of a biometric-based international registered traveler program in conjunction with the US–VISIT entry and exit system, other pre-screening initiatives, and the Visa Waiver Program within the Department of Homeland Security at United States airports with the highest volume of international travelers.

''(E) PARTICIPATION.—The Secretary shall ensure that the international registered traveler program includes as many participants as practicable by—

''(i) establishing a reasonable cost of enrollment;

''(ii) making program enrollment convenient and easily accessible; and

''(iii) providing applicants with clear and consistent eligibility guidelines.''.

SEC. 557. REPORT ON THE PERFORMANCE ACCOUNTABILITY AND STANDARDS SYSTEM OF THE TRANSPORTATION SECURITY ADMINISTRATION. Not later than March 1, 2008, the Transportation Security Administration shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives on the implementation of the Performance Accountability and Standards System, including—

(1) the number of employees who achieved each level of performance;

(2) a comparison between managers and nonmanagers relating to performance and pay increases;

(3) the type and amount of all pay increases that have taken effect for each level of performance; and

(4) the attrition of employees covered by the Performance Accountability and Standards System.

SEC. 558. SHARED BORDER MANAGEMENT. (a) STUDY.—The Comptroller General of the United States shall conduct a study on the Department of Homeland Security's use of shared border management to secure the international borders of the United States.

(b) REPORT.—The Comptroller General shall submit a report to Congress that describes—

(1) any negotiations, plans, or designs conducted by officials of the Department of Homeland Security regarding the practice of shared border management; and

(2) the factors required to be in place for shared border management to be successful.

SEC. 559. Amounts authorized to be appropriated in the Border Law Enforcement Relief Act of 2007 are increased by $50,000,000 for each of the fiscal years 2008 through 2012.

SEC. 560. GAO STUDY OF COST OF FENCING ON THE SOUTHERN BORDER. (a) INQUIRY AND REPORT REQUIRED.—The Comptroller of the United States shall conduct a study examining—

(1) the total amount of money that has been expended, as of June 20, 2007, to construct 90 miles of fencing on the southern border of the United States;

(2) the average cost per mile of the 90 miles of fencing on the southern border as of June 20, 2007;

(3) the average cost per mile of the 370 miles of fencing that the Department of Homeland Security is required to have completed on the southern border by December 31, 2008, which shall include $1,187,000,000 appropriated in fiscal year 2007 for ''border security fencing, technology, and infrastructure'' and the $1,000,000,000 appropriated under this Act under the heading ''Border Security Fencing, Infrastructure, and Technology'';

(4) the total cost and average cost per mile to construct the 700 linear miles (854 topographical miles) of fencing on the southern border required to be constructed under section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended by section 3 of the Secure Fence Act of 2006 (Public Law 109–367);

(5) the total cost and average cost per mile to construct the fencing described in paragraph (4) if the double layer fencing requirement were eliminated; and

(6) the number of miles of single layer fencing, if fencing were not accompanied by additional technology and infrastructure such as cameras, sensors, and roads, which could be built with the $1,187,000,000 appropriated in fiscal year 2007 for ''border security fencing, technology, and infrastructure'' and the $1,000,000,000 appropriated under this Act under the heading ''Border Security Fencing, Infrastructure, and Technology''.

(b) SUBMISSION OF REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report on the results of the study conducted pursuant to subsection (a) to—

(1) the Committee on Appropriations of the Senate;

(2) the Committee on the Judiciary of the Senate;

(3) the Committee on Appropriations of the House of Representatives; and

(4) the Committee on the Judiciary of the House of Representatives.

SEC. 561. SENSE OF SENATE ON IMMIGRATION.—(a) FINDINGS.—The Senate makes the following findings:

(1) On June 28th, 2007, the Senate, by a vote of 46 to 53, rejected a motion to invoke cloture on a bill to provide for comprehensive immigration reform.

(2) Illegal immigration remains the top domestic issue in the United States.

(3) The people of the United States continue to feel the effects of a failed immigration system on a daily basis, and they have not forgotten that Congress and the President have a duty to address the issue of illegal immigration and the security of the international borders of the United States.

(4) People from across the United States have shared with members of the Senate their wide ranging and passionate opinions on how best to reform the immigration system.

(5) There is no consensus on an approach to comprehensive immigration reform that does not first secure the international borders of the United States.

(6) There is unanimity that the Federal Government has a responsibility to, and immediately should, secure the international borders of the United States.

(7) Border security is an integral part of national security.

(8) The greatest obstacle the Federal Government faces with respect to the people of the United States is a lack of trust that the Federal Government will secure the international borders of the United States.

(9) This lack of trust is rooted in the past failures of the Federal Government to uphold and enforce immigration laws and the failure of the Federal Government to secure the international borders of the United States.

(10) Failure to uphold and enforce immigration laws has eroded respect for those laws and eliminated the faith of the people of the United States in the ability of their elected officials to responsibly administer immigration programs.

(11) It is necessary to regain the trust of the people of the United States in the competency of the Federal Government to enforce immigration laws and manage the immigration system.

(12) Securing the borders of the United States would serve as a starting point to begin to address other issues surrounding immigration reform on which there is not consensus.

(13) Congress has not fully funded some interior and border security activities that it has authorized.

(14) The President of the United States can initiate emergency spending by designating certain spending as ''emergency spending'' in a request to the Congress.

(15) The lack of security on the international borders of the United States rises to the level of an emergency.

(16) The Border Patrol are apprehending some, but not all, individuals from countries that the Secretary of State has determined have repeatedly provided support for acts of international terrorism who cross or attempt to cross illegally into the United States.

(17) The Federal Bureau of Investigation is investigating a human smuggling ring that has been bringing Iraqis and other Middle Eastern individuals across the international borders of the United States.

(b) SENSE OF SENATE.—It is the sense of Senate that—

(1) the Federal Government should work to regain the trust of the people of the United States in its ability of the Federal Government to secure the international borders of the United States;

(2) in order to restore the credibility of the Federal Government on this critical issue, the Federal Government should prove its ability to enforce immigration laws by taking actions such as securing the border, stopping the flow of illegal immigrants and drugs into the United States, and creating a tamper-proof biometric identification card for foreign workers; and

(3) the President should request emergency spending that fully funds—

(A) existing interior and border security authorizations that have not been funded by Congress; and

(B) the border and interior security initiatives contained in the bill to provide for comprehensive immigration reform and for other purposes (S. 1639) introduced in the Senate on June 18, 2007.

SEC. 562. ENSURING THE SAFETY OF AGRICULTURAL IMPORTS.—(a) FINDINGS.—Congress makes the following findings:

(1) The Food and Drug Administration, as part of its responsibility to ensure the safety of food and other imports, maintains a presence at 91 of the 320 points of entry into the United States.

(2) United States Customs and Border Protection personnel are responsible for monitoring imports and alerting the Food and Drug Administration to suspicious material entering the United States at the remaining 229 points of entry.

(b) REPORT.—The Commissioner of U.S. Customs and Border Protection shall submit a report to Congress that describes the training of U.S. Customs and Border Protection personnel to effectively assist the Food and Drug Administration in monitoring our Nation's food supply.

SEC. 563. (a) STUDY ON IMPLEMENTATION OF VOLUNTARY PROVISION OF EMERGENCY SERVICES PROGRAM.—

(1) Not later than 180 days after the date of the enactment of this Act, the Administrator of the Transportation Security Administration shall conduct a study on the implementation of the voluntary provision of emergency services program established pursuant to section 44944(a) of title 49, United States Code (referred to in this section as the ''program'').

(2) As part of the study required by paragraph (1), the Administrator shall assess the following:

(A) Whether training protocols established by air carriers and foreign air carriers include training pertinent to the program and whether such training is effective for purposes of the program.

(B) Whether employees of air carriers and foreign air carriers responsible for implementing the program are familiar with the provisions of the program.

(C) The degree to which the program has been implemented in airports.

(D) Whether a helpline or other similar mechanism of assistance provided by an air carrier, foreign air carrier, or the Transportation Security Administration should be established to provide assistance to employees of air carriers and foreign air carriers who are uncertain of the procedures of the program.

(3) In making the assessment required by paragraph (2)(C), the Administrator may make use of unannounced interviews or other reasonable and effective methods to test employees of air carriers and foreign air carriers responsible for registering law enforcement officers, firefighters, and emergency medical technicians as part of the program.

(4)(A) Not later than 60 days after the completion of the study required by paragraph (1), the Administrator shall submit to Congress a report on the findings of such study.

(B) The Administrator shall make such report available to the public by Internet web site or other appropriate method.

(b) PUBLICATION OF REPORT PREVIOUSLY SUBMITTED.—The Administrator shall make available to the public on the Internet web site of the Transportation Security Administration or the Department of Homeland Security the report required by section 554(b) of the Department of Homeland Security Appropriations Act, 2007 (Public Law 109–295).

(c) MECHANISM FOR REPORTING PROBLEMS.—The Administrator shall develop a mechanism on the Internet web site of the Transportation Security Administration or the Department of Homeland Security by which first responders may report problems with or barriers to volunteering in the program. Such mechanism shall also provide information on how to submit comments related to volunteering in the program.

(d) AIR CARRIER AND FOREIGN AIR CARRIER DEFINED.—In this section, the terms ''air carrier'' and ''foreign air carrier'' have the meaning given such terms in section 40102 of title 49, United States Code.

SEC. 564. None of the funds appropriated or otherwise made available by this Act may be used to enter into a contract in an amount greater than $5,000,000 or to award a grant in excess of such amount unless the prospective contractor or grantee certifies in writing to the agency awarding the contract or grant that the contractor or grantee has no unpaid Federal tax assessments, that the contractor or grantee has entered into an installment agreement or offer in compromise that has been accepted by the IRS to resolve any unpaid Federal tax assessments, or, in the case of unpaid Federal tax assessments other than for income, estate, and gift taxes, that the liability for the unpaid assessments is the subject of a non-frivolous administrative or judicial appeal. For purposes of the preceding sentence, the certification requirement of part 52.209–5 of the Federal Acquisition Regulation shall also include a requirement for a certification by a prospective contractor of whether, within the three-year period preceding the offer for the contract, the prospective contractor—

(1) has or has not been convicted of or had a civil judgment or other judicial determination rendered against the contractor for violating any tax law or failing to pay any tax;

(2) has or has not been notified of any delinquent taxes for which the liability remains unsatisfied; or

(3) has or has not received a notice of a tax lien filed against the contractor for which the liability remains unsatisfied or for which the lien has not been released.

SEC. 565. TRANSPORTATION FACILITY ACCESS CONTROL PROGRAMS.

The Secretary of Homeland Security shall work with appropriate officials of Florida and of other States to resolve the differences between the Transportation Worker Identification Credential program administered by the Transportation Security Administration and existing State transportation facility access control programs.

SEC. 566. None of the funds made available in this Act may be used for planning, testing, piloting, or developing a national identification card.

SEC. 567. ADDITIONAL ASSISTANCE FOR PREPARATION OF PLANS.

Subparagraph (L) of section 33(b)(3) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229(b)(3)) is amended to read as follows:

''(L) To fund fire prevention programs, including planning and preparation for wildland fires.''.

SEC. 568. SENSE OF CONGRESS. It is the sense of Congress that sufficient funds should be appropriated to allow the Secretary to increase the number of personnel of U.S. Customs and Border Protection protecting the northern border by 1,517 officers and 788 agents, as authorized by—

(1) section 402 of the Uniting and Strengthening America by Providing Appropriate Tools

Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107–56);

(2) section 331 of the Trade Act of 2002 (Public Law 107–210); and

(3) section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458).

SEC. 569. STUDY OF RADIO COMMUNICATIONS ALONG THE INTERNATIONAL BORDERS OF THE UNITED STATES.—(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall conduct a study to determine the areas along the international borders of the United States where Federal and State law enforcement officers are unable to achieve radio communication or where radio communication is inadequate.

(b) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—Upon the conclusion of the study described in subsection (a), the Secretary shall develop a plan for enhancing radio communication capability along the international borders of the United States.

(2) CONTENTS.—The plan developed under paragraph (1) shall include—

(A) an estimate of the costs required to implement the plan; and

(B) a description of the ways in which Federal, State, and local law enforcement officers could benefit from the implementation of the plan.

SEC. 570. Of the funds provided under this Act or any other Act to United States Citizenship and Immigration Services, not less than $1,000,000 shall be provided for a benefits fraud assessment of the H–1B Visa Program.

SEC. 571. (a) REPORT ON INTERAGENCY OPERATIONAL CENTERS FOR PORT SECURITY.—Not later than 180 days after the date of the enactment of this Act, the Commandant of the Coast Guard shall submit to Congress a report, and make the report available on its website, on the implementation and use of interagency operational centers for port security under section 70107A of title 46, United States Code.

(b) ELEMENTS.—The report required by subsection shall include the following:

(1) A detailed description of the progress made in transitioning Project Seahawk in Charleston, South Carolina, from the Department of Justice to the Coast Guard, including all projects and equipment associated with that project.

(2) A detailed description of that actions being taken to assure the integrity of Project Seahawk and ensure there is no loss in cooperation between the agencies specified in section 70107A(b)(3) of title 46, United State Code.

(3) A detailed description and explanation of any changes in Project Seahawk as of the date of the report, including any changes in Federal, State, or local staffing of that project.

SEC. 572. (a) The amount appropriated by title III for necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 under the heading ''FIREFIGHTER ASSISTANCE GRANTS'' is hereby increased by $5,000,000 for necessary expenses to carry out the programs authorized under section 34 of that Act (15 U.S.C. 2229a).

(b) The amount appropriated by title III under the heading ''INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY'' is hereby reduced by $5,000,000.

SEC. 573. TSA ACQUISITION MANAGEMENT POLICY. (a) IN GENERAL.—Section 114 of title 49, United States Code, is amended by striking subsection (o) and redesignating subsections (p) through (t) as subsections (o) through (s), respectively.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

SEC. 574. REPORT ON URBAN AREA SECURITY INITIATIVE. Not later than 180 days after the date of enactment of this Act, the Government Accountability Office shall submit a report to the appropriate congressional committees which describes the criteria and factors the Department of Homeland Security uses to determine the regional boundaries for Urban Area Security Initiative regions, including a determination if the Department is meeting its goal to implement a regional approach with respect to Urban Area Security Initiative regions, and provides recommendations for how the Department can better facilitate a regional approach for Urban Area Security Initiative regions.

SEC. 575. (a) In this section:

(1) The term ''covered funds'' means funds provided under section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) to a State that submits an application under that section not earlier than May 4, 2007, for a national emergency grant to address the effects of the May 4, 2007, Greensburg, Kansas tornado.

(2) The term ''professional municipal services'' means services that are necessary to facilitate the recovery of Greensburg, Kansas from that tornado, and necessary to plan for or provide basic management and administrative services, which may include—

(A) the overall coordination of disaster recovery and humanitarian efforts, oversight, and enforcement of building code compliance, and coordination of health and safety response units; or

(B) the delivery of humanitarian assistance to individuals affected by that tornado.

(b) Covered funds may be used to provide temporary public sector employment and services authorized under section 173 of such Act to individuals affected by such tornado, including individuals who were unemployed on the date of the tornado, or who are without employment history, in addition to individuals who are eligible for disaster relief employment under section 173(d)(2) of such Act.

(c) Covered funds may be used to provide professional municipal services for a period of not more than 24 months, by hiring or contracting with individuals or organizations (including individuals employed by contractors) that the State involved determines are necessary to provide professional municipal services.

(d) Covered funds expended under this section may be spent on costs incurred not earlier than May 4, 2007.

SEC. 576. DATA RELATING TO DECLARATIONS OF A MAJOR DISASTER. (a) IN GENERAL.—Notwithstanding any other provision of this Act, except as provided in subsection (b), and 30 days after the date that the President determines whether to declare a major disaster because of an event and any appeal is completed, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives, and the Senate Committee on Appropriations, and publish on the website of the Federal Emergency Management Agency, a report regarding that decision, which shall summarize damage assessment information used to determine whether to declare a major disaster.

(b) EXCEPTION.—The Administrator may redact from a report under subsection (a) any data that the Administrator determines would compromise national security.

(c) DEFINITIONS.—In this section—

(1) the term ''Administrator'' means the Administrator of the Federal Emergency Management Agency; and

(2) the term ''major disaster'' has the meaning given that term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

SEC. 577. NATIONAL TRANSPORTATION SECURITY CENTER OF EXCELLENCE.—If the Secretary of Homeland Security establishes a National Transportation Security Center of Excellence to conduct research and education activities, and to develop or provide professional security training, including the training of transportation employees and transportation professionals, the Mineta Transportation Institute at San Jose State University may be included as a member institution of such Center.

SEC. 578. Of amounts appropriated under section 1003, $100,000,000, with $50,000,000 each to the Cities of Denver, Colorado, and St. Paul, Minnesota, shall be available for State and local law enforcement entities for security and related costs, including overtime, associated with the Democratic National Conventional and Republican National Convention in 2008. Amounts provided by this section are designated as an emergency requirement pursuant to section 204 of S. Con. Res. 21 (110th Congress).

TITLE VI—BORDER LAW ENFORCEMENT RELIEF ACT

SEC. 601. SHORT TITLE.

This title may be cited as the ''Border Law Enforcement Relief Act of 2007''.

SEC. 602. BORDER RELIEF GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants, subject to the availability of appropriations, to an eligible law enforcement agency to provide assistance to such agency to address—

(A) criminal activity that occurs in the jurisdiction of such agency by virtue of such agency's proximity to the United States border; and

(B) the impact of any lack of security along the United States border.

(2) DURATION.—Grants may be awarded under this subsection during fiscal years 2008 through 2012.

(3) COMPETITIVE BASIS.—The Secretary shall award grants under this subsection on a competitive basis, except that the Secretary shall give priority to applications from any eligible law enforcement agency serving a community—

(A) with a population of less than 50,000; and

(B) located no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico.

(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may only be used to provide additional resources for an eligible law enforcement agency to address criminal activity occurring along any such border, including—

(1) to obtain equipment;

(2) to hire additional personnel;

(3) to upgrade and maintain law enforcement technology;

(4) to cover operational costs, including overtime and transportation costs; and

(5) such other resources as are available to assist that agency.

(c) APPLICATION.—

(1) IN GENERAL.—Each eligible law enforcement agency seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

(d) DEFINITIONS.—For the purposes of this section:

(1) ELIGIBLE LAW ENFORCEMENT AGENCY.—The term ''eligible law enforcement agency'' means a tribal, State, or local law enforcement agency—

(A) located in a county no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico; or

(B) located in a county more than 100 miles from any such border, but where such county has been certified by the Secretary as a High Impact Area.

(2) HIGH IMPACT AREA.—The term ''High Impact Area'' means any county designated by the Secretary as such, taking into consideration—

(A) whether local law enforcement agencies in that county have the resources to protect the lives, property, safety, or welfare of the residents of that county;

(B) the relationship between any lack of security along the United States border and the rise, if any, of criminal activity in that county; and

(C) any other unique challenges that local law enforcement face due to a lack of security along the United States border.

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

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for each of fiscal years 2008 through 2012 to carry out the provisions of this section.

(2) DIVISION OF AUTHORIZED FUNDS.—Of the amounts authorized under paragraph (1)—

(A) ⅔ shall be set aside for eligible law enforcement agencies located in the 6 States with the largest number of undocumented alien apprehensions; and

(B) ⅓ shall be set aside for areas designated as a High Impact Area under subsection (d).

(f) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this section shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this title.

SEC. 603. Enforcement of Federal Immigration Law.

Nothing in this title shall be construed to authorize State or local law enforcement agencies or their officers to exercise Federal immigration law enforcement authority.

TITLE VII—BORDER INFRASTRUCTURE AND TECHNOLOGY MODERNIZATION

SEC. 701. SHORT TITLE.

This title may be cited as the ''Border Infrastructure and Technology Modernization Act of 2007''.

SEC. 702. DEFINITIONS.—In this title:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of United States Customs and Border Protection of the Department of Homeland Security.

(2) MAQUILADORA.—The term ''maquiladora'' means an entity located in Mexico that assembles and produces goods from imported parts for export to the United States.

(3) NORTHERN BORDER.—The term ''northern border'' means the international border between the United States and Canada.

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

(5) SOUTHERN BORDER.—The term ''southern border'' means the international border between the United States and Mexico.

SEC. 703. HIRING AND TRAINING OF BORDER AND TRANSPORTATION SECURITY PERSONNEL.—(a) OFFICERS AND AGENTS.—

(1) INCREASE IN OFFICERS AND AGENTS.—Subject to the availability of appropriations, during each of fiscal years 2009 through 2013, the Secretary shall—

(A) increase the number of full-time agents and associated support staff in United States Immigration and Customs Enforcement of the Department of Homeland Security by the equivalent of at least 100 more than the number of such employees as of the end of the preceding fiscal year; and

(B) increase the number of full-time officers, agricultural specialists, and associated support staff in United States Customs and Border Protection by the equivalent of at least 200 more than the number of such employees as of the end of the preceding fiscal year.

(2) WAIVER OF FTE LIMITATION.—The Secretary is authorized to waive any limitation on the number of full-time equivalent personnel assigned to the Department of Homeland Security to fulfill the requirements of paragraph (1).

(b) TRAINING.—As necessary, the Secretary, acting through the Assistant Secretary for the United States Immigration and Customs Enforcement and the Commissioner, shall provide appropriate training for agents, officers, agricultural specialists, and associated support staff of the Department of Homeland Security to utilize new technologies and to ensure that the proficiency levels of such personnel are acceptable to protect the borders of the United States.

SEC. 704. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.—(a) REQUIREMENT TO UPDATE.—Not later than January 31 of every other year, the Commissioner, in consultation with the Administrator of General Services shall—

(1) review—

(A) the Port of Entry Infrastructure Assessment Study prepared by the United States Customs Service, the Immigration and Naturalization Service, and the General Services Administration in accordance with the matter relating to the ports of entry infrastructure assessment set forth in the joint explanatory statement on page 67 of conference report 106–319, accompanying Public Law 106–58; and

(B) the nationwide strategy to prioritize and address the infrastructure needs at the land ports of entry prepared by the Department of Homeland Security and the General Services Administration in accordance with the committee recommendations on page 22 of Senate report 108–86, accompanying Public Law 108–90;

(2) update the assessment of the infrastructure needs of all United States land ports of entry; and

(3) submit an updated assessment of land port of entry infrastructure needs to Congress.

(b) CONSULTATION.—In preparing the updated studies required under subsection (a), the Commissioner and the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Secretary, and affected State and local agencies on the northern and southern borders of the United States.

(c) CONTENT.—Each updated study required in subsection (a) shall—

(1) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(2) include the projects identified in the National Land Border Security Plan required by section 805; and

(3) prioritize the projects described in paragraphs (1) and (2) based on the ability of a project—

(A) to enhance the ability of United States Customs and Border Protection to achieve its mission and to support operations;

(B) to fulfill security requirements; and

(C) facilitate trade across the borders of the United States.

(d) PROJECT IMPLEMENTATION.—The Commissioner, as appropriate, shall—

(1) implement the infrastructure and technology improvement projects described in subsection (c) in the order of priority assigned to each project under subsection (c)(3); or

(2) forward the prioritized list of infrastructure and technology improvement projects to the Administrator of General Services for implementation in the order of priority assigned to each project under subsection (c)(3).

(e) DIVERGENCE FROM PRIORITIES.—The Commissioner may diverge from the priority order if the Commissioner determines that significantly changed circumstances, including immediate security needs, changes in infrastructure in Mexico or Canada, or similar concerns, compellingly alter the need for a project in the United States.

SEC. 705. NATIONAL LAND BORDER SECURITY PLAN.—(a) REQUIREMENT FOR PLAN.—Not later than January 31 of every other year, the Secretary, acting through the Commissioner, shall prepare a National Land Border Security Plan and submit such plan to Congress.

(b) CONSULTATION.—In preparing the plan required under subsection (a), the Commissioner shall consult with other appropriate Federal agencies, State and local law enforcement agencies, and private entities that are involved in international trade across the northern or southern border.

(c) VULNERABILITY ASSESSMENT.—

(1) IN GENERAL.—The plan required under subsection (a) shall include a vulnerability, risk, and threat assessment of each port of entry located on the northern border or the southern border.

(2) PORT SECURITY COORDINATORS.—The Secretary, acting through the Commissioner, may establish 1 or more port security coordinators at each port of entry located on the northern border or the southern border—

(A) to assist in conducting a vulnerability assessment at such port; and

(B) to provide other assistance with the preparation of the plan required under subsection (a).

(d) COORDINATION WITH THE SECURE BORDER INITIATIVE.—The plan required under subsection (a) shall include a description of activities undertaken during the previous year as part of the Secure Border Initiative and actions planned for the coming year as part of the Secure Border Initiative.

SEC. 706. EXPANSION OF COMMERCE SECURITY PROGRAMS.—(a) COMMERCE SECURITY PROGRAMS.—(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commissioner, in consultation with the Secretary, shall develop a plan to expand the size and scope, including personnel needs, of the Customs-Trade Partnership Against Terrorism program or other voluntary programs involving government entities and the private sector to strengthen and improve the overall security of the international supply chain and security along the northern and southern border of the United States.

(2) SOUTHERN BORDER SUPPLY CHAIN SECURITY.—Not later than 1 year after the date of enactment of this Act, the Commissioner shall provide Congress with a plan to improve supply chain security along the southern border, including, where appropriate, plans to implement voluntary programs involving government entities and the private sector to strengthen and improve the overall security of the international supply chain that have been successfully implemented on the northern border.

SEC. 707. PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM. (a) ESTABLISHMENT.—The Secretary, acting through the Commissioner, shall carry out a technology demonstration program to test and evaluate new port of entry technologies, refine port of entry technologies and operational concepts, and train personnel under realistic conditions.

(b) TECHNOLOGY AND FACILITIES.—

(1) TECHNOLOGY TESTED.—Under the demonstration program, the Commissioner shall test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(2) FACILITIES DEVELOPED.—At a demonstration site selected pursuant to subsection (c)(3), the Commissioner shall develop any facilities needed to provide appropriate training to Federal law enforcement personnel who have responsibility for border security, including cross-training among agencies, advanced law enforcement training, and equipment orientation to the extent that such training is not being conducted at existing Federal facilities.

(c) DEMONSTRATION SITES.—

(1) NUMBER.—The Commissioner shall carry out the demonstration program at not less than 3 sites and not more than 5 sites.

(2) LOCATION.—Of the sites selected under subsection (c)—

(A) at least 1 shall be located on the northern border of the United States; and

(B) at least 1 shall be located on the southern border of the United States.

(3) SELECTION CRITERIA.—To ensure that 1 of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry out demonstration and port of entry operations, 1 port of entry selected as a demonstration site may—

(A) have been established not more than 15 years before the date of the enactment of this Act;

(B) consist of not less than 65 acres, with the possibility of expansion onto not less than 25 adjacent acres; and

(C) have serviced an average of not more than 50,000 vehicles per month during the 12 months preceding the date of the enactment of this Act.

(d) RELATIONSHIP WITH OTHER AGENCIES.—The Secretary, acting through the Commissioner, shall permit personnel from appropriate Federal agencies to utilize a demonstration site described in subsection (c) to test technologies that enhance port of entry operations, including those related to inspections, communications, port tracking, identification of persons and cargo, sensory devices, personal detection, decision support, and the detection and identification of weapons of mass destruction.

(e) REPORT.—

(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out at each demonstration site under the technology demonstration program established under this section.

(2) CONTENT.—The report shall include an assessment by the Commissioner of the feasibility of incorporating any demonstrated technology for use throughout United States Customs and Border Protection.

SEC. 708. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any funds otherwise available, there are authorized to be appropriated such sums as may be necessary to carry out sections 703, 704, 705, 706, and 707 for fiscal years 2009 through 2013.

(b) INTERNATIONAL AGREEMENTS.—Funds authorized to be appropriated under this title may be used for the implementation of projects described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada, agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this title.

DIVISION B—BORDER SECURITY

TITLE X—BORDER SECURITY REQUIREMENTS

SEC. 1001. SHORT TITLE.

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

SEC. 1002. BORDER SECURITY REQUIREMENTS.

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

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

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

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

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

(i) 300 miles of vehicle barriers;

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

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

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

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

(b) PRESIDENTIAL PROGRESS REPORT.—

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

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

SEC. 1003. APPROPRIATIONS FOR BORDER SECURITY.

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

This Act may be cited as the ''Department of Homeland Security Appropriations Act, 2008''.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Title 46 App., Section 1295 b(h), of the U.S. Code, appoints the following Senators to the Board of Visitors of the U.S. Merchant Marine Academy: the Senator from Hawaii, Mr. INOUYE, ex officio as Chairman of the Committee on Commerce, Science, and Transportation; the Senator from New Jersey, Mr. LAUTENBERG, from the Committee on Commerce, Science and Transportation; the Senator from Alaska, Mr. STEVENS, from the Committee on Commerce, Science and Transportation; and the Senator from South Carolina, Mr. GRAHAM, At Large.

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 6968(a), appoints the following Senators to the Board of Visitors of the U.S. Naval Academy: the Senator from Mississippi, Mr. COCHRAN, from the Committee on Appropriations; the Senator from Maryland, Ms. MIKULSKI, from the Committee on Appropriations; the Senator from Arizona, Mr. MCCAIN, designated by the Chairman of the Committee on Armed Services; and the Senator from Maryland, Mr. CARDIN, At Large.

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 4355(a), appoints the following Senators to the Board of Visitors of the U.S. Military Academy: the Senator from Texas, Mrs. HUTCHISON, from the Committee on Appropriations; the Senator from Louisiana, Ms. LANDRIEU, from the Committee on Appropriations; the Senator from Rhode Island, Mr. REED, Designated by the Chairman of the Committee on Armed Services; and the Senator from Maine, Ms. COLLINS, At Large.

The Chair, on behalf of the Vice President, pursuant to 10 U.S.C. 9355(a), appoints the following Senators to the Board of Visitors of the U.S. Air Force Academy: the Senator from Utah, Mr. BENNETT, from the Committee on Appropriations; the Senator from Nebraska, Mr. NELSON, from the Committee on Appropriations; and the Senator from Colorado, Mr. Allard, At Large.

SAFETY OF SENIORS ACT OF 2007

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 99, S. 845.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A bill (S. 845) to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

S. 845

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 ''Safety of Seniors Act of 2007''.

SEC. 2. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended—

(1) by redesignating section 393B (as added by section 1401 of Public Law 106–386) as section 393C and transferring such section so that it appears after section 393B (as added by section 1301 of Public Law 106–310); and

(2) by inserting after section 393C (as redesignated by paragraph (1)) the following:

''SEC. 393D. PREVENTION OF FALLS AMONG OLDER ADULTS.

''(a) PUBLIC EDUCATION.—The Secretary may—

''(1) oversee and support a national education campaign to be carried out by a nonprofit organization with experience in designing and implementing national injury prevention programs, that is directed principally to older adults, their families, and health care providers, and that focuses on reducing falls among older adults and preventing repeat falls; and

''(2) award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, for the purpose of organizing State-level coalitions of appropriate State and local agencies, safety, health, senior citizen, and other organizations to design and carry out local education campaigns, focusing on reducing falls among older adults and preventing repeat falls.

''(b) RESEARCH.—

''(1) IN GENERAL.—The Secretary may—

''(A) conduct and support research to—

''(i) improve the identification of older adults who have a high risk of falling;

''(ii) improve data collection and analysis to identify fall risk and protective factors;

''(iii) design, implement, and evaluate the most effective fall prevention interventions;

''(iv) improve strategies that are proven to be effective in reducing falls by tailoring these strategies to specific populations of older adults;

''(v) conduct research in order to maximize the dissemination of proven, effective fall prevention interventions;

''(vi) intensify proven interventions to prevent falls among older adults;

''(vii) improve the diagnosis, treatment, and rehabilitation of elderly fall victims and older adults at high risk for falls; and

''(viii) assess the risk of falls occurring in various settings;

''(B) conduct research concerning barriers to the adoption of proven interventions with respect to the prevention of falls among older adults;

''(C) conduct research to develop, implement, and evaluate the most effective approaches to reducing falls among high-risk older adults living in communities and long-term care and assisted living facilities; and

''(D) evaluate the effectiveness of community programs designed to prevent falls among older adults.

''(2) EDUCATIONAL SUPPORT.—The Secretary, either directly or through awarding grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, may provide professional education for physicians and allied health professionals, and aging service providers in fall prevention, evaluation, and management.

''(c) DEMONSTRATION PROJECTS.—The Secretary may carry out the following:

''(1) Oversee and support demonstration and research projects to be carried out by qualified organizations, institutions, or consortia of qualified organizations and institutions, in the following areas:

''(A) A multistate demonstration project assessing the utility of targeted fall risk screening and referral programs.

''(B) Programs designed for community-dwelling older adults that utilize multicomponent fall intervention approaches, including physical activity, medication assessment and reduction when possible, vision enhancement, and home modification strategies.

''(C) Programs that are targeted to new fall victims who are at a high risk for second falls and which are designed to maximize independence and quality of life for older adults, particularly those older adults with functional limitations.

''(D) Private sector and public-private partnerships to develop technologies to prevent falls among older adults and prevent or reduce injuries if falls occur.

''(2)(A) Award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, to design, implement, and evaluate fall prevention programs using proven intervention strategies in residential and institutional settings.

''(B) Award 1 or more grants, contracts, or cooperative agreements to 1 or more qualified organizations, institutions, or consortia of qualified organizations and institutions, in order to carry out a multistate demonstration project to implement and evaluate fall prevention programs using proven intervention strategies designed for single and multifamily residential settings with high concentrations of older adults, including—

''(i) identifying high-risk populations;

''(ii) evaluating residential facilities;

''(iii) conducting screening to identify high-risk individuals;

''(iv) providing fall assessment and risk reduction interventions and counseling;

''(v) coordinating services with health care and social service providers; and

''(vi) coordinating post-fall treatment and rehabilitation.

''(3) Award 1 or more grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, to conduct evaluations of the effectiveness of the demonstration projects described in this subsection.

''(d) STUDY OF EFFECTS OF FALLS ON HEALTH CARE COSTS.—

''(1) IN GENERAL.—The Secretary may conduct a review of the effects of falls on health care costs, the potential for reducing falls, and the most effective strategies for reducing health care costs associated with falls.

''(2) REPORT.—If the Secretary conducts the review under paragraph (1), the Secretary shall, not later than 36 months after the date of enactment of the Safety of Seniors Act of 2007, submit to Congress a report describing the findings of the Secretary in conducting such review.''.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 394A of the Public Health Service Act (42 U.S.C. 280b–3) is amended by striking ''$50,000,000'' and all that follows through the period and inserting ''$58,361,000 for fiscal year 2008, and such sums as may be necessary for each of fiscal years 2009 and 2010.''.

Mr. CASEY. Mr. President, I ask unanimous consent that the amendment at the desk be considered and agreed to, the committee-reported substitute, as amended, be agreed to, the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table; that any statements be printed in the RECORD, without intervening action or debate.

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

The amendment (No. 2622) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safety of Seniors Act of 2007''.

SEC. 2. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended—

(1) by redesignating section 393B (as added by section 1401 of Public Law 106–386) as section 393C and transferring such section so that it appears after section 393B (as added by section 1301 of Public Law 106–310); and

(2) by inserting after section 393C (as redesignated by paragraph (1)) the following:

''SEC. 393D. PREVENTION OF FALLS AMONG OLDER ADULTS.

''(a) PUBLIC EDUCATION.—The Secretary may—

''(1) oversee and support a national education campaign to be carried out by a nonprofit organization with experience in designing and implementing national injury prevention programs, that is directed principally to older adults, their families, and health care providers, and that focuses on reducing falls among older adults and preventing repeat falls; and

''(2) award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, for the purpose of organizing State-level coalitions of appropriate State and local agencies, safety, health, senior citizen, and other organizations to design and carry out local education campaigns, focusing on reducing falls among older adults and preventing repeat falls.

''(b) RESEARCH.—

''(1) IN GENERAL.—The Secretary may—

''(A) conduct and support research to—

''(i) improve the identification of older adults who have a high risk of falling;

''(ii) improve data collection and analysis to identify fall risk and protective factors;

''(iii) design, implement, and evaluate the most effective fall prevention interventions;

''(iv) improve strategies that are proven to be effective in reducing falls by tailoring these strategies to specific populations of older adults;

''(v) conduct research in order to maximize the dissemination of proven, effective fall prevention interventions;

''(vi) intensify proven interventions to prevent falls among older adults;

''(vii) improve the diagnosis, treatment, and rehabilitation of elderly fall victims and older adults at high risk for falls; and

''(viii) assess the risk of falls occurring in various settings;

''(B) conduct research concerning barriers to the adoption of proven interventions with respect to the prevention of falls among older adults;

''(C) conduct research to develop, implement, and evaluate the most effective approaches to reducing falls among high-risk older adults living in communities and long-term care and assisted living facilities; and

''(D) evaluate the effectiveness of community programs designed to prevent falls among older adults.

''(2) EDUCATIONAL SUPPORT.—The Secretary, either directly or through awarding grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, may provide professional education for physicians and allied health professionals, and aging service providers in fall prevention, evaluation, and management.

''(c) DEMONSTRATION PROJECTS.—The Secretary may carry out the following:

''(1) Oversee and support demonstration and research projects to be carried out by qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, in the following areas:

''(A) A multistate demonstration project assessing the utility of targeted fall risk screening and referral programs.

''(B) Programs designed for community-dwelling older adults that utilize multicomponent fall intervention approaches, including physical activity, medication assessment and reduction when possible, vision enhancement, and home modification strategies.

''(C) Programs that are targeted to new fall victims who are at a high risk for second

falls and which are designed to maximize independence and quality of life for older adults, particularly those older adults with functional limitations.

''(D) Private sector and public-private partnerships to develop technologies to prevent falls among older adults and prevent or reduce injuries if falls occur.

''(2)(A) Award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, to design, implement, and evaluate fall prevention programs using proven intervention strategies in residential and institutional settings.

''(B) Award 1 or more grants, contracts, or cooperative agreements to 1 or more qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, in order to carry out a multistate demonstration project to implement and evaluate fall prevention programs using proven intervention strategies designed for single and multifamily residential settings with high concentrations of older adults, including—

''(i) identifying high-risk populations;

''(ii) evaluating residential facilities;

''(iii) conducting screening to identify high-risk individuals;

''(iv) providing fall assessment and risk reduction interventions and counseling;

''(v) coordinating services with health care and social service providers; and

''(vi) coordinating post-fall treatment and rehabilitation.

''(3) Award 1 or more grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, specializing, or demonstrating expertise, in falls or fall prevention, to conduct evaluations of the effectiveness of the demonstration projects described in this subsection.

''(d) PRIORITY.—In awarding grants, contracts, or cooperative agreements under this section, the Secretary may give priority to entities that explore the use of cost-sharing with respect to activities funded under the grant, contract, or agreement to ensure the institutional commitment of the recipients of such assistance to the projects funded under the grant, contract, or agreement. Such non-Federal cost sharing contributions may be provided directly or through donations from public or private entities and may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

''(e) STUDY OF EFFECTS OF FALLS ON HEALTH CARE COSTS.—

''(1) IN GENERAL.—The Secretary may conduct a review of the effects of falls on health care costs, the potential for reducing falls, and the most effective strategies for reducing health care costs associated with falls.

''(2) REPORT.—If the Secretary conducts the review under paragraph (1), the Secretary shall, not later than 36 months after the date of enactment of the Safety of Seniors Act of 2007, submit to Congress a report describing the findings of the Secretary in conducting such review.''.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 845), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

NATIONAL PERIPHERAL ARTERIAL DISEASE AWARENESS MONTH

Mr. CASEY. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of S. Res. 221, and that then the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 221) supporting National Peripheral Arterial Disease Awareness Month and efforts to educate people about peripheral arterial disease.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table en bloc; that any statements be printed in the RECORD, with no intervening action or debate.

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

The resolution (S. Res 221) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 221

Whereas peripheral arterial disease is a vascular disease that occurs when narrowed arteries reduce blood flow to the limbs;

Whereas peripheral arterial disease is a significant vascular disease that can be as serious as a heart attack or stroke;

Whereas peripheral arterial disease affects approximately 8,000,000 to 12,000,000 Americans;

Whereas 1 in 5 patients with peripheral arterial disease will experience cardiovascular death, heart attack, stroke, or hospitalization within 1 year;

Whereas the survival rate for individuals with peripheral arterial disease is worse than the outcome for many common cancers;

Whereas peripheral arterial disease is a leading cause of lower limb amputation in the United States;

Whereas many patients with peripheral arterial disease have walking impairment that leads to a diminished quality of life and functional capacity;

Whereas a majority of patients with peripheral arterial disease are asymptomatic and less than half of individuals with peripheral arterial disease are aware of their diagnoses;

Whereas African-American ethnicity is a strong and independent risk factor for peripheral arterial disease, and yet this fact is not well known to those at risk;

Whereas effective treatments are available for people with peripheral arterial disease to reduce heart attacks, strokes, and amputations and to improve quality of life;

Whereas many patients with peripheral arterial disease are still untreated with proven therapies;

Whereas there is a need for comprehensive educational efforts designed to increase awareness of peripheral arterial disease among medical professionals and the greater public in order to promote early detection and proper treatment of this disease to improve quality of life, prevent heart attacks and strokes, and save lives and limbs; and

Whereas September 2007 is an appropriate month to observe National Peripheral Arterial Disease Awareness Month: Now, therefore, be it

Resolved, That the Senate—

(1) supports National Peripheral Arterial Disease Awareness Month and efforts to educate people about peripheral arterial disease;

(2) acknowledges the critical importance of peripheral arterial disease awareness to improve national cardiovascular health;

(3) supports raising awareness of the consequences of undiagnosed and untreated peripheral arterial disease and the need to seek appropriate care as a serious public health issue; and

(4) calls upon the people of the United States to observe the month with appropriate programs and activities.

HONORING THE LIFE OF BILL WALSH

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 290, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

Honoring the life and career of former San Francisco 49ers Head Coach Bill Walsh.

There being no objection, the Senate proceeded to consider the resolution.

Mrs. FEINSTEIN. Mr. President, yesterday we lost a man who was the heart and soul of the great San Francisco 49er teams of the 1980s. Bill Walsh was a great coach and a fine friend.

I rise today with Senator BOXER to introduce a resolution to honor the life and career of a pioneer in the field of football, a true leader and teacher, and a dedicated husband, father and friend.

He touched so many in the bay area. He led the 49ers to three Super Bowls. And he gave this city a shot in the arm in some of its darkest hours.

I became mayor in 1978. Bill Walsh became head coach in 1979, after honing his skills at Stanford.

Many forget that the 49ers before Bill Walsh were an unremarkable team. They hadn't made the playoffs in years. The team was filled with journeymen.

San Francisco was a baseball town, and football played second fiddle.

But just 2 years later in the 1981 season Bill Walsh led the 49ers on an improbable run to a Super Bowl victory.

Led by a quarterback named Montana, these 49ers played an exciting new brand of football.

Only later would we discover that Bill Walsh had revolutionized the game—he transformed smash-mouth football into the elegant ''West Coast Offense.''

And this team became the stuff of legends. The players became household names. Montana. Rice. Lott. Clark. Young.

Even the plays became mythical. Who can forget ''The Catch''?

And Cinderella became a powerhouse and a powerhouse became a dynasty.

I look back on that time with great fondness.

One of the photos that I treasure most is in my home in Washington.

It was the parade after the first Super Bowl victory. Bill and Eddie DeBartolo and I were sitting on the rim of a car. We were worried that no one would show up. Some said that San Francisco doesn't do parades.

And then we turned down Market Street. And there were a million plus San Franciscans lining the streets.

I will never forget that moment.

Bill Walsh meant so much to this city.

He made the 49ers great at a point when the city needed it most.

The city was fragmented and divided in the early 1980s. Mayor George Moscone had been assassinated a few years earlier. There were riots. And there was little to bring us together.

But on Sundays, the differences melted away. The tensions diminished. The anxieties subsided.

There was nothing like Montana to Rice for an 80-yard touchdown. Nothing like a victory over the Los Angeles Rams. Nothing like a Super Bowl championship.

And on Mondays, after a victory, you would see a changed city. A little bit nicer, a little less mean.

So Bill Walsh brought this city together in ways that he, nor I, would ever really understand.

Football became the glue to bind this city together.

And during the 10 years I came to know Bill, I came to admire him, respect him, and love him.

And he made me, like so many others, a 49ers fan for life.

Bill Walsh, though, was more than a coach.

He was a leader. A mentor. A friend.

He didn't just revolutionize how football is played, but how it is coached and taught.

He believed, as I do, that the devil is in the details. And that you have to practice right to play right. He was the first to script the first 15 plays in a game.

And he didn't just coach men. He shaped them into good football players and good citizens.

His greatest skill may have been as a scout, identifying raw talent and sculpting it into masterpieces.

They said that Joe Montana didn't have a strong enough arm, that Jerry Rice wasn't fast enough, that Steve Young wasn't disciplined enough.

But Bill saw what other people missed. He saw the intangibles. He saw leadership. And work ethic. And character.

And there is no one who wouldn't want a Bill Walsh-coached player on their team.

Bill was a mentor as well. He wanted his players and coaches to fulfill their potential more than anyone. He encouraged them to spread their wings and go out on their own.

And you can see the results, more than half the coaches in the league have been in some way touched by Bill Walsh—either directly like Seattle Seahawk's Coach Mike Holmgren or Indianapolis Colts' Coach Tony Dungy or indirectly, by the second and third generation coaches who may not have coached or played under Bill, but are teaching his offense nonetheless.

But I think what we will miss most is not Bill Walsh the coach, but Bill Walsh the person.

He was decent, and good, and kind.

Sure, he was tough. In football, just as in public life, you have to be.

But he was fair. He expected his players and coaches to spend the time and effort it takes to be great. But he did not expect anything from them that he was not prepared to give himself.

Bill once said, ''Playing to one's full potential is the only purpose of playing at all.''

The good news is that Bill fulfilled his purpose. He played to his full potential in everything he did.

I know I speak for all San Francisco when I say that this is a sad day. He will truly be missed.

Bill Walsh may have been called a ''Genius'' when it comes to football, but his legacy goes well beyond the Xs and Os.

He touched this city, and we owe him a debt that can never be repaid.

Mr. CASEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table; that any statements be printed in the RECORD, as if read.

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

The resolution (S. Res 290) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 290

Whereas William Ernest Walsh was born on November 30, 1931, in Fremont, California;

Whereas Bill Walsh graduated from San Jose State University in 1955 where he was a successful amateur boxer and wide receiver;

Whereas, in 1955, he married Geri Nadini, with whom he had 3 children: Steve, Craig, and Elizabeth;

Whereas Bill Walsh began his coaching career at Washington High School in Fremont, California, and later served as an assistant coach at the University of California at Berkeley and Stanford University;

Whereas Bill Walsh served as an assistant coach with the Oakland Raiders in 1966, with the Cincinnati Bengals from 1968 to 1975, and with the San Diego Chargers in 1976;

Whereas Bill Walsh served as head coach of Stanford University from 1977 to 1978 and again from 1992 to 1994, winning the Sun Bowl in 1977, the Bluebonnet Bowl in 1978, and the Blockbuster Bowl in 1992;

Whereas Bill Walsh became Head Coach of the San Francisco 49ers in 1979 and served in that position for 10 years, winning 6 Western Division titles and 3 National Football Conference Championships;

Whereas Bill Walsh led the 49ers to 3 Super Bowl wins in the 1980s: Super Bowl XVI, Super Bowl XIX, and Super Bowl XXIII;

Whereas Bill Walsh was the Associated Press and United Press International Coach of the Year in 1981;

Whereas Bill Walsh ended his professional coaching career with a record of 102 wins, 63 losses, and 1 tie;

Whereas Bill Walsh was elected to the Pro Football Hall of Fame in 1993;

Whereas Bill Walsh developed the innovative ''West Coast Offense'', which became widely used by many National Football League (NFL) teams;

Whereas Bill Walsh drafted and developed a countless number of NFL greats such as Joe Montana, Ronnie Lott, Dwight Clark, Steve Young, and Jerry Rice;

Whereas 14 of the NFL's 32 head coaches have some connection to Bill Walsh;

Whereas Bill Walsh developed the Minority Coaching Fellowship program to help African American coaches find jobs in the NFL and Division I college football;

Whereas Bill Walsh and the 49ers brought the people of San Francisco together following some of the most difficult times in the City's history and gave them much pride, joy, and excitement; and

Whereas Bill Walsh embodied the qualities of hard work, tenacity, dedication, attention to detail, respect, teamwork, and living up to one's potential: Now, therefore, be it

Resolved, That the Senate honors the life of William Ernest Walsh, a pioneer in the field of football, a true leader and teacher, and a dedicated husband, father, and friend.

NATIONALLY HISTORICALLY BLACK COLLEGES AND UNIVERSITIES WEEK

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 291 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 291) designating the week beginning September 9, 2007, as ''National Historically Black Colleges and Universities Week.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. CASEY. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 291) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 291

Whereas there are 103 historically Black colleges and universities in the United States;

Whereas historically Black colleges and universities provide the quality education essential to full participation in a complex, highly technological society;

Whereas historically Black colleges and universities have a rich heritage and have played a prominent role in the history of the United States;

Whereas historically Black colleges and universities have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of historically Black colleges and universities are deserving of national recognition: Now, therefore, be it

Resolved, that the Senate—

(1) designates the week beginning September 9, 2007, as ''National Historically Black Colleges and Universities Week''; and

(2) calls on the people of the United States and interested groups to observe the week

with appropriate ceremonies, activities, and programs to demonstrate support for historically Black colleges and universities in the United States.

MEASURE READ THE FIRST TIME—H.R. 2831

Mr. CASEY. Mr. President, I understand that H.R. 2831 has been received from the House and is at the desk.

The PRESIDING OFFICER. That is correct.

Mr. CASEY. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 2831) to amend title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans With Disabilities Act of 1990, and the Rehabilitation Act of 1973 to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

Mr. CASEY. I ask for its second reading and object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

ORDER FOR FIRST READING OF FISA LEGISLATION

Mr. CASEY. Mr. President, I ask unanimous consent that when the majority leader or his designee introduces FISA legislation on August 2, they be considered as having received their first reading on the legislative day of August 1, 2007.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. CASEY. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider Executive Calendar Nos. 162, 230, 231, 243, 244, 250, 251, 252, 253, 254, 257 through 272, and all nominations placed on the Secretary's desk; further, that the Senate Foreign Relations Committee be discharged from the following nominations: PN 579, Eric G. John to be Ambassador to Thailand, and PN 604, Michael Michalak to be Ambassador to Vietnam; that the Agriculture Committee be discharged from the following nominations: PN 479, Jill Sommers, and PN 480, Bartholomew Chilton, to be Commissioners of the Commodity Futures Trading Commission; that the nominations be confirmed, the motions to reconsider be laid upon the table, that any statements thereon be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations, considered and confirmed, are as follows:

DEPARTMENT OF ENERGY

Thomas P. D'Agostino, of Maryland, to be Under Secretary for Nuclear Security, Department of Energy.

EXPORT-IMPORT BANK OF THE UNITED STATES

Bijan Rafiekian, of California, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2011. (Reappointment).

Diane G. Farrell, of Connecticut, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2011.

DEPARTMENT OF JUSTICE

Joe W. Stecher, of Nebraska, to be United States Attorney for the District of Nebraska for the term of four years.

DEPARTMENT OF VETERANS AFFAIRS

Charles L. Hopkins, of Massachusetts, to be an Assistant Secretary of Veterans Affairs (Operations, Preparedness, Security and Law Enforcement).

NATIONAL BOARD FOR EDUCATION SCIENCES

David C. Geary, of Missouri, to be a Member of the Board of Directors of the National Board for Education Sciences for a term expiring November 28, 2010.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Miguel Campaneria, of Puerto Rico, to be a Member of the National Council on the Arts for a term expiring September 3, 2012.

DEPARTMENT OF EDUCATION

Diane Auer Jones, of Maryland, to be Assistant Secretary for Postsecondary Education, Department of Education.

DEPARTMENT OF THE TREASURY

Peter B. McCarthy, of Wisconsin, to be an Assistant Secretary of the Treasury.

David H. McCormick, of Pennsylvania, to be an Under Secretary of the Treasury.

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Daniel J. Darnell, 0600

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Lyn D. Sherlock, 8452

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Donald C. Wurster, 1815

The following named officer for appointment as the Vice Chief of Staff, United States Air Force, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 8034 and 601:

To be general

Gen. Duncan J. McNabb, 2295

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Arthur J. Lichte, 5483

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. John D. W. Corley, 9553

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Frank G. Klotz, 6089

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Robert R. Allardice, 0051
Brigadier General Herbert J. Carlisle, 9032
Brigadier General William A. Chambers, 4404
Brigadier General Kathleen D. Close, 0404
Brigadier General Charles R. Davis, 8766
Brigadier General Jack B. Egginton, 1743
Brigadier General David W. Eidsaune, 1271
Brigadier General Alfred K. Flowers, 6659
Brigadier General Maurice H. Forsyth, 5072
Brigadier General Marke F. Gibson, 9313
Brigadier General Patrick D. Gillett, Jr., 1889
Brigadier General Frank Gorenc, 1011
Brigadier General James P. Hunt, 1379
Brigadier General Larry D. James, 8187
Brigadier General William N. McCasland, 7469
Brigadier General Kay C. McClain, 8464
Brigadier General Robert H. McMahon, 9824
Brigadier General William J. Rew, 8665
Brigadier General Kip L. Self, 6874
Brigadier General Larry O. Spencer, 6720
Brigadier General Robert P. Steel, 8263
Brigadier General James A. Whitmore, 0618
Brigadier General Bobby J. Wilkes, 4523
Brigadier General Robert M. Worley, II, 4398

IN THE ARMY

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Bradly S. MacNealy, 4551

The following named officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Michael J. Trombetta, 2104

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brigadier General Charles A. Anderson, 4562
Brigadier General Kevin J. Bergner, 6581
Brigadier General Daniel P. Bolger, 5269
Brigadier General James E. Chambers, 2025
Brigadier General Bernard S. Champoux, 8048
Brigadier General Robert W. Cone, 7395
Brigadier General Anthony A. Cucolo, III, 7278
Brigadier General Yves J. Fontaine, 2513
Brigadier General Mark A. Graham, 0072
Brigadier General David D. Halverson, 1089
Brigadier General Michael D. Jones, 8227
Brigadier General Purl K. Keen, 3412
Brigadier General David B. Lacquement, 3241
Brigadier General Raymond V. Mason, 6999
Brigadier General John F. Mulholland, Jr.,
Brigadier General Theodore C. Nicholas, 4035
Brigadier General Patrick J. O'Reilly, 7262
Brigadier General John E. Sterling, Jr., 4109

Brigadier General Randolph P. Strong, 2219
Brigadier General Merdith W. B. Temple, 2899
Brigadier General William J. Troy, 4572
Brigadier General Peter M. Vangjel, 6018
Brigadier General Dennis L. Via, 0020

IN THE NAVY

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Victor G. Guillory, 1980

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. David J. Mercer, 7160

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. David Architzel, 0741

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. John D. Stufflebeem, 4012

The following named officer for appointment as Chief of the Bureau of Medicine and Surgery and Surgeon General and for appointment to the grade indicated under title 10, D.S.C., sections 601 and 5137:

To be vice admiral

Rear Adm. (Selectee) Adam M. Robinson, Jr.,

NOMINATIONS PLACED ON THE SCRETARY'S DESK

IN THE AIR FORCE

PN368 AIR FORCE nominations (27) beginning MARIA M. ALSINA, and ending LE THI ZIMMERMAN, which nominations were received by the Senate and appeared in the Congressional Record of March 19, 2007.

PN741 AIR FORCE nomination of Jonathan L. Huggins, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN742 AIR FORCE nomination of Nelson L. Reynolds, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN743 AIR FORCE nomination of Bryan M. Boyles, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN744 AIR FORCE nomination of Michael S. Agabegi, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN745 AIR FORCE nomination of Freddie M. Goldwire, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN746 AIR FORCE nominations (4) beginning VAL C. HAGANS, and ending RUJING HAN, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN747 AIR FORCE nominations (3) beginning KENT S. THOMPSON, and ending JAVIER SANTIAGO, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN748 AIR FORCE nominations (4) beginning THOMAS S. BUTLER, and ending ADAM W. SCHNICKER, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

IN THE ARMY

PN628 ARMY nominations (32) beginning JAMES E. CARAWAY JR., and ending WILLIAM S. WEICHL, which nominations were received by the Senate and appeared in the Congressional Record of June 4, 2007.

PN749 ARMY nomination of Stephen T. Sauter, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN750 ARMY nomination of Terry D. Bonner, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN751 ARMY nomination of Mark Trawinski, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN752 ARMY nomination of Francisco C. Dominicci, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN753 ARMY nomination of Joseph E. Jones, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN754 ARMY nomination of Colin S. McKenzie, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN755 ARMY nominations (2) beginning LOZAY FOOTS, and ending JOSEPH L. KARHAN, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN756 ARMY nominations (2) beginning LOUIS R. KUBALA, and ending THOMAS K. SPEARS, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN757 ARMY nominations (2) beginning WILLIAM A. MCNAUGHTON, and ending MICHAEL B. VITT, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN758 ARMY nominations (3) beginning JAMES E. COLE, and ending MICHAEL F. TRAVER, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN759 ARMY nominations (2) beginning DANIEL L. DUECKER, and ending DOUGLAS L. WEEKS, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN760 ARMY nominations (44) beginning JOSEPH A. BERNIERRODRIGUEZ, and ending EDWARD M. WISE JR., which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN770 ARMY nominations (342) beginning MAZEN ABBAS, and ending TAMATHA F. ZEMZARS, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 2007.

IN THE NAVY

PN567 NAVY nominations (206) beginning NICHOLAS J. ALAGA JR., and ending MARK H. ZUHONE, which nominations were received by the Senate and appeared in the Congressional Record of May 15, 2007.

PN702 NAVY nomination of PETER J. OLDMIXON, which was received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN703 NAVY nominations (43) beginning DAN L. AMMONS, and ending ROBERT D. WOODS, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN704 NAVY nominations (19) beginning GILBERT AYAN, and ending COLIN D. XANDER, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN705 NAVY nominations (16) beginning SIMONIA R. BLASSINGAME, and ending JASON L. WEBB, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN706 NAVY nominations (20) beginning JEFFREY A. BAYLESS, and ending WARREN YU, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN707 NAVY nominations (26) beginning CHRIS D. AGAR, and ending TYRONE L. WARD, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN708 NAVY nominations (27) beginning PAUL B. ANDERSON, and ending DARREN S. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN709 NAVY nominations (5) beginning CHRISTINA S. HAGEN, and ending RON A. STEINER, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN710 NAVY nominations (14) beginning CHRISTOPHER J. ARENDS, and ending KEITH E. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN711 NAVY nominations (10) beginning SARAH A. DACHOS, and ending CLAY G. WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN712 NAVY nomination (26) beginning BENITO E. BAYLOSIS, and ending JON E. WITHEE, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN713 NAVY nominations (18) beginning DOUGLAS S. BELVIN, and ending KYLE T. TURCO, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN714 NAVY nominations (9) beginning FITZGERALD BRITTON, and ending JOHN F. ZREMBSKI, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN715 NAVY nominations (56) beginning WILLIAM L. ABBOTT, and ending ALLEN W. WOOTEN, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN716 NAVY nominations (538) beginning KEVIN T. AANESTAD, and ending WILLIAM A. ZIEGLER, which nominations were received by the Senate and appeared in the Congressional Record of June 28, 2007.

PN761 NAVY nomination of BRUCE S. LAVIN, which was received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN762 NAVY nominations (2) beginning CHRISTOPHER R. DAVIS, and ending ALAN J. FERGUSON, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN763 NAVY nominations (3) beginning ROBERT D. CLERY, and ending GARFIELD M. SICARD, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2007.

PN771 NAVY nominations (56) beginning MICHAEL J. ALLANSON, and ending JANINE Y. WOOD, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 2007.

PN772 NAVY nominations (36) beginning MARIA L. AGUAYO, and ending STEVEN T. ZIMMERMAN, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 2007.

PN773 NAVY nominations (27) beginning ANTONY BERCHMANZ, and ending GLEN WOOD, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 2007.

PN774 NAVY nominations (58) beginning ERIC J. BACH, and ending WILLIAM B. ZABICKI JR., which nominations were received by the Senate and appeared in the Congressional Record of July 17, 2007.

PN775 NAVY nominations (116) beginning ELIZABETH M. ADRIANO, and ending SCOT A. YOUNGBLOOD, which nominations were received by the Senate and appeared in the Congressional Record of July 17, 2007.

DEPARTMENT OF STATE

Eric G. John, of Indiana, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Thailand.

Michael W. Michalak, of Michigan, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Socialist Republic of Vietnam.

COMMODITY FUTURES TRADING COMMISSION

Jill E. Sommers, of Kansas, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 2009, vice Sharon Brown-Hruska, resigned.

Bartholomew H. Chilton, of Delaware, to be a Commissioner of the Commodity Futures Trading Commission for the remainder of the term expiring April 13, 2008, vice Frederick William Hatfield, resigned.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

ORDERS FOR THURSDAY, AUGUST 2, 2007

Mr. CASEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m., Thursday, August 2; that on Thursday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and the time for the two leaders be reserved for their use later in the day; that the Senate then resume consideration of the House message on S. 1, and there be 2 hours of debate prior to a cloture vote on the motion to concur, with the time equally divided and controlled between the two leaders or their designees; that the two leaders be permitted to use their leader time at the expiration of the 2 hours, with the majority leader speaking immediately prior to the cloture vote; that upon the use of all of the time noted here, the Senate proceed to vote on the motion to invoke cloture; that the mandatory quorums be waived with respect to the cloture motions filed today; further that upon disposition of the message on S. 1, the Senate resume consideration of H.R. 976.

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. CASEY. Mr. President, if there is no further business today, I now ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 8:39 p.m., adjourned until Thursday, August 2, 2007, at 9:30 a.m.

DISCHARGED NOMINATIONS

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were confirmed:

ERIC G. JOHN, OF INDIANA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THAILAND.

MICHAEL W. MICHALAK, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOCIALIST REPUBLIC OF VIETNAM.

THE SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY WAS DISCHARGED FROM FURTHER CONSIDERATION OF THE FOLLOWING NOMINATIONS AND THE NOMINATIONS WERE CONFIRMED:

JILL E. SOMMERS, OF KANSAS, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 13, 2009.

BARTHOLOMEW H. CHILTON, OF DELAWARE, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 13, 2008.

CONFIRMATIONS

Executive Nominations confirmed by the Senate Wednesday, August 1, 2007:

DEPARTMENT OF ENERGY

THOMAS P. D'AGOSTINO, OF MARYLAND, TO BE UNDER SECRETARY FOR NUCLEAR SECURITY, DEPARTMENT OF ENERGY.

EXPORT-IMPORT BANK OF THE UNITED STATES

BIJAN RAFIEKIAN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2011.

DIANE G. FARRELL, OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2011.

DEPARTMENT OF VETERANS AFFAIRS

CHARLES L. HOPKINS, OF MASSACHUSETTS, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (OPERATIONS, PREPAREDNESS, SECURITY AND LAW ENFORCEMENT).

NATIONAL BOARD FOR EDUCATION SCIENCES

DAVID C. GEARY, OF MISSOURI, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BOARD FOR EDUCATION SCIENCES FOR A TERM EXPIRING NOVEMBER 28, 2010.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MIGUEL CAMPANERIA, OF PUERTO RICO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2012.

DEPARTMENT OF EDUCATION

DIANE AUER JONES, OF MARYLAND, TO BE ASSISTANT SECRETARY FOR POSTSECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

DEPARTMENT OF THE TREASURY

PETER B. MCCARTHY, OF WISCONSIN, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

DAVID H. MCCORMICK, OF PENNSYLVANIA, TO BE AN UNDER SECRETARY OF THE TREASURY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

COMMODITY FUTURES TRADING COMMISSION

JILL E. SOMMERS, OF KANSAS, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 13, 2009.

BARTHOLOMEW H. CHILTON, OF DELAWARE, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING APRIL 13, 2008.

DEPARTMENT OF STATE

ERIC G. JOHN, OF INDIANA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THAILAND.

MICHAEL W. MICHALAK, OF MICHIGAN, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SOCIALIST REPUBLIC OF VIETNAM.

DEPARTMENT OF JUSTICE

JOE W. STECHER, OF NEBRASKA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF NEBRASKA FOR THE TERM OF FOUR YEARS.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DANIEL J. DARNELL, 0600

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. LYN D. SHERLOCK, 8452

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DONALD C. WURSTER, 1815

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE VICE CHIEF OF STAFF, UNITED STATES AIR FORCE, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 8034 AND 601:

To be general

GEN. DUNCAN J. MCNABB, 2295

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. ARTHUR J. LICHTE, 5483

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. JOHN D. W. CORLEY, 9553

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. FRANK G. KLOTZ, 6089

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL ROBERT R. ALLARDICE, 0051
BRIGADIER GENERAL HERBERT J. CARLISLE, 9032
BRIGADIER GENERAL WILLIAM A. CHAMBERS, 4404
BRIGADIER GENERAL KATHLEEN D. CLOSE, 0404
BRIGADIER GENERAL CHARLES R. DAVIS, 8766
BRIGADIER GENERAL JACK B. EGGINTON, 1743
BRIGADIER GENERAL DAVID W. EIDSAUNE, 1271
BRIGADIER GENERAL ALFRED K. FLOWERS, 6659
BRIGADIER GENERAL MAURICE H. FORSYTH, 5072
BRIGADIER GENERAL MARKE F. GIBSON, 9313
BRIGADIER GENERAL PATRICK D. GILLETT, JR., 1889
BRIGADIER GENERAL FRANK GORENC, 1011
BRIGADIER GENERAL JAMES P. HUNT, 1379
BRIGADIER GENERAL LARRY D. JAMES, 8187
BRIGADIER GENERAL WILLIAM N. MCCASLAND, 7469
BRIGADIER GENERAL KAY C. MCCLAIN, 8464
BRIGADIER GENERAL ROBERT H. MCMAHON, 9824
BRIGADIER GENERAL WILLIAM J. REW, 8665
BRIGADIER GENERAL KIP L. SELF, 6874
BRIGADIER GENERAL LARRY O. SPENCER, 6720
BRIGADIER GENERAL ROBERT P. STEEL, 8263
BRIGADIER GENERAL JAMES A. WHITMORE, 0618
BRIGADIER GENERAL BOBBY J. WILKES, 4523
BRIGADIER GENERAL ROBERT M. WORLEY II, 4398

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. BRADLY S. MACNEALY, 4551

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. MICHAEL J. TROMBETTA, 2104

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIGADIER GENERAL CHARLES A. ANDERSON, 4562
BRIGADIER GENERAL KEVIN J. BERGNER, 6581
BRIGADIER GENERAL DANIEL P. BOLGER, 5269
BRIGADIER GENERAL JAMES E. CHAMBERS, 2025
BRIGADIER GENERAL BERNARD S. CHAMPOUX, 8048

BRIGADIER GENERAL ROBERT W. CONE, 7395
BRIGADIER GENERAL ANTHONY A. CUCOLO III, 7278
BRIGADIER GENERAL YVES J. FONTAINE, 2513
BRIGADIER GENERAL MARK A. GRAHAM, 0072
BRIGADIER GENERAL DAVID D. HALVERSON, 1089
BRIGADIER GENERAL MICHAEL D. JONES, 8227
BRIGADIER GENERAL PURL K. KEEN, 3412
BRIGADIER GENERAL DAVID B. LACQUEMENT, 3241
BRIGADIER GENERAL RAYMOND V. MASON, 6999
BRIGADIER GENERAL JOHN F. MULHOLLAND, JR., 5953
BRIGADIER GENERAL THEODORE C. NICHOLAS, 4035
BRIGADIER GENERAL PATRICK J. O'REILLY, 7262
BRIGADIER GENERAL JOHN E. STERLING, JR., 4109
BRIGADIER GENERAL RANDOLPH P. STRONG, 2219
BRIGADIER GENERAL MERDITH W. B. TEMPLE, 2899
BRIGADIER GENERAL WILLIAM J. TROY, 4572
BRIGADIER GENERAL PETER M. VANGJEL, 6018
BRIGADIER GENERAL DENNIS L. VIA, 0020

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral

REAR ADM. (LH) VICTOR G. GUILLORY, 1980

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. DAVID J. MERCER, 7160

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. DAVID ARCHITZEL, 0741

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. JOHN D. STUFFLEBEEM, 4012

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF THE BUREAU OF MEDICINE AND SURGERY AND SURGEON GENERAL AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5137:

To be vice admiral

REAR ADM. (SELECTEE) ADAM M. ROBINSON, JR., 9660

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH MARIA M. ALSINA AND ENDING WITH LE THI ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 19, 2007.

AIR FORCE NOMINATION OF JONATHAN L. HUGGINS, 8049, TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATION OF NELSON L. REYNOLDS, 6465, TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATION OF BRYAN M. BOYLES, 7840, TO BE LIEUTENANT COLONEL.

AIR FORCE NOMINATION OF MICHAEL S. AGABEGI, 3057, TO BE MAJOR.

AIR FORCE NOMINATION OF FREDDIE M. GOLDWIRE, 9686, TO BE MAJOR.

AIR FORCE NOMINATIONS BEGINNING WITH VAL C. HAGANS AND ENDING WITH RUJING HAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

AIR FORCE NOMINATIONS BEGINNING WITH KENT S. THOMPSON AND ENDING WITH JAVIER SANTIAGO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

AIR FORCE NOMINATIONS BEGINNING WITH THOMAS S. BUTLER AND ENDING WITH ADAM W. SCHNICKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

IN THE ARMY

ARMY NOMINATIONS BEGINNING WITH JAMES E. CARAWAY, JR. AND ENDING WITH WILLIAM S. WEICHL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 4, 2007.

ARMY NOMINATION OF STEPHEN T. SAUTER, 3267, TO BE COLONEL.

ARMY NOMINATION OF TERRY D. BONNER, 7657, TO BE COLONEL.

ARMY NOMINATION OF MARK TRAWINSKI, 3185, TO BE LIEUTENANT COLONEL.

ARMY NOMINATION OF FRANCISCO C. DOMINICCI, 5062, TO BE MAJOR.

ARMY NOMINATION OF JOSEPH E. JONES, 2493, TO BE MAJOR.

ARMY NOMINATION OF COLIN S. MCKENZIE, 0759, TO BE MAJOR.

ARMY NOMINATIONS BEGINNING WITH LOZAY FOOTS AND ENDING WITH JOSEPH L. KARHAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

ARMY NOMINATIONS BEGINNING WITH LOUIS R. KUBALA AND ENDING WITH THOMAS K. SPEARS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

ARMY NOMINATIONS BEGINNING WITH WILLIAM A. MCNAUGHTON AND ENDING WITH MICHAEL B. VITT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

ARMY NOMINATIONS BEGINNING WITH JAMES E. COLE AND ENDING WITH MICHAEL F. TRAVER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

ARMY NOMINATIONS BEGINNING WITH DANIEL L. DUECKER AND ENDING WITH DOUGLAS L. WEEKS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

ARMY NOMINATIONS BEGINNING WITH JOSEPH A. BERNIERRODRIGUEZ AND ENDING WITH EDWARD M. WISE, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

ARMY NOMINATIONS BEGINNING WITH MAZEN ABBAS AND ENDING WITH TAMATHA F. ZEMZARS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 2007.

IN THE NAVY

NAVY NOMINATIONS BEGINNING WITH NICHOLAS J. ALAGA, JR. AND ENDING WITH MARK H. ZUHONE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 15, 2007.

NAVY NOMINATION OF PETER J. OLDMIXON, 3125, TO BE LIEUTENANT COMMANDER.

NAVY NOMINATIONS BEGINNING WITH DAN L. AMMONS AND ENDING WITH ROBERT D. WOODS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH GILBERT AYAN AND ENDING WITH COLIN D. XANDER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH SIMONIA R. BLASSINGAME AND ENDING WITH JASON L. WEBB, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH JEFFREY A. BAYLESS AND ENDING WITH WARREN YU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH CHRIS D. AGAR AND ENDING WITH TYRONE L. WARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH PAUL B. ANDERSON AND ENDING WITH DARREN S. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH CHRISTINA S. HAGEN AND ENDING WITH RON A. STEINER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH CHRISTOPHER J. ARENDS AND ENDING WITH KEITH E. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH SARAH A. DACHOS AND ENDING WITH CLAY G. WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH BENITO E. BAYLOSIS AND ENDING WITH JON E. WITHEE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH DOUGLAS S. BELVIN AND ENDING WITH KYLE T. TURCO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH FITZGERALD BRITTON AND ENDING WITH JOHN F. ZREMBSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH WILLIAM L. ABBOTT AND ENDING WITH ALLEN W. WOOTEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATIONS BEGINNING WITH KEVIN T. AANESTAD AND ENDING WITH WILLIAM A. ZIEGLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 28, 2007.

NAVY NOMINATION OF BRUCE S. LAVIN, 5081, TO BE CAPTAIN.

NAVY NOMINATIONS BEGINNING WITH CHRISTOPHER R. DAVIS AND ENDING WITH ALAN J. FERGUSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

NAVY NOMINATIONS BEGINNING WITH ROBERT D. CLERY AND ENDING WITH GARFIELD M. SICARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2007.

NAVY NOMINATIONS BEGINNING WITH MICHAEL J. ALLANSON AND ENDING WITH JANINE Y. WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 2007.

NAVY NOMINATIONS BEGINNING WITH MARIA L. AGUAYO AND ENDING WITH STEVEN T. ZIMMERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 2007.

NAVY NOMINATIONS BEGINNING WITH ANTONY BERCHMANZ AND ENDING WITH GLEN WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 2007.

NAVY NOMINATIONS BEGINNING WITH ERIC J. BACH AND ENDING WITH WILLIAM B. ZABICKI, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 2007.

NAVY NOMINATIONS BEGINNING WITH ELIZABETH M. ADRIANO AND ENDING WITH SCOT A. YOUNGBLOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 17, 2007.