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Senate

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

PRAYER

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

Let us pray.

Almighty God, ruler of all nature, thank You for Your magnificent love that awakens us each day. When we are unfaithful, You continue to shower us with mercies. Thank You for a nation built on a foundation of freedom and for military heroes and heroines who stand daily in harm's way. Thank You for lawmakers who do justly, love mercy, and walk humbly with You. Guide their feet and teach them Your paths.

Lord, in these complicated times, show Yourself strong on behalf of those who love You. Solve the riddles that confound us. Confuse those who seek to hinder Your providence. Bring sanity to a world that often seems to spin out of control.

Lord, nothing is impossible for You. So transform our dark yesterdays into bright tomorrows.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will have a short period of morning business until 9:45 a.m. At 9:45 we will proceed to the vote on a motion to invoke cloture on the intelligence reform bill. If cloture is invoked, many of the pending amendments would fall as a result of a germaneness requirement under rule XXII. It is then hoped we will continue to process those germane amendments as we move toward final passage of the bill. It is my hope that cloture will be invoked and we can finish the bill either tonight or early tomorrow morning. The cloture rule, as Senators know, provides for a maximum of 30 hours. Hopefully all the time may not be necessary. Over the course of the morning, as various amendments are looked at, examined, and discussed, we will have a much better feel as to when we can bring closure to the bill.

I remind everybody that upon conclusion of this legislation, the Senate will turn to the other arm of intelligence reform, and that is the internal intelligence reform that has been put forth by our distinguished majority and minority whips who have been working with a task force of 22 Senators, appointed by Senator DASCHLE and myself, to address this significant reform within our own body.

Our scheduling is compressed more and more as we move closer to Friday. It will take the cooperation of all Senators to finish our work before adjourning. We have these two important arms of intelligence reform that we will address. There is other legislation that is in conference right now and progress is being made on the FSC/ETI manufacturing jobs bill. Of course, they will be meeting over the course of today as well. We have Homeland Security appropriations which is in conference, and I understand steady progress is being made.

Our goal is to adjourn on October 8, but all of this important business must be addressed before then. A lot of people are asking, is October 8 firm? In my mind, October 8 is the goal for us to complete our business, and we can complete our business if we continue the very good work by the managers on this bill, by the task force that is overseeing the development of the recommendations for our internal reform, and the conferences which I mentioned.

I thank Members for their cooperation, for working together in a bipartisan way on very important legislation, most of which addresses the safety and security of the American people.

RECOGNITION OF THE ASSISTANT MINORITY LEADER

The PRESIDENT pro tempore. The acting Democratic leader is recognized.

CONGRESSIONAL INTELLIGENCE REFORM

Mr. REID. Mr. President, through the Chair to the distinguished majority leader, I ordinarily don't speak for other Senators, but I think I can speak for Senator MCCONNELL. We appreciate very much the majority leader and Senator DASCHLE's deliberateness in moving forward on reform, not only of the intelligence community but also congressional reform. It would be easy to put that aside, but I think it is important that we move forward as the 9/11 Commission recommended. They have said quite clearly, you can't do one without the other.

What we have done, working with the other 20 members of the task force, is come up with what political scientists say are some significant changes in the history of this body. I don't know if that is true or not, but there are some significant changes which would create a new Homeland Security authorizing committee that would not necessitate the Secretary, as he has this year, appearing 164 times before different committees and subcommittees. Eighty-eight different subcommittees and committees have jurisdiction over him. That is not good. The new Homeland Security committee will take jurisdiction from 10 different committees.

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

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We also are creating, from the pattern given to us by the 9/11 Commission, a very strong Intelligence Committee. And in the appropriations process, we have a subcommittee there. I spoke last night to Lee Hamilton, one of the cochairs. We have kept them advised as to everything we have done, and they are on board. They think what we are doing is totally in keeping with their recommendations. We haven't followed everything they wanted, but we have kept them advised along the way. We have a very good product.

Again, Senator MCCONNELL and I extend both to the majority leader and Senator DASCHLE our thanks for keeping your eyes on the prize and having us go forward, as difficult as it has been.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 9:40 a.m., with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Democratic leader or his designee.

HELEN DEWAR

Mr. FRIST. Mr. President, I will speak within morning business.

As we move to adjourn at the end of this week, I fear we will lose sight of an important event which will take place at the end of the 108th Congress. Because at the end of this session, the Senate press corps will lose one of the most distinguished and accomplished members of that body.

After nearly 25 years of hallway stakeouts, quorum calls, late-night votes, pressing deadlines, takeout food, the Washington Post Senate reporter Helen Dewar plans to leave her position when we adjourn sine die. Before that happens, I believe it is appropriate to recognize Helen's outstanding career during which she has faithfully informed Post readers on the oftentimes complex and intricate actions of this body.

Since 1980, Helen Dewar has covered every major Senate debate—from budget battles and judicial nominations to the sweeping intelligence reforms we are making now. But Helen's special talent has been to bring clarity to the day-to-day operations of this body, the Senate. Helen Dewar is known for being tough, persistent, inquisitive, and thorough. Helen's direct style of asking questions gets right to the heart of matter. She never asks an important question just once; she asks until she is satisfied she has gotten as much as she can.

Born and raised in Stockton, CA, Helen Dewar earned her undergraduate degree in political science from Stanford University. Her first stint at the Post was filling paste pots for the then-Women's page. She left after one week for a reporting job on the Northern Virginia Sun. she returned to the Post in 1961 as a reporter and has worked steadily in that role since.

When Helen was getting started in the newspaper business, women had to struggle to get entry level jobs. It was rare for women to win a job covering politics at the Post back in the 1970s. Helen had to push hard to move from the ranks of the Metro staff to covering Jimmy carter's 1976 campaign, and then to winning the coveted assignment covering the Senate.

Helen began covering the Senate in late 1979. When Ronald Reagan swept to victory over President Carter in 1980, the Republicans claimed control of the Senate, and Helen was poised to cover a great story. As the Senate reporter who was also responsible for following the budget, Helen wrote extensively about the Reagan revolution. She covered the battle over President Reagan's 1981 tax cut and the Cold War military buildup.

Helen has covered virtually every major story on the Hill during the past 20 years, from Reaganomics to Iran-contra, ethics investigations, the fight over the Gulf War resolution, to the impeachment of President Clinton. During election season, she covered Senate election battles and how they might impact national policy. Helen has reported on the career of seven Senate majority leaders, including ROBERT BYRD, HOWARD BAKER, BOB DOLE, GEORGE MITCHELL, TOM DASCHLE, TRENT LOTT, and myself. The hallmark of Helen's reporting has been fairness, integrity, clarity and scrupulous attention to detail.

Helen is regarded by her colleagues as the dean of the Congressional Press Corps. She intently focuses on detail and comes from the school of journalism where the story is more important than the journalist. The hallways of the Capitol and Tuesday stakeouts will not seem the same without her. I offer my warmest wishes to Helen Dewar in all her future endeavors. Her colleagues here on the Hill and in the Post newsroom will miss her. But those who will feel her departure most acutely will be her thousands of readers who, for more than two decades, have looked to her to provide a succinct, unvarnished account of the activities of their elected officials.

I yield the floor

Mr. DASCHLE. Mr. President, I join the majority leader in applauding the remarkable career of Helen Dewar, the dean of the Senate press corps.

As Senator FRIST mentioned, Helen will be leaving her beat as the Washington Post's Senate correspondent at the end of this Congress. If I can borrow a phrase, not having Helen Dewar to kick us around anymore will be a loss for the Senate and for America.

Helen Dewar is a dogged reporter and graceful writer, and those gifts are rare enough, but she has possessed an even rarer gift. From the day she started the Senate beat, she has always known that you cannot understand the Senate just by walking these marbled Halls and making phone calls from a desk in the Capitol; you have to go out into America and talk to the people.

I recently came across what may be the first story Helen ever wrote from South Dakota. The date was July 2, 1980. It was a story about the centennial celebration of Arlington, SD, population 953. The headline read: ''Celebrating 100 Years Against the Odds.''

Helen described the town's parade as 2 miles long, ''considerably longer than the town itself.'' She recounted people's complaints—farm prices were too low and gas prices were too high.

Mostly, she captured the incredible pride people in Arlington felt for their community. ''The pride was so intense,'' she wrote, ''that a visitor from Washington, offering Arlingtonians a chance to sound off about government and politics, was told to forget all about that unpleasantness, grab a plate of barbeque and simply enjoy Arlington.''

Helen Dewar is a Washington institution, but she has never worn beltway blinders. For nearly 25 years, she has worked long, hard hours in the Senate, and when the Senate recesses, she has crisscrossed America to get the story—to explain to reporters what their Government is doing and why.

She is a reporter's reporter—tough, persistent, perceptive, and always fair. She has earned the respect of her colleagues, her sources, and her readers.

She has served American democracy well by helping to hold our Government accountable and to give the people the information and knowledge they need to make informed decisions about their Government.

After nearly 25 years covering this body, Helen is part of the institutional memory of the Senate. More than that, she is part of the heart of this place. It is a privilege and a pleasure to work with Helen, and I know we all wish her well in all her future endeavors.

The PRESIDENT pro tempore. Who seeks time?

The Senator from Georgia is recognized.

IRAQ

Mr. CHAMBLISS. Mr. President, for the past several days, I have followed the remarks of the senior Senator from Massachusetts relative to Iraq and the war on terrorism. He likes to talk more about yesterday and not as much about tomorrow. He finds fault in everything that the President and his team have done to protect our lives, our liberties, and our way of life. He interprets facts to fit his dismal view of Iraq.

What bothers me the most about his many public statements condemning the war in Iraq is that he does so while we still have troops engaged in securing that country. These troops know it is vital—absolutely vital—for the long-term security of the United States and our allies that they succeed in helping Iraq become a free and democratic country.

The most recent edition of the Army Times newspaper contains a very telling survey of Active Duty, Reserve and National Guard troops on their views of Iraq and the Presidential race which bears out this point. This is the October 11th edition of the Army Times.

I ask unanimous consent that the article, which appears beginning on page 14, be printed in the RECORD.

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

[From the Army Times]

THE MILITARY

(By Gordon Trowbridge)

President Bush retains overwhelming support among the military's professional core despite a troubled mission in Iraq and an opponent who is a decorated combat veteran, a Military Times survey of more than 4,000 readers indicates.

Bush leads Democratic Sen. John Kerry 73 percent to 18 percent in the voluntary survey of 4,165 active-duty, National Guard and reserve subscribers to Army Times, Navy Times, Marine Corps Times and Air Force Times.

Though the results of the Military Times 2004 Election Survey are not representative of the opinions of the military as a whole, they are a disappointment to Democrats who hoped Kerry's record and doubts about Bush would give their candidate an opening in a traditionally Republican group with tremendous symbolic value in a closely contested election.

''For a long time, Kerry thought he had a chance to win the mantle and beat Bush on the issue of who could be the better commander in chief,'' said Peter Feaver, a political science professor at Duke University who has written extensively on civil-military relations and the political opinions of those in uniform.

Feaver said journalists and political analyst focus heavily on the opinions of military members because of a situation the nation hasn't faced in more than 30 years: a heated presidential race amid a difficult and controversial war.

While the survey found some readers with doubts about Bush's handling of the war in Iraq, there was remarkable consistency in their views of the two candidates.

Officers and enlisted troops, active-duty members and reservists, those who have served in combat zones and those who haven't, all supported Bush by large margins. And the survey hints that Kerry's emphasis of his decorated service in Vietnam may have done more harm than good with those in uniform.

''FROM THE HEART''

''It's about honesty and integrity,'' said Marine Sgt. Jason Jester, who was interviewed separately from the survey.

Jester, a recruiter from Winston-Salem, N.C., voted for Bush in 2000 and plans to do so again.

''He might not always make the right decisions, but I think the decisions he makes come from the heart.''

To conduct the survey, Military Times e-mailed more than 31,000 subscribers Sept. 15. They were invited to access an Internet site seeking their opinions on the presidential race and related issues. From Sept. 21 to 28, and before the first presidential debate on Sept. 30, a total of 2,754 active-duty and 1,411 reserve and Guard members took part.

The nature of the survey led experts to caution against reading the results as representative of the military as a whole.

Unlike most public opinion polls, the Military Times survey did not randomly select those to question. Instead, subscribers with e-mail addresses on file were sent an invitation. That means there is no statistical margin of error for the survey—so it's impossible to calculate how accurately the results reflect the views of Military Times readers.

The surveyed group is older, higher in rank and more career-oriented than the military as a whole. Junior enlisted troops in particular are underrepresented in the group that responded.

But as a snapshot of the careerist core of the armed services, the survey holds little good news for Kerry, revealing a group with strong Republican leanings that the Democratic challenger has not shaken. Among the findings:

Echoing previous Military Times polls and other research, the survey found a group with a close affinity for the Republican Party. About 60 percent of those surveyed identified themselves as Republicans, while 13 percent consider themselves Democrats and 20 percent independents. Among the general population, pollsters usually find voters evenly divided among Republicans, Democrats and independents.

Mr. CHAMBLISS. Mr. President, the caption is: ''Troops sound off. Who do you choose for President and why?''

Among Active-Duty forces, 66 percent in this poll said the most important issue for them in deciding for whom to vote is the war in Iraq. In the same poll, 60 percent said they approve of the way President Bush is handling the situation in Iraq, and 72 percent said if the Presidential election were held today, they would vote for President Bush. That is quite a statement of support for the Commander in Chief and his policies in Iraq from those who are actually doing the fighting and the dirty work to bring security and prosperity to that country.

Even more significant are the results from the Reserve and National Guard troops who have been called to active duty and deployed to Iraq. Among this group, 72 percent said the most important issue for them is the war in Iraq; 63 percent approve of the President's policies in Iraq; and a full 76 percent of the Reserve and National Guard soldiers who have actually been deployed to a combat zone said they are planning on voting for President Bush. These are amazing figures from both our Active Duty and Reserve Forces that tell us much more about what is going on in Iraq than just the reports of the bombings and kidnaping.

Listening to the assessments from my colleague from Massachusetts begs the question: Why do the vast majority of our soldiers and marines engaged in ground operations in Iraq appreciate the importance of our mission there and believe they are engaged in a historical struggle that will lead to a better world and a safer America when a senior Senator cannot see the same thing? Are they right or is he right?

As I reflect on the words of the Senator from Massachusetts, I am reminded of that famous quotation made by McLandburgh Wilson:

Twixt the optimist and pessimist,
The difference is droll:
The optimist sees the doughnut,
But the pessimist sees the hole.

When it comes to Iraq and the war on terrorism, my colleague from Massachusetts sees the hole, when he should be seeing the doughnut.

I suspect that nothing we say in this Chamber will change his views on the issue. Nevertheless, I feel obligated to make some remarks about why our troops are fighting in Iraq, and why some are giving the ultimate sacrifice for our country. It is important for our troops and their families to know that not all Senators only see the ''hole.''

Our policy in Iraq should not be viewed in isolation. The issue is far more complex than that. It is important to understand the linkage between the Islamic terrorists who want to destroy us and the totalitarian regimes under which so many of them were raised. People who have such a deranged view of a Supreme Being that they believe their religion sanctions their own suicide, while killing innocent people, and do not come from free, open, and democratic countries and societies.

Let me explain how I look at Iraq and the war on terrorism. If we look at each incident individually, each bombing, each hostage taking, each killing, et cetera, we get one impression of these events. What we should do instead is put ourselves in the place of an eagle soaring high and looking down on everything that is going on inside of Iraq.

When we take the eagle's view, this is what we see: Iraq is no longer a sanctuary for terrorists, it is no longer a country that threatens its neighbors, and it is no longer a threat to world peace and order.

The insurgency in Iraq is confined to 3 of the 18 provinces, and the country is preparing for its first democratic election only 4 months from now.

Iraqi leaders, Iraqi soldiers, and Iraqi policemen are stepping forward in the thousands to take back their country from the terrorists.

All we have to do to see what progress is being made in this area is to look at the success we have had just over this weekend. It was not just American troops who had success in Samarra, one of the most violent places inside of Iraq; it was the now-trained Iraqi security police who fought side by side with the American troops, who received the praise of the American troops for the training, preparation, and the great job they did in not just helping secure the peace but driving the insurgents out of that town and providing a safer and more secure

community in which the people could live.

America, along with many other countries, remains firm and will not be deterred from achieving the goal of seeing a democracy in Iraq.

There is a realistic understanding of the difficulties and dangers in Iraq, but there are also visionary, optimistic leaders in Iraq and in the many countries that make up the multinational force who are determined to see the insurgency fail.

There have been many references to the July 2004 National Intelligence Estimate, or the NIE. In fact, Senator KENNEDY said in this Chamber on 29 September 2004 that the best case scenario in that NIE was that violence in Iraq would continue at current levels, with tenuous political and economic stability. Regardless of what this classified NIE actually said, I do know it was based on information that is but a snapshot in time and that time continues to move on.

There are many things visible today that were not clear when that NIE was written. The character of the Iraqi leadership was unknown last June, but no one who heard Prime Minister Allawi speak to the Joint Session of Congress recently could be anything but impressed with his enthusiasm, his intellect, and, most importantly, his determination to see a free and safe and democratic Iraq.

Lieutenant General Petraeus has been working assiduously to build up the Iraqi security forces. Last June, when the NIE was written, very few of those forces had completed their training. Now trained and competent Iraqi Army and police units are on duty and are assuming the major role in restoring security in their own country, and the training continues, so we can expect even more Iraqi security forces to assume their duties every month, just as they did in Samarra this past weekend.

We are engaged in an enormous struggle of historic proportions to see freedom and democracy spread throughout the Islamic world, and this will set the foundation for a final peaceful solution between Israel and Palestine. It will also, in the long term, eliminate the politically oppressive environment and poor economic conditions that have been the breeding grounds for terrorists to find new recruits.

I want to say to our military personnel and their families that your role in this historic and important struggle is the key to its success. You will look back with pride on your contributions and your sacrifices to make our country and the world safer. When you see what you have accomplished from an eagle's view, you will not see the hole that a pessimist sees.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that notwithstanding morning business, it now be in order to consider amendments to the pending intelligence reform bill, and for the information of all Senators, these are amendments that have been cleared on both sides. This will only take a few moments.

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

Mr. STEVENS. Reserving the right to object, I intended to speak for 1 minute before the time had expired for morning business. Will the Senator yield for just one brief comment?

Ms. COLLINS. I will be happy to yield.

The PRESIDING OFFICER. The Senator from Alaska.

INTELLIGENCE REFORM

Mr. STEVENS. Mr. President, this bill came to the floor on September 27. It was debated a few hours, the 28th and 29th similarly. On the 30th, it was debated about half a day. Yesterday, we started business on the bill sometime around noon. Today, we are voting cloture on the seventh calendar day, but probably less than 3 days of debate. I think this rush is unbecoming of the Senate.

I shall oppose cloture, and I want the record to show I do not think this subject, reform of the intelligence community, has ever taken such a short period of time. We are acting under pressure primarily from two men whose business was through when they filed their report. I am appalled that we are moving at this pace.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I note that the debate on this bill has been extensive. The Senator from Connecticut and I were here until 9 p.m. last night. We were here until after 6 o'clock on Friday. We have been here, although others have not been here, debating all day every day.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

AMENDMENT NO. 3933, AS MODIFIED

Ms. COLLINS. Mr. President, the first amendment I call up is amendment No. 3933, as modified, with the changes that are at the desk. This is an amendment from Senators CANTWELL, SESSIONS, SCHUMER, and KYL.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Ms. CANTWELL, herself, Mr. SESSIONS, Mr. SCHUMER, and Mr. KYL, proposes an amendment numbered 3933, as modified.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. BIOMETRIC STANDARD FOR VISA APPLICATIONS.

(a) SHORT TITLE.—This section may be cited as the ''Biometric Visa Standard Distant Borders Act''.

(b) TECHNOLOGY STANDARD FOR VISA WAIVER PARTICIPANTS.—Section 303(c) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732(c)) is amended to read as follows:

''(c) TECHNOLOGY STANDARD FOR VISA WAIVER PARTICIPANTS.—

''(1) IN GENERAL.—Not later than October 26, 2006, the Secretary of State shall certify to Congress which of the countries designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) are developing a program to issue to individuals seeking to enter that country pursuant to a visa issued by that country, a machine readable visa document that is tamper-resistant and incorporates biometric identification information that is verifiable at its port of entry.

''(2) SAVINGS CLAUSE.—This subsection shall not be construed to rescind the requirement of section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)).''.

The PRESIDENT pro tempore. The amendment is pending. Is there further debate? If not, without objection, the amendment is agreed to.

The amendment (No. 3933), as modified, was agreed to.

AMENDMENT NO. 3957

Ms. COLLINS. Mr. President, I now call up a managers' amendment that is at the desk and, again, has been cleared on both sides of the aisle.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself, and Mr. LIEBERMAN, proposes an amendment numbered 3957.

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

The PRESIDENT pro tempore. Is there further debate on this amendment? If not, without objection, the amendment is agreed to.

The amendment (No. 3957) was agreed to.

AMENDMENTS NOS. 3712, AS MODIFIED, AND 3768, AS FURTHER MODIFIED

Ms. COLLINS. Madam President, I ask unanimous consent, notwithstanding morning business, that I send two amendments to the desk and ask the pending amendment also be set aside, to S. 2845.

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

Ms. COLLINS. On behalf of Senator ROCKEFELLER and Senator BAUCUS, these amendments have been cleared on both sides and I urge their adoption en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The amendments were agreed to, as follows:

AMENDMENT NO. 3172, AS MODIFIED

(Purpose: To provide improved aviation security)

At the appropriate place, insert the following:

TITLE —AVIATION SECURITY

SEC. —01. IMPROVED PILOT LICENSES.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Federal Aviation Administrator may develop a system for the issuance of any pilot's license issued more than 180 days after the date of enactment of this Act that—

(1) are resistant to tampering, alteration, and counterfeiting;

(2) include a photograph of the individual to whom the license is issued; and

(3) are capable of accommodating a digital photograph, a biometric1 measure, or other unique identifier that provides a means of—

(A) ensuring its validity; and

(B) revealing whether any component or security feature of the license has been compromised.

(b) USE OF DESIGNEES.—The Administrator of the Federal Aviation Administration may use designees to carry out subsection (a) to the extent feasible in order to minimize the burden of such requirements on pilots.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator for fiscal year 2005, $50,000,000 to carry out subsection (a).

SEC. —02. AIRCRAFT CHARTER CUSTOMER PRESCREENING.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, or as soon as practicable thereafter, the Secretary of Homeland Security shall establish a process by which operators of charter aircraft with a maximum takeoff weight of greater than 12,500 pounds may—

(1) request the Transportation Security Administration to compare information about any individual seeking to charter an aircraft, and any passengers proposed to be transported aboard the aircraft, with a comprehensive, consolidated database or watchlist containing information about known or suspected terrorists and their associates; and

(2) refuse to charter an aircraft to or transport aboard such aircraft any persons identified on such database or watchlist.

(b) PRIVACY SAFEGUARDS.—The Secretary shall take appropriate measures to ensure that—

(1) the Transportation Security Administration does not disclose information to any person engaged in the business of chartering aircraft other than whether an individual compared against government watchlists constitutes a flight security or terrorism risk; and

(2) an individual denied access to an aircraft is given an opportunity to consult the Transportation Security Administration for the purpose of correcting mis-identification errors, resolve confusion resulting from names that are the same as or similar to names on available government watchlists, and address other information that is alleged to be erroneous, that may have resulted in the denial.

(c) TRANSFER.—The Secretary shall assess procedures to transfer responsibility for conducting reviews of any appropriate government watchlists under this section from persons engaged in the business of chartering air carriers to the public to the Secretary.

(d) AUTHORITY OF THE SECRETARY.—Nothing in this section precludes the Secretary from requiring operators of charter aircraft to comply with security procedures, including those established under subsection (a), if the Secretary determines that such a requirement is necessary based on threat conditions.

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

SEC. —03. AIRCRAFT RENTAL CUSTOMER PRESCREENING.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, or as soon as practicable thereafter, the Secretary of Homeland Security shall establish a process by which operators of rental aircraft with a maximum takeoff weight of greater than 12,500 pounds may—

(1) request the Transportation Security Administration to compare information about any individual seeking to rent an aircraft, and any passengers proposed to be transported aboard the aircraft, with a comprehensive, consolidated database or watchlist containing information about known or suspected terrorists and their associates; and

(2) refuse to rent an aircraft to or transport aboard such aircraft any persons identified on such database or watchlist.

(b) PRIVACY SAFEGUARDS.—The Secretary shall take appropriate measures to ensure that—

(1) the Transportation Security Administration does not disclose information to any person engaged in the business of renting aircraft other than whether an individual compared against government watchlists constitutes a flight security or terrorism risk; and

(2) an individual denied access to an aircraft is given an opportunity to consult the Transportation Security Administration for the purpose of correcting mis-identification errors, resolve confusion resulting from names that are the same as or similar to names on available government watchlists, and address other information that is alleged to be erroneous, that may have resulted in the denial.

(c) TRANSFER.—The Secretary shall assess procedures to transfer responsibility for conducting reviews of any appropriate government watchlists under this section from persons engaged in the business of renting aircraft to the public to the Secretary.

(d) AUTHORITY OF THE SECRETARY.—Nothing in this section precludes the Secretary from requiring operators of rental aircraft to comply with security procedures, including those established under subsection (a), if the Secretary determines that such a requirement is necessary based on threat conditions.

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

SEC. —04. REPORT ON RENTAL AND CHARTER CUSTOMER PRESCREENING PROCEDURES.

(a) IN GENERAL.—Within 12 months after the date of enactment of this Act, the Secretary of Homeland Security shall transmit a report to Congress on the feasibility of extending the requirements of section —02, section —03, or both sections to apply to aircraft with a maximum certificated takeoff weight of 12,500 pounds or less.

(b) ISSUES ADDRESSED.—The report shall—

(1) examine the technology and communications systems needed to carry out such procedures;

(2) provide an analysis of the risks posed by such aircraft; and

(3) examine the operational impact of proposed procedures on the commercial viability of that segment of charter and rental aviation operations.

SEC. —05. AVIATION SECURITY STAFFING.

(a) STAFFING LEVEL STANDARDS.—

(1) DEVELOPMENT OF STANDARDS.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation and Federal Security Directors, shall develop standards for determining the appropriate aviation security staffing standards for all commercial airports in the United States necessary—

(A) to provide necessary levels of aviation security; and

(B) to ensure that the average aviation security-related delay experienced by airline passengers is minimized.

(2) GAO ANALYSIS.—The Comptroller General shall, as soon as practicable after the date on which the Secretary of Homeland Security has developed standards under paragraph (1), conduct an expedited analysis of the standards for effectiveness, administrability, ease of compliance, and consistency with the requirements of existing law.

(3) REPORT TO CONGRESS.—Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security and the Comptroller General shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the standards developed under paragraph (1), together with recommendations for further improving the efficiency and effectiveness of the screening process, including the use of maximum time delay goals of no more than 10 minutes on the average.

(b) INTEGRATION OF FEDERAL AIRPORT WORKFORCE AND AVIATION SECURITY.—The Secretary of Homeland Security shall conduct a study of the feasibility of combining operations of Federal employees involved in screening at commercial airports and aviation security related functions under the aegis of the Department of Homeland Security in order to coordinate security-related activities, increase the efficiency and effectiveness of those activities, and increase commercial air transportation security.

SEC. —06. IMPROVED AIR CARGO AND AIRPORT SECURITY.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the purpose of improving aviation security related to the transportation of cargo on both passenger aircraft and all-cargo aircraft—

(1) $200,000,000 for fiscal year 2005;

(2) $200,000,000 for fiscal year 2006; and

(3) $200,000,000 for fiscal year 2007.

(b) NEXT-GENERATION CARGO SECURITY GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish and carry out a grant program to facilitate the development, testing, purchase, and deployment of next-generation air cargo security technology. The Secretary shall establish such eligibility criteria, establish such application and administrative procedures, and provide for such matching funding requirements, if any, as may be necessary and appropriate to ensure that the technology is deployed as fully and as rapidly as practicable.

(2) RESEARCH AND DEVELOPMENT; DEPLOYMENT.—To carry out paragraph (1), there are authorized to be appropriated to the Secretary for research and development related to next-generation air cargo security technology as well as for deployment and installation of next-generation air cargo security technology, such sums are to remain available until expended—

(A) $100,000,000 for fiscal year 2005;

(B) $100,000,000 for fiscal year 2006; and

(C) $100,000,000 for fiscal year 2007.

(c) AUTHORIZATION FOR EXPIRING AND NEW LOIs.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary $150,000,000 for each of fiscal years 2005 through 2007 to fund projects and activities for which letters of intent are issued under section 44923 of title 49, United States Code, after the date of enactment of this Act.

(2) PERIOD OF REIMBURSEMENT.—Notwithstanding any other provision of law, the Secretary may provide that the period of reimbursement under any letter of intent may extend for a period not to exceed 10 years after the date that the Secretary issues such letter, subject to the availability of appropriations. This paragraph applies to letters of intent issued under section 44923 of title 49, United States Code, or section 367 of the Department of Transportation and Related Agencies Appropriation Act, 2003 (49 U.S.C. 47110 note).

(d) REPORTS.—The Secretary shall transmit an annual report for fiscal year 2005, fiscal year 2006, and fiscal year 2007 to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on—

(1) the progress being made toward, and the status of, deployment and installation of next-generation air cargo security technology under subsection (b); and

(2) the amount and purpose of grants under subsection (b) and the locations of projects funded by such grants.

SEC. —07. AIR CARGO SECURITY MEASURES.

(a) ENHANCEMENT OF AIR CARGO SECURITY.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop and implement a plan to enhance air cargo security at airports for commercial passenger and cargo aircraft that incorporates the recommendations made by the Cargo Security Working Group of the Aviation Security Advisory Committee.

(b) SUPPLY CHAIN SECURITY.—The Administrator of the Transportation Security Administration shall—

(1) promulgate regulations requiring the evaluation of indirect air carriers and ground handling agents, including background checks and checks against all Administration watch lists; and

(2) evaluate the potential efficacy of increased use of canine detection teams to inspect air cargo on passenger and all-cargo aircraft, including targeted inspections of high risk items.

(c) INCREASED CARGO INSPECTIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall require that the percentage of cargo screened or inspected is at least two-fold the percentage that is screened or inspected as of September 30, 2004.

(c) ALL-CARGO AIRCRAFT SECURITY.—Subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

"§ 44925. All-cargo aircraft security.

''(a) ACCESS TO FLIGHT DECK.—Within 180 days after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall—

''(1) issue an order (without regard to the provisions of chapter 5 of title 5)—

''(A) requiring, to the extent consistent with engineering and safety standards, that all-cargo aircraft operators engaged in air transportation or intrastate air transportation maintain a barrier, which may include the use of a hardened cockpit door, between the aircraft flight deck and the aircraft cargo compartment sufficient to prevent unauthorized access to the flight deck from the cargo compartment, in accordance with the terms of a plan presented to and accepted by the Administrator of the Transportation Security Administration in consultation with the Federal Aviation Administrator; and

''(B) prohibiting the possession of a key to a flight deck door by any member of the flight crew who is not assigned to the flight deck; and

''(2) take such other action, including modification of safety and security procedures and flight deck redesign, as may be necessary to ensure the safety and security of the flight deck.

''(b) SCREENING AND OTHER MEASURES.—Within 1 year after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall issue an order (without regard to the provisions of chapter 5 of title 5) requiring—

''(1) all-cargo aircraft operators engaged in air transportation or intrastate air transportation to physically screen each person, and that person's baggage and personal effects, to be transported on an all-cargo aircraft engaged in air transportation or intrastate air transportation;

''(2) each such aircraft to be physically searched before the first leg of the first flight of the aircraft each day, or, for inbound international operations, at aircraft operator's option prior to the departure of any such flight for a point in the United States; and

''(3) each such aircraft that is unattended overnight to be secured or sealed or to have access stairs, if any, removed from the aircraft.

''(c) ALTERNATIVE MEASURES.—The Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, may authorize alternative means of compliance with any requirement imposed under this section.''.

(d) CONFORMING AMENDMENT.—The subchapter analysis for subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

''44925. All-cargo aircraft security.''.

SEC. —08. EXPLOSIVE DETECTION SYSTEMS.

(a) IN-LINE PLACEMENT OF EXPLOSIVE-DETECTION EQUIPMENT.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish a schedule for replacing trace-detection equipment used for in-line baggage screening purposes as soon as practicable where appropriate with explosive detection system equipment. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure of the schedule and provide an estimate of the impact of replacing such equipment, facility modification and baggage conveyor placement, on aviation security-related staffing needs and levels.

(b) NEXT GENERATION EDS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $100,000,000, in addition to any amounts otherwise authorized by law, for the purpose of research and development of next generation explosive detection systems for aviation security under section 44913 of title 49, United States Code. The Secretary shall develop a plan and guidelines for implementing improved explosive detection system equipment.

(c) PORTAL DETECTION SYSTEMS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $250,000,000, in addition to any amounts otherwise authorized by law, for research and development and installation of portal detection systems or similar devices for the detection of biological, radiological, and explosive materials. The Secretary of Homeland Security shall establish a pilot program at not more than 10 commercial service airports to evaluate the use of such systems.

(d) REPORTS.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on research and development projects funded under subsection (b) or (c), and the pilot program established under subsection (c), including cost estimates for each phase of such projects and total project costs.

SEC. —09. AIR MARSHAL PROGRAM.

(a) CROSS-TRAINING.—The Secretary of Homeland Security shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the potential for cross-training of individuals who serve as air marshals and on the need for providing contingency funding for air marshal operations.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of Inspections and Customs Enforcement, in addition to any amounts otherwise authorized by law, for the deployment of Federal Air Marshals under section 44917 of title 49, United States Code, $83,000,000 for the 3 fiscal year period beginning with fiscal year 2005, such sums to remain available until expended.

SEC. —10. TSA-RELATED BAGGAGE CLAIM ISSUES STUDY.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the present system for addressing lost, stolen, damaged, or pilfered baggage claims relating to air transportation security screening procedures. The report shall include—

(1) information concerning the time it takes to settle such claims under the present system;

(2) a comparison and analysis of the number, frequency, and nature of such claims before and after enactment of the Aviation and Transportation Security Act using data provided by the major United States airlines; and

(3) recommendations on how to improve the involvement and participation of the airlines in the baggage screening and handling processes and better coordinate the activities of Federal baggage screeners with airline operations.

SEC. —11. REPORT ON IMPLEMENTATION OF GAO HOMELAND SECURITY INFORMATION SHARING RECOMMENDATIONS.

Within 30 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the heads of Federal departments and agencies concerned, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on implementation of recommendations contained in the General Accounting Office's report titled ''Homeland Security: Efforts To Improve Information Sharing Need To Be Strengthened'' (GAO–03–760), August, 2003.

SEC. —12. AVIATION SECURITY RESEARCH AND DEVELOPMENT.

(a) BIOMETRICS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $20,000,000, in addition to any amounts otherwise authorized by law, for research and development of

biometric technology applications to aviation security.

(b) BIOMETRICS CENTERS OF EXCELLENCE.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $1,000,000, in addition to any amounts otherwise authorized by law, for the establishment of competitive centers of excellence at the national laboratories.

SEC. —13. PERIMETER ACCESS TECHNOLOGY.

There are authorized to be appropriated to the Secretary of Homeland Security $100,000,000 for airport perimeter security technology, fencing, security contracts, vehicle tagging, and other perimeter security related operations, facilities, and equipment, such sums to remain available until expended.

SEC. —14. BEREAVEMENT FARES.

(a) IN GENERAL.—Chapter 415 of title 49, United States Code, is amended by adding at the end the following:

"§ 41512. Bereavement fares.

''Air carriers shall offer, with appropriate documentation, bereavement fares to the public for air transportation in connection with the death of a relative or other relationship (as determined by the air carrier) and shall make such fares available, to the greatest extent practicable, at the lowest fare offered by the air carrier for the flight for which the bereavement fare is requested.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 415 is amended by inserting after the item relating to section 41511 the following:

''41512. Bereavement fares''.

SEC. —15. REVIEW AND REVISION OF PROHIBITED ITEMS LIST.

Not later than 60 days after the date of enactment of this Act, the Transportation Security Administration shall complete a review of its Prohibited Items List, set forth in 49 C.F.R. 1540, and release a revised list that—

(1) prohibits passengers from carrying butane lighters onboard passenger aircraft; and

(2) modifies the Prohibited Items List in such other ways as the agency may deem appropriate.

SEC. —16. REPORT ON PROTECTING COMMERCIAL AIRCRAFT FROM THE THREAT OF MAN-PORTABLE AIR DEFENSE SYSTEMS.

(a) REQUIREMENT.—The Secretary of Homeland Security, in coordination with the head of the Transportation Security Administration and the Under Secretary for Science and Technology, shall prepare a report on protecting commercial aircraft from the threat of man-portable air defense systems (referred to in this section as ''MANPADS'').

(b) CONTENT.—The report required by subsection (a) shall include the following:

(1) An estimate of the number of organizations, including terrorist organizations, that have access to MANPADS and a description of the risk posed by each organization.

(2) A description of the programs carried out by the Secretary of Homeland Security to protect commercial aircraft from the threat posed by MANPADS.

(3) An assessment of the effectiveness and feasibility of the systems to protect commercial aircraft under consideration by the Under Secretary for Science and Technology for use in phase II of the counter-MANPADS development and demonstration program.

(4) A justification for the schedule of the implementation of phase II of the counter-MANPADS development and demonstration program.

(5) An assessment of the effectiveness of other technology that could be employed on commercial aircraft to address the threat posed by MANPADS, including such technology that is—

(A) either active or passive;

(B) employed by the Armed Forces; or

(C) being assessed or employed by other countries.

(6) An assessment of alternate technological approaches to address such threat, including ground-based systems.

(7) A discussion of issues related to any contractor liability associated with the installation or use of technology or systems on commercial aircraft to address such threat.

(8) A description of the strategies that the Secretary may employ to acquire any technology or systems selected for use on commercial aircraft at the conclusion of phase II of the counter-MANPADS development and demonstration program, including—

(A) a schedule for purchasing and installing such technology or systems on commercial aircraft; and

(B) a description of—

(i) the priority in which commercial aircraft will be equipped with such technology or systems;

(ii) any efforts to coordinate the schedules for installing such technology or system with private airlines;

(iii) any efforts to ensure that aircraft manufacturers integrate such technology or systems into new aircraft; and

(iv) the cost to operate and support such technology or systems on a commercial aircraft.

(9) A description of the plan to expedite the use of technology or systems on commercial aircraft to address the threat posed by MANPADS if intelligence or events indicate that the schedule for the use of such technology or systems, including the schedule for carrying out development and demonstration programs by the Secretary, should be expedited.

(10) A description of the efforts of the Secretary to survey and identify the areas at domestic and foreign airports where commercial aircraft are most vulnerable to attack by MANPADS.

(11) A description of the cooperation between the Secretary and the Administrator of the Federal Aviation Administration to certify the airworthiness and safety of technology and systems to protect commercial aircraft from the risk posed by MANPADS in an expeditious manner.

(c) TRANSMISSION TO CONGRESS.—The report required by subsection (a) shall be transmitted to Congress along with the budget for fiscal year 2006 submitted by the President pursuant to section 1105(a) of title 31, United States Code.

SEC. —17. SCREENING DEVICES TO DETECT CHEMICAL AND PLASTIC EXPLOSIVES.

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a report on the current status of efforts, and the additional needs, regarding passenger and carry-on baggage screening equipment at United States airports to detect explosives, including in chemical and plastic forms. The report shall include the cost of and timetable for installing such equipment and any recommended legislative actions.

SEC. —18. REPORTS ON THE FEDERAL AIR MARSHALS PROGRAM.

Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a classified report on the number of individuals serving only as sworn Federal air marshals. Such report shall include the number of Federal air marshals who are women, minorities, or employees of departments or agencies of the United States Government other than the Department of Homeland Security, the percentage of domestic and international flights that have a Federal air marshal aboard, and the rate at which individuals are leaving service as Federal air marshals.

SEC. —19. SECURITY OF AIR MARSHAL IDENTITY.

(a) IN GENERAL.—The Secretary of the Department of Homeland Security shall designate individuals and parties to whom Federal air marshals shall be required to identify themselves.

(b) PROHIBITION.—Notwithstanding any other provision of law, no procedure, guideline, rule, regulation, or other policy shall expose the identity of an air marshal to anyone other than those designated by the Secretary under subsection (a).

SEC. —20. SECURITY MONITORING CAMERAS FOR AIRPORT BAGGAGE HANDLING AREAS.

(a) IN GENERAL.—The Under Secretary of Homeland Security for Border Transportation and Security shall provide assistance, subject to the availability of funds, to public airports that have baggage handling areas that are not open to public view in the acquisition and installation of security monitoring cameras for surveillance of such areas in order to deter theft from checked baggage and to aid in the speedy resolution of liability claims against the Transportation Security Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2005 such sums as may be necessary to carry out this section, such sums to remain available until expended.

SEC. —21. EFFECTIVE DATE.

Notwithstanding any other provision of this act, this title takes effect on the date of enactment of this Act.

AMENDMENT NO. 3768, AS FURTHER MODIFIED

At the appropriate place, insert the following new section:

SEC. ____. ANNUAL REPORT ON THE ALLOCATION OF RESOURCES WITHIN THE OFFICE OF FOREIGN ASSETS CONTROL.

(a) REQUIREMENT FOR ANNUAL REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury shall submit to Congress a report on the allocation of resources within the Office of Foreign Assets Control.

(b) CONTENT OF ANNUAL REPORT.—An annual report required by subsection (a) shall include—

(1) a description of—

(A) the allocation of resources within the Office of Foreign Assets Control to enforce the economic and trade sanctions of the United States against terrorist organizations and targeted foreign countries during the fiscal year prior to the fiscal year in which such report is submitted; and

(B) the criteria on which such allocation is based;

(2) a description of any proposed modifications to such allocation; and

(3) an explanation for any such allocation that is not based on prioritization of threats determined using appropriate criteria, including the likelihood that—

(A) a terrorist organization or targeted foreign country—

(i) will sponsor or plan a direct attack against the United States or the interests of the United States; or

(ii) is participating in or maintaining a nuclear, biological, or chemical weapons development program; or

(B) a targeted foreign country—

(i) is financing, or allowing the financing, of a terrorist organization within such country; or

(ii) is providing safe haven to a terrorist organization within such country.

(c) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of the enactment of this Act.

Mr. BAUCUS. Mr. President, this amendment goes to the heart of our debate over the structure and purpose of the U.S. intelligence community. My amendment addresses the allocation of resources at Treasury's Office of Foreign Assets Control, or OFAC.

Much of our attention has focused on the creation of a new, independent office to oversee our intelligence activities. Often lost in this debate are the details about many of the smaller, lesser known Federal agencies whose efforts are essential to our national security.

Even though many people don't know who they are, OFAC is one of our most powerful weapons in the war on terrorism, because it is charged with tracking down and identifying the international sources of terrorist financing.

Unfortunately, OFAC is also tasked with administration of the Cuba travel ban. As we all know, U.S. policy toward Cuba is a highly emotional and divisive issue. Still, I would doubt that anyone seriously thinks that travel by Americans to Cuba poses a larger or more serious threat to U.S. interests than al-Qaida or the insurgents in Iraq, or Syria, Iran or North Korea.

My colleagues might be surprised and disturbed, then, to learn that—at the direction of the State Department—OFAC diverts more of its personnel resources to imposition of the Cuba travel ban than to any other country or project-specific issue.

According to their records, the equivalent of 21 full-time OFAC employees are allocated to the Cuba travel ban. On the other hand, only 16 are allocated to the search al-Qaida's financial sources of support.

Less than 15 full-time employee resources are spent on the former Iraq regime and its insurgents, and less than 14 are spent on Iran. Less than 10 are allocated to Syria, Sudan, and Libya combined. Afghanistan doesn't even merit one full-time employee—it receives the attention of roughly 2/3 of one full-time OFAC employee. North Korea only gets ⅓.

In other words, more OFAC personnel resources are spent on the effort to prevent Americans from vacationing in Cuba than are spent to track down and shut off the sources of funds used by al-Qaida to carry out terrorist activities.

This is an appalling diversion of our resources. If we hope to defeat the disparate threats arrayed against U.S. interests—both here at home and abroad—we must dedicate our attention to the real dangers confronting us around the world. Wisely allocating our resources will better ensure our success.

The amendment I offer addresses this imbalance by requiring an annual report from OFAC on how it allocates its resources and the criteria it uses to make those resource decisions. It also outlines criteria that ought to be considered when prioritizing the threats posed by different countries and groups. Among these criteria are the likelihood that a country or organization is: planning or sponsoring a direct attack on U.S. interests; participating in a nuclear, biological, or chemical weapons development program; financing or allowing the financing of terrorists; or providing a safe haven to terrorists.

Colleagues, this is an issue of the highest importance. My amendment simply asks for common sense in the allocation of our limited resources. We cannot expect to win the war on terrorism if we refuse to dedicate our full and focused efforts to fighting it. In this time of crisis, the American people expect us to lead with vision and clarity. My amendment offers this.

I see no credible reason why OFAC should waste precious resources creating bureaucratic red tape for Montana producers who just want to negotiate legal agricultural sales to Cuba. Instead, OFAC should focus its resources where they are more urgently needed: on shutting down the financial networks of al-Qaida and other more serious threats to U.S. interests. That is why the Chairman of the Intelligence Committee supports this amendment, and that is why the American Farm Bureau Federation and the National Foreign Trade Council support this amendment.

I take this opportunity to thank Senator COLLINS and Senator LIEBERMAN, the chairwoman and ranking member managing this bill, and their staff, for all of their hard work on the Baucus-Roberts-Craig amendment.

The PRESIDENT pro tempore. The Senator from New Mexico is recognized. There is no further time remaining on the majority side. The minority has until 9:40 a.m.

IMPROVED NUTRITION AND PHYSICAL ACTIVITY

Mr. BINGAMAN. Mr. President, I rise to speak briefly about an important bill that I hope we can pass before the Congress leaves town and adjourns this year. That is the IMPACT bill, of which Senator FRIST is the prime sponsor. I have cosponsored it and various other Senators have also cosponsored it.

This is a bill that passed the Senate. It is awaiting action by the House. I wanted today to come to the floor and urge the House to bring up that bill and pass it so it can be sent to the President for his signature.

Just last week, the Institute of Medicine released a report on childhood obesity. It is a report that I requested in 2001. The report indicates that the prevention of obesity in children and youth needs to be a national public health priority.

Obesity-associated annual hospital costs for children and youth have more than tripled in two decades to $127 billion. In adults, national expenditures associated with overweight and obesity in adults ranges from $98 billion to $129 billion annually. The report calls on the government, industry, media, health care professionals, the nonprofit organizations, State and local educational authorities, schools, parents, and families to take immediate steps to confront this epidemic. And the IMPACT bill I have referred to will address many of those issues.

The bill is of critical importance. It tries to focus attention on these issues. There are a variety of provisions in the bill that I think are extremely important. It will direct us toward finding solutions, first, by preparing the health care community to deal with obesity in terms of prevention, diagnosis, and intervention by adding obesity, overweight, and eating disorders to the list of priority conditions to be addressed in the health professions title VII training grants.

Second, IMPACT supports community-based solutions to increase physical activity and improve nutrition on a number of levels. It provides funding for demonstration projects in communities and schools and health care organizations and other qualified entities that promote fitness or healthy nutrition.

It authorizes the Centers for Disease Control to collect fitness and energy fitness expenditure information from children.

It directs the Agency for Health Care Research and Quality to review any new information related to obesity trends among various subpopulations, and includes such information in its health disparities report.

It allows States to use their preventive services block grant funds for community education on nutrition and increased physical activity. And it instructs the Secretary to report on what research has been done in this area of obesity.

There are a variety of other provisions in the bill. The legislation is an excellent first step in the fight to improve health. It is not the only step we need to take, but it is a first step.

We also need to assist our schools in providing healthy nutrition options and expanding physical activity programs. We need to grow the workforce such that people have access to the health care professions they need to prevent, diagnose, and treat obesity, and we need to ensure that Medicare and Medicaid provide the services necessary to help people prevent obesity and its complications.

These are not small goals, but they are critical to our Nation's health, both today and in the future.

I want to continue working with Senator FRIST and other colleagues in the Senate to find new ways to address

these goals, but before Congress adjourns this year we need to go ahead and call on the House to pass the legislation we have passed in the Senate. This is an important step and one that should not be delayed until the convening of a new Congress. I hope the House of Representatives will bring this legislation up quickly, will pass it, will send it to the President, and we can begin down the road of dealing with this serious problem that afflicts so many of our children.

I yield the floor, and I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. How much time is remaining?

The PRESIDENT pro tempore. There are 9 minutes 22 seconds remaining.

PRESIDENTIAL DEBATES

Mr. DURBIN. Mr. President, the debate last week between Senator KERRY and President Bush marked a milestone in this campaign. Some 65 million Americans tuned in to this debate, which is an extraordinary number, more than tune in to such popular television shows as the Oscars. Certainly, we believe that Presidential debates serve that audience even more.

It was an important debate because it signaled the beginning of the real campaign. Despite all the time, effort, and money, it appears that a large group of American voters are waiting to these closing weeks, listening closely to the candidates, to make the decision about how they will vote on November 2, one of the most historic elections we have witnessed in recent times.

The debate come Friday night is going to be equally, if not more, important. We will move from the critical issue of national security and foreign policy to issues of great importance related to the domestic situation in America: How are things going for America's individuals and families and businesses?

We believe, as we look at the record, that the choice is going to be very clear. We will use the same matrix, the same measure President Ronald Reagan used when he ran for President, when he asked very bluntly: Are you better off today than you were 4 years ago?

When it comes to the domestic issues, we believe there is a compelling case and a compelling argument that America is not better off today than it was 4 years ago when President George W. Bush was sworn in. The numbers speak for themselves. This President will have lost more jobs as President than any President in the history of the United States since Herbert Hoover.

I have to explain for those not old enough that Herbert Hoover's Presidency was a disaster. It was the Great Depression. America saw more suffering from families and businesses in that period of time than at any time in that whole era, and now we have a President who came to office, George Bush, saying, give me a chance with my economic policy, and by every objective standard the President's economic policies have failed. They have failed to create jobs. We have seen an exodus of good-paying jobs. In my State, 160,000 manufacturing jobs have been lost. Some have been replaced, but virtually every single replacement job pays less, offers fewer, if any, benefits, and families find themselves falling behind.

Look at the national numbers. Consider what has happened. We have seen median household income across America decline by 3.4 percent under President Bush. That means the earning power of American families has gone down under Bush's economic policies while the costs of living have gone up. Gasoline prices are up 22 percent over when the President was elected, college tuition at public 4-year institutions up 28 percent, and family health care premiums up 45 percent. This is a backbreaking statistic because individual families cannot afford to go without health care insurance protection, and yet the cost goes up every year. It becomes increasingly expensive and less coverage is offered.

What has the Bush administration done to help working families deal with these increased costs of living? Virtually nothing. They have offered tax cuts for the wealthiest people in America, with the blind faith that if the richest people in America are given more money, somehow working Americans and middle-income Americans will prosper. It has failed. It has not worked. The debate on Friday night will focus on that.

President Bush will be held accountable not just for the situation in Iraq and the standing of the United States in the world but in terms of what he has done or failed to do for families. Listen to what has happened since President Bush has taken office: 1.6 million private sector jobs have been lost; 5.2 million more Americans have no health insurance. Since President Bush has been President, 5 million Americans have lost their health insurance, and 4.3 million Americans have descended into poverty. They were above the poverty line when President Bush came in. His economic policies have driven them below.

Household debt has risen $2.3 billion as families borrow more money to try to keep up with the costs. Personal bankruptcies have hit a record high. The S&P 500 has dropped 15 percent, decimating retirement savings of families across the board. The No Child Left Behind Program has not been funded, shortchanged by billions of dollars. There has been $500 billion taken out of the Social Security trust fund, and keep this in mind: When President Bush took office, we had a $236 billion surplus. Today, we have a $422 billion deficit. In fact, some argue, including my colleague from Illinois, that it is almost $700 billion when the Social Security trust fund that has been raided is added in.

This President, a so-called fiscal conservative, has driven us more deeply in debt than any President in our history, has lost more jobs than any President in 70 years. How will he answer the most basic question: Is America better off today than it was 4 years ago? By every objective measurable standard, when it comes to the comfort and hope of American families, the Bush administration has failed time and time again. They have a foreign policy which has put us in a situation in Iraq with no end in sight. They have an economic policy giving tax cuts to wealthy people, which has no sensitivity to the struggles working families are facing.

So how are the constituents of President Bush doing, what he calls his base, the wealthiest people in America? Pretty well. HMO profits are up 84 percent, CEO compensation up 20 percent, corporate profits up 15.3 percent. They are doing great on Wall Street but not too great on Main Street, and that is what the issue is going to be in St. Louis at Washington University on Friday night when Senator KERRY faces President Bush in a townhall meeting, where families from across the Midwest can ask the questions on their mind. These are the questions they will ask because they reflect the reality of family life in America.

The President promised us compassionate conservatism. He has failed when it comes to conservatism, as we have record historic deficits. He has certainly failed when it comes to compassion, as he has not addressed the most basic issues: making certain families have good jobs, that they have health insurance to cover them in times of need, that they can afford the college tuition so their kids can have a better life than they have had. These are the issues we are going to face.

What will we do in the Senate after we have considered this important bill on intelligence? We will go to a tax bill which is now in conference, which is larded up with some of the worst special interest favors we have seen in the history of this Senate. That is the best this Republican-led Senate can do, is come up with that kind of a bill at the end to give away literally tens of billions of dollars in a deficit economy to special interest groups again in Washington.

What will we do in this tax bill to help working families and small businesses pay for health insurance? Absolutely nothing. What will we do to stop good-paying jobs, manufacturing jobs, from being outsourced to other countries? Scarcely anything. Very little. It

shows where the Republican priorities are on Capitol Hill and where the Republican priorities are in the White House, and it shows the clear choice that American voters are going to face on November 2.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The majority leader.

CLOTURE VOTE

Mr. FRIST. Madam President, in a very few minutes we come to a very important vote before this body, a vote that in many ways brings to a head the debate that has been on the floor the last week and a half to the last almost 2 weeks, a debate that focuses on the safety and security of the American people. This is a debate that does encompass a major reorganization to make our intelligence activities more efficient, more effective. The vote we will be taking in a few minutes is a product of us filing cloture at the end of last week to give focus to the debate.

I stand before you as majority leader to encourage our colleagues to vote for cloture. That means germane amendments will be considered. The amendments that have been introduced, that are pending, that are germane, will still be considered, can still be voted upon. In fact, germane amendments also that are brought to the floor can still be voted upon.

What it does mean is that over the next 30 hours we have a huge task and that task is to bring to closure and ultimately to a vote on this bill. It can be as long as 30 hours of debate but hopefully it will be much less than that. So I urge my colleagues to vote with the managers, with the leadership in the Senate for cloture on this very important bill.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I join the majority leader in our enthusiastic support for the vote we will soon cast. I hope colleagues on both sides of the aisle will take this important step. This is an opportunity to make a statement about our determination, on a bipartisan basis, to move this legislation forward.

Senators have come forth with a lot of good ideas. I respect them. I appreciate the quality of the debate that we have had. It has been a very good debate. But now comes a time when I think we need to limit further amendments to those which are very relevant to the legislation, germane, and that is what this vote will do. Three commissions have made recommendations that are reflected in the legislative work that is before us today. Now is our opportunity to build upon that commission work, to build upon what the committee has done so diligently, and to work together to move this legislative vehicle along to accommodate the schedule we have here in the Senate, as well as the recognition that we still have to work with our House counterparts to resolve whatever outstanding differences there may be with them.

This is an important vote. I hope, as I say, that we can speak with one voice with regard to completing our work and moving on to the second phase of our 9/11 response, which is the legislative reorganization. I join with the leader and express the hope we can have a resounding vote on cloture this morning.

I yield the floor.

Mr. LEVIN. Mr. President, I will not vote to invoke cloture on the National Intelligence reform bill at this time.

This legislation reforming the intelligence agencies of our Government is a critical step in strengthening our national defense and our homeland security. If this cloture vote succeeds, it will prematurely cut off debate and prevent relevant amendments which could improve this legislation from being considered by the Senate. There are about 57 amendments currently pending before the Senate on this bill and perhaps half will be prevented from even being considered if cloture is invoked.

This is far-reaching and complex legislation which reorganizes the basic elements of our intelligence community. We cannot afford to get it wrong or we will end up making us less secure. We owe it to our constituents and the Nation, if necessary, to stay a few days longer in Washington and finish the job right. Frustrating the right of Senators to offer relevant amendments aimed at improving this legislation is unwise.

Mr. FRIST. Madam President, finally, what to expect over the course of the day. The cloture vote will occur here in a couple of minutes. We strongly encourage votes for cloture. You heard the Democratic leader and myself, and you have heard the managers also make the strong case for cloture.

Immediately, amendments will be considered that are germane. The focus, hopefully, will be on amendments that have been introduced that are germane, so I encourage those proponents to come forward and talk to the managers immediately. The clock does start ticking as soon as this vote is completed. With that, we have a limited amount of time so we need aggressively to start addressing this, amendment by amendment, on the floor.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2845, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2845) to reform the intelligence community and intelligence and intelligence-related activities of the United States Government, and for other purposes.

Pending:

Lautenberg Amendment No. 3767, to specify that the National Intelligence Director shall serve for one or more terms of up to 5 years each.

Kyl Amendment No. 3801, to modify the privacy and civil liberties oversight.

Feinstein Amendment No. 3718, to improve the intelligence functions of the Federal Bureau of Investigation.

Stevens Amendment No. 3839, to strike section 201, relating to public disclosure of intelligence funding.

Ensign Amendment No. 3819, to require the Secretary of State to increase the number of consular officers, clarify the responsibilities and functions of consular officers, and require the Secretary of Homeland Security to increase the number of border patrol agents and customs enforcement investigators.

Reid (for Schumer) Amendment No. 3887, to amend the Foreign Intelligence Surveillance Act of 1978 to cover individuals, other than United States persons, who engage in international terrorism without affiliation with an international terrorist group.

Reid (for Schumer) Amendment No. 3888, to establish the United States Homeland Security Signal Corps to ensure proper communications between law enforcement agencies.

Reid (for Schumer) Amendment No. 3889, to establish a National Commission on the United States-Saudi Arabia Relationship.

Reid (for Schumer) Amendment No. 3890, to improve the security of hazardous materials transported by truck.

Reid (for Schumer) Amendment No. 3891, to improve rail security.

Reid (for Schumer) Amendment No. 3892, to strengthen border security.

Reid (for Schumer) Amendment No. 3893, to require inspection of cargo at ports in the United States.

Reid (for Schumer) Amendment No. 3894, to amend the Homeland Security Act of 2002 to enhance cybersecurity.

Leahy/Grassley Amendment No. 3945, to require Congressional oversight of translators employed and contracted for by the Federal Bureau of Investigation.

Reed Amendment No. 3908, to authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security.

Reid (for Corzine/Lautenberg) Amendment No. 3849, to protect human health and the environment from the release of hazardous substances by acts of terrorism.

Reid (for Lautenberg) Amendment No. 3782, to require that any Federal funds appropriated to the Department of Homeland Security for grants or other assistance be allocated based strictly on an assessment of risks and vulnerabilities.

Reid (for Lautenberg) Amendment No. 3905, to provide for maritime transportation security.

Reid (for Harkin) Amendment No. 3821, to modify the functions of the Privacy and Civil Liberties Oversight Board.

Roberts Amendment No. 3739, to ensure the sharing of intelligence information in a manner that promotes all-sources analysis and to assign responsibility for competitive analysis.

Roberts Amendment No. 3750, to clarify the responsibilities of the Directorate of Intelligence of the National Counterterrorism Center for information-sharing and intelligence analysis.

Roberts Amendment No. 3747, to provide the National Intelligence Director with flexible administrative authority with respect to the National Intelligence Authority.

Roberts Amendment No. 3742, to clarify the continuing applicability of section 504 of

the National Security Act of 1947 to the obligation and expenditure of funds appropriated for the intelligence and intelligence-related activities of the United States.

Kyl Amendment No. 3926, to amend the Immigration and Nationality Act to ensure that nonimmigrant visas are not issued to individuals with connections to terrorism or who intend to carry out terrorist activities in the United States.

Kyl Amendment No. 3881, to protect crime victims' rights.

Kyl Amendment No. 3724, to strengthen anti-terrorism investigative tools, promote information sharing, punish terrorist offenses.

Stevens Amendment No. 3827, to strike section 206, relating to information sharing.

Stevens Amendment No. 3840, to strike the fiscal and acquisition authorities of the National Intelligence Authority.

Stevens Amendment No. 3882, to propose an alternative section 141, relating to the Inspector General of the National Intelligence Authority.

Collins (for Inhofe) Amendment No. 3946 (to Amendment No. 3849), in the nature of a substitute.

Sessions Amendment No. 3928, to require aliens to make an oath prior to receiving a nonimmigrant visa.

Sessions Amendment No. 3873, to protect railroad carriers and mass transportation from terrorism.

Sessions Amendment No. 3871, to provide for enhanced Federal, State, and local enforcement of the immigration laws.

Sessions Amendment No. 3870, to make information sharing permanent under the USA PATRIOT ACT.

Warner Amendment No. 3876, to preserve certain authorities and accountability in the implementation of intelligence reform.

Collins (for Cornyn) Amendment No. 3803, to provide for enhanced criminal penalties for crimes related to alien smuggling.

Collins (for Baucus/Roberts) Modified Amendment No. 3768, to require an annual report on the allocation of funding within the Office of Foreign Assets Control of the Department of the Treasury.

Frist (for McConnell) Amendment No. 3930, to clarify that a volunteer for a federally-created citizen volunteer program and for the program's State and local affiliates is protected by the Volunteer Protection Act.

Frist (for McConnell) Amendment No. 3931, to remove civil liability barriers that discourage the donation of equipment to volunteer fire companies.

Levin Modified Amendment No. 3809, to exempt military personnel from certain personnel transfer authorities.

Levin Amendment No. 3810, to clarify the definition of National Intelligence Program.

Stevens Amendment No. 3830, to modify certain provisions relating to the Central Intelligence Agency.

Warner Amendment No. 3875, to clarify the definition of National Intelligence Program.

Warner Amendment No. 3874, to provide for the treatment of programs, projects, and activities within the Joint Military Intelligence Program and Tactical Intelligence and Related Activities programs as of the date of the enactment of the Act.

Reid (for Leahy) Amendment No. 3913, to address enforcement of certain subpoenas.

Reid (for Leahy) Amendment No. 3915, to establish criteria for placing individuals on the consolidated screening watch list of the Terrorist Screening Center.

Reid (for Leahy) Amendment No. 3916, to strengthen civil liberties protections.

Collins (for Frist) Modified Amendment No. 3895, to establish the National Counterproliferation Center within the National Intelligence Authority.

Collins (for Frist) Amendment No. 3896, to include certain additional Members of Congress among the congressional intelligence committees.

Sessions (for Grassley) Amendment No. 3850, to require the inclusion of information regarding visa revocations in the National Crime Information Center database.

Sessions (for Grassley) Amendment No. 3851, to clarify the effects of revocation of a visa.

Sessions (for Grassley) Amendment No. 3855, to combat money laundering and terrorist financing, to increase the penalties for smuggling goods into the United States.

Sessions (for Grassley) Amendment No. 3856, to establish a United States drug interdiction coordinator for Federal agencies.

Sessions/Ensign Amendment No. 3872, to amend the Immigration and Nationality Act to require fingerprints on United States passports and to require countries desiring to participate in the Visa Waiver Program to issue passports that conform to the biometric standards required for United States passports.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 9:45 a.m. having arrived, the Senate will proceed to a vote on the motion to invoke cloture.

Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 2845, Calendar No. 716, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

Bill Frist, Tom Daschle, Susan Collins, Lamar Alexander, Orrin Hatch, Lindsey Graham, John Warner, Judd Gregg, Saxby Chambliss, John Cornyn, Kay Bailey Hutchison, George Allen, Gordon Smith, Jim Talent, Norm Coleman, Ben Nighthorse Campbell, Mitch McConnell, Joseph Lieberman.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 2845, the National Intelligence Reform Act of 2004, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The yeas and nays resulted—yeas 85, nays 10, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—85

Alexander	Baucus	Bingaman
Allard	Bayh	Bond
Allen	Bennett	Boxer
Breaux	Graham (FL)	Murkowski
Brownback	Graham (SC)	Murray
Bunning	Grassley	Nelson (FL)
Campbell	Gregg	Nelson (NE)
Cantwell	Hagel	Nickles
Carper	Harkin	Pryor
Chafee	Hatch	Reed
Chambliss	Hollings	Reid
Clinton	Hutchison	Roberts
Coleman	Inhofe	Rockefeller
Collins	Jeffords	Santorum
Craig	Johnson	Sarbanes
Crapo	Kennedy	Schumer
Daschle	Kohl	Shelby
Dayton	Kyl	Smith
DeWine	Landrieu	Snowe
Dodd	Lautenberg	Specter
Dole	Leahy	Stabenow
Domenici	Lieberman	Sununu
Dorgan	Lincoln	Talent
Durbin	Lott	Thomas
Enzi	Lugar	Voinovich
Feingold	McCain	Warner
Feinstein	McConnell	Wyden
Fitzgerald	Mikulski	
Frist	Miller	

NAYS—10

Burns	Cornyn	Sessions
Byrd	Ensign	Stevens
Cochran	Inouye	
Conrad	Levin	

NOT VOTING—5

Akaka	Corzine	Kerry
Biden	Edwards	

The PRESIDING OFFICER. On this vote, the yeas are 85, the nays are 10. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative the motion is agreed to.

Ms. COLLINS. Madam President, I ask unanimous consent that it be in order to consider sequentially the Feinstein amendment, No. 3718, and the Gregg amendment, No. 3934, both as modified with changes that are at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3718, AS MODIFIED

Mrs. FEINSTEIN. Madam President, my comments are related to amendment No. 3718, as modified, which the chairman said is at the desk. I will not have to ask for the amendment to be modified. This amendment has been previously debated. I have spoken on the floor twice about it. It was set aside at my request.

The amendment clarifies the relationship of the FBI to the new national intelligence director. It ensures that national intelligence programs include the FBI's intelligence activities. I had hoped that the amendment could be disposed of yesterday, but apparently that could not happen and, thus, the amendment is before us today.

I thank Senators LIEBERMAN, COLLINS, ROBERTS, and GREGG, all of whose staff worked hard to improve the original amendment. The result is, in essence, a compromise that accomplishes our fundamental goal, which is to ensure that the intelligence functions of the Federal Bureau of Investigation are both reorganized and, secondly, effective and coordinated in the intelligence community.

The original amendment has been modified to that effect. It is my understanding that the amendment, as modified, is acceptable to both sides.

Ms. COLLINS. Madam President, I congratulate the Senator from California for her amendment. She has worked very closely with Senator LIEBERMAN and me, as well as with the Judiciary Committee and Senator GREGG.

Senator FEINSTEIN's amendment is a good one. It strengthens the bill. It underscores her commitment to making the FBI as effective as possible in the war against terrorism. I thank the Senator for her leadership, and I urge adoption of her amendment.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Madam President, I also thank the Senator from California for her persistence, both on the substance of this amendment and in the vagaries and twists and turns of the legislative process.

This is an important amendment. In some sense, it strengthens, ratifies, and makes statutory some of the very constructive changes that have been occurring at the FBI, by establishing a directorate of intelligence within the FBI that is based on the existing Office of Intelligence there.

The amendment also modifies the definition of national intelligence under the bill, in order to make clear that national intelligence programs within the FBI will be included within the national intelligence program. So there will be no more of the division between foreign and domestic, and no more of the division between the FBI and CIA, which occurred so heartbreakingly and infuriatingly before September 11. We are all going to be together in the national intelligence program under the national intelligence director, protecting the safety of the American people.

This amendment increases substantially the probability that we can deter the terrorist enemy by knowing where they are before they strike us. I thank the Senator for her leadership, and I support the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 3718), as modified, was agreed to.

Ms. COLLINS. Madam President, it is my understanding that the Senator from New Hampshire, Mr. GREGG, is on his way to the floor to speak briefly on his amendment.

While we are awaiting his arrival, 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. CHAMBLISS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 3710

Mr. CHAMBLISS. Madam President, I call up for consideration amendment No. 3710.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

Mr. REID. What was the request, Madam President?

The PRESIDING OFFICER. The Senator is seeking to call up amendment No. 3710. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. CHAMBLISS] proposes an amendment numbered 3710.

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

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

The amendment is as follows:

(Purpose: To provide for the establishment of a unified combatant command for military intelligence)

On page 153, between lines 2 and 3, insert the following:

SEC. 207. UNIFIED COMBATANT COMMAND FOR MILITARY INTELLIGENCE.

(a) IN GENERAL.—Chapter 6 of title 10, United States Code, is amended by inserting after section 167a the following new section:

"§ 167b. Unified combatant command for military intelligence

''(a) ESTABLISHMENT.—(1) With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for military intelligence (hereinafter in this section referred to as the 'military intelligence command').

''(2) The principle functions of the military intelligence command are—

''(A) to coordinate all military intelligence activities;

''(B) to develop new military intelligence collection capabilities; and

''(C) to represent the Department of Defense in the intelligence community under the National Intelligence Director.

''(b) ASSIGNMENT OF FORCES AND CIVILIAN PERSONNEL.—(1) Unless otherwise directed by the Secretary of Defense, all active and reserve military intelligence forces of the armed forces within the elements of the Department of Defense referred to in subsection (i)(2) shall be assigned to the military intelligence command.

''(2) Unless otherwise directed by the Secretary of Defense, the civilian personnel of the elements of the Department of Defense referred to in subsection (i)(2) shall be under the military intelligence command.

''(c) GRADE OF COMMANDER.—The commander of the military intelligence command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed by the President, by and with the consent of the Senate, for service in that position.

''(d) DUTIES OF COMMANDER.—Unless otherwise directed by the President or the Secretary of Defense, the commander of the military intelligence command shall—

''(1) carry out intelligence collection and analysis activities in response to requests from the National Intelligence Director; and

''(2) serve as the principle advisor to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the National Intelligence Director on all matters relating to military intelligence.

''(e) AUTHORITY OF COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the military intelligence command shall be responsible for, and shall have the authority to conduct, all affairs of the command relating to military intelligence activities.

''(2) The commander of the military intelligence command shall be responsible for, and shall have the authority to conduct, the following functions relating to military intelligence activities:

''(A) Developing strategy, doctrine, and tactics.

''(B) Preparing and submitting to the Secretary of Defense and the National Intelligence Director recommendations and budget proposals for military intelligence forces and activities.

''(C) Exercising authority, direction, and control over the expenditure of funds for personnel and activities assigned to the command.

''(D) Training military and civilian personnel assigned to or under the command.

''(E) Conducting specialized courses of instruction for military and civilian personnel assigned to or under the command.

''(F) Validating requirements.

''(G) Establishing priorities for military intelligence in harmony with national priorities established by the National Intelligence Director and approved by the President.

''(H) Ensuring the interoperability of intelligence sharing within the Department of Defense and within the intelligence community as a whole, as directed by the National Intelligence Director.

''(I) Formulating and submitting requirements to other commanders of the unified combatant commands to support military intelligence activities.

''(J) Recommending to the Secretary of Defense individuals to head the components of the command.

''(3) The commander of the military intelligence command shall be responsible for—

''(A) ensuring that the military intelligence requirements of the other unified combatant commanders are satisfied; and

''(B) responding to intelligence requirements levied by the National Intelligence Director.

''(4)(A) The commander of the military intelligence command shall be responsible for, and shall have the authority to conduct the development and acquisition of specialized technical intelligence capabilities.

''(B) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command, in carrying out the function under subparagraph (A), shall have authority to exercise the functions of the head of an agency under chapter 137 of this title.

''(f) INSPECTOR GENERAL.—The staff of the commander of the military intelligence command shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the command and such other inspector general functions as may be assigned.

''(g) BUDGET MATTERS.—(1) The commander of the military intelligence command shall, with guidance from the National Intelligence Director, prepare the annual budgets for the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities program that are presented by the Secretary of Defense to the President.

''(2) In addition to the activities of a combatant commander for which funding may be requested under section 166(b) of this title, the budget proposal for the military intelligence command shall include requests for funding for—

''(A) development and acquisition of military intelligence collection systems; and

''(B) acquisition of other material, supplies, or services that are peculiar to military intelligence activities.

''(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the military intelligence command. The regulations shall include authorization for the commander of the command to provide for operational security of military intelligence forces, civilian personnel, and activities.

''(i) IDENTIFICATION OF MILITARY INTELLIGENCE FORCES.—(1) For purposes of this section, military intelligence forces are the following:

''(A) The forces of the elements of the Department of Defense referred to in paragraph (2) that carry out military intelligence activities.

''(B) Any other forces of the armed forces that are designated as military intelligence forces by the Secretary of Defense.

''(2) The elements of the Department of Defense referred to in this paragraph are as follows:

''(A) The Defense Intelligence Agency.

''(B) The National Security Agency.

''(C) The National Geospatial-Intelligence Agency.

''(D) The National Reconnaissance Office.

''(E) Any intelligence activities or units of the military departments designated by the Secretary of Defense for purposes of this section.

''(j) MILITARY INTELLIGENCE ACTIVITIES.—For purposes of this section, military intelligence activities include each of the following insofar as it relates to military intelligence:

''(1) Intelligence collection.

''(2) Intelligence analysis.

''(3) Intelligence information management.

''(4) Intelligence workforce planning.

''(5) Such other activities as may be specified by the President or the Secretary of Defense.''.

''(k) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term 'intelligence community' means the elements of the intelligence community listed or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 167a the following new item:

''167b. Unified combatant command for military intelligence.''.

Mr. CHAMBLISS. Madam President, I call up this amendment with the intention of withdrawing it. We had discussions with the chairman of the committee, along with the ranking member. While we feel this is a significantly important amendment, we are still a ways from coming to an agreement relative to the substance of it.

Basically, in today's intelligence community, there are 15 agencies within the Federal Government that have some jurisdiction and some involvement. Eight of those 15 agencies are located within the Department of Defense. We have our three combat support agencies—the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office—all of which have been discussed very liberally within this debate. We also have the Defense Intelligence Agency, as well as every one of the four service branches with an intelligence division.

Under the current setup—and the setup that will be in place after the passage of the intelligence reform bill, as it is now on the floor—all eight of those agencies report to the Secretary of Defense and they will report in a dual capacity to the Secretary of Defense and the National Intelligence Director.

Senator NELSON, who has been a very strong cohort and cosponsor of this amendment, and I strongly believe that what we need to do to improve the effectiveness and the communication in the intelligence community relevant to the Department of Defense is to combine all eight of those intelligence agencies under one combatant commander, create a new combatant commander that is at the four-star level and require all eight of these agencies to report to that one four-star general so that the Secretary of Defense and the national intelligence director have one person to go to when it comes to the collection, analysis, and dissemination of intelligence from a Department of Defense perspective.

Having been involved in this for the last 4 years, both in my last 2 years on the House side and 2 years now on the Senate side, I know how complex the intelligence world is and how many overlaps there are between the civilian side and the Defense Department side and how absolutely necessary it is that we have an ongoing line of communication between the military and civilian departments and agencies that are involved in the collection, analysis, and dissemination of intelligence and the sharing of that information at different levels and across various agencies.

For the Secretary of Defense to have eight people report to him and for the new National Intelligence Director to have eight people report to him, when we could have one person reporting to both of those two on issues relating to military intelligence, seems almost commonsensical that we reduce those eight down to one if we are going to provide a more efficient, a more effective intelligence line of communication.

That is the substance of our amendment. While I understand there is some objection forthcoming to the inclusion of the amendment, Senator NELSON and I wanted to offer it, we want to debate it, and we want to make sure this entire body knows we are going to come back next year when we have a little different forum within which to operate to offer this amendment again as a stand-alone bill and see it to its conclusion.

I close by saying that there is some objection from the Department of Defense on amendment 3710. While they are not publicly objecting, if they were asked, they would say they would rather not have a unified combatant command for intelligence because they want to have the flexibility of doing it the way they want to do it.

Several years ago, we had a similar situation relative to the consolidation of special operations when this body took the lead and told the Department of Defense: We are going to create a new unified combatant command for special forces, or SOCOM; we are going to create a four-star commander and consolidate all special operations under SOCOM and that one combatant commander.

The Defense Department resisted that, but today they will tell you at the Pentagon that it is one of the best things we have ever done. It was this body that initiated it. Senator NELSON and I think the same thing should apply in the area of intelligence. While I will withdraw the amendment, we both wanted to stress that a unified combatant command for military intelligence will be equally important for informing the National Intelligence Director of military intelligence requirements as it will be for assigning military intelligence capabilities to assist in fulfilling the National Intelligence Director's intelligence responsibilities.

I yield to my colleague from Nebraska, Senator NELSON.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, I thank my colleague for the opportunity to join with him to support this bipartisan legislation which we will be working to get passed in January.

As my colleague said, the new command will be a functional rather than a regional command, just like the U.S. Strategic Command in my State of Nebraska, and the U.S. Special Operations Command in Florida, the U.S. Joint Forces Command in Virginia, and U.S. Transportation Command in Illinois.

As stated, the goal of this new command will be to organize the eight combat support intelligence elements within the Department of Defense under a single military commander. These elements will include bringing together what are often referred to as the alphabet agencies. Most people know them more by their initials than they do by the actual names. But it will bring together the DIA, or the Defense Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the Army, Navy, Air Force, and Marine intelligence offices. All total, these offices employ thousands with budgets in the billions.

Eighty percent of all intelligence gathered by the U.S. Government is used by our armed services, and the ability to rapidly disseminate this information, as well as share the information, often means the difference between success and failure in the field. This new combatant commander will streamline the flow of information from our combat support elements to the warfighter, an important part, an important role for this agency.

The responsibility of the military intelligence commander will include intelligence collection and analysis in response to requests from the national

intelligence director. As we know, this past week we all heard a great deal about whether it should be a NID, national intelligence director, or a NIC, whether it should be about directing or coordinating. This commander will act as the single entry point for the NID to assign military intelligence capabilities, and will strengthen the coordination of those efforts.

This will strengthen coordination between the NID and the Department of Defense because without one central contact inside DOD who can manage the military intelligence capabilities of the Department, it will be an extraordinary challenge for somebody outside DOD, such as the NID, to proficiently administer eight separate military intelligence assets.

This new command will prepare and submit to the Secretary of Defense and the NID recommendations and budget proposals for military intelligence forces and activities. Additionally, the commander will establish priorities for military intelligence that coincide with national priorities established by the NID and approved by the President. The commander will also ensure interoperability of intelligence sharing within the Department of Defense and within the intelligence community as a whole, as directed by the NID.

The commander will answer to the Chairman of the Joint Chiefs of Staff, the Secretary of Defense, and the President, and will represent the Department of Defense in the intelligence community under the NID.

I realize some of my colleagues may be asking the question whether this new position will add yet another layer to military intelligence-gathering agencies, but consider the fact that no military coordinator currently exists. So I do not see this as another layer; I view it as a necessary position that DOD has been far too long without.

Perhaps if the commander for military intelligence already existed, then discovering how command was severed at Abu Ghraib might have been easier. The tragedy there likely would not have been prevented entirely, but there certainly would have been more direct lines of accountability with a combatant commander for military intelligence.

This is an opportunity for us to debate the issue at this time, but the opportunity to pass it after the first of the year will be one that I think we must, in fact, take up. It will improve coordination and will not undermine the direction of the national intelligence director, but it will, in fact, help harmonize in the sharing of intelligence throughout the entire military and intelligence community.

I thank my colleague from Georgia for the opportunity to participate, and I congratulate the chairman of the committee and the ranking member for doing an outstanding job in reforming our intelligence-gathering agencies' operations.

It is not an easy task. We think this could be a part of it, but rather than have any effect in slowing down the operation of what we are doing today, we think we can take this up at another time.

Mr. CHAMBLISS. I thank the Senator from Nebraska for his always keen insight into the problem that exists and why this amendment would help with the solution to that problem. I look forward to continuing to work with him when we get back in the next session of Congress.

I also thank the chairman for her effort to try to figure out some compromise relevant to this particular issue. Senator COLLINS and Senator LIEBERMAN have been very cooperative, and it is not for a lack of effort on their part that we are not able to come to some compromise on this issue, but we look forward to continuing the dialogue and working with them.

I yield the floor.

AMENDMENT NO. 3710 WITHDRAWN

I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The Senator from Maine.

Ms. COLLINS. Madam President, I thank the Senator from Georgia and the Senator from Nebraska for their contributions to this debate. They have raised an important issue. It is, as they have recognized, a difficult and controversial issue, and I am very grateful to both of them for being willing to raise the issue but not press forward with their amendment at this time. I look forward to continuing to work with both of them. Both of them are leaders in military and intelligence matters, and I very much respect their judgment and their knowledge.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I join Senator COLLINS in thanking our colleagues from Georgia and Nebraska for a very thoughtful and substantial idea that is not going to be possible to act on in this bill, but I thank them for the question they have raised. I think they are heading in the right direction, and I look forward to working with them.

We have two choices. The four of us could work together on the Armed Services Committee or we could continue to work through the Governmental Affairs Committee, but in either case, as Senator COLLINS has said, Senator CHAMBLISS and Senator BEN NELSON are leaders in the Senate on matters of national security and just in the best tradition of our Government and our Congress, which is not always honored, moving in a totally bipartisan, nonpartisan way. I thank them for that and look forward to seeing this to fruition someday soon.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 3934, AS MODIFIED

Ms. COLLINS. Madam President, I ask unanimous consent that we now turn to Gregg amendment No. 3934, as modified.

The PRESIDING OFFICER. The amendment is pending.

The amendment, as modified, is as follows:

AMENDMENT NO. 3934, AS MODIFIED

On page 121, line 13, strike ''and analysts'' and insert '', analysts, and related personnel''.

On page 121, line 17, strike ''and analysts'' and insert '', analysts, and related personnel''.

On page 121, line 19, strike ''and analysts'' and insert '', analysts, and related personnel''.

On page 123, beginning on line 8, strike '', in consultation with the Director of the Office of Management and Budget, modify the'' and insert ''establish a''.

On page 123, line 11, strike ''in order to organize the budget according to'' and insert ''to reflect''.

Ms. COLLINS. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, without objection, the amendment is agreed to.

The amendment (No. 3934), as modified, was agreed to.

Ms. COLLINS. 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.

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

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

AMENDMENT NO. 3933

Ms. CANTWELL. Madam President, I rise to thank the managers of this bill for their hard work and perseverance in trying to get the recommendations of the 9/11 Commission passed and their accommodation of many Members with various amendments. Obviously they have been working long before this time period, through the August recess and since we have come back, and now we are pushing towards the final stages.

I thank the managers of the bill for including a provision in the bill, a Cantwell-Sessions amendment dealing with the Visa Waiver Program and closing a loophole that I call the Ressam loophole. That is a loophole that allowed a terrorist to go from Algiers to France to Canada and then load up his car with explosives and head to the U.S.-Canadian border at the State of Washington with plans to set off those explosives, potentially, at LAX Airport or perhaps somewhere along the way of the west corridor.

What the amendment did was to basically say to those who are our partner countries that the United States wants to make sure that people coming into our country on visas meet certain biometric standards so we know who people are. If we actually knew Mr. Ressam's true identity when he left France to go to Canada, he would have been stopped at the Canadian border. He could have been stopped earlier in the process if we actually knew who this individual was.

So what this Cantwell-Sessions amendment did, and, again, I thank the managers for adding it, was to help us identify the types of technologies that we hope our partner visa waiver countries also adopt for their biometrics on visas allowing people into their country.

To put it simply, our borders will only be as strong as our partner countries' and as they adopt standards. The last thing we want to do in the United States is to have a process by which we are more sure of people we are giving visas to, only to have, then, individuals who are looking for ways to get access to the United States to go to Mexico or Canada or France or Germany and then find their way to easy entry into the United States by creating a new identity.

The estimates are that there are millions of passports that have been lost or stolen and that individuals easily create new identities. But if our partner countries in the Visa Waiver Program, such as Mexico, France, Germany, also create biometric on their visas for people coming into their countries, we will have a safer process of understanding and stopping terrorists at their point of origin as opposed to continuing to allow them to travel around the globe, creating new identities or possibly getting easy access to our neighboring countries and then easily sneaking across U.S. borders.

I thank the managers for their hard work and diligence on this issue and for working to accommodate so many Members on what are very challenging issues. We have done great work on making our borders more secure since 9/11. We have put resources there. We have tightened our programs. We have worked on the US VISIT implementation. But we need to continue to understand that our security will only be as good as the security of our partner nations, working in this battle to fight terrorism around the globe. I very much appreciate the managers being included in that.

If I could say, I am also pleased that the conference report on the JOBS bill is moving. It seems to be progressing. While we are working to finish up this 9/11 report and finish up the legislation that implements it, I am hopeful we will be successful in passing the FSC/ETI conference report before we leave for this recess that is scheduled for this Friday. That is very important legislation to help companies that want a level playing field on the trade front, helping large companies in my State or exporters such as Boeing and Microsoft—there are many more—to get a level playing field.

There is also tax fairness in this JOBS bill for Washingtonians and seven other States that have not been able to deduct their sales tax from the Federal income tax. I am glad to see that recision is in the bill. I hope we can move forward this week to give the fairness back to those States that have been unjustly penalized on that for about the last 18 years. While this 9/11 legislation is moving through, I hope we are also successful in moving the JOBS bill through and that we can continue to work diligently on that process.

As I see no other Members who are ready to offer amendments, I will say one more word of thanks to the incredibly hard work that is going on in the State of Washington by the U.S. Geological Survey. Many people realize that there is an imminent eruption of Mount St. Helens about to take place. We have seen the ash and steam of several smaller events occur in the last several days. But because of the investment this country has made in the Department Interior and the U.S. Geological Survey, we have so much more information at hand today.

In 1980, we heard the final cry of a U.S. Geological Survey worker who said, ''Vancouver, Vancouver, this is it.'' Then he ended up losing his life to the explosion, as did 57 other residents of the Northwest. The impact of that volcanic explosion was so significant it impacted various cities such as Yakima and Vancouver.

Today, because seismologists, geologists, meteorologists, and vulcanologists also have been working together, we have much more data and we have been able to advise the larger community on the hazards we are facing with another eruption of Mount St. Helens. I thank the men and women who are doing terrific work in informing all of us so we can make great plans, so that aviation, transportation, and the health and security of the emergency management system can do their jobs, because we have good science and information.

I thank the managers of this bill for their hard work and perseverance on an issue that many times during this debate didn't seem to be very decisive, as Members have many different ideas about how we approach terrorism and what our country needs to do to harden our targets and to improve our intelligence operation. But I want to thank the diligence of these Members because they are doing the work to understand the details of this legislation. They have been doing that work for the summer while we were out on recess, and what they did is work to understand these amendments in detail. I appreciate their adoption of the Cantwell-Sessions amendment, which I do believe will help us not only make U.S. borders more secure but make our partner countries' borders more secure and stop terrorism at the point of origin. I thank the managers for their help and support for the passage of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, let me thank the Senator from Washington for her kind words about Senator COLLINS and me, but really much more than that, for having an excellent idea here which will measurably increase the security of the American people.

Our borders are more secure than they were on September 10, 2001, but they are not secure enough. We don't want to discourage people from coming to the United States for business or pleasure, but to protect ourselves we have to ask not only of ourselves but of other countries that they begin to use the technology available to identify those who are coming to our country, not for business or pleasure but to do us harm. This amendment will move us forward on that.

Senator CANTWELL has been—I think I heard her use the word ''perseverance'' with regard to the chairman and myself. She has been the model of perseverance because she really believes in this. In the twists and turns of the legislative process where individuals can register objections, the Senator from Washington was here late last night and early this morning. The result is that ultimately all the objections faded away because this is a great idea. It was adopted.

I thank her very much and look forward to monitoring the implementation of this as we go forward.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

MINNESOTA TWINS

Mr. DASCHLE. Mr. President, I will have more remarks on another matter, but I wanted to start this morning by acknowledging yet another remarkable year by the Minnesota Twins.

Tonight, the Twins will be playing in the Major League Baseball playoffs, and this marks the third year in a row that the Twins have made the playoffs.

We follow the Twins in South Dakota because we have no team ourselves in the eastern part of the State. So the Twins have become very special to many South Dakotans as well.

I might remind my colleagues that this is the same small market Minnesota Twins team that was threatened not long ago with ''contraction''—a euphemism cooked up by big city owners for shutting down a team that generations of South Dakotans have come to call their own.

Tonight the Twins will face off against the New York Yankees, whose huge payroll ensures that it is never a surprise when they make it to the playoffs.

The Twins will pitch their ace, YOhan Santana—who also happens to be a leading contender for the Cy Young award. His dominance is in many ways a symbol of what has made the Twins so solid.

After being cast off by another team, he was brought up in the Twins system,

which rewards dedication and loyalty. And like so many of the Twins stars, he is a hard worker who leaves everything on the field.

It is no mistake that the Twins' strengths—dedication, loyalty and hard work—are the same traits that have made the Midwest strong.

So let me add my voice to those of thousands of Twins fans across South Dakota and Minnesota in saying to Grady and his boys, good luck. You have made us proud, and we know you will continue to do so in the days ahead.

HIGHER EDUCATION

Mr. DASCHLE. Mr. President, Congress, unfortunately, is going to miss many important deadlines this year and many critical opportunities to help relieve the increasing economic squeeze on America's families. This morning, I would like to talk about one of those missed opportunities, which is helping families pay for college.

We knew for 6 years that the Federal Higher Education Act would expire on September 30. Despite that, the majority failed to set aside time to reauthorize the law.

That leaves the Senate in the unfortunate position of having to simply extend the current law—with no improvements, and no additional help for the millions of middle-class families in South Dakota and across America who are struggling to put their sons and daughters through college.

Kim and Todd Dougherty are two of those parents. They live in Chamberlain, SD. They have three children: two sons, ages 20 and 22, and a daughter who is a junior in high school. Todd is a salesman. Kim teaches second graders at a tribal school. Both of her parents were teachers, too. This is a family that believes in education.

The Dougherty's older son, Scott, started college at a small college in Minnesota 4 years ago but left after two semesters because of frustration with a learning disability and came home to consider other schools and options.

Shortly after he returned home, Scott tore the ACL ligament in his knee. Unfortunately, he had let his health insurance lapse because he couldn't pay his tuition and insurance premiums at the same time. His knee surgery cost him $12,000. After his surgery, he had to start paying back his student loans.

Today, Scott works as a cook in a restaurant. He pays $409 each month towards his medical and student loan debts, and another $200 a month for health insurance. That leaves him $75 a month for everything else. He can't go back to college until he pays off a sizable portion of his debts, and he worries that he can't get a better-paying job because he has so much debt.

All across America, there are tens of thousands of families who are in situations similar to the Doughertys'—or soon could be.

They are hard-working, middle-class families in which parents have saved for years to pay for their children's college educations. There is no margin for error in their family budgets. If one thing goes wrong—if a parent loses a job unexpectedly, or someone in the family has a serious illness or accident—the debts start to pile up and suddenly, college starts to feel unattainable. Middle-class parents watch their dreams for their children's future start to slip away.

We need to do right by these families, and that means keeping the doors of college open to all Americans, no matter what their family's economic circumstances.

Unfortunately, we are moving in the opposite direction. This year, nearly a half-million Americans will be turned away from colleges strictly for financial reasons. They can do the work, they just can't afford the tuition.

Since President Bush took office, the average tuition at a 4-year public college has increased 28 percent; when this year's increases are released in about a month, that number is likely to climb to well over 30 percent.

College costs are rising faster than inflation—faster than average family incomes—and much faster than increases in student financial aid.

Every 2 years, a non-partisan group called the National Center for Public Policy and Higher Education releases State-by-State report cards on higher education. The report cards grade each State on six different criteria. One is affordability: How large a share of their income do families have to pay for college at a public 4-year college or university?

Their latest report, released in early September, ought to concern us all. Thirty-seven States—including South Dakota—got an ''F'' for affordability. Thirty-seven of 50 States. Ten additional States received ''Ds,'' two States got ''Cs,'' and one State received a ''B.''

No State earned an ''A.'' Even in the best-performing States, we are losing ground; college is less affordable today than it was a decade ago. This is a serious national problem.

What is the response from the administration and congressional Republicans? Silence. They failed to bring the Higher Education Act up for reauthorization.

Their oversized tax cuts have eaten up Federal resources that we could otherwise invest in higher education, and in basic research and investment.

The President's proposed budget for next year provides no new money for the Perkins low-interest loan program, no new money for the College Work Study program, and the Supplemental Educational Opportunity Grants, and no money at all for the LEAP program—all of which help lower-income students pay for college.

Despite the President's campaign promise in 2000 to increase the maximum Pell grant, his proposed budget for next year freezes Pell grants for the third year in a row.

Even worse, the administration is once again proposing changes to the eligibility rules that would reduce Pell grants by 270 million overall and cause 84,000 families to lose their Pell grants altogether.

I joined a bipartisan coalition of Senators to protect students and families from these unwise changes last year—and we are determined to prevent these cuts again this year. Making it even harder for the sons and daughters of America's working families to afford college is the wrong direction for America.

The repeated attempts to cut Pell grants are part of a pattern by this administration and the Republican leadership in this Congress to deny educational opportunities.

Earlier this year, Democrats made a simple proposal: Let's help those Americans whose jobs are being shipped to China or India attend a community college, where they can learn new skills to get new jobs. The administration said, flatly, ''no'' and shut the doors of college in the faces of these Americans.

But we want to do right by America.

We support increasing the maximum Pell grant from $4,050 to $5,100—the amount candidate Bush called for in 2000 but has never supported as President.

We support doubling the HOPE Scholarship tax credit from $1,500 per student to 3,000 per student, extending the deductibility of tuition expenses, and making the education tax credits refundable for the poorest families. We support Senator KERRY'S proposed $4,000-a-year ''College Opportunity Tax Credit'' which would be refundable for low-income families.

Instead of the cuts the President proposes for tribal colleges and the minuscule increases he recommends for historically black colleges and universities, and Hispanic serving institutions, we support significantly increasing support for these minority-serving institutions because we believe diversity strengthens our democracy and our economy.

We believe in expanding the use of loan-forgiveness programs to reduce student debt while addressing crucial needs, such as placing doctors and teachers in rural communities and inner cities.

We believe our brave National Guard and Reserve members in Iraq and Afghanistan who are facing the same bullets as full-time military members deserve the same education benefits. The National Guard Bill of Rights provides that educational equity. We should pass an entire National Guard Bill of Rights this year.

Over the course of a career, a person with a 2-year college degree will earn an average of $400,000 more than a high school graduate. Someone with a 4-year degree will earn $1 million more.

It is not just individuals who benefit when we open the doors of college to

the sons and daughters of working families. America's economic future depends on our ability to develop the potential of all of our people.

A while back I read a story in the New York Times. The headline read, ''U.S. Is Losing Its Dominance in the Sciences.''

The story said:

> The United States has started to lose its worldwide dominance in critical areas of science and innovation, according to federal and private experts who point to strong evidence like prizes awarded to Americans and the number of papers in major professional journals.

Unless we reverse this decline and regain America's scientific and technological knowledge, our children will grow up in a less productive, less prosperous America.

Keeping college affordable is a very personal issue for me. I was the first person in my family to go to college. I worked to pay for part of my tuition, and I also had help from my parents. My mother went back to work when I was in high school to help pay for my college education. Even with all of us pitching in, it was still not quite enough. As so many others today, I joined the ROTC program and I spent 3 years in the Air Force after I graduated to pay back my loans.

I know what a difference it makes when America invests in the children of regular working people. I also know the pride a parent feels watching his child receive a college degree. I have seen all three of my own children graduate from college.

We believe every American deserves those same opportunities. We will continue to fight for them as we resolve these matters in the Senate and elsewhere throughout our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I commend and thank the chairman of the committee, the Senator from Maine, and the ranking member, the Senator from Connecticut, because they have already approved and passed last evening an amendment I had offered which will be very helpful as we try to meet this threat of terrorism.

Indeed, we have a watch list. Recent news stories say the watch list is not necessarily being implemented as it should by the Department of Homeland Security. Nevertheless, we try. That watch list has been specifically targeted to commercial aviation.

The watch list needs to be expanded because there is plenty of opportunity of mischief, as I have said in this Chamber many times, with regard to the securing of our seawater ports and, specifically, in addition to cargo, the cruise ship industry and the thousands of people who vacation on a cruise ship.

This is particularly important to my State of Florida because we have the three largest cruise ports in the world: the Port of Miami, Port Canavaral, and Port Everglades, all on the east coast of Florida and all of which have these gigantic cruise ships that sail to the great delight of the passengers. These are cruises that are sometimes only a day but usually they are 4 to 7 days in duration. It is certainly a place for a wonderful vacation for people to cruise to the Bahamas in the midst of this floating hotel, a cruise ship.

Because there are several thousand people located in one place and they are treated as passengers on an airline, checking their baggage and their persons for all kinds of weapons and other destructive materials, is it not logical that the watch list for avowed terrorists, given to commercial airline companies and to TSA, should not be administered by TSA as they check the baggage of people on cruise ships? The answer to that is common sense. Yes, it should be.

Because of the very professional manner in which the Chair and her ranking member of this committee have handled this legislation, they understood that and they have agreed to the amendment. They were very kind to pass the amendment last night. I cannot imagine this would become an issue in the conference committee.

I give credit where credit is due, to the cruise industry. The cruise industry recognizes the possibility for mischief. It makes sense. I thank the cruise industry for stepping up.

I am compelled to speak about two more matters not directly related to this but which are very timely in the consideration of the Senate.

Did the Senator from Maine have a question?

Ms. COLLINS. Would the Senator be willing to yield for two quick unanimous consent requests?

Mr. NELSON of Florida. It is the absolute least I can do for the gracious Senator from Maine who recognized the common sense of this amendment. She, along with Senator LIEBERMAN, have made it possible to be accepted.

I certainly yield.

Ms. COLLINS. I thank the Senator for his cooperation and his amendment.

Mr. President, I ask unanimous consent that the Senate stand in recess from 12:30 to 2:15 today to accommodate the weekly party luncheons and that the time in recess be counted against the postcloture period.

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

Ms. COLLINS. I thank the Senator from Florida.

HURRICANE CLEANUP

Mr. NELSON of Florida. Mr. President, I thank the leaders for the tremendous job they have done in handling this legislation. Anyone who can pass legislation in such a contentious atmosphere has to be Merlin, the Magician. My hat is off to the Senator from Maine and the Senator from Connecticut.

Two other very timely topics, timely in the sense of an emergency, after having been hit by four hurricanes in Florida, with the tremendous debris that is left over, part of the moneys we have passed here for FEMA is for debris cleanup of which FEMA then reimburses the local governments that go out and, either with their own crews or by contracting out, arrange for the removal of debris. This is not only clearly getting one's life back in order but it is also a health question, a safety question.

I was going through some of this debris on Sunday at a mobile home park for senior citizens called Palm Bay Estates in my home county of Broward. All of the aluminum, particularly on carports, was whipped up and twisted by the wind and now is in piles, with razor-sharp edges. So it is a safety as well as a health question. The debris accumulates in canals, in waters, in estuaries, particularly if it is of an organic nature. Then it starts to become a health hazard as well. We simply need to have it picked up.

But that is not the question. FEMA is taking the position that they are not going to reimburse the local government unless it is picked up from a public right-of-way. Yet FEMA has the authority, if it involves the health and safety of the people, to allow the repayment for the pickup from private rights-of-way.

Why is that important in Florida? Because we have huge senior citizen complexes with thousands of senior citizens. But they are not public rights-of-way, they are private rights-of-way. That debris has to be picked up for health and safety reasons. Yet who is going to pay for it? FEMA has the authority to do that. Since the local governments are not going to be able to bear the cost of all that pickup, especially after four hurricanes, the only other alternative is to assess the residents of that area for the pickup.

Senior citizens on fixed income cannot afford that. FEMA has it under its authority, but FEMA is not doing it. We want to give them a little encouragement.

I have spoken to the chairman of the Homeland Security Appropriations Subcommittee. That bill is now in conference with the House. I have suggested some language that will give FEMA some help to recognize that this is in the public interest, particularly in the State of Florida, after four hurricanes, and that they should be so directed. I am hopeful the conferees will accept that language.

VOTER REGISTRATION IN FLORIDA

Mr. NELSON of Florida. Mr. President, the last item I want to talk about is of grave concern. Yesterday was the final day for voter registration in the State of Florida. As one can imagine, there were huge lines at all of the registration points in Florida's 67 counties. But there is a subtle administrative order that could be directing extreme mischief in denying people the right to vote; for a directive, according to the supervisor of elections in one of our counties—specifically in Volusia—has come out from the secretary of

State's office, division of elections, in the capital city of Tallahassee, that says if any piece of information on this Florida voter registration form is missing, this voter registration is to be treated as null and void.

Why am I concerned about that? Because they specifically say in the directive that if the box on line 2 that states, ''Are you a U.S. citizen?'' is not checked yes, they are to discard it, when in fact the oath that is signed specifically states, ''I do solemnly swear or affirm that I am a U.S. citizen. I am a legal resident of Florida.'' And the voter registration applicant signs that form.

This is a clear intent—hopefully, not an intent—it is a clear manifestation of disenfranchising people, of not allowing them the right to vote, if on a technicality, because on line 2 they have not checked the box of being a U.S. citizen, but on line 17 have sworn under oath that they are a U.S. citizen, they are saying that they are going to discount the voter's registration application.

I hope we don't have to go to court again. I hope we don't have to do what CNN did, go to court to strike down a law that said they were going to strike 48,000 convicted felons but would not release that to the public so that the public could see if those names were accurate. And lo and behold, when the Miami Herald got hold of the list, they found over 2,000 who were legitimate registered voters and not convicted felons.

Why do we have to keep going back to the courts to enforce this when what is at stake is the right of people to vote, which is absolutely a part of the constitutional foundation of this country?

The people should have the confidence and the knowledge that if they are eligible, they will be able to register and then, if registered to vote, that they will have the right to vote and to have that vote counted as they intended.

We are only about 4 weeks away from an election. I don't want to see a repeat in Florida of what happened 4 years ago when there was so much dissension and uncertainty. The whole electoral process has to work. It is important that it works for the sake of our democracy. A good place for us to start is for the secretary of State's office, the division of elections of the State of Florida, to stop issuing such edicts and directives to the election supervisors in Florida's 67 counties that would cause a voter trying to register to be thrown out on a silly omission, which is covered by their solemn oath.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 3739 AND 3750, WITHDRAWN

Ms. COLLINS. Mr. President, I ask unanimous consent that amendments Nos. 3739 and 3750 be withdrawn. These are amendments that had been offered by Senator ROBERTS previously. He has asked that I withdraw them on his behalf.

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

Ms. COLLINS. 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.

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

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

POINTS OF ORDER, EN BLOC

Ms. COLLINS. Mr. President, I ask unanimous consent that it now be in order to raise points of order, en bloc against the following amendments in that they are not germane under the provisions of rule XXII. They are the following amendments: 3887, 3888, 3889, 3890, 3891, 3892, 3893, 3894, 3808, 3849, 3782, 3905, 3747, 3881, 3724, 3928, 3873, 3871, 3870, 3803, 3930, 3931, 3874, 3850, 3851, 3855, 3856, 3872, 3926, and 3819.

The PRESIDING OFFICER. Is there objection to raising the points of order?

Without objection, it is so ordered.

Ms. COLLINS. I announce that this will allow us to officially consider the remaining germane amendments. The nongermane amendments, as determined last week, will fall under this order. We will continue to work through the pending amendments that remain at the desk as we move toward completing this bill.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I have no objection. I want to ask Senator COLLINS, through you, my staff thought the Senator from Maine may have inadvertently read 3908 as 3808. Just to clarify, it is 3908.

Ms. COLLINS. Mr. President, I would not be surprised.

Mr. LIEBERMAN. Their ears are much better than mine.

Ms. COLLINS. I ask unanimous consent that the list be corrected to indicate the correct number is 3908.

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

The Chair sustains the points of order, en bloc. The amendments fall.

Ms. COLLINS. Thank you, 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. LAUTENBERG. 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. LAUTENBERG. Mr. President, I ask unanimous consent I be able to speak for up to 15 minutes as in morning business.

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

IRAQ

Mr. LAUTENBERG. Mr. President, I want to discuss the situation in Iraq.

Every day we see the terrible news about innocent Iraqis being killed, about the terrible tension in the country, about our young people being attacked and killed and, frankly, the mess we are witnessing, which is painful to see.

It came home today in a stark recitation, in a statement by Paul Bremer.

Paul Bremer was sent to Iraq to be in charge of the transition as we tried to go from the culmination of what appeared to be the end of the violence until we got to a government that was going to be run by Iraqis on an interim basis and the vote coming up in January. But what we heard from Mr. Bremer was painful to hear, and it has to be particularly painful to President Bush and his administration. What he said was there were not enough troops to do their job. We believed that from the beginning. General Shinseki said it, and he was overruled by the Pentagon and by the Defense Secretary. He was fired for saying: We need more troops to do the job, Mr. President.

People across the country understand that we need more people. Over 300,000 I believe was the number he used. He now says that and the failure to immediately stop the looting, stop the violence, and stop the response from those who would commit violence on the country were part of the reasons we are in this terrible situation we are in.

Last week, we finally had a chance to hear what President Bush's plans for Iraq were. And this is the image of what we got. It is blank. It says nothing. There is no plan.

Last Thursday, we heard repetition from President Bush, the same tired slogans we have heard for almost 2 years now, no plan was articulated, no new ideas, nothing, just the same as we see on this placard. President Bush basically said that we are going to get more of the same in Iraq. What a terrible condition that is. Iraq has become an absolute crisis, and there is no plan to fix the situation.

When the President asked Senator JOHN KERRY what his plan is, it adds insult to injury. He has a plan. He talked about his plan. But the President has offered nothing on his side and challenges JOHN KERRY to have a plan, and JOHN KERRY presents a plan and the President doesn't show any. The President is showing a stubbornness. He calls it ''staying the course.'' It is a stubbornness that is costing American lives, the lives of our young people, the lives of our soldiers, and the lives of American workers in Iraq.

We need a dramatic change in direction. Everything that was assumed to be in order was wrong. They were

wrong about the weapons of mass destruction, and they were wrong about how our troops would be greeted on the streets of Iraq. Certainly, as I said earlier, they were wrong about how many troops we needed to secure the country. They were wrong about the reaction of the Shiites. They were wrong about how long the conflict would last and the toll it would take on Americans lives.

The President and his team have just about done it wrong. The President's worst adviser in terms of being wrong on almost everything is Vice President CHENEY.

At the outset of the war in March of 2003, Vice President CHENEY declared:

> We will, in fact, be greeted as liberators.

In fact, be greeted as liberators? In fact? I don't think so.

But maybe the reason Vice President CHENEY kept getting things wrong on the war is he has not ever seen it. He has never worn a uniform, and he was never on a battlefield. In fact, when duty called, Vice President CHENEY turned his back on the call while many answered the call to serve. DICK CHENEY took five student deferments in order to avoid service in Vietnam.

He wasn't, however, the only member of the Bush team who kept getting it wrong. I want to review some of the quotes of President Bush's top advisers. One is by Secretary Donald Rumsfeld. He said on February 7, 2003:

> It is unknowable how long that conflict will last. It could last 6 days, 6 weeks, I doubt 6 months.

It is one thing to be wrong one time but you try to correct the situation.

Here is what Deputy Defense Secretary Paul Wolfowitz said:

> We know that there are ties between the Iraqi regime and a whole range of terrorist groups, including al-Qaida, and we know that Saddam has these weapons.

Again, what kind of a statement is that? It doesn't tell us anything except that we are wrong.

When we look at other statements that have been made, on March 30, 2003, Defense Secretary Rumsfeld said:

> The area in the south and the west and the north that coalition forces control is substantial. It happens not to be the area where weapons of mass destruction were dispersed. We know where they were. They're in the area around Tikrit, and Baghdad and east, west, south and north somewhat.

Each one of these statements indicates a lack of knowledge and a lack of understanding as to what was going to happen when this war was concluded. It has not been concluded.

When we look at the cost of the war, as of today, 1,058 our troops have died, some 7,000 injured, many with terrible injuries that will handicap them all of their lives.

We need to change course. We don't need more of the same. Senator KERRY, our colleague, is offering a new direction, and that is what we need. We need to stop bearing the entire burden of Iraq. We are taking 90 percent of the casualties, and the American taxpayers have shelled out almost $200 billion for Iraq. It is not right. It is not fair to the American taxpayers. It is certainly not fair to the families whose young sons and daughters are in service over there. Senator KERRY prepared a plan for a new direction in Iraq, a direction that will bring other countries to the table.

President Bush makes reference to Poland helping us in Iraq. He was almost obsessed with Poland during the debate.

What are the facts? Poland has 2,500 troops in Iraq, and they announced just this week they are getting out. They will have all of their troops pulled out sometime next year. Thailand wants to take its troops out—I think they have some 400 people there.

Again, under the administration's war plan, we are left with even more of the burden, and we are left with almost all of the costs both in terms of our soldiers' lives and American taxpayer dollars. All that has been accomplished in the last 2 years is we have alienated critical allies, and we are paying the price for that.

A big part of the problem is that the President refuses to accept reality.

Last week in a television interview President Bush was asked whether he regrets the moment on the aircraft carrier on May 21st in 2003, the infamous ''Mission accomplished'' speech. Incredibly, President Bush said he would do it all over again. In fact, in response to that question, would he have done it, he said he would ''absolutely'' do it again. He went on to say, ''You bet I'd do it again.''

It is incredible. He made that speech approximately a year and a half ago, saying, ''Mission accomplished.'' That meant it was over, that we would not have to worry about things.

Instead, we have lost over 800 people, four or five times the number killed during what was considered the active part of the war. We are moving to the delusional. The President does not regret telling our Nation's military families ''Mission accomplished''? He does not regret giving families false hope that major combat operations had ended?

We are now facing the biggest fallout of reservists ever in the State of New Jersey. There are pictures in the paper of men and women, saying they are scared; they are worried. Their families are frightened. Their kids are scared. Their spouses are scared. They know darn well it is dangerous over there.

Does the President regret taunting the terrorists and insurgents when he said ''Bring 'em on''? I'm sure the men and women on the ground in Iraq wish he had never said those words.

When I was wearing a uniform a long time ago, during World War II in Europe, I never wanted to see the enemy. I never wanted to see anyone who was hostile.

It was the wrong thing to say. I hope one day we will be able to face up to the truth that these were terrible statements.

More recently, President Bush told the world that the war on terror could not be won, but a couple days later he said, no, no, we will win. When the President was asked about a CIA report and the material he was looking at on intelligence, he said he dismisses the CIA report as just guessing when they told him the situation in Iraq was bad and could get much worse. Just guessing? The arm of our intelligence corps that is supposed to have the latest and the fullest data, and they are just guessing?

We need someone to take the bad news seriously, a President who will react to it and fix the situation. So far, President Bush simply ignored the bad news. I guess he hopes it goes away.

Unfortunately, he is inflexible on one simple point. He would repeat every one of the mistakes he has made over the last few years. The plan to go to war without a real alliance in place, he would do again. The decision to ignore the advice from General Shinseki that 300,000 troops would be needed, he would ignore the general's advice again. The argument that Saddam had weapons of mass destruction to reconstitute a nuclear programs, links to al-Qaida, he would make all of those arguments again.

All of this while ignoring, for all practical purposes, North Korea, Iran, countries that are actually developing nuclear weapons, while taking some of the attention away from the pursuit of Osama bin Laden who killed 3,000 Americans.

Not only does the President like to stick with bad ideas but there are flip-flops when someone else suggested good ideas, often resisting and then supporting. One flip was the Department of Homeland support. President Bush strongly opposed creating it in March 2002. His spokesman said a Homeland Security Department ''doesn't solve anything.'' Then flopping 3 months later, the President said he did want a Homeland Security Department.

President George Bush opposed creation of the 9/11 Commission. In April of 2002, President Bush said he was against the creation of the 9/11 Commission. He flopped after that as a result of increased political pressure. The President said he does support creating the 9/11 Commission in September of the same year. In April, no; In September, yes. It goes on and on.

Then the President, in response to an inquiry about Osama bin Laden, which in September of 2001 President Bush said he wanted Osama bin Laden dead or alive. In March of 2002, President Bush said, I don't know where he is; I truly am not that concerned about him.

Not concerned? He murdered 3,000 Americans, 700 of my constituents in New Jersey. A terrible comment.

What we have seen shows we are on a very bad track right now. In fairness to the American people, families, those who are serving, we ought to come forward with a statement about what we

intend to do. How much longer will we have to have people in harm's way? How are we going to get the troops that it is suggested are needed—30,000 or 40,000? Where will they come from? Is there an intention to initiate a draft? I don't know where we are going to get the soldiers and other service people to fill these obligations.

I know one thing. Every day we read about another American serviceperson being killed or American civilians being captured or beheaded, it tells everyone in the country we are on the wrong path and we have to make a change.

I hope President Bush, even in this interim period, can see the necessity to come forward to the American people and say, look, we made some errors; we are going to correct them. We are going to get more people in there, but we are going to end this conflict by that time so we can start to bring our people home. There is no encouragement out there to believe that.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 p.m, with time to run against cloture.

Thereupon, the Senate, at 12:28, recessed until 2:16 p.m., and reassembled when called to order by the Presiding Officer (Mr. SUNUNU).

The PRESIDING OFFICER. In my capacity as a Senator from the State of New Hampshire, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NATIONAL INTELLIGENCE REFORM ACT OF 2004—Continued

Ms. MIKULSKI. Mr. President, I want to take this opportunity as the Senate resumes this afternoon's debate to rise in very strong support of the National Intelligence Reform Act of 2004.

I am proud to join with Senator COLLINS and Senator JOE LIEBERMAN as a cosponsor of this bill. It is an excellent bill, and I want to support my two colleagues, Senators COLLINS and LIEBERMAN, for working so hard and to go at it in a way that is not only bipartisan but nonpartisan following the recommendations of the 9/11 Commission.

I am excited about this bill because I think it reforms our intelligence to be able to make sure that we prevent any more 9/11s affecting the United States; that we reform the intelligence so that we never go to war again on dubious information; that we make the highest and best use of the talent in our intelligence agencies, and that they have the framework to be able to protect the Nation, as well as be able to speak truth to power.

Mr. President, I am no stranger to reform. I am on the Intelligence Committee. I came on the committee before 9/11 to be an advocate for reform, particularly in the area of signals intelligence. As I worked on the committee and served on the joint inquiry about what occurred on 9/11, I became deeply committed to other issues related to reform: to have a national intelligence director, to create an inspector general, to mandate alternative or red team analysis, to always make sure that we policymakers have the best information, and that our troops and our homeland security officials get the best intelligence they need to be able to protect the Nation.

Following the 9/11 Commission report, but also with the wonderful work of Senators COLLINS and LIEBERMAN, we now have intelligence legislation that will give us a single empowered leader for our intelligence community, a strong inspector general, and a definite alternative analysis to make sure that all views are heard.

This reform is broad, deep, and also authentic. I think that is what the Nation wants of us.

Mr. President, 3,000 people died on September 11. They died at the World Trade Center, they died at the Pentagon, and they died on a field in Pennsylvania. At least 60 Marylanders died. We remember that they came from all walks of life. We must remember those we lost that day. The way we honor their memory is to take actions to do everything we can to prevent it from ever happening again. That is what the families have asked us to do. That is what the Nation has asked us to do. I am so pleased that we will act on this legislation before we recess.

We need to do this, and we need to do this now. In joining the Intelligence Committee, and also after those terrible acts, like many others, I asked what could we have done to prevent the September 11 attacks on our country? Also, why did we think that Saddam Hussein had weapons of mass destruction? What kind of information does the President need before he sends troops into harm's way? What kinds of information do we need—we, the Members of Congress—to be able to provide the right response to a President's request? We reviewed a lot of this information, and now we know we have the kind of reform in this legislation that will help us.

The 9/11 Commission built on the 9/11 joint inquiry of the House and Senate Intelligence Committees. We did that in a classified way. Then, the 9/11 Commission was organized, and I am happy to say I voted for it. The Commission could bring into the sunshine what many of us knew privately because it was classified. We knew about missed opportunities, insufficient or unreliable information, the failure to share information, the shortcomings of watch lists.

The legislation that we have before us will move the priorities forward for intelligence reform. First of all, it gives the intelligence community one leader with authority, responsibility, and financial control. In Washington, if you cannot control people or you cannot control budgets, you cannot control the agency.

Second, it provides for diversity of opinion in the analysis. It requires independent analysis. It also provides a framework for red teaming or a devil's advocate so that, again, the policymakers get the best information.

It also strengthens information sharing. It provides the support to speak truth to power. And it also provides a unity of effort in the global war on terrorism. All of this is done with a delicate balance of protecting privacy and civil liberties.

I salute my colleagues. While they were doing their homework this summer with the 9/11 report, I was doing mine—built on the experience that I had both as a member of the Intelligence Committee and the joint inquiry to investigate what went wrong on 9/11. I continued my homework over the summer. I read the riveting report of the 9/11 Commission. I attended hearings in the Intelligence Committee and Governmental Affairs. I consulted with officials of the FBI and others in homeland security in my State. I met with the Director of the National Security Agency. Having done that, I now conclude that this is the best legislation.

We are at a turning point. This is a new century. It poses new threats to the Nation. Therefore, it requires a new framework to serve the Nation. That is what I believe this legislation will do. So I say to my colleagues that one of the best actions we can take now, in order to serve the Nation, is stand up for our troops, protect the homeland, and pass the Collins-Lieberman legislation, which I truly believe brings about the reform of the national intelligence community.

I also salute the work of Senator HARRY REID and Senator MITCH MCCONNELL, who were working on how we need to reform ourselves in Congress to be able to provide the best oversight of the intelligence community so we can have the best intelligence, yet the highest value for our dollar, and at the same time protect the Nation, finding the balance to protect our civil liberties. I believe the task force report saying the Senate needs to reform itself internally will come after this legislation. I think we have done a great job working on a bipartisan basis.

I remember that fateful evening of 9/11 and that day when we gathered on the Capitol steps. America had lived through a lot. We didn't know what was yet to come. But joining with our

House colleagues, we in the Senate, with our leadership, joined hands and sang ''God Bless America.'' We were not a Democratic Party. We were not a Republican Party. We were the red, white, and blue party, and that is what we need to be here today. We need to join hands, pass the reforms necessary to protect the Nation, and to truly ask God to bless the United States of America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my dear friend and colleague from Maryland, Senator MIKULSKI, for that very thoughtful and strong statement on behalf of the bill. It means a lot to me and I know Senator COLLINS.

Senator MIKULSKI has focused on these national security intelligence issues. She happens to have a lot of people who work in this field for us in the State of Maryland. Senator COLLINS and I were very grateful and proud when Senator MIKULSKI joined us as an original cosponsor of this legislation. I appreciate all that she has contributed to our efforts. Her statement is very timely and gratefully appreciated. I thank the Senator.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I echo the words of my colleague from Connecticut. Senator MIKULSKI has been so helpful throughout this debate and in the development of this bill. In fact, when the Governmental Affairs Committee was first assigned the responsibility for evaluating the 9/11 Commission recommendations and producing this bill, it was the Senator from Maryland who was the first to call me and to offer to help, to share her knowledge from her years on the Intelligence Committee and on the Appropriations Committee. I really appreciated that gesture.

Since that time, she also participated in one of the Governmental Affairs Committee hearings that we held. Her State lost so many citizens on that awful day, and she has been relentless in her determination to make sure their memory is never forgotten. I very much appreciate all of her contributions.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to speak for a few minutes on an unrelated matter, pertaining to a bill the House of Representatives just passed.

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

HOLD ON S. 878

Mrs. FEINSTEIN. Mr. President, I rise to oppose S. 878, or at least the version the House of Representatives just passed today. Essentially, what the House did was to poison a worthy bill, a bill that was meant to alleviate the crisis of an overwhelming workload under which the Federal judiciary is struggling. The House did so by adding language to split the Ninth Circuit into three circuits. In doing so, the House has essentially taken the new judges as hostages to a starkly partisan and controversial ploy.

I will not go along with such bullying tactics, and I am placing a hold on that bill today. It is with great regret, and with greater frustration, that I place this hold.

I will take a few minutes to explain why we so desperately need the new Federal judges S. 878 would provide, and then I want to make clear why I am so opposed to the language the House of Representatives has added to split the Ninth Circuit.

According to the Administrative Office of the Courts, the average caseload for every Federal district judge in the country is now 523 cases per judge. In 1999, the average was 480 cases. So it has increased 9 percent in 4 years. But that only tells part of the story. Of the four Federal district courts in California, my home State, three of them handled more cases per judge than the national average: the U.S. District Court for the Northern District of California, 544 cases; Southern District of California, 611 cases; the U.S. District Court for the Eastern District, 734 cases per judge, 40 percent more than the national average.

So it is this burden that needed to be remedied, and in this bill there were 51 district court judges. It was an important bill.

This situation extends far beyond California. For example, the district court for Nebraska, represented by my colleague CHUCK HAGEL, who has been working on this issue with me, has 627 cases per judge, almost 20 percent more than the average. Other courts with exceedingly high caseloads are in Iowa and Arizona.

The version of the Senate bill that the House Judiciary Committee amended would have added 51 new Federal district court judges, 32 of them permanent, 15 temporary judges whose seats would expire when they retire, and 4 seats that would be converted from temporary to permanent. That version of the bill would also have added 11 judges to the circuits of the Court of Appeals. All of these additions came at the recommendation of the nonpartisan Judicial Conference of the United States. According to their 2003 report, the need for new judges is real and growing.

They go on to state:

> Since 1991, the number of criminal case filings has increased 45 percent and the number of criminal defendants is 35 percent higher.

Then it continued on with the statistics. When the judges tell us that they need more judges to supervise criminal trials, to secure our borders, and to crack down on deadly firearms, it is our obligation to listen and to act, because these judges are the linchpin of our justice system. Just as we need soldiers to help win the war on terror, we need enough judges to keep safe at home.

Instead of moving forward to simply add judges, which is what we need, the House essentially sabotaged the bill by adding an amendment to split the Ninth Circuit into these three new circuits.

This is not the time or the place for such an action. I am very much aware of arguments in favor of splitting the Ninth Circuit. In the Senate Judiciary Committee we have been debating this for years and, as I said at the Senate hearing on the issue earlier this year, I welcome the hearing and look at it with a much more open mind than I have in the past. I am sensitive to the fact that the Ninth Circuit had a 13-percent increase in caseload in a single year.

However, this is only one side of the argument. We have testimony from the chief judge of the Ninth Circuit, whom I respect greatly, who informs me that the size is not an obstacle to efficiency. We have letters from the State Bar Associations of California, Arizona, and Hawaii opposing a circuit split. I have a letter from Governor Schwarzenegger of California opposing a split of the Ninth Circuit. I have letters from eight judges in the Ninth Circuit opposing a circuit split, and also a letter from Senator SESSIONS saying that he has received letters from 15 Ninth Circuit judges opposing a split.

Suffice it to say that reasonable minds can differ on whether the Ninth Circuit should be split. What reasonable minds, I think, have to agree on is this is no way to undertake such a momentous change in our Nation's history. I suspect what is happening is that opponents of the Ninth Circuit are trying to take a bill that we need, add new judges, and make the Congress accept the split to the Ninth Circuit as the price.

The fact of the matter is the split they propose will not equalize the caseload. There will still be a disproportionate caseload with the methodology used in the split followed by the House decision voted on this morning. Under the House bill, the new Ninth Circuit, with California, Hawaii, Guam, and the Northern Mariana Islands, would have 407 cases per circuit judge. That is much more than the new Twelfth Circuit, of Nevada, Arizona, Idaho, and Montana, which would have 280 cases per circuit judge. It is also much more than the new Thirteenth Circuit, of Alaska, Oregon, and Washington, which would have 279 cases per judge. So the House bill does not solve the problem of an even split of cases between the circuits.

What we found as we looked at this over the years is that an even split cannot happen unless California is split in half, because the State, and ergo the

number of cases, is simply too large. This has always been the dilemma.

Additionally, this legislation causes major new costs. The Administrative Office of the Courts states that the startup costs for a three-way split that the House today demanded would ring up $131.3 million to make that particular split.

Despite the need for new judges, I cannot accept this ploy. This is the time for new Federal judges. It is not the time to split the Ninth Circuit. I think the House of Representatives has harmfully cemented one weighty issue to the other and it is not going to work.

So, regretfully, I must place a hold on this bill. I hope Members who are concerned about this will listen, and I hope it is not too late to work out some solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak 10 minutes as if in morning business.

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

THE GUARD AND RESERVE FORCES

Ms. LANDRIEU. Mr. President, I know the issue the Senator from California raised is very important and will be considered as we go forward in our debates, as our session wraps up. The Senator from Connecticut and the Senator from Maine have done an outstanding job in managing the underlying bill and helping us come to grips with some of the new fundamental changes necessary to reorganize our intelligence communities to face the challenges confronting our Nation. I do not want to take too much time away from that very important debate. But I did feel compelled to come to the floor and raise an issue regarding our military families, especially the families of our National Guardsmen and Reservists. They, too, are so critical to meeting and defeating enemies on the home-front and in Iraq and Afghanistan.

Because we call on thousands of Active men and women in our armed forces, as well as reservists in our Guard and Reserve, to be in the forefront of the battles in Iraq and Afghanistan, I thought it was important to come to the floor to share some information that will disappoint people in Louisiana and across the United States.

Right now, somewhere in this Capitol, there is a conference meeting trying to finalize a tax relief package that we refer to around here as FSC/ETI. It is a necessary change in our Tax Code because of some trade decisions that were made relative to the way Europe and America conduct trade and impose taxes and fees on imports and exports. For several months, members of the Senate Finance Committee and Members of the House Ways and Means Committee have been working to reach a final agreement. Different amendments have been added and subtracted as a means to bring the bill closer to final passage.

One of the amendments that I thought was one of the most important amendments in that bill—one that my colleagues in the Senate, Republicans and Democrats, agreed to unanimously called for tax credits to be made available to employers who continued to pay the salaries of their employees if those employees had been activated for duty in the National Guard and Reserves. The Senate agreed that if we were going to give tax relief and a trade fix for corporations and for businesses, then we should also find space in that bill to provide tax relief in some way to the patriotic employers who are trying to help their employees in the Guard and Reserve make ends meet. We should do that so the men and women who put the uniform on every morning and run those patrols ferreting out insurgents and terrorists in Iraq would not have to take a pay cut to do their job to defend America. We want those troops focused on the war-front, not whether bills have been paid on the home-front.

Americans might be shocked, because I am shocked, and I am disappointed, that our Government has not yet found a way to make sure that when we call up the men and women basically out of their regular life—as doctors or lawyers or truck drivers or nurses or teachers or government workers or firefighters or police officers—and ask them to leave their families, leave their jobs, leave their businesses and go fight on the front line for us, that we have not found a way to make sure they can do that without taking a pay cut. The GAO has documented that 41 percent of the Guardsmen and Reservists fighting for us—being called away from their homes, away from their families, and putting their lives in peril and great danger—are doing so with a pay cut. We need to provide them a helmet and a gun and a flak jacket and some protection. But I think we also should make every effort to ensure their families back-home have some stability. We should take steps so that the troop in Falujah knows his employer can take care of his family.

If this Congress and the President were not already enacting trillions in tax cuts and we were adhering to a plan of fiscal responsibility, I might be able to look these families in the eye and say, ''Sorry we have a budget deficit. We are doing the best we can.''

But do you know what the shame of it is? There is a conference meeting somewhere in this Capitol giving out tax relief to people who already have a lot of money, to corporations some of which may be on the front line but many of which are not, and we have the Republican leadership on the House that says we cannot afford a tax credit to benefit patriotic employers, our Guardsmen and Reservists, and their families. We are asking our men and women in unifrom to bear 100 percent of the risk and burden of fighting the war on terror. Yet in all the tax relief in the Republican-drafted plan, the Republican-leadership plan drafted by Chairman THOMAS, we can't find one penny to make sure the military families get a full paycheck. The cost of my amendment amounts to less than .1 percent of all the Bush/Republican tax cuts enacted since 2001. My amendment is even offset, but the Republican leadership simply refuses to help military families.

Since 2001, the Republican leadership has passed over $2.1 trillion in tax cuts and tax breaks for the wealthiest Americans. I supported some of these tax cuts but the major beneficiaries have been wealthy individuals who had already accumulated great assets, and corporations. Direct support for military families has been less than .1 percent, or $1.37 billion, of the $2.1 trillion in tax cuts.

If you remember, in 2001, we had one bill for tax cuts which we called the Military Family Relief Act. It amounted to $1.37 billion out of $2.1 trillion. So the bulk of the tax relief is going to people who are not on the front line. Only limited help is going to the people on the front line.

You can see the graph here, $2.1 trillion to everybody else who is not in uniform and $1.37 billion to the military families who are fighting the battle. I don't understand how we are fighting this war. Maybe somebody can explain it to me.

At least people say: Senator, you must not understand that much of these tax cuts get to the military families; it is just not directly. If they have children, they might get the child tax credit. I understand that. But 75 percent of the enlisted men and women in our armed services make less than $30,000 a year. A staff sergeant with 8 years of experience makes $30,000 a year. So if you don't write them directly into the bills—because the bills are skewed to those individuals and families making over $75,000, mostly $100,000, $200,000, $300,000—the military families don't get to take advantage of tax cuts.

Time and time again, every time a tax bill passes this Congress, the military family is left on the cutting room floor. In 2001, we passed the Economic Growth Tax Relief Reconciliation Act, $1.6 trillion—direct support for military families was $0.

In 2002, we passed the Jobs and Growth Tax Relief Reconciliation Act, $41 billion—military families, $0.

In 2003, we passed the Jobs and Growth Reconciliation Act, $230 billion—direct support for military, $0.

This year we passed the Working Families Tax Relief Act, $146 billion—direct support for military families, $0. This $146 billion had no offsets.

Now we have a conference in this Capitol putting together an $81 billion tax bill. And the amendment, the one little amendment we put on to encourage employers to keep the salaries up

for the Guard and Reserve when they are fighting in Iraq, was taken out because we can't afford it. When it left the Senate, we had paid for it. There are plenty of ways the House Republicans could pay for it, today, but helping military families is not in their interests. We could close a loophole that allows companies to leave the United States for the purpose of reorganizing themselves so they do not have to pay taxes. We could close that loophole and gave it to the men and women putting on the uniform to defend our country. These soldiers, sailors, airmen, and marines aren't fleeing the country to avoid paying taxes, yet we don't get tough on the corporations that are leaving the country to avoid taxes. They take every benefit of what this nation has to offer, including the blood and sweat of our troops, and pay nothing in return. But, some in Congress want to put these corporations in front of our men and women in uniform.

Let me also say I am ashamed for our Government that we have not yet closed our own loophole when a Federal Government worker takes off the Government suit or dress or uniform and puts on the military uniform and goes to fight on the front lines of Iraq. The US Government, as an employer, does not fill the pay gap for Federal employees.

Mr. President, 41 percent of the guardsmen and reservists who are fighting in Iraq take a pay cut to fight and we keep passing appropriations bills and tax cuts to give everyone in the world a tax break, except our military families. And, our poor military families ask for help and we have the Republican leadership in the House telling them: Sorry, there is no more money.

I just got back from Fort Polk a couple of weeks ago, where I have 4,000 maybe 5,000 families in Louisiana whose primary breadwinner has stopped winning bread at home and gone over to Iraq to help fight this war. I promised them that I was not going to just come on home without a fight or without raising this issue for the 5,000 families in my State and for the thousands of families around this country who do not ask for much. They ask for good training. They ask for equipment. And they are asking that they don't take a pay cut when they go to fight. They are not asking for a pay raise; they just don't want a pay cut. They'll get that pay cut if we let this last tax bill go out of here without fixing this provision or without giving some tax credit to companies, many of them small businesses, who continue to pay their activated Guard and Reserve employees.

You can understand why a small business sometimes can't afford to continue to pay the guardsmen and reservists 100 percent of their salary and then have to pay 100 percent of the salary for a replacement.

We are asking for a tax credit for these employers so they can voluntarily, if they want, continue to pay the salary of their Guard and Reserve, take a tax credit so we would basically share that expense among everyone and allow that guardsman and reservist to get a full paycheck.

I repeat for the record, the GAO reports that 41 percent of the guardsmen and reservists called to active duty take a pay cut. We could fix that, but for some reason we do not want to, we do not think we should, or we do not have the money. Yet at the same time we are fixing a lot of things for a lot of people and passing one appropriations bill and one tax bill after another.

Forty percent of those serving in Iraq and Afghanistan are Guard and Reserve; 410,000 families or individuals have been activated since September 11. We probably have a few more thousand to activate until we get it right in Iraq.

We can pay for this, as I said, by closing loopholes, but the Republican leadership said, ''No.'' We cannot not pay for it. They have passed tax bills out of here and chalked it up to more debt. This would not be that much to add for people assuming 100 percent of the risk to defend this Nation, but they do not choose to do that, either. Right now, as I speak, 3 o'clock today, it is not in the bill.

I hope these words are traveling through this Capitol. I hope there are people listening and phones start ringing to include the military families in this FSC/ETI bill that is moving through conference so this tax relief can be given and the pay gap can be closed. If you are on the front line, taking 100 percent of the risk, the last thing you need to take is a pay cut.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAPO). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, does the rule of germaneness apply under cloture?

The PRESIDING OFFICER. Germaneness on debate is required on cloture.

Mr. BYRD. I ask unanimous consent to speak for not more than 10 minutes on a matter not germane to the pending matter before the Senate.

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

VETERANS BENEFITS

Mr. BYRD. Mr. President, West Virginians have a long and proud record of service to the U.S. military. General Stonewall Jackson, one of the greatest military minds of his time, hailed from present day West Virginia. Chuck Yeager, the World War II ace and the first man ever to travel faster than sound, is proud to be a West Virginian. SSG Junior Spurrier left his home of Bluefield, WV, to fight for the liberation of France and received just one fewer awards than the legendary Audie Murphy, the most decorated American soldier in World War II.

There are many more West Virginians whose names will not be recorded in the great military histories of our country, but these veterans have asked little of their country. They have a right to expect that our Government will provide them with the benefits they earned in service to our country, and that is the one thing they do expect.

Time and time again, President Bush has turned his back on veterans who have served our country. Over and over again, President Bush has had to choose between veterans programs and budget-busting tax cuts for the wealthy, and he has chosen to cut taxes for America's super-wealthy instead of taking care, as he should have, of America's veterans. As veterans evaluate the actions of this administration, I hope they are asking whether they are better off than they were 4 years ago.

For the last 3 years, Congress wanted to increase veterans' benefits by allowing military retirees to keep all of their VA disability checks and the military retirement pay, but President Bush opposed it. He fought against it. In fact, he threatened to veto a $396 billion Defense bill in order to keep Congress from allowing veterans to receive all the compensation they have earned through their service in the Armed Forces. Yes, my colleagues heard me right. President George Bush threatened to veto an entire Defense bill because veterans would get the benefits they had earned.

This year, President Bush approved plans to shut down three veterans hospitals and partially close nine more. What is more, the Beckley VA Medical Center which serves 40,000 veterans in southern West Virginia and is located in my home county of Raleigh narrowly missed the President's chopping block. Only a last-minute intervention by Senator JOHN D. ROCKEFELLER, Representative NICK RAHALL, and me saved the Beckley Veterans Hospital. If the President gets a second term, however, veterans better watch out. You veterans may have to kiss more of your hospitals goodbye.

But the Bush administration didn't bother to wait for a second term before slashing veterans health care in other ways. Last year, the Bush administration decided that an entire category of veterans should no longer be eligible to seek health care from the VA. This wrongheaded decision means that by next year more than 520,000 veterans will be barred from VA hospitals. In other words, the White House says it would be too expensive to let these veterans enjoy their VA health care benefits. How can President Bush claim he supports our troops if he doesn't support VA health care for half a million veterans?

President Bush has also taken to shortchanging veterans to new, disgusting levels. He is no longer content with simply underfunding veterans health care to the tune of $3.2 billion per year, according to leading veterans' service organizations. Now President Bush has decided that some people who served our country in uniform should pay more for their veterans health care benefits. The President's budget for this year doubles the cost of prescription drugs for these veterans, increases their fees for doctor visits by 33 percent, and sticks them with new annual enrollment fees.

I know that when President Bush hits the campaign trail in West Virginia, he will talk about how he cares about veterans, but I doubt that he will tell West Virginia's veterans about his plans to cut their benefits and raise their fees. I am sure you won't hear the President talking about how he has shortchanged the VA, cut veterans health care, fought Congress on veterans benefits, closed veterans hospitals, and increased health care charges.

The Bible says:

. . . by their fruits ye shall know them.

In today's terms, we would say that you have to walk the walk if you want to talk the talk. But when it comes to looking out for veterans, George Bush is ambling off in the wrong direction.

The veterans of West Virginia know about sacrifice. They have given up a lot in their service to this country. This administration has spent 4 years undercutting veterans. The people of West Virginia should know that it is time to stand up for our veterans.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, today what we have seen is a fresh topic of interest, as discussed in the newspaper. I ask unanimous consent that in my hour of time, whatever time I have remaining be available to me as if it were in morning business and that I be permitted to use 15 minutes of that time at this point.

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

PAUL BREMER'S RECENT COMMENTS

Mr. LAUTENBERG. Mr. President, the topic of very active discussion is Mr. Paul Bremer's comments that are in the papers, particularly the Washington Post, today. I say this with a great deal of respect for Paul Bremer. I think he worked hard to do a very good job. He can hardly be described as a leftwing liberal, for sure. He said something that was, to use the vernacular, kind of a show stopper. He said:

We paid a big price for not stopping it (looting) because it established an atmosphere of lawlessness. . . . We never had enough troops on the ground.

This is our person in charge of the transition from Iraq's former government, purportedly to become a democracy. He is the fellow who was in charge in Iraq. We all, whoever went there, visited with him, listened to him. He worked very closely with the military. He is very skilled. But he said it. ''We never had enough troops on the ground,'' and that was the beginning of the problem in which we are now so deeply enmeshed.

We have had generals saying it. We had General Shinseki saying that we needed 300,000 of our troops there to do the job, and not having had enough caused us, frankly, to become mired in a situation that, at least by current appearances, seems as though it is going to hold us there for a long time at a terrible cost in life, terrible cost in family relationships, terrible cost financially as well.

THE VICE PRESIDENT AND HALLIBURTON

Tonight, as everyone knows, the debate will be between Vice President CHENEY and Senator JOHN EDWARDS, for each of them to present their credentials and their views. But I rise to discuss the Vice President's relationship with Halliburton, his financial relationship with the oil company he ran from 1995 to the year 2000, the company that is reaping the benefits of multibillion-dollar contracts from the Bush-Cheney administration.

Vice President CHENEY still receives salary checks from Halliburton for well over $150,000 each year. He holds 433,000 unexercised Halliburton stock options. It presents a very questionable picture when we look on this chart at the orange line which conveys the Halliburton income to Vice President CHENEY from 2001 on, and his Vice Presidential salary. If one looks, we see the compensation from Halliburton exceeded that of the U.S. Government's compensation or pay for the Vice President. In the year 2002, Halliburton fell to $162,000 but then crept back up to where they are very close together. That is, the salary paid by the U.S. Government and the deferred compensation plan that gives Vice President CHENEY $178,000.

When you look at this, it presents a terrible picture. Here is a Vice President of the United States, the next person in line to take over if, Heaven forbid, something happened to the President, and he is getting paid from a company he used to work for. We know this is a deferred compensation plan, that it was earned before.

I also mention the fact that Vice President CHENEY, when he left Halliburton, got a $20 million termination bonus plus over $1 million in another bonus. If we looked at the deferred salary and the nontermination bonus DICK CHENEY has received from Halliburton while Vice President of the United States, it is up to almost $2 million.

This is, if not corrupting in its reality, its functionality. It has the appearance that raises enormous questions. This relationship, coupled with Halliburton's no-bid contract and other contracts in Iraq, is extremely problematic.

On top of the salary, there are 433,000 shares options that are exercisable. I come out of the corporate world and I know how valuable the stock options can be. The profits are committed to a charity, purportedly, but the more you get, the more you can give away.

Why does the Vice President permit this salary arrangement to continue when he could have done away with it, as did Mr. John Snow, who was the Secretary of the Treasury. He wrapped up 6 years' worth of deferred compensation into one year and said: I want to be done with this. I don't want to have my income coming from my former employer while I work for the U.S. Government at such a high level.

By continuing this financial relationship, the Vice President undermines our Nation's ethical credibility here and abroad. On September 14, 2003, the Vice President was asked about his relationship with Halliburton and the no-bid contract on the program, ''Meet the Press.'' Vice President CHENEY told Tim Russert—and I happened to be watching the program; that is what stimulated my interest—the Vice President said:

I've severed all my ties with the company, gotten rid of all my financial interests. I have no financial interest in Halliburton of any kind and haven't had now for over 3 years.

The problem with that statement is that when he said it, he held those 433,000 Halliburton stock options and continued to receive a deferred salary from the company and still has a salary for the year coming into 2005.

I went to the Congressional Research Service to see what the definition of a ''financial interest'' might look like. The Congressional Research Service confirmed to me that holding such options and receiving deferred salary constitutes a financial interest. They agree, and so do I, that when you have deferred compensation, when you have stock options, that is a financial interest. They say if it looks like a duck and sounds like a duck, it must be a duck. There it is, a financial interest.

Even though the exercised prices for Vice President CHENEY's Halliburton stock options are above the current market price, the majority of the options extend to 2009. My goodness, what does it take to free himself from a previous business contact?

When I left the company that I helped start and at which I spent 30 years, the minute I left there all of my options were canceled, to my regret, because there was a lot of money involved.

Any option holder has to hope that the stock price surges so the value of the options increase. One way this can happen is to be sure that lucrative contracts keep coming from the U.S. Government.

In the first quarter of 2004, Halliburton's revenues were up 80 percent from the first quarter of 2003. Why? Wall Street analysts point to one simple factor: The company's massive governmental contracts in Iraq. Those are the things that are responsible for

this increase in revenue and profits, if any.

Vice President CHENEY's annual deferred salary from Halliburton is significant. As I pointed out earlier, in fact, the Vice President's Halliburton salary is as high as his government pay—last year, $178,000 in salary from Halliburton. I have heard the Vice President's defense of his Halliburton deferred salary. He claims that the deal was locked in in 1999 and there is no way for him to get out of his deferred salary deal.

How about if he had an employment contract with the company for 10 years and then became Vice President of the United States, would he say he had to have both jobs at the same time because he had a contract? Come on.

Checking of the facts revealed otherwise. I obtained the terms of Vice President CHENEY's deferred salary contract with Halliburton, and the bottom line is that the deferred salary agreement is not set in stone. In fact, one need only look at the ethics agreement of Treasury Secretary Snow to see what the Vice President should have done in order to avoid taking salary from private corporations while in public office. Secretary Snow took six different deferred compensation packages as a lump sum upon taking office. Get rid of any shadow of doubt, any shadow of conflict.

Worst of all, this financial relationship is going on while Halliburton is ripping off American taxpayers. I am very specific about this. Halliburton is ripping off American taxpayers. I have said it, and I will say it again. Look at the record.

The Pentagon's inspector general revealed that Halliburton, while our people were fighting for their lives, overcharged $27.4 million for meals that were never served to our troops. False records. Fraudulent.

Another Pentagon audit found Halliburton overcharged the Army by $1.09 a gallon for 57 million gallons of gasoline deferred to citizens in Iraq.

Auditors found potential overcharges of up to $61 million for gasoline that a Halliburton subsidiary, KBR, delivered as part of its no-bid contract to help rebuild Iraq's oil industry.

Under its cost-plus contract with the Pentagon, the more Halliburton spends, the more profit it makes regardless of whether that spending is necessary. Several former Halliburton employees have come forward to reveal how the company has taken advantage of this sweetheart deal by spending millions on nonexistent or vastly overpriced goods and services.

According to these former employees, Halliburton engaged in the following wasteful practices: They had its employees drive empty trucks back and forth across Iraq in order to bill for the trips despite the obvious risks that this practice posed to both truck drivers and the 85,000 trucks. Halliburton, under their arrangement, whatever they spent, came up with a profit for them.

If they needed an oil change they would buy a new truck. Halliburton removed all of the spare tires from its trucks and failed to provide basic maintenance supplies like oil filters. This is not something I am making up. It is in the record. As a result, when tires went flat or trucks broke down, they were abandoned or torched, with Halliburton making a profit on the replacements. This is the most sinister of behavior.

When a Halliburton employee needed one drill, his supervisor told him to order four. When the employee said he did not need four drills, the supervisor responded: Don't worry about it, it is a cost-plus contract.

One employee discovered that Halliburton was paying $45 for a case of soda in Kuwait when local supermarkets charged only $7.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator's 15 minutes have expired.

Mr. LAUTENBERG. I remind the Chair that according to the rules under cloture I have an hour of time to be used if I can get an agreement for unanimous consent.

I ask unanimous consent, because the time is going to be used by me, that I be allowed a few more minutes until I finish my remarks.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, reserving the right to object, is there not a germaneness requirement for the debate at this point?

The PRESIDING OFFICER. There is, but the Senator had asked to speak as in morning business for 15 minutes.

Ms. COLLINS. I will not object.

Mr. REID. Mr. President, the time is running against the bill?

The PRESIDING OFFICER. It is.

Mr. LAUTENBERG. Mr. President, I thank the manager. The Senator from Maine has worked very hard on this intelligence reform bill. I supported her as a member of that committee. I know this might be a diversion to her, but I appreciate her consent.

One employee discovered that Halliburton was paying $45 for cases of soda in Kuwait when local supermarkets charged about only $7. And then there are the kickbacks. Halliburton admitted to the Pentagon that two employees took kickbacks, valued at approximately $6 million, in return for awarding a Kuwaiti-based company with lucrative subcontracts.

The scandal is playing itself out in the real world, while this Senate sleeps. It is neglect on everybody's part that this was permitted to continue.

This kind of corporate behavior resembles that of Enron and other corporations that have sought to defraud the Government with kickbacks and bribes and overcharges.

Profiteering during war is an outrageous action, if not a crime. When I served in World War II, if a company profiteered as people were losing their lives, they would be punished. They would have jail sentences in front of them.

That is not what I am suggesting. What I am suggesting is that this is abominable behavior and it ought not be permitted.

When I think of the debate that is going on and JOHN KERRY is accused of being soft on defense, when he served so bravely, when even though he disagreed with the policy of the Government, he served the country loyally, bravely, and was wounded. The assertions that maybe the wounds weren't deep enough were challenged by statements in the paper yesterday where it said that he still has shrapnel in his body from those wounds. Anyone who would suggest that because Senator JOHN KERRY examined the question on moneys being spent for the war, because it included tax relief for some of the richest among us, the fact is, he served without question, without any reservation whatsoever, except he had a difference in policy. But he put his life on the line, which we haven't seen around here, I can tell you, as I have described in past speeches.

I used the identification of the chicken hawk. The chicken hawk is someone who makes war that other people are to fight. I don't think it is fair to tear apart the loyalty, the heroism of Senator JOHN KERRY anymore than it was fair to challenge the heroism or the loyalty of former Senator Max Cleland.

I hope this assault on character can stop and we can discuss the issues that affect the American people.

I yield the floor and reserve the remainder of my time from my hour when I come back to the floor.

The PRESIDING OFFICER. The Senator from Georgia.

CORRECT REPORTING

Mr. MILLER. Mr. President, politics is politics. As we all know, it can be a contact sport. While many things can be considered fair or unfair, depending on your outlook, I think most would agree that the voting record and the printed and stated positions of a candidate or elected official are right and proper to discuss. But it is also important that those who report this discussion be correct in what they report.

Mr. LAUTENBERG. Mr. President, may I challenge whether this is part of the debate on the intelligence reform bill or is this discussing a different matter?

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from Georgia be permitted to speak as in morning business for 20 minutes, just as the Senator from New Jersey was permitted to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. I have made my request, but I have no objection.

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

Mr. MILLER. I thought we were in morning business. If I may now continue.

It is also important that those who report the discussion be correct in what they report. From most of the national media, we have not had that correct reporting on JOHN KERRY's national defense record.

From the media we have heard, from their review of national defense records, that the liberal Democrat JOHN KERRY and the conservative Vice President DICK CHENEY are, in fact, long lost ideological soul mates, separated only by birth and hair.

We hear from Wolf Blitzer and Judy Woodruff on CNN and Chris Matthews on MSNBC, Alan Colmes of Fox, and the fact finders at the Washington Post and the LA Times that if you took DICK CHENEY and substituted him for JOHN KERRY or if you took JOHN KERRY and substituted him for DICK CHENEY the defense votes that occurred in the House and Senate and the outcomes of defense spending bills and Pentagon operations would be virtually identical.

They would have you believe that when it comes to national defense records, votes and positions, they say the very DNA of DICK CHENEY and JOHN KERRY are practically indistinguishable, that they are doves from the same nest. Or maybe it is hawks now, with Kerry's latest change.

As silly as this assertion is, the Democrats are more than happy to make it because many in the media are only too happy to parrot it. There is no better proof of this than the media's response to the speech I made at the Republican National Convention in New York City.

Now, I was inclined to let the veracity of an old man soon to be retired just go unanswered, thinking that the juice wasn't worth the squeeze. And I would have, if it had been my reputation at stake instead of the safety of my family. Let me start with the LA Times which bought lock, stock, and barrel the Democrats' official line, and I quote:

> The Kerry campaign responded by accusing Miller of mischaracterizing the Senator's record, pointing out that Cheney also voted to cut funding for some of those weapons systems while serving in Congress. Others were targeted for cutback by Cheney when he was Defense Secretary in the first Bush Administration.

USA Today minimized the negative of Kerry's defense votes this way:

> . . . Kerry voted against large Pentagon spending bills that include many weapons three times in his 20-year career. And Defense Secretary Cheney recommended ending some of the same systems that Miller cited.

CNN's Judy Woodruff said this to me only a few minutes after my speech:

> JOHN KERRY voted for 16 of 19 defense budgets that came through the Senate while he was in the Senate, and many of those votes you cited, DICK CHENEY also voted against.

Wolf Blitzer of CNN emphasized the similarity of KERRY and CHENEY:

> When the Vice President was the Secretary of Defense, he proposed cutting back on the B–2 bomber, the F–14 Tomcat as well. I covered him at the Pentagon during those years when he was raising serious concerns about those two weapons systems. . . .

And then, that citadel of sanctimony, the home of the whopper, the Washington Post, weighed in with this totally untrue statement:

> Miller's list was mostly derived from a single KERRY vote against a spending bill in 1991, rather than individual votes against particular systems.

Later, a Washington Post analysis added:

> KERRY did not cast a series of votes against individual weapon systems, but instead KERRY voted against a Pentagon spending package in 1990 as part of deliberations over restructuring and downsizing the military in the post-Cold War period.

Editorial pages began to chime in, such as the Philadelphia Daily News:

> Miller charged that KERRY has voted to strip the Armed Services of necessary weapons systems when DICK CHENEY, as Defense Secretary, proposed many of the cuts and voted for others.

Mr. President, is this true? Are there just a handful of votes by KERRY against weapons systems? Are those votes identical to those by DICK CHENEY? Did the media have their facts straight? And even more important, did they really want to have their facts straight? Or did they just simply adopt, without verification, the talking points from the KERRY campaign?

Let's start at the beginning. I said in my speech that KERRY ''opposed the very weapons systems that won the Cold War and that are now winning the war on terrorism.''

I then listed the systems that KERRY opposed, such as the B–1, the B–2, F–14A, F–14D Tomcats, the Apache helicopter, the F–15 Eagle, the Patriot missile, Aegis cruiser, the SDI, and the Trident missile.

Did KERRY oppose the weapons systems that won the Cold War? The answer is yes.

In 1984, JOHN KERRY ran for the Senate and built his campaign around the promise to reverse what he called ''the biggest defense buildup since World War II,'' a buildup he considered in his words, ''wasteful, useless, and dangerous.''

In a key 1984 campaign document, KERRY identified 16 weapons systems he wanted to ''cancel.''

All of those weapons systems that I stated that KERRY opposed are found in this 1984 document, except for two—the Trident missile and the B–2 bomber. But Senator KERRY's opposition to those was reported in other press interviews in 1984.

Mr. President, this 1984 campaign document is the first, but by no means the last, of KERRY's opposition to these weapons systems.

It is strange, but there has not been a single story that I can find in the media about this document. No one wants the American people to see what KERRY was wanting to cancel at the height of the Cold War.

This document doesn't exist as far as the national media is concerned. But it is vital to any debate about JOHN KERRY's national defense record because it spells out in KERRY's own words his complete and total opposition to these weapons systems. This document begins and ends with the word ''cancel.''

In his own words, JOHN KERRY says ''cancel'' the MX, the B–1, the ASAT, SDI, the Apache helicopter, the Patriot, the Aegis cruiser, the Harrier, the Tomcat, the Eagle, the Phoenix, the Sparrow, and all of the other weapons systems listed on this chart.

If you are like most people, you might read this document and say, if JOHN KERRY wants to cancel these weapons systems, it certainly doesn't mean he is for them. So then he must oppose them. In the name of common sense, could you have any other meaning from this?

The media tells us that just because JOHN KERRY wanted to cancel those systems, that doesn't mean he opposed those systems. Such is their strange and twisted logic.

Because the media is not convinced JOHN KERRY meant ''cancel'' when he said ''cancel,'' they ignore this document and think the American people should, too.

Those who don't ignore this document dismiss it, basically because KERRY opposed these systems 20 years ago. So what is the big deal today?

Here is why it is a big deal. This document came out in 1984, when America was in a life-and-death struggle with the Soviet Union. At that time, the Cold War was anything but cold, and it was certainly not over.

The premier of the Soviet Union was not Gorbachev but Konstantin Chernenko, an old Brezhnev hard-liner.

This document that outlined JOHN KERRY's vision for our national defense, which the media ignores and doesn't want you to know about, came out about 6 months after the Soviet Union shot down Korean Airlines 747 filled with 269 civilians.

This Kerry proposal came at a time when Soviet troops were at the halfway point of their armed invasion of Afghanistan.

This Kerry proposal came at a time when Cuban troops were in Angola and Kampuchea.

This Kerry proposal came at a time when Marxists insurgents had taken power in Nicaragua and were pushing northward into El Salvador.

This Kerry proposal came at a time when insurgents and terrorists were on the attack, and the way KERRY wanted to deal with them was by canceling crucial weapons systems.

Here, at the height of the Cold War, at a time when we were playing cards with the devil himself, when our own future, the world's freedom, and the fate of half a billion souls from Poland to Siberia, from the Baltic to Crimea, were all in the pot, JOHN KERRY said ''fold them'' to what ultimately turned out to be one of the biggest winning hands ever played for freedom.

That is why this 1984 document is a big deal, Mr. President. I ask unanimous consent that this document be printed in the RECORD.

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

JOHN KERRY ON THE DEFENSE BUDGET

''We are continuing a defense buildup that is consuming our resources with weapons systems that we don't need and can't use.''

The Reagan Administration has no rational plan for our military. Instead, it acts on misinformed assumptions about the strength of the Soviet military and a presumed ''window of vulnerability'', which we now know not to exist.

And Congress, rather than having the moral courage to challenge the Reagan Administration, has given Ronald Reagan almost every military request he has made, no matter how wasteful, no matter how useless, no matter how dangerous.

The biggest defense buildup since World War II has not given us a better defense. Americans feel more threatened by the prospect of war, not less so. And our national priorities become more and more distorted as the share of our country's resources devoted to human needs diminishes.

JOHN KERRY HAS A DIFFERENT APPROACH

John Kerry believes that the time has come to take a close look at what our defense needs are and to plan for them rather than to assume we must spend indiscriminately on new weapons systems.

John Kerry believes that we can cut from $45 to $53 billion from the Reagan Defense budget this year. Some of these cuts include:

Major nuclear programs

MX Missile, Cancel, $5.0 billion
B–1 Bomber, Cancel, $8.0 billion
Anti-satellite system, Cancel, $99 million
Star Wars, Cancel, $99 million
Tomahawk Missile, Reduce by 50 per cent, $294 million

Land forces

AH–64 Helicopters, Cancel, $1.4 billion
Division Air Defense, Gun (DIVAD), Cancel, $638 million
Patriot Air Defense Missile, Cancel, 1.3 billion

Naval forces

Aegis Air-Defense Cruiser, Cancel, $800 million
Battleship Reactivation, Cancel, $453 million

Aircraft

AV–8B Vertical Takeoff and Landing Aircraft, Cancel, $1.0 billion
F–15 Fighter Aircraft, Cancel, $2.3 billion
F–14A Fighter Aircraft, Cancel, $1.0 billion
F–14D Fighter Aircraft, Cancel, $286 million
Pheonix Air-to-Air Missile, Cancel, $431 million
Sparrow Air-to-Air Missile, Cancel, $264 million

In addition, acquisition of equipment and supplies should depend on real defense needs, not inter-service rivalries. ''National security'' is no excuse for bad management practices. The Congressional Budget Office and the General Accounting Office'' agree that an additional $8 billion can be saved by implementing the recommendations of the President's own Grace Commission Report.

''I will never forget that the Defense Budget is not an employment program, but a tool to provide the nation with a strong, lean and stabilizing defense posture.

Finally, John thinks it's time for a Senator who will stand up for what's right and not go along with what's expedient.

''If we don't need the MX, the B–1 or these other weapons systems. . . . There is no excuse for casting even one vote for unnecessary weapons of destruction and as your Senator, I will never do that.''

Mr. MILLER. This document is not the end of this sorry story, for with these weapons systems clearly in his crosshairs as candidate JOHN KERRY, Senator JOHN KERRY pulled the trigger on them his first year in the Senate in 1985, and then again at every other chance he got.

In 1985, the ''series of votes against individual weapons systems'' the Washington Post so snugly swore never took place began.

In all, 14 Senate votes took place in 1985 alone on 5 of the specific weapons systems Kerry pledged to cancel. Mr. President, 13 of his 14 votes in 1984 were to cut the defense systems he promised to cancel.

Four of those were to cut the MX peacemaker missile; two votes were to cut antisatellite weapons; two votes were to cut SDI; another vote was to restrict SDI's use; another vote was to cut battleship reactivation; and another vote was against binary weapons.

KERRY's only vote not to cut a defense program was on SDI. You know why? Because after voting three times to cut SDI by as much as $1.5 billion, KERRY voted against a cut of $160 million because he said it didn't cut SDI enough.

So when it comes to the weapons systems that won the Cold War, JOHN KERRY said in 1985 he wanted to cancel them, and then in 1985 he voted against them 13 out of 14 times.

There were two other votes to cut back overall defense spending, for a total of 16 votes in 1985 on national defense alone; but the Mr. Magoos down at the pious Post somehow could not locate these facts.

In fact, the Washington Post could not only find ''a'' vote—one single solitary vote over 20 years—where JOHN KERRY voted against defense. That single antidefense vote was after the Cold War in 1990 or 1991, depending upon which Washington Post report you read.

Judy Woodruff did some better. She found 19 total defense votes over KERRY's 20 years in the Senate. There were 16 votes in 1985 on defense systems and overall spending alone.

She also claimed that CHENEY voted the same way as KERRY on ''many of those'' 19.

Yet how many can ''many'' be if CHENEY and KERRY served simultaneously in Congress for only 4 of those 19 annual budget fights?

But Wolf Blitzer's defense of KERRY's national defense record was the most interesting. With the wave of a hand, Blitzer dismissed the numerous votes by KERRY against these weapon systems that occurred years before as well as the years after CHENEY was Secretary of Defense.

CHENEY's position in 1990 and KERRY's opposition in 1984 is the difference between opposing the Sherman tank and the B–29 in the year before D-day and then wanting to cut back on them the year after V–J day.

Mr. President, you could review the series of JOHN KERRY votes on weapons systems in 1986, 1987, 1988 and 1989—all that occurred before the Berlin Wall fell.

The fact is you can look at KERRY's votes during the cold war, after the cold war, before Desert Storm, after Desert Storm, after the first World Trade Center attack, before the war on terrorism and now during the war on terrorism, and you will find JOHN KERRY was one of the most reliable ''no'' votes against the weapons our soldiers needed to defend this country and keep the U.S. safe.

The point is if the media won't tell you what the impact of KERRY's position would have been on the cold war, they sure are not going to tell you what the impact would be today on the war on terrorism.

So let me sum up what we can learn from the media's response to my speech at the Republican National Convention on JOHN KERRY's defense record.

The media can only find JOHN KERRY opposing defense weapon systems that Secretary CHENEY opposed also.

The media will only count overall spending bills as a vote against a weapon system, and will not count the numerous votes on the systems themselves nor the overall budget plans as votes on the systems or national defense.

And the media can simply find no votes by JOHN KERRY against any weapon systems during the height of the cold war—not a one. Not a single one.

What they found, or what they want you to believe they found is that CHENEY and KERRY had practically identical national defense voting records during the cold war. And that is flagrantly wrong.

Let me take another minute to look at this.

In 1985, the House in which CHENEY was a Member had a series of votes on 17 specific weapon systems.

Seventeen of DICK CHENEY's seventeen votes were to protect the defense systems.

Seven ayes on seven votes to protect the MX peacekeeper missile;

Six ayes on six votes to protect SDI;

Another vote to protect the Trident II missile;

Another vote to protect binary weapons;

Another vote to protect chemical weapons; and

Another vote to protect ASAT weapons.

During the height of the cold war, essentially every vote by DICK CHENEY was the mirror opposite of JOHN KERRY.

Where CHENEY repeatedly voted for weapon systems, KERRY repeatedly voted against those weapon systems.

Where CHENEY supported President Reagan's announced position on each vote on these weapon systems, KERRY opposed President Reagan's announced position on each vote.

The sole vote of JOHN KERRY against a cut in defense was because he wanted

a bigger cut—a cut as much as ten times larger in SDI.

So there are differences between DICK CHENEY and JOHN KERRY on national defense. It's the difference between the world's biggest and greatest military superpower and, well, spitballs.

Mr. President, I probably have wasted my time and just spit in the ocean because we all have learned the hard way that the elite media can do anything it wants and sell anything it wants.

We saw earlier this year the New York Times and Washington Post repeat on their front pages false allegations by Ambassador Joe Wilson about Niger uranium and his wife's role in his own activities, but they then buried the correction somewhere in the back pages.

We saw Newsweek's Evan Thomas report that: ''The media want Kerry to win'' and that support, in Thomas's words, ''is going to be worth maybe 15 points.''

We see CBS News having to admit they were pushing forgeries about President Bush's National Guard service.

The national media's all-out defense of JOHN KERRY's indefensible defense record falls into this same sorry and disgraceful pattern of selling an agenda rather than the facts.

What I said in New York was true. It was true then. It is still true now.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

JOHN KERRY'S DEFENSE RECORD

Mr. REID. Mr. President, JOHN KERRY's record on defense reflects more than approximately 10,000 votes he has cast in the Senate. His defense record goes back to the steaming jungles of Vietnam where he, as a young sailor commanding a fast boat, went into harm's way on many different occasions. We know about the number of those occasions because his defense record indicates that the Government of the United States awarded him two medals for heroism—one a Bronze Star, one a Silver Star. He was wounded on three separate occasions and received three Purple Hearts. They were awarded not by some gentleman's club but by the U.S. military.

On the programs about which we have heard a dissertation today, as we look through those—except for the MX missile, which was canceled by the President of the United States, not by Congress, as I recall—all of these programs came into being. So to think that any one Senator, with the hundreds and hundreds of votes on defense matters, stopped the Cold War from being won is really a little silly, for lack of a better description.

Senator JOHN KERRY supported more than $4.4 trillion in defense spending, including for 16 of the last 19 Defense authorization bills. In fact, he voted for the largest increase in defense spending since the early 1980s.

JOHN KERRY is a strong supporter of the U.S. armed services and has consistently worked to ensure the military has the best equipment and training possible. In 2002, as an example, Senator KERRY voted for the largest increase in the history of the defense budget. This increase provided more than $355 billion in the Defense Department for 2003, an increase of $21 billion over the previous year. This measure includes $71.5 billion for procurement programs, such as $4 billion for Air Force's F–22 fighter jets which are now going to be stationed at Nellis Air Force Base in Las Vegas; $3.5 billion for Joint Strike Fighter which will also be stationed in Las Vegas at Nellis Air Force Base, and $279.3 million for the E–8C Joint Stars aircraft.

Senator KERRY's vote also funded a 4.1-percent pay increase for military personnel; $160 million for the B–1 bomber defense system upgrade; $1.5 billion for a new attack submarine; more than $630 million for Army and Navy variants of the Black Hawk helicopter; $3.2 billion for additional C–17 transports; $900 million for R&D of the Comanche helicopter; and more than $800 million for the Trident submarine conversion.

For someone who has served in the Senate for 20 years—this is just one Senator's opinion—it speaks well of him that he is not a rubberstamp for requests submitted to us by the Defense Department. That is what we are. We are a separate, equal branch of Government, the U.S. Congress, and our part of it is the Senate. We have an obligation to review very closely what is given to us by the Pentagon and given here. They always ask for more than they deserve, knowing that we are going to turn down some requests. We have budgets to meet also. It speaks well of Senator KERRY if he did not rubberstamp everything they asked for.

As to the Bradley fighting vehicle, which was mentioned in the previous speech, Senator KERRY supported $8.5 billion for the Bradley program. That is not bad. Senator KERRY, for the M–1 Abrams tank, has supported at least $21.5 billion in defense authorization for that tank.

He has supported all five new aircraft carriers since he joined the Senate. Since 1985, JOHN KERRY has voted to start work on each of the five new aircraft carriers: the USS *Stennis*, USS *Truman* in 1988, the USS *Reagan* in 1993, the USS *Bush* in 1998, and the newest yet unnamed carrier in 2001. So these aircraft carriers, the *Stennis*, *Reagan*, *Bush*, and formerly the CVNX, he voted for all of those.

The F–15 fighter jets, Senator KERRY supported almost $20 billion in Defense authorizations for the F–15. For the F–16, Senator KERRY supported at least $25 billion in Defense authorization.

There is going to be a debate tonight and maybe that is why the speech was given, but in testimony before the House Armed Services Committee, Mr. CHENEY said:

> If you're going to have a smaller air force, you don't need as many F–16s. . . . The F–16D we basically continue to buy and close it out because we're not going to have as big a force structure and we won't need as many F–16s.

According to the Boston Globe, Bush's 1991 Defense budget ''kill[ed] 81 programs for potential savings of $11.9 billion . . . Major weapons killed include[d] . . . the Air Force's F–16 airplane.'' This was Secretary CHENEY. This was House Member CHENEY. This was Vice President CHENEY.

It is also important to note that Senator KERRY has supported at least $10.3 billion in Defense authorizations for the B–1 bomber.

The Kerry record on the B–2 bomber. He supported $17 billion in Defense authorization for the B–2. Mr. CHENEY proposed cuts to the B–2 program. I am sure there were times when he supported it, as did Senator KERRY. There were times when Senator KERRY thought there was too much being spent, as did Secretary CHENEY.

According to the Boston Globe in 1990:

> Defense Secretary Richard Cheney announced a cutback . . . of nearly 45 percent in the administration's B–2 Stealth bomber program, from 132 programs to 75 . . .

If we want to go back and revisit history a long time ago, we do not have to go back very far to find out, just a couple of years ago, an introduction of JOHN KERRY by Senator ZELL MILLER at the Georgia Democratic Jefferson Jackson Day Dinner, and I quote my friend ZELL MILLER:

> My job tonight is an easy one: to present to you one of the nation's authentic heroes, one of this party's best-known and greatest leaders—and a good friend. He was once a lieutenant governor—but he didn't stay in that office 16 years, like someone I know (Miller). It just took two years before the people of Massachusetts moved him to the United States Senate in 1984.

Further quoting him:

> In his 16 years in the Senate, John Kerry has fought against government waste and worked hard to bring some accountability to Washington. Early in his Senate career in 1986, John signed on to the Gramm-Rudman-Hollings Deficit Reduction Bill, and he fought for balanced budgets before it was considered politically correct for Democrats to do so.

Senator MILLER went on to say:

> John has worked to strengthen our military, reform public education—

Let me repeat this quote:

> John has worked to strengthen our military, reform public education, boost the economy and protect the environment. Business Week magazine named him one of the top pro-technology legislators and made him a member of its ''Digital Dozen.''

Further quoting:

> John was reelected in 1990 and again in 1996—when he defeated popular Republican Governor William Weld in the most closely watched Senate race in the country.
>
> John is a graduate of Yale University and was a gunboat officer in the Navy. He received a Silver Star, Bronze Star and three awards of the Purple Heart for combat duty in Vietnam. He later cofounded the Vietnam Veterans of America.

As many of you know, I have great affection, some might say an obsession, for my

two Labrador retrievers, Gus and Woodrow. It turns out John is a fellow dog lover, too, and he better be. His German shepherd, Kim, is about to have puppies. And I just want him to know Gus and Woodrow had nothing to do with that.

This is a direct quote from Senator ZELL MILLER and, among other things, I repeat, ''JOHN has worked to strengthen our military.''

The record for Senator KERRY supporting the military is, as Senator MILLER said, a stellar performance. He has worked to strengthen our military.

I also say that for someone who opposed the MX missile system, I do not think that makes him a bad guy. We in Nevada did not like the system. It was eventually stopped. If somebody does not support the missile defense system—I think there is probably somebody sitting in the Presiding Officer's chair today, which can only be presided by those on the majority, who does not support the missile defense system. So the fact that people pick and choose what they support for the military does not make them bad.

Senator KERRY's record is very good, and I have gone over some of the things he supported. I am not going to belabor the point, other than to say that Senator KERRY supported the F–18, and he supported the $60 billion defense for that instrument of war. The Cheney F–18 record, he asked for cutbacks on that.

Senator KERRY is a person who truly believes in the military. He was a volunteer as a young man and went and fought, showing heroism in that process, and he is still showing heroism in his defense of this country, under tremendous odds, with terribly negative attacks. For someone who has served with Senator KERRY for two decades in the Senate, I am proud of him. I am proud he is the nominee for my party. He is a man of integrity. He has tremendous competence.

I was on the Select Committee on MIA/POW. He chaired that. The cochair was Bob Smith from New Hampshire. He did a remarkably good job in a most difficult situation.

I wish today had not turned into a situation of trying to talk about Presidential politics, but that is the way it has turned out.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have come to the floor to speak about the issue of reimportation of prescription drugs. I also wanted to talk for a moment about the tax bill that is being negotiated by the conference committee between the House and Senate, especially with respect to the runaway plant issue and tax incentives that now occur for those who shut down their American manufacturing plants and export jobs. I will speak about those two issues briefly.

Before I do that, I'd like to address some of the remarks of my colleague from Georgia, who was speaking when I came to the floor of the Senate.

I disagreed strongly with my colleague when I heard his speech at one of the national political conventions. He certainly had every right to give that speech. I disagree strongly with the presentation he gave on the Senate floor, but he has every right, of course, to express those opinions on the Senate floor.

I have great respect for my colleague from Georgia. I honor his service. He has provided great public service to this country in many different ways, so I honor that service.

But I, of course, reserve the right to disagree with my colleague as well, just as he came to the floor and disagreed with some of the votes that have been cast by Senator KERRY.

The last time I was on the floor when my colleague from Georgia came to speak, he was offering a proposal that we take away the right of the American people to vote for Senators. He proposed instead that Senators be appointed or selected by State legislatures, and that the right of the people to vote for Senators should be rescinded.

Well, I thought that did not sound like a very modern approach. We left that idea a long time ago in this country, and I got up and spoke and indicated I did not have quite such a pessimistic view of this country's future and certainly did not agree that we ought to revert back to the States appointing their Senators and taking away from the American people the right to elect Senators. But that was the only previous occasion I recall on which I took the floor of the Senate and disagreed with my distinguished colleague from Georgia. I must say, however, that I feel compelled to disagree once again.

I have not come to the Senate floor to be critical, ever, of President George W. Bush's military record. I would not do that. And I would not be critical of Senator KERRY's military record. Both of them served.

My colleague came to talk about Senator KERRY's record in voting for defense for this country. This is not a new technique in American politics. This is timeless. It always happens that someone stands up and points at someone else and says: You don't represent this country's interests in defense. You don't support a strong defense. You are not willing to stand up when you need to stand up and be counted and support a strong defense for this country.

Sometimes that works. But let me just say this. I don't think it works when you point at someone who decided on graduation from Yale that he would volunteer to go to Vietnam; not only that, he would volunteer to serve on a swift boat, where he was certain to be involved in hostile action. He didn't have to do that. He did that, he volunteered. He received a Bronze Star, a Silver Star, three Purple Hearts, and still has fragments in his body from the wounds from which those Purple Hearts arose. I don't think it works to point fingers at that man and suggest he, somehow, is weak on defense.

My colleague's assessment of Senator KERRY has changed some. Senator REID pointed out that in March of 2001, at a banquet in Georgia, my colleague from Georgia introduced Senator KERRY. Here is what he said about him:

> My job tonight is an easy one. It's to present to you one of this Nation's authentic heroes, one of this party's best known and greatest leaders, and a good friend.

Then he said this, my colleague from Georgia:

> John has worked to strengthen our military, reform public education, boost the economy and protect the environment.

Let me say that again because it is important. It is at odds with what we just heard from my colleague from Georgia on the floor of the Senate this afternoon. Speaking of JOHN KERRY, my colleague from Georgia said:

> John has worked to strengthen our military.

This is a speech from March 1, 2001. What is the difference between then and now? JOHN KERRY has had the same record on defense.

Incidentally, JOHN KERRY has supported a great amount of this country's defense: the Apache helicopter, Aegis, The Bradley, Black Hawk, B–2 bomber, C–17 cargo jets, F–16, F–18, Tomahawk missiles, C–130s, and I could go on and on and on. Billions, tens of billions, yes, trillions of dollars for defense Senator KERRY has voted for.

What is the difference between March 1, 2001, in my colleague's assessment of Senator KERRY where he said ''John,'' speaking of Senator KERRY, ''has worked to strengthen our military,'' what is the difference between that and the discussion we have just heard today? The difference is, it's an election year and my colleague has, apparently, decided to change his mind. If there were an Olympic event called ''stretching,'' I have a couple of personal nominations for who might win the gold medal.

This ought not be, in American elections, an attempt to find out who is the worst. It ought to be a search for who is the best. Who can best lead this country? Who has a vision for the future that grows our economy, that protects our country, protects our homeland, provides for a strong defense, protects the environment? It is a search, in my judgment, for who is the best, not who is the worst.

We have two candidates running for President, both fully qualified to serve in that office. It does not serve our country well to point at one and say somehow he is weak on defense, doesn't support defense, especially when it is so at odds with the record. But it is now an election year. I guess almost anything goes.

There is a term, I suppose, for changing one's mind, and it is called flip-flop. I have not used it, but some have used it to the point of significant repetition this year. I will not use it here

except to say what we have just heard today is at significant odds, not only with the record of a member of our caucus who has served with great gallantry but also at odds with the previously stated views of the person who made the speech today.

Let me end as I began and say I honor the service of the Senator from Georgia. I disagree with him about these issues. Four weeks from today this country will see fit to make an informed choice between two men who strive to serve for the next 4 years as this country's President. Both candidates, I am sure, care about national security. Both care about homeland security. As was stated in the debate last week, both love this country.

I submit, just as one Senator, both are qualified to serve in that office. Both parties have nominated people they choose to support and support aggressively. I come to the Senate floor today to simply say this: JOHN KERRY is someone with whom I have served for many years. I have watched him vote. The fact is, he supports a strong defense for this country. He always has and always will. When it came time to answer his call, his country's call, he left one of the prestigious colleges in this country upon graduation and said: Let me volunteer. He went to Vietnam. He went in harm's way.

There is no amount of energy or wind that can be exerted by others who will change the basic fact of a voting record that is in strong support of America's defense.

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

Mr. DORGAN. I am happy to yield.

Mr. REID. I say through the Chair to the Senator from North Dakota, the Senator from North Dakota has served more than 2 decades in the Congress of the United States?

Mr. DORGAN. That is correct.

Mr. REID. So you have been called to vote on every Defense bill and hundreds and hundreds of amendments offered on those Defense bills over the years.

As strong as the Senator from North Dakota is on matters relating to the U.S. military, I don't know this, but I will bet there were occasions that you voted to cut certain programs; is that right?

Mr. DORGAN. I say to the Senator, I have, in fact. I serve on the appropriations subcommittee here on the Senate. I care a lot about this country's defense. And I voted against the MX missile program, because I felt it was a terrible waste of money. But I am a strong supporter of defense. I believe anyone who looks at my record will understand the weapons programs I supported, significant weapons programs, have added strength and boosted this country's capability.

Because I serve on the Appropriations Subcommittee on Defense, I watch what others do as well. From a firsthand knowledge, I say that Senator KERRY has a strong and aggressive record in supporting this country and supporting a strong defense for this country.

Mr. REID. The point I make, and I would like the Senator to respond to this, a person from time to time, in service in the Congress of the United States, votes for amendments to cut spending in different areas for a lot of different reasons. They still can be some of the strongest hawks we have around here; isn't that true?

Mr. DORGAN. No question about that.

My colleague from Georgia was talking about Vice President CHENEY and JOHN KERRY. I didn't quite understand that comparison of their records on defense. I have lived a couple of doors down from Dick and Lynne Cheney for a number of years. I know them well. I would never come to suggest somehow that DICK CHENEY doesn't support a strong defense. And I know JOHN KERRY very well. I certainly wouldn't come to suggest he doesn't support a strong defense. Both of them have records that demonstrate a support for this country's defense.

Well, enough about that. I didn't come to the floor of the Senate to speak about that. But I felt that there should be some response to the statement by the Senator from Georgia this afternoon which I think, frankly, is not supported at all by the facts.

AMERICAN JOBS

On May 5 of this year, we had a vote in the Senate. That vote was on an amendment that I had offered, together with my colleague, Senator MIKULSKI from Maryland. The intent of the vote was to shut down a loophole that rewards U.S. companies that move their manufacturing jobs overseas.

Yes, we have that kind of loophole. It is a perverse, insidious loophole in our Tax Code that says: Shut down your U.S. manufacturing plant, get rid of your U.S. employees and outsource those jobs, and, God bless you, while you leave this country, we will give you a tax cut.

Talk about a perverse incentive to do exactly the wrong thing, that is it.

We are now seeing the conference committee between the Senate Finance Committee and the House Ways and Means Committee meet and negotiate over a FSC/ETI bill, sometimes also called the ''jobs bill.'' If they finish putting this bill together in conference and do not include a provision to eliminate this perverse incentive, they will have done precious little to help protect, nurture, and strengthen American jobs.

Incidentally, when I offered this amendment on May 5 of this year, the amendment was tabled by a vote of 60 to 39. Sixty Members of the Senate voted to say they did not want to shut down a tax loophole that provides an incentive for companies to fire their American workers and move their U.S. jobs overseas. So that loophole still exists in tax law.

Now I read in the paper this morning they really do not want to pay for the cost of this FSC/ETI bill by shutting down loopholes. This is unbelievable.

We have American companies now that decide they want to do business through a post office box in the Bahamas or the Grand Caymans. Why? Do they want to be a citizen of the Grand Caymans? Not exactly. They just want to avoid paying U.S. taxes so everyone else can pay taxes that these folks do not pay.

I suggest that once companies have decided to move their corporation and run their business out of a mailbox in the Bahamas for the purpose of avoiding U.S. taxes, the next time they get in trouble maybe they ought to call the Bahamian Navy to protect them. I understand the Bahamian Navy has 20 people. Maybe the next time one of these companies gets in trouble with some expropriated assets or other issue they can call on the combined flexed muscle of the Bahamian Navy.

My point is simple. We have a real problem in this country with the outsourcing of jobs. In the last 4 years, we have actually lost jobs at a time when we are supposed to be creating jobs. We have an expanding population. We need new jobs. But we are losing jobs.

I will not give the same speech I have given previously about the Radio Flyer and Huffy bicycles, those quintessentially American products that are now being made in China. I will not talk about the all-American cookie, the Fig Newton, now being made in Monterey, Mexico, so that it is now Mexican food. I will not give the speech about the outsourcing of these jobs to Sri Lanka, Bangladesh, Indonesia, and China. But if this country does not wake up soon and get rid of these pernicious loopholes in the tax law that say, ship your U.S. jobs overseas and we will give you a big tax cut, if we do not do that, we are not going to succeed.

Growing an economy requires us to do the right things. We cannot talk about growing the economy and then support tax loopholes and say, by the way, ship your U.S. jobs overseas. That does not work. We are outsourcing jobs every single day and no one seems to care much about it.

Incidentally, that also relates to the trade deficit, because when we outsource the jobs and ship the products from those jobs back into this country, it means we exacerbate the trade deficit, which is the largest deficit in human history.

One can make an argument as an economist—I used to teach a bit of economy in college—one can make an argument that the budget deficit is money we owe to ourselves. We cannot make that argument with respect to a trade deficit. We owe a trade deficit to other countries. It will be paid inevitably by a lower standard of living in our country in the future.

The largest trade deficit in history ought to be cause for substantial alarm in this Chamber and at the White

House. Yet there is almost a conspiracy of silence all around this town about a trade deficit that, in my judgment, hurts this country very badly.

Incidentally, Lou Dobbs has written a book about this trade deficit. I encourage colleagues and others to read it. His program, more than any on television these days, is talking about the danger of this trade deficit.

At any rate, as they finalize this jobs bill in conference, which is going on as I speak, they need to come back to the amendment I offered last May 5 with my colleague, Senator MIKULSKI. They need to shut down this perverse incentive in tax law, which gives benefits and encouragement and financial help to companies that move their jobs overseas.

REIMPORTATION OF PRESCRIPTION DRUGS

Let me make one other point on another subject that I think is critical. We are told we are near the end of this session. Perhaps on Friday of this week we will complete our work and then come back for a lameduck session, which happens to be a terrible idea. Perhaps, because this Congress has not done much of the right kind of work or much of the work it needs to do, we will have to have a lameduck session.

As we near the end of this session, the one relentless issue that many Members of Congress say they care about and want to do something about is the issue of the prices of prescription drugs. We pay the highest prices in the world for prescription drugs and there are far too many in this country who cannot afford them.

Senior citizens are 12 percent of our population yet they consume over one-third of the prescription drugs in America. Senior citizens have reached that point in their lives when they have a fixed income. Yet one-third of the prescription drugs are taken by our senior citizens. Why? Because they must. These are lifesaving drugs, miracle drugs. My hat is off to the pharmaceutical industry and to the researchers at the National Institutes of Health and others who have helped create these new drugs, but miracle drugs offer no miracle to those who cannot afford to take them.

I sat on a bale of straw the other day at a farm in southern North Dakota with a fellow who is 87 years old. He told me: I fought cancer for 3 years and I think I finally have beaten it. This is an 87-year-old man. I fought cancer for 3 years and I think I finally won. For those 3 years, my wife and I drove to Canada to buy the prescription drugs I needed to fight this cancer.

Why? Because the same FDA approved drug, the identical pill, is put in the same bottle, made by the same company, but is priced at a dramatically lower price in Canada.

He said: For 3 years, we went to Canada to save that money because we had to. Senior citizens should not have to go to Canada to save money on prescription drugs.

He is right about that. I would prefer that pharmacist be able to go to Canada to purchase those lower priced prescription drugs from the pharmacist in Canada, come back, and pass the savings along to the consumers in our country.

By getting rid of the artificial barriers that prevent re-importation, we would put downward pressure on prescription drug prices in this country so people would not have to go anywhere but their local drugstore to purchase prescription drugs. They could purchase them here for a fair price. But we are charged the highest prices in the world for these drugs.

We are told by the Food and Drug Administration that if we reimport prescription drugs from Canada in any organized way that there would be a safety issue. We are told by the Secretary of Health and Human Services that there may be a safety issue. We are told by the President that he thinks maybe we should look at this but there might be a safety issue.

That suggests somehow that Americans are not able to do what Europeans have done everyday for years. The Europeans have something called parallel trading. Their parallel trading programs allow someone from Germany to buy a prescription drug from Spain, someone from France to buy a prescription drug from Italy.

They don't have any safety issues in Europe. The marketplace determines the price for the drug, and the market puts downward pressure so the Europeans don't pay the highest prices in the world for prescription drugs as we do. They do what is called parallel trading, and there are no safety issues at all. European officials have testified before our committees. The safety issues simply are not there. It is a bogus issue.

We have drafted a bipartisan piece of legislation called the Pharmaceutical Market Access and Drug Safety Act. Myself, along with Senators SNOWE, MCCAIN, STABENOW, FEINGOLD, and others, we have drafted a bipartisan piece of legislation that systematically addresses the safety issues so that there cannot be any safety concerns. Our bill would allow the reimportation of prescription drugs from Canada and from other major developed countries and would put downward pressure on prescription drug prices. The House of Representatives has passed such a bill. That bill is on the calendar at the desk. The bipartisan bill which we have introduced is similar to the bill that is at the desk. Yet we are unable to get a final vote in the Senate.

We have had substantial discussion. I had a discussion with the majority leader on this subject at midnight one night earlier this year on the Senate floor. I had a hold on a nominee. I withdrew that hold because I believed we had an agreement that we were going to work toward an opportunity to have a vote on this legislation. I believed that agreement with the majority leader existed. He now indicates it was not an agreement for a vote. He indicates it was an agreement that a process would begin and that the authorizing committee would work on this. The authorizing committee worked on it, to be sure. They would have markups scheduled and markups cancelled, markups scheduled and markups cancelled. The fact is, they never were able to get a bill out of committee because they couldn't get consensus on anything. We have a consensus on the bill that is on the calendar. We have a consensus on the bipartisan bill. If there is a vote on that in the Senate, it will pass by a significant margin. We don't need another consensus. There is a consensus that already exists. What we need is a vote on the floor of the Senate.

I encourage the majority leader once again to allow us the opportunity to cast this vote. Senator MCCAIN, Senator SNOWE, myself, Senator STABENOW, Senator FEINGOLD, Senator DASCHLE, Senator KENNEDY and many others have worked very hard on this issue. In my judgment, it is a disservice to those who deserve to pay fair prices for prescription drugs not to have a vote on this bill. It is a disservice to their interests for us not to complete work on this bill during this session of the Congress.

I ask unanimous consent to print in the RECORD two editorials. One is by the Chicago Tribune and it is entitled ''Shielding the Drug Industry.'' This says essentially what I have said:

> While Congress dithers, States and cities skirt if not break the law by helping seniors and others take advantage of lower prescription-drug prices in Canada.

And the editorial talks about the desperate need for Congress to pass a law dealing with reimportation. They specifically feel that the legislation that is before the Congress would be meritorious and they talk about Peter Rost who is vice president of marketing for one of the largest drug companies who broke ranks with the drug industry in the last couple of weeks and publicly endorsed the proposal in Congress that my colleagues and I have sponsored.

Then I ask unanimous consent to print in the RECORD a New York Times editorial that is titled ''The Senate's Chance on Drug Costs.''

> If Dr. Bill Frist, the Senator majority leader, knows what's good for the body politic, he will allow a quick floor vote on the drug reimportation bill he has been bottling up for the benefit of President Bush and the pharmaceutical industry.

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

[From the Chicago Tribune, Oct. 1, 2004]

SHIELDING THE DRUG INDUSTRY

Last month Peter Rost, a vice president of marketing for Pfizer Inc., broke ranks with the drug industry and his employer by publicly endorsing a proposal in Maryland's Montgomery County to allow its employees to buy cheaper drugs from Canada. Rost disputed industry claims that reimportation would pose a public health risk. ''The real concern about safety is about people who do not take drugs because they cannot afford it,'' he said.

Rost—who made it clear that he was speaking only for himself, not Pfizer—joins a growing number of city and state officials across the country arguing for reimportation. Only a few months ago, a new law seemed inevitable. Even Health and Human Services Secretary Tommy Thompson suggested that was so. Unfortunately, ''inevitable'' may not mean any time soon.

Competint reimportation bills have been bottled up in the Senate for months. And Senate Majority Leader Bill Frist of Tennessee isn't likely to allow a debate or vote before the election. Last month he argued that with only a few weeks left in the session and other pressing issues, there wasn't enough time for a full debate.

While Congress dithers, states and cities skirt if not break the law by helping seniors and others take advantage of lower prescription-drug prices in Canada. One such program is supposed to be introduced soon in Illinois.

The lack of progress is frustrating. Last spring, at his confirmation hearings, Medicare chief Mark McClellan promised to help develop legislation to allow imports of lower-cost prescription drugs with safeguards to protect consumers. Frist said that the Senate ''will begin a process for developing proposals that would allow for the safe reimportation of FDA-approved prescription drugs.'' But Sen. Byron Dorgan (D–N.D.) said recently that the process had ''led to nothing.''

No wonder some politicians are so frustrated that they're openly challenging the Food and Drug Administration in announcing plans to help consumers link to pharmacies in Canada and elsewhere.

Opponents of reimportation have argued that it would open America's borders to a flood of tainted drugs, and that the FDA could not guarantee the safety or purity of such imported drugs. That argument isn't convincing. Many drugs are manufactured abroad, and the FDA inspects those factories and ensures that drugs are shipped to America without tampering. That system could be expanded, using fees paid by those who import or export the drugs.

Pfizer execs are asserting that Rost ''has no qualifications to speak on importation'' and emphasize that he is not speaking for the company. But his support for reimportation resonates in Illinois, where 67 percent of registered voters supported Gov. Rod Blagojevich's plan to help residents buy prescription drugs from Canada, Ireland and England, according to a recent Tribune/WGN–TV poll. A survey by the Kaiser Family Foundation showed about 8 in 10 Medicare recipients support allowing Americans to buy drugs from Canada if they can get a lower price. The same study showed more than 6 in 10 don't believe such a system would expose Americans to unsafe medicines from other countries.

It seems terribly clear that congressional leaders have one intention here: protecting their heavy campaign contributors in the drug industry from competition. This issue deserves a vote. The stalling has to stop.

[From the New York Times, Sept. 29, 2004]

THE SENATE'S CHANCE ON DRUG COSTS

If Dr. Bill Frist, the Senate majority leader, knows what's good for the body politic, he will allow a quick floor vote on the drug reimportation bill he has been bottling up for the benefit of President Bush and the pharmaceutical industry. A large majority—up to 75 members, by some estimates—would easily pass the bill and delight the organized older voters who have been clamoring for lower-priced Canadian drugs. American consumers are increasingly aware that their average drug prices are 67 percent higher than what Canadians pay for comparable prescriptions. Bipartisan Senate pressure is growing on Dr. Frist, along with threats of the sort of floor rebellion that saw the Republican House rise up last year to pass a drug reimportation plan over Mr. Bush's opposition.

Mr. Bush continues to express concern about potential safety risks from imported drugs while insisting that the new Medicare subsidy for prescription drugs will eventually ease the pocketbook pain of distressed retirees. Dr. Frist also continues to express concern about the need to weigh the benefits of lower prices against possible safety risks.

But this concern is addressed in the pending bipartisan bill, which mandates that the bargain drugs would come from licensed Canadian pharmacies and wholesalers registered with the federal Food and Drug Administration.

The real issue appears to be to avoid forcing Mr. Bush to choose between signing the bill and angering the drug industry, which donates mightily to G.O.P. campaigns, or vetoing it and infuriating older voters.

This page has supported the Medicare drug plan, but with the imperative that the administration work harder to restrain costs, however much the pharmaceutical lobby complains. The reimportation bill is a promising cost saver.

Mr. DORGAN. As I have indicated, there is a bipartisan group of Senators who have worked a long while on this issue. The House of Representatives passed this idea by a wide bipartisan margin. This is not a partisan issue. It is bipartisan.

My hope is that the majority leader will decide that as a matter of scheduling, we will, before we adjourn sine die, address this issue and resolve it for the benefit of the American people. There is no safety issue. Everyone knows that is a bogus issue. To continue to raise that issue suggests somehow that Americans are unable to do what the Europeans have done routinely year after year. That is, put together a system—we call it reimportation; in Europe it is called parallel trading—that is safe for consumers and that puts downward pressure on prescription drug prices.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

WAR ON TERRORISM

Mrs. HUTCHISON. Mr. President, it is my understanding that there has been use of the Senate floor in the last few minutes to discuss the Presidential race and to make statements about the situation in Iraq and our President's handling of that and our President's own war service, his service in the guard, which was honorable. I don't know everything that was said, but let me say that it is very important we take every opportunity to look at what is happening in the war on terrorism and the place that Iraq holds in the war on terrorism. Let's don't forget Afghanistan, either.

Our country was hit on 9/11, 2001. Everybody in the world knows that. It hasn't been easy to deal with a different kind of enemy, but that is what we have, a different kind of enemy. Our President has been resolute and firm in fighting this enemy every step of the way. Americans can hardly imagine that human beings would actually be able to shoot children in the back as they are running away, as happened in Russia a few weeks ago, terrorists taking over a school and children running away to go to safety and being shot in the back. Three hundred people died in that event.

People can't imagine an enemy that would cut someone's head off before a video camera and spread it out across the world. But that has happened with the kind of enemy we are now facing. Does anyone think that kind of enemy can be dealt with with kid gloves, with good manners, as we would have in a debating society? The President doesn't. The Vice President doesn't. They are standing up for our country. They are standing up for our country against an unimaginable enemy, and they are doing a great job. They are doing a great job because they feel from their hearts that we must be firm and resolute against this enemy, and we must not let anything stand in the way of protecting America and protecting our homeland.

That is why I am so proud of our President and our Vice President. They are not asking anyone else if America can defend itself.

And we are at war with terrorists who would shoot children in the back and cut innocent people's heads off for absolutely no reason whatsoever. So if we are going to use the Senate floor to be part of the campaign, I think we need to make sure the people of our country hear both sides. There are real differences. There are real differences in how we would handle the war on terrorism, what we do in Iraq. Iraq is not an easy situation. We all know that.

We know the enemy has infiltrated Iraq. They have come in through the porous borders from all over the world to try to disrupt the stability and the stabilization of Iraq. Americans have boots on the ground in Iraq. Our young men and women are fighting for our freedom in the deserts of Afghanistan and in Iraq so that we will be able to debate on the Senate floor, hold our own elections, and live in the freedom that we have come to know. I think our young men and women deserve the respect that we have a united country in this war and in this effort. This is every bit as much a fight for freedom as any war in which America has been engaged.

Our President and our Vice President put one thing, and one thing only, first: the security of the American people.

They want every child in our country to grow up with the same kind of freedom and opportunity every one of us in the Senate has had growing up. If we let terrorists curtail the way we live, we will have lost. We will have said that we are not going to answer the call of our generation to maintain the freedom and opportunity of our country, which we have been able to enjoy. That is unthinkable. Our President and our Vice President are standing firm for the protection of the American people. They are standing firm for our economy.

One of the other hits we took on 9/11/01 was the hit to our economy. The tourism industry went down, the airline industry was in trouble, and it had a ripple effect throughout our economy. But our President has remained firm in the way we would try to stabilize the stock market and get jobs back and get people back to work. He is doing it with tax cuts, so that people will have more of their own money to spend and they will put it into the economy. Guess what. That has made the difference.

The turnaround in our economy started right after the tax cuts were signed by the President. The stock market is up and jobs are coming back; 1.7 million jobs have been put on this year alone. We are almost back to where we were before 9/11.

So, Mr. President, if we are going to use the Senate floor to talk about the election that is going to happen in the next 6 weeks in this country, I think we better look at the record. The record is good. We have taken the steps that are necessary after being hit by terrorists in a way that we could never have imagined being hit on 9/11. Our homeland is more secure. Is it everything it needs to be? No. The President will tell you that. Anyone will tell you that. But it is a whole lot safer than it was on September 10, 2001.

We are taking the steps right now on the Senate floor to reform our intelligence-gathering capabilities. We are going to have the best intelligence operation in the entire world. We are already making great strides. We have made great improvements. There is much more sharing and, in fact, the increased and better intelligence has caused us to know that there is a heightened alert right now. But we are taking the steps to codify that and put it into statutory form. We are doing exactly what we ought to be doing to assure that our country is prepared to go forward, to stay the course in this war, and to win the war on terrorism. We are going to do it one step at a time, with a President who is absolutely focused on our national security.

Mr. President, I am proud of our President. I am proud of our Vice President. They are staying focused. A lot of people think this campaign has gotten pretty rough. Campaigns in America are rough. None of us like it, but no one is going to unilaterally disarm. Therefore, we are going to make sure that the truth comes out so that people can see the differences between the two candidates. There doesn't have to be any mud slung in this campaign because the differences are very great. Our President is resolute that he is going to win the war on terrorism and protect the American people, and he hopes we can fight the war on terrorism on the turf where they are rather than allowing them on our turf. That is his strategy, and it is the right one.

We have a President who is firmly committed to a domestic agenda that includes an education for every child in our country; quality health care for every person in our country, to bring more people who are insured into our health care system; to have malpractice reform so that we will be able to assure quality health care at a reasonable cost. Our President is committed to Social Security reform so that it will be there for our seniors, not just for the next 20 years, but for the next 100 years. It is going to take leadership. It is going to take leadership and vision for the next President of the United States. Our President is doing exactly the right thing in focusing on our security, on education for children, on quality health care for all of the people in our country. Our President is doing a great job. I am proud of him. I think the people of America—the more they focus on not only the accomplishments of the last 4 years, but the vision for the future—our President is talking about his vision for the next 4 years and what we will be able to do for our country that will build on the rising economy, the better national security that he has already put in place.

Mr. President, I am going to yield the floor, and I hope that we can keep this debate on the differences on the issues. I hope we will not have extraneous charges and the use of the Senate floor for extraneous charges that do not have a place in the civilized debate that I hope we will have on the floor of the Senate in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, may I inquire as to the parliamentary situation in the Senate?

The PRESIDING OFFICER. We are postcloture on S. 2485.

Mr. GRAHAM. I thank the Chair. I wish to make some remarks on an amendment that I have filed. I will not ask that that amendment be brought before the Senate this evening, but I look toward doing so at an appropriate time.

Mr. President, 3 years have passed since the attacks of September 11, 2001. Largely because of the anger and the concern and the desire to show that the lives of those 3,000 Americans who were sacrificed on that day had meaning, we are nearing passage of a meaningful intelligence reform plan. But as we commit ourselves to implementing this plan, I remain convinced that we still will not be doing all we can do, all we should do to win the war on terror and to hold our adversaries to account.

Why do I hold those views?

It is my view that we have allowed to escape at least one and possibly more make-believe allies that have and may be today supporting terrorists with financial, logistical, and even diplomatic resources. These allies are saying one thing in their public relations campaign but doing quite another in their palaces, in the halls of government when it comes to nurturing al-Qaida and other terrorist networks.

Let me give a little explanation of why I think this issue is so important. For 19 relatively young men, most of whom were strangers to each other, to be able to come into the United States without much command of the English language and almost no knowledge of American culture and practices, stay in this country for, in some cases, 18 months, to be able to refine a plan that had been developed prior to their entry, to deal with unexpected complications, such as the detaining of the 20th hijacker, and to be able to practice that plan and finally execute it with the tragic consequences of September 11 is not an easy task. Many have asked how could they have done it.

I believe, for one thing, these 19 people were more capable than we may have originally thought, and that itself is a chilling observation, because it says something about the adversary we are going to continue to be facing once we restart the war on terror.

But second, I also believe they were not here alone. In that famous August 2001 briefing which the President received at Crawford, TX, one of the items in that briefing which has, in my opinion, been inadequately observed was that the President was told that al-Qaida had a network inside the United States.

Supplementing that network, I believe the Saudis were given license to take advantage of a network that was already in existence in the United States for another purpose, primarily the purpose of surveilling countrymen who were in the United States to determine if they were fulminating any plots that might be adverse to the interests of the royal family. That network was then made available to at least 2 and maybe more, possibly all, of the 19 hijackers.

I will remind my colleagues again, as I have previously, that much of the information that makes this case is contained in the 27 pages of the final report of the House and Senate inquiry into 9/11, the 27 pages which were censored by the administration and, therefore, have never been made available to the American people. But I can say this: A California-based former employee of the Saudi Civil Aviation Authority, a then 42-year-old Saudi national named Omar al-Bayoumi, had extensive contacts with two of the Saudi national hijackers, Khalid al

Mihdhar and Nawaf al Hazmi. These two men had entered the United States in January of 2000 after having attended a summit of terrorists in Malaysia a few weeks earlier.

Bayoumi was paid $40,000 a year by a Saudi Government subcontractor, but he never showed up for work. He was what is referred to as a ghost employee. Indeed, a CIA agent described him as a spy of the Saudi Government assigned to keep track of Saudi citizens in southern California, particularly the large number of Saudi students studying at higher education institutions there.

The day that al-Bayoumi met the two hijackers at a Los Angeles restaurant, he had first attended a meeting at the Saudi consulate with a Saudi official who subsequently was denied reentry into the United States because of his alleged terrorist background.

He then, over lunch, invited the two terrorists to come from Los Angeles to San Diego where he proceeded to first allow them to live with him until they could arrange for an apartment, he cosigned their lease, paid their first month's rent, hosted a welcome party, and helped them get a variety of services, including driver's licenses and flight school applications. He introduced them to others who served as their translator and other support roles.

This is just one strand in the web of connections between hijackers and the Saudi Government. But, again, I am restricted in terms of how fulsome the details can be.

There is other evidence of Saudi complicity, especially when it comes to financing al-Qaida. In a monograph on the finances of al-Qaida prepared by the 9/11 Commission, staff investigators found government-sponsored Islamic charities had helped provide funds for Osama bin Laden. The monograph states:

> Fund-raisers and facilitators throughout Saudi Arabia and the Gulf raised money for al Qaeda from witting and unwitting donors and diverted funds from Islamic charities and mosques.

It attributed this thriving network to ''a lack of awareness and a failure to conduct oversight over institutions [which] created an environment in which such activity has flourished.''

The 9/11 Commission investigators concluded:

> It appears that the Saudis have accepted that terrorist financing is a serious issue and are making progress in addressing it. It remains to be seen whether they will (and are able to do) enough, and whether the U.S. Government will push them hard enough, to substantially eliminate al Qaeda financing by Saudi sources.

At least one other authority body is even more skeptical. The Council on Foreign Relations established a task force on terrorist financing, and representatives of the task force testified last week on the 29th of September before a hearing of the Senate Banking Committee.

Mallory Factor, vice chairman of the Independent Task Force on Terrorist Financing, said this:

> The Saudi Government has clearly allowed individual and institutional financiers of terror to operate and prosper within Saudi borders.

Let me repeat that statement:

> The Saudi government has clearly allowed individuals and institutional financiers of terror to operate and prosper within Saudi borders.

He continued:

> Saudi Arabia has enacted a new anti-money laundering law designed to impede the flow from Saudi Arabia to terrorist groups. However, significant enforcement by Saudi Arabia of several of these new laws appears to be lacking. . . .

He continued:

> Furthermore, even if these laws were fully implemented, they contain a number of exceptions and flaws which weaken their effectiveness in curbing terror financing. . . . Quite simply, Saudi Arabia continues to allow many key financiers of global terror to operate, remain free and go unpunished within Saudi borders.

Lee Wolosky, the codirector of the Council on Foreign Relations Task Force, added:

> There is no evidence . . . that since September 11, 2001, Saudi Arabia has taken public punitive actions against any individual for financing terror.

That directly contradicts the statements made by this administration that the Saudis have been cooperating and continue to deserve to be considered as allies.

Despite all of the evidence, President Bush has said nothing to suggest that he is reconsidering the assurance he offered to the American people in the Rose Garden on September 24, 2001, when he said:

> As far as the Saudi Arabians go . . . they've been nothing but cooperative. Our dialogue has been one of—as you would expect friends to be, able to discuss issues.

On Sunday, like several million Americans, I watched the Sunday interview programs and I saw a lady I admire, Dr. Condoleezza Rice, as she attempted to explain why she and other key members of this administration, aware of the fact that there was a considerable disagreement as to whether aluminum tubes which were destined for Iraq but had been intercepted, but which had been determined by the best experts in the United States, those in the Department of Energy, to not be appropriate for the construction of a centrifuge, one of the preliminary steps in the development of weaponizable material—she said any prudent policymaker would have to take the most conservative view if there was a disagreement, take the view that would best protect the American people.

I say this: If we have the kinds of comments that have come from responsible citizens who served on the 9/11 Commission, statements that have been made by a respected independent task force of the Council on Foreign Relations, and the recommendations of the joint House-Senate task force, why do we not take the same conservative position as relates to Saudi Arabia?

This is what our colleagues in this Chamber and the House said in December of 2002. Recommendation 19 of the final report of the joint inquiry stated: The intelligence community, and particularly the FBI and the CIA, should aggressively address the possibility that foreign governments are providing support to or are involved in terrorist activity targeting the United States and U.S. interests. State-sponsored terrorism substantially increases the likelihood of successful and more lethal attacks against the United States. This issue must be addressed.

If we believe that we should take the stance which is most protective of the security of the people of the United States of America, why have we taken this position of coddling passivity and deference to the Kingdom of Saudi Arabia with this record of their support of terrorism?

My lack of confidence in both Saudis and the administration, my lack of confidence in their ability to level with the American people, leads me to offer this amendment on behalf of the families of those who died on 9/11.

Several groups of families and survivors have filed lawsuits against the Saudi Government, members of the Saudi Royal Family, other Saudi entities, alleging that they were part of a conspiracy that led to the successful attacks on the United States on September 11, 2001.

The Saudi Government, in Federal court, has moved to strike not only the Royal Family, not only individuals but also to strike virtually every entity under the umbrella, that those entities are a part of the sovereign immunity in Saudi Arabia and therefore come under the umbrella of sovereign immunity from their acts.

The effect of this position is to prevent the victims' families from proceeding to the discovery portion of the trial which could yield valuable information about the Saudi Government's activities. This amendment would waive sovereign immunity protections for foreign governments involved in lawsuits related to the September 11 attacks. It would not automatically declare that the Saudi Government or any other government is responsible for the attacks or was complicit in the attacks, but it would give victims' families a chance to have their day in court. While exceptions like this are rare, this is because terrorist attacks of the magnitude of September 11 are rare.

Congress has waived sovereign immunity before. In the case of the Iran hostage-taking, sovereign immunity was waived because there was reason to suspect that the hostage-takers had received support from the Iranian Government. We decided an exception to the law was necessary in this case in order to both get to the truth and see that justice was provided for innocent American families.

I believe the family members of the victims of 9/11 deserve to have an equal opportunity to get to the truth, especially in light of the coverup our Government has engaged in and which has prevented the American people from a full understanding of the extent of that complicity.

For all we know, the network which functioned prior to 9/11 and which contributed to the ability of these 19 people who were new to the United States, woefully deficient in the English language, to be able to hide out for 18 months and then refine, practice, and execute a plan of terror, that infrastructure is still in place. This amendment would help these families and the people of the United States better understand what has happened to us in the past, what the threat might be today, and to hold those responsible and accountable for their actions.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent to speak as if in morning business for no more than 10 minutes.

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

The Senator from Idaho.

FLU VACCINE SUPPLY

Mr. CRAIG. I come to the Senate floor this afternoon to express a grave concern about today's announcement concerning a new threat to America's flu vaccine supply—and to urge that firm and decisive action is needed to meet this potential deadly threat.

First, the facts as we know them: Earlier this morning, the California-based Chiron Corporation announced that British regulators had unexpectedly imposed a 3-month suspension of operations of its Liverpool plant, citing unspecified manufacturing problems.

What does this mean? Mr. President, I believe today's announcement may prove to have worldwide and deadly consequences. This is because Chiron's Liverpool facility is today one of only two major manufacturers of flu vaccine worldwide, and it supplies approximately one-half of the total U.S. flu vaccine supply.

More specifically, if Chiron is unable to ship its vaccine this year, the U.S. will lose approximately 46 million doses of flu vaccine, just under half of the anticipated supply of about 100 million doses. Ideally, as many as 185 million doses would be needed to protect all Americans who are at risk. This gives you some idea of the parameters of the problem.

Because flu vaccine is produced seasonally and cannot easily be accelerated on short notice, and because the annual flu season typically begins in October—the month we are now in—this announcement effectively deals a body blow to U.S. preparedness as we enter this year's flu season.

As the chairman of the Senate Special Committee on Aging, I am especially concerned about the effects of this development on America's senior population, who account for over 90 percent of the approximately 36,000 American flu deaths each year.

Indeed, just last week the Aging Committee held a hearing to examine ways of improving flu preparedness and vaccination rates.

At our hearing, Chiron president and CEO testified that Chiron was on track to deliver its full complement of flu vaccine this year. According to initial accounts, today's announcement from the British Government came as an alarming surprise, both to Chiron itself and to the U.S. Food and Drug Administration, which itself had conducted reviews of Chiron's operations in recent months.

Time will tell, of course, but there is no question that today's developments have caught the world public health community off guard.

So what can be done?

First, I am very encouraged that FDA, CDC, and the NIH have moved swiftly today to convene emergency meetings of top vaccine experts to confer with their British counterparts and to seek assistance from the other major vaccine manufacturer, Aventis. I understand that Secretary Tommy Thompson has already dispatched a team to England to address this crisis.

I believe these discussions are extremely important. Of course, safety must always be our paramount consideration. Nevertheless, considering Chiron's critical role in flu vaccine production, coupled with the deadly worldwide threat that confronts us, I urge U.S. and British scientists and officials to do everything in their power to correct whatever problems might exist in time to permit shipment of at least some of Chiron's vaccine this year.

Second, I believe it is imperative that Federal authorities act swiftly to guarantee that, if there is to be a sharp drop in vaccine supplies, priority distribution go first to America's elderly and to the young children, as well as certain other especially vulnerable populations.

Third, today's alarming announcement is a wake-up call that better long-term flu preparedness is imperative. As we heard at last week's hearing, this is especially true in light of the fact that scientists now believe that a return of an especially strong pandemic strain of flu is overdue.

Scientific progress is being made in a number of promising areas, among them options for developing cell-based alternatives to today's egg-based technology. I am also encouraged that the administration in recent months has made substantial progress in its pandemic preparedness planning.

In addition, Senator EVAN BAYH and I introduced legislation earlier this year to further address some of these longer-term issues. For example, our legislation, S. 2038, would encourage an increase in vaccine production capacity by offering a tax credit for companies to invest in the construction or renovation of production facilities and for the production of new and improved vaccines. Our legislation also contains provisions to encourage greater volume of vaccine production, as well as to improve outreach and education about the importance of flu vaccination.

Finally, I want to close by noting that perhaps the single most important reason today's announcement is so potentially devastating is the simple fact that we have only two manufacturers for flu vaccine.

Stop and think about that. In a country as great and as rich as ours, with our medical science as advanced as it is, we rely only on two companies to produce this vaccine. Why? In part, for example, it is because in recent years vaccine companies, in trying to guess what the market is going to be and to produce for the market, lost well over $120 million and simply could not take those kinds of losses.

That is why Senator EVAN BAYH and I introduced legislation to try, again, to resolve this problem.

Why? Again, flu is a worldwide killer, and the need for vaccine is very clear. Yet the market has dwindled to a point that the pullout of just one company, as was announced today, devastates a worldwide supply of vaccine.

An additional factor underlying this problem, as in so many other sectors, is the issue of tort liability. The risk of lawsuit is so great today that some of these companies are simply closing their shops and walking away.

Today is not the time to discuss this particular issue in great detail, but as we move forward we need to ask ourselves, can we put the American population at risk simply because we have developed such a litigious society that everybody has to sue? When they do that, we find ourselves, as the announcement today found us, dramatically wanting for tens of millions of Americans who may this year not receive the vaccinations they need. Is that a risk that is acceptable, or is that a risk that is too high?

There is no question in my mind, and there is no question in the minds of the scientists in public health, that flu is a killer. Last year, 36,000 Americans died as a result of the flu or conditions stemming from it.

Once again, I commend the swift response of Secretary Thompson and others. I hope this grave situation can successfully be addressed. If it is, many will be saved.

We do not yet know all the facts, and again, safety is paramount, but if the American Government and the British Government can perhaps come to some degree of accord regarding acceptable and safe development and production standards between ourselves and Great Britain, thousands of Americans and others worldwide may yet receive the vaccine they need.

This is a critical issue, and it is an issue that will play out in the coming days. But whatever transpires, I believe this Congress, the CDC, the FDA,

and all who are involved in this issue must clearly prioritize vaccine distribution first for our very elderly, our very vulnerable, and our youngest citizens—those who are the greatest potential victims of this tragic illness.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. BENNETT. I ask unanimous consent that I be allowed to speak in morning business for 10 minutes.

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

JUST THE NUMBERS

Mr. BENNETT. Mr. President, in this election time we are hearing a great deal of discussion about the economy. We are hearing all kinds of spin being placed on the economic numbers. I don't come to the floor to try to put any spin on the numbers, but I do come to try to list the numbers. As I read the various speeches on both sides of the aisle, many times they pick out one particular portion of the economy that can be used to make a point for or against where their political position is. I want to simply outline the numbers and let those who may be watching come to their own conclusions as to whether the economy is doing well.

First number: Over the past four quarters the U.S. economy has expanded by 4.8 percent. Let's put that in perspective. In that same period, Italy has seen its economy expand by 1.2 percent; Germany 2 percent; 2.8 percent in France; 3.6 percent in Britain; and 4.2 percent in Japan. Japan is emerging from a 15-year recession, and they are thrilled about their growth at 4.2 percent. In America, we are growing at 4.8 percent. Those are the numbers.

Comparison to our own history: The U.S. growth rate over the past year has been nearly a full percentage point above the 3.9 percent growth over a comparable period when President Clinton was seeking reelection. August's 5.4 unemployment rate, for those who want to focus primarily on jobs, is well below the average of the 1970s. The average unemployment in the 1970s was 6.2; the 1980s, the average unemployment in the 1980s was 7.3; and the 1990s, the average unemployment in the 1990s was 5.75. Our current unemployment is 5.4.

The nonfarm business sector productivity growth has averaged 4.6 percent per year from the beginning of 2002 through the second quarter of this year. Unprecedented in the post-World War II period, the annualized productivity increases since early 2002 have been nearly three times the annual average rate that prevailed from 1994 to 1996. Let me repeat that. If you go back to those 2 years from 1994 to 1996, again trying to take a comparable period, 2 years before a Presidential election, the average annual rate in that period was 1.6 percent. Right now our annualized rate is three times as high.

Consumer price inflation was 3.4 percent in 2000. Since then it has averaged 2.4 percent. Inflation is under control. Inflation expectations are very well contained.

So we are having growth higher than we have had. We are having productivity higher than we have had. We are having unemployment lower than we have had. And inflation and inflation expectations are well under control.

I could go on with additional statistics. Let me cite a few very recent numbers to bring people up to date. One of the things about economics that many of us forget is that the numbers take a while to be accumulated. You will have a number released and then, when the economists go back through the data, they come back and say, no, that number was wrong. We now know that the average was either higher or lower than we had indicated.

The second quarter GDP growth of this year was originally reported at 2.8 percent below the numbers I have been talking about, causing some people to say, see, the economy has slowed down. They have now been revised. The economists have gone back, reexamined the data, and have revised that 2.8 percent upward to 3.3 percent, which gives us the average for the four quarters that I cited earlier. The economy is doing very well. Business investment increased by 12.5 percent and has now increased for five consecutive quarters. Export growth was strong and the revised second quarter trade deficit was smaller than previously reported.

Residential investment, primarily home building, is now estimated to have grown at a stellar 16.5 percent annualized rate. This is the second strongest quarterly growth in home building in 8 years. More Americans own their home now than at any time in American history. Household wealth—which represents for many people the equity in their homes—is at a record high. It hit a record high—the highest in American history—in the second quarter of 2004.

For those who talk about squeezes and those who talk about Americans who cannot save anything, Americans who cannot acquire any wealth, I suggest that you look at the facts. Again, according to the Federal Reserve data, U.S. household wealth hit a record high in the second quarter of 2004. It will be interesting to see where it goes in the third quarter.

New home sales dropped off for a while. People said maybe the recovery was slowing down. New home sales regained their vigor in August, with a 9.4-percent annualized rate of increase. Construction activity remains on a solid footing. Housing starts were up by a robust 9 percent in August over the year before. As I said, the home ownership rate in the United States is now 69 percent, the highest in American history.

It is interesting that we focus on the percentage, because the growth of the population would allow people to say, yes, it is the highest in history numerically, but a smaller percentage of Americans are living in their own homes. That is not true. It is not only the highest numerically; it is the highest percentage of Americans owning their own home and living in their own home.

These are the facts. We will let the politicians in this election spin whatever they want to spin, but I hope everybody will ultimately come back to the facts.

If I may put my interpretation on the facts which I believe are very defensible, the recovery out of the recent recession has not only taken hold, not only gained traction, it is strong, it is growing, and the next President of the United States—whomever he may be—will inherit a very strong and robust economy. He will take credit for it because it will have happened on his watch, but the groundwork for this economy, for the next economy, has been laid already. We are seeing the results now.

Economists are looking back and saying 2002 was a better year than we thought; 2003 was a stronger year in the last half; and in 2004, the economy is growing at a rate at which every other industrialized country in the world would be very grateful. America is doing economically very well. Those are the facts.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, shortly, I am hopeful we will be able to clear three amendments offered by the Senator from Alaska—three pending amendments. We have reached compromises due to a lot of hard work and good faith on both parts. We have asked the Senator from Alaska if he is available to come over to the floor now, and I am hopeful we will be able to resolve those three pending amendments this evening. In the meantime, 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. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 3767 WITHDRAWN

Mr. LIEBERMAN. Mr. President, with the authorization of the sponsor of the amendment, Senator LAUTENBERG of New Jersey, I withdraw amendment No. 3767 among the pending amendments.

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

Mr. LIEBERMAN. I thank the Chair, 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. LIEBERMAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

AMENDMENT NO. 3814, AS MODIFIED

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that amendment No. 3814, previously agreed to, be modified with a change that is at the desk. This modification is technical in nature, involving only the instruction line of the amendment. It has been cleared on both sides.

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

The amendment, as modified, is as follows:

On page 4, after line 12, of the agreed to language of amendment No. 3942, insert the following:

(4) regions of specific concern where United States foreign assistance should be targeted to assist governments in efforts to prevent the use of such regions as terrorist sanctuaries are South Asia, Southeast Asia, West Africa, the Horn of Africa, North and North Central Africa, the Arabian peninsula, Central and Eastern Europe, and South America;

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3866

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding cloture, the Specter amendment No. 3866 be in order.

The PRESIDING OFFICER. Is there objection? The Senator from Maine.

Ms. COLLINS. Mr. President, as the Senator from Nevada is aware, this amendment is not germane to the underlying bill. We are in a postcloture situation. There are objections on both sides of the aisle to proceeding with this amendment.

Regretfully, I inform the Senator I must object.

The PRESIDING OFFICER. Objection is heard. The Senator from Nevada.

Mr. REID. Mr. President, I am disappointed. However, I understand fully. If the Senator from Maine had the ability to make this in order, the same as last night, it would have been done. This is a complicated bill. But I felt I had to attempt to move forward on this so there will be no misunderstanding as to what took place last night on this matter.

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

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

PARDONING POSTHUMOUSLY JOHN ARTHUR ''JACK'' JOHNSON

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 447, which was submitted earlier today.

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. 447) expressing the sense of the Senate that the President of the United States should exercise his constitutional authority to pardon posthumously John Arthur ''Jack'' Johnson for Mr. Johnson's racially motivated 1913 conviction that diminished his historic significance and unduly tarnished his reputation.

Mr. REID. Reserving the right to object, I would like to be added as a cosponsor.

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

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCAIN. Mr. President, I am pleased that today the Senate will approve a Senate resolution, which I introduced with my colleagues Senators HATCH and KENNEDY, calling on the President to exercise his constitutional authority to pardon posthumously the world's first African-American heavyweight champion, John Arthur ''Jack'' Johnson, for his racially motivated 1913 conviction.

For those of my colleagues who are not familiar with the plight of Jack Johnson, he is considered by many to be the most dominant athlete in boxing history. Born in the Jim Crow-era South in 1878 to parents who were former slaves, he realized his talent for the sweet science early in life. In order to make a living, Johnson traveled across the country fighting anyone willing to face him. But he was denied repeatedly on purely racial grounds a chance to fight for the world/heavyweight title. For too long, African American fighters were not seen as legitimate contenders for the championship. Fortunately, after years of perseverance, Johnson was finally granted an opportunity in 1908 to fight the then-reigning title holder, Tommy Burns. Johnson handily defeated Burns to become the first African-American heavyweight champion.

Jack Johnson's success in the ring, and sometimes indulgent lifestyle outside of it, fostered resentment among many and raised concerns that Johnson's continued dominance in the ring would somehow disrupt what was then perceived by many as a ''racial order.'' So, a search for a white boxer who could defeat Johnson began—a recruitment effort that was dubbed the search for the ''great white hope.'' That hope arrived in the person of former champion Jim Jeffries who returned from retirement to fight Johnson in 1910. But when Johnson defeated Jeffries, race riots broke out as many sought to avenge the loss.

Following the defeat of the ''great white hope,'' the Federal Government launched an investigation into the legality of Johnson's relationships with white women. The Mann Act, which was enacted in 1910, outlawed the transport of white women across State lines for the purpose of prostitution or debauchery, or for ''any other immoral purpose.'' Using the ''any other immoral purpose'' clause as a pretext, Federal law enforcement officials set out to ''get'' Johnson.

On October 18, 1912, he was arrested for transporting his white girlfriend across State lines in violation of the Act. But the charges were dropped when the woman, whose mother had originally tipped off Federal officials, refused to cooperate with authorities. She later married Johnson.

Yet Federal authorities persisted in their persecution of Johnson, persuading a former white girlfriend of Johnson's to testify that he had transported her across State lines. Her testimony resulted in Johnson's conviction in 1913, when he was sentenced to 1 year and a day in Federal prison. During Johnson's appeal, one prosecutor admitted that ''Mr. Johnson was perhaps persecuted as an individual, but that it was his misfortune to be the foremost example of the evil in permitting the intermarriage of whites and blacks.''

Johnson fled the country to Canada, and then traveled to various European and South American countries, before losing his heavyweight championship title in Cuba in 1915. He returned to the United States in 1920, surrendered to authorities, and served nearly a year in Federal prison. Despite this obvious injustice, Johnson refused to turn his back on the country that betrayed him. During World War II, he traveled the country to promote war bonds. Johnson died in an automobile accident in 1946.

A gross injustice was done to Jack Johnson when a Federal law was misused to send him to prison. The Senate's passage of this resolution and the President's pardon of Jack Johnson would not right this injustice, but it would recognize it, and shed light on the achievements of an athlete who was forced into the shadows of bigotry and prejudice. Taking such actions would allow future generations to grasp fully what Jack Johnson accomplished against great odds and appreciate his contributions to society unencumbered by the taint of his criminal conviction.

Jack Johnson was a flawed individual who was certainly controversial. But he was also a historic American figure, whose life and accomplishments played an instrumental role in our Nation's progress toward true equality under the law. And he deserved much better than a racially motivated conviction,

which denied him of his liberty, and served to diminish his athletic, cultural, and historic significance.

The pardon of Jack Johnson would not be an act that would benefit Mr. Johnson or his heirs. Rather, his pardon would be a nominal but useful corrective of a shameful injustice that would serve as a testament of America's resolve to live up to its noble ideals of justice and equality. Instead of erasing from our memories the injustice that deprived a great athlete of his livelihood and freedom, we have an opportunity to speak as one in condemning the public intolerance and misuse of Federal authority that was perpetrated against this man.

While we know that we cannot possibly right the wrong that was done to Jack Johnson, we can take this small step toward acknowledging his mistreatment and removing the cloud that casts a shadow on his legacy.

I urge adoption of the resolution.

I will mention there is a great American named Ken Burns who may be the foremost maker of documentaries in America. Ken Burns, Mohammad Ali, and many other respected figures throughout America have formed a committee for the pardon of Jack Johnson. I hope we can get it sooner or later.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues in calling for a presidential pardon for Jack Johnson, the first black heavyweight champion in boxing, who was unjustly persecuted in 1913 for being famous, wealthy, powerful—and black.

Jack Johnson was the son of a former slave. He grew up in Galveston in the era of segregation, harsh racial bigotry, and vicious lynching. But Johnson was tough and talented, and he saw a way up. He fought for money in ''battle royals,'' in which groups of black men fought until the last one standing was declared the winner. He turned professional and, at the age of 25, won the Negro heavyweight championship. It was 1903, and boxing was widely and closely followed throughout the Nation.

White fighters didn't fight blacks professionally, but Johnson's popularity grew. He was an innovative boxer and was sometimes ridiculed for his smart and relaxed style, even though it was considered a brilliant style when it was later adopted by white boxers.

With no worlds left to conquer in segregated boxing, Johnson set his sights on challenging white boxers, and sportswriters began to support his challenge. Jim Jeffries, the white heavyweight champion, retired, rather than face Johnson. The title went to Tommy Burns, and a match was finally scheduled. Johnson defeated him easily, and whites immediately began to scour the country for a ''great white hope'' to win the title. Under intense pressure, Jeffries came out of retirement to face Johnson on the Fourth of July, 1910, in a fight called the ''Battle of the Century.'' Johnson defeated him easily.

Blacks in cities and towns across the country celebrated and some were attacked and even killed. Race riots erupted in some cities. In 1912, the Justice Department tried to do what no boxer could do at the time, and knock Johnson out. The Justice Department went to vindictive lengths to punish the heavyweight champion of the world because of the color of his skin. The law they chose was the Mann Act, which had been enacted by Congress in 1910, and which made it a crime to transport a woman across state lines ''for the purpose of prostitution or debauchery,'' or for ''any other immoral purpose.''

Johnson flaunted his boxing success and defined bigotry. He had money and power at a time when the vast majority of blacks were poor and powerless. He was, athletically, the king of the hill, when blacks were regarded as physically inferior to whites. Relationships between a black man and white woman were often deemed ''immoral'' in those days, but Johnson ignored such views. ''I act in my relations with people of other races as if prejudice did not exist,'' he said.

Johnson's relationships with white women enraged whites, and the Justice Department searched his past for a suitable case and convicted him. Most of the charges were thrown out on appeal, but enough remained to sentence Johnson to one year in prison. At the time, the prosecutor said Johnson may have been persecuted ''as an individual'' but ''it was his misfortune to be the foremost example of the evil in permitting the intermarriage of whites and blacks.'' Johnson was the embodiment of the hopes of countless blacks, and the prosecutor admitted the conviction was meant to ''send a message.'' Johnson served his one-year sentence, was shunned by the boxing community, and died in 1946.

A pardon now would also send a message—that Johnson deserves his rightful place in sports history and the Nation's history.

Civil rights is still the unfinished business in America. Sadly, generations of Americans whose names we will never know suffered through whole lifetimes of bigotry because of the racism that stained our Nation for so long. Correcting such a major symbol of injustice in the past reminds us of how much we still must do in the future.

I commend Senator MCCAIN for introducing this resolution, and I urge Congress to approve it.

Mr. MCCAIN. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

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

The resolution (S. 447) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 447

Whereas, Jack Johnson was a flamboyant, defiant, and controversial figure in American history who challenged racial biases;

Whereas, Jack Johnson was born in Galveston, Texas, in 1878 to parents who were former slaves;

Whereas, Jack Johnson became a professional boxer and traveled throughout the United States fighting white as well as black heavyweights;

Whereas, Jack Johnson, after being denied, on purely racial grounds, the opportunity to fight two white champions was granted an opportunity in 1908 by an Australian promoter to fight the reigning white title-holder, Tommy Burns, whom Johnson defeated to become the first African American to hold the title of Heavyweight Champion of the World;

Whereas, Jack Johnson's victory prompted a search for a white boxer who could beat Johnson, a recruitment effort dubbed the search for the ''great white hope'';

Whereas, a white former champion named Jim Jeffries left retirement to fight and lose to Jack Johnson in Reno, Nevada, in 1910 in what was deemed the ''Battle of the Century'';

Whereas, rioting and aggression toward African Americans resulted from Johnson's defeat of Jeffries and led to racially-motivated murders of African Americans nationwide;

Whereas, Jack Johnson's relationship with white women compounded the resentment felt toward him by many whites;

Whereas, between 1901 and 1910, 754 African Americans were lynched, some of whom were lynched simply for being ''too familiar'' with white women;

Whereas, in 1910 the Congress passed the Mann Act, (18 U.S.C. 2421), then known as the ''White Slave Traffic Act,'' which outlawed the transportation of women in interstate or foreign commerce ''for the purpose of prostitution or debauchery, or for any other immoral purpose'';

Whereas, in October, 1912, Jack Johnson became involved with a white woman whose mother disapproved of their relationship and sought action from the United States Department of Justice, claiming that Johnson had abducted her daughter;

Whereas, Jack Johnson was arrested on October 18, 1912, by Federal marshals for transporting this woman across State lines for an ''immoral purpose'' in violation of the Mann Act, only to have the charges dropped when the woman refused to cooperate with authorities and then married the champion;

Whereas, Federal authorities persisted and summoned a white woman named Belle Schreiber who testified that Johnson had transported her across State lines for the purpose of ''prostitution and debauchery'';

Whereas, Jack Johnson was eventually convicted in 1913 of violating the Mann Act and sentenced to one year and a day in Federal prison, but fled the country to Canada and then on to various European and South American countries, before losing the Heavyweight Championship title to Jess Willard in Cuba in 1915;

Whereas, Jack Johnson returned to the United States in July, 1920, surrendered to authorities, served nearly a year in the Federal penitentiary at Leavenworth, Kansas, and fought subsequent boxing matches, but never regained the Heavyweight Championship title;

Whereas, Jack Johnson served his country during World War II by encouraging citizens to buy war bonds and participating in exhibition boxing matches to promote the war bond cause;

Whereas, Jack Johnson died in an automobile accident in 1946; and

Whereas, in 1954 Jack Johnson was inducted into the Boxing Hall of Fame: Now, therefore, be it

Resolved, That it is the Sense of the Senate that—

(1) Jack Johnson paved the way for African American athletes to participate and succeed in racially-integrated professional sports in the United States;

(2) Jack Johnson was wronged by a racially-motivated conviction prompted by his success in the boxing ring and his relationship with white women;

(3) his criminal conviction unjustly ruined his career and destroyed his reputation; and

(4) the President of the United States should grant a pardon to Jack Johnson posthumously to expunge from the annals of American criminal justice a racially-motivated abuse of the Federal government's prosecutorial authority and in recognition of Mr. Johnson's athletic and cultural contributions to society.

Mr. MCCAIN. 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. FRIST. 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. FRIST. Mr. President, I ask unanimous consent that notwithstanding the adjournment of the Senate or other business before the Senate, all time be counted as postcloture time on S. 2845; provided further that at 11:30 a.m. on Wednesday, the Senate begin a series of rollcall votes on the pending amendments in the order offered.

I further ask unanimous consent that there be 2 minutes equally divided prior to each vote, with no second-degree amendments in order to the amendments prior to the votes.

I further ask unanimous consent that the voting sequence end at amendment No. 3916.

I further ask unanimous consent that it be in order for the managers, with the concurrence of the two leaders, to send a managers' amendment to the desk prior to passage.

I further ask unanimous consent that following the conclusion of those votes and the expiration of any remaining time under rule XXII, the Senate vote on any qualified amendment to be followed by third reading and a vote on passage of the bill, as amended, with no intervening action or debate.

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

Mr. FRIST. Mr. President, I ask unanimous consent that immediately following passage of S. 2845, the Senate proceed to the consideration of Calendar No. 770, S. Res. 445.

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators speaking for up to 10 minutes each.

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

NOTICE OF MOTION TO SUSPEND

Mr. MCCONNELL. Mr. President, I wish to file the following amendment and give notice to the Senate that pursuant to rule 5, section 1 of the Standing Rules of the Senate, notice is hereby given of the motion to suspend, modify or amend rule 25 for the purpose of implementing the 9/11 Commissions recommendations related to congressional reorganization.

Mr. President, the world changed on September 11, 2001, and those changes have reached far and wide. Today, we in Congress must change the way we perform our critical role of intelligence and homeland security oversight.

Today, the Senate majority leader, the Senate minority leader, Senator HARRY REID, and myself will file an amendment to a Senate Resolution that takes significant strides toward strengthening our oversight of intelligence and homeland security.

We urge Members to join this discourse and offer those changes and improvements that will enhance the domestic security of the United States. We not only expect a vigorous debate but we hope for such a discourse and urge Members to help improve this initial product.

MONGOLIA AND BURMA

Mr. MCCONNELL. Mr. President, as elected representatives, we often get correspondence from people—from our respective States and elsewhere—expressing views and opinions on a whole range of issues.

Occasionally, a letter comes in that deserves to be shared with the entire Senate. I recently received such a letter from Mongolian Prime Minister Elbegdorj Tsakhia, who took power after democratic elections in that country earlier this year.

While some may not pay much attention to Mongolia—it is literally half a world away—it deserves America's thanks and praise. That country serves to remind us that the fundamental pillars upon which our democracy is constructed—individual rights, freedom of the press and religious tolerance—are not Western ideals but universal rights. As Prime Minister Elbegdorj points out, Mongolia enjoys a tradition of democracy and recognizes that it shares a responsibility to support freedom beyond its borders.

Today I want to personally thank Prime Minister Elbegdorj and the people of Mongolia for their country's contributions to the War on Terrorism in Iraq and for their steadfast support of democracy in Asia—and in Burma, in particular. Brave Mongolian soldiers serving in Iraq, and those who champion the cause of democracy closer to home, are a tribute to their country.

While I will include the text of the Prime Minister's letter in the RECORD following my remarks, I want to read one line that rings true:

> Having lived under, and fought against, the tyranny of Communism I can assure you of one thing: that no dictatorship, no military regime, no authoritarian government can stand against the collective will of a people determined to be free.

Amen, Mr. Prime Minister.

I encourage you to do all you can to further strengthen democracy in your own country, and to continue to aggressively support Daw Aung San Suu Kyi and the people of Burma in their struggle for freedom.

I ask unanimous consent to print the letter in the RECORD.

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

PRIME MINISTER OF MONGOLIA,
September 16, 2004.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: On August 20, 2004 I was sworn in as Mongolia's new Prime Minister. This election has seen another peaceful transfer of political power in my country. It represents Mongolians' continuing commitment to democracy and human rights.

I have lived in the U.S. for the past several years and during that time I earned degrees at the University of Colorado and Harvard. I also served as a consultant to Radio Free Asia in Washington, D.C. During my time in the U.S., I followed your actions on promoting democracy and human rights in Asia—in particular, Burma. I, like you, believe that Aung San Suu Kyi and her National League for Democracy is the legitimate representative of the Burmese people. The military junta that is ruling Burma can only maintain their power through barbaric acts of terror to instill fear in the people.

Mongolia faces many serious economic and social challenges. After our July elections, our parliament, like your Senate, is a divided chamber. The Mongolian people have made their electoral choices and now it is up to my government to make it work. I believe the true test of any democracy is not just the institutionalization of a process and policies that protect individual liberties, freedom of speech, and religious tolerance at home. It is how those values are shared abroad. There can be no excuse made for Burma's military junta. The Burmese people had an election and chose to embrace freedom and democracy. I believe each country that shares our values must take steps to help achieve the results of the 1990 elections. I look forward to engaging in this effort.

Despite the distance that separates our countries, our shared values bring us close together. As you read this letter, U.S. and Mongolian soldiers stand shoulder-to-shoulder helping to build peace and stability in a new Iraq.

Thank you for your work to support democracy in Burma and throughout Asia. Having lived under, and fought against, the tyranny of Communism I can assure you of one thing: that no dictatorship, no military regime, no authoritarian government can stand against the collective will of a people determined to be free.

Sincerely,

ELBEGDORJ TSAKHIA.

NAFTA INJURY PANEL DECISION

Mr. CRAIG. Mr. President, I rise today to express my deep concern that the rights of U.S. lumber producers to remedy against unfairly traded imports from Canada have been improperly curtailed by a runaway NAFTA Chapter 19 dispute settlement panel.

Because of the significant impact on many of our States, today I am joined by Mr. BAUCUS, Mr. CHAMBLISS, Mrs. LINCOLN, Mr. CRAPO, Mr. SMITH, and Mr. WYDEN for a discussion about the NAFTA Injury Panel and Order of August 31, 2004.

On August 31, 2004, this already rogue panel ordered the U.S. International Trade Commission to reverse its earlier rulings that, in fact, the U.S. lumber industry is injured by imports of subsidized and dumped Canadian lumber. In doing so, the NAFTA panel clearly exceeded its authority under U.S. law.

As we all know, Chapter 19 panels reviewing U.S. trade cases are to decide issues under U.S. law just like U.S. courts, applying the same legal standards and subject to the same limitations on their jurisdiction and authority. In fact, as it is structured, NAFTA panels have less authority because they do not have the ability to issue injunctions the way federal courts do.

As many of my colleagues know, just last year the U.S. Court of Appeals for the Federal Circuit, interpreting Supreme Court precedent, stated explicitly that a Federal court cannot simply reverse an ITC decision and cannot order the ITC to change its ruling from affirmative to negative. However, this is just what the NAFTA panel did in this case—told the United States ITC to change its previous ruling. U.S. courts have long determined that if some aspect of an ITC decision is not adequately supported by the evidence cited by the ITC, the proper action by a court is to remand the case to the ITC for further substantive analysis. Yet, in the lumber case the NAFTA panel expressly told the ITC it could not further analyze the facts and issues before it, but could only issue a new decision consistent with the NAFTA panel's view that the U.S. industry is not threatened with injury. This very action is usurping due process.

In other words, the NAFTA panel has effectively tied the hands of U.S. courts and prevented U.S. Federal courts from acting. This is exactly why I voted against NAFTA when it came up for a vote years ago. Simply put, here we go again having an international body, full of individuals who disregard U.S. law, dictating to the U.S. courts how to interpret our own laws. Not on my watch. I ask the rhetorical question, how can this NAFTA ruling be consistent with the requirements of the NAFTA agreement that Chapter 19 panels are to follow U.S. law when reviewing U.S. agency decisions? This ruling, without question, is a fundamental breach of the terms of the agreement—a breach that goes to the very integrity of the NAFTA dispute settlement system itself.

The ITC, as it is required by the NAFTA law Congress passed, has complied with the NAFTA panel order to reverse its affirmative threat of injury determination. Thankfully, however, the ITC emphasized that the NAFTA panel had ''violated U.S. law and exceeded its authority as established by the NAFTA [by] failing to apply the correct standard of review and by substituting its own judgment for that of the Commission.'' The Commission further described ''the panel's decisions throughout this proceeding as overstepping its authority, violating the NAFTA, seriously departing from fundamental rules of procedure, and committing legal error.''

My confidence in the NAFTA has always been shaky at best, but today that confidence is completely eroded. The Commission's expressed views on this matter are highly telling and descriptive of the NAFTA panel's overreaching and exceeding of its authority. I therefore wish to enter in their entirety into the RECORD the ''Views of the Commission in Response to the Panel Decision and Order of August 31, 2004'' issued by the Commission on September 10, 2004.

Mr. BAUCUS. Mr. President, I share the concerns of my colleague. For many U.S. industries, the laws against unfair trade are the last line of defense. American workers and their families should be able to count on the enforcement of U.S. antidumping and countervailing duty laws to provide a level playing field, and they should be able to rely on the Congress to ensure that those laws are fully enforced. The manner in which agency decisions are affected by NAFTA panel decisions should be closely scrutinized by the Senate.

As my colleague indicated, under the terms of the NAFTA, Chapter 19 panels are supposed to apply the law just as would a U.S. court. They are supposed to be bound by U.S. court precedents in their interpretation of U.S. law. Unfortunately, it has become clear that some of these panels think they do not have to abide by these rules. Again, one of the most blatant examples of this problem involves the ongoing lumber case.

Earlier this year, the same panel that recently ordered the ITC to reverse itself had questioned some of the reasoning of the ITC in its injury decision and sent the case back to the ITC for further explanation. My understanding is that the Federal courts issue such remand orders all the time. Here, however, the panel not only told the ITC to reconsider its decision, but then gave the Commission only 7 business days in which to complete its remand determination, instead of the 60 to 90 days that a court would normally give.

In response to this order from the panel, the Commission requested additional time, and explained that to properly address the panel's concerns, the ITC would have to gather new evidence and request additional comments from the parties to the case, so that all views could be heard. This should have been an easy request for the panel to grant, because just a few months earlier the U.S. Court of Appeals for the Federal Circuit had issued an opinion stating plainly that the decision to reopen the record on remand rested exclusively with the ITC. Incredibly, the NAFTA panel ignored this binding court ruling and forbade the Commission to consider new evidence, and again demanded a new determination by the ITC in a mere 7 business days. This is another clear case of overreaching by a NAFTA panel that should not be permitted.

Continued support for free trade initiatives such as NAFTA rests upon the promise of full enforcement of U.S. laws. American industries and workers must be able to rely on the promises made to them by the Congress that unfair trade practices will not be tolerated. When NAFTA panels exceed their authority, confidence is lost not only in the dispute settlement system but in trade agreements generally. We need to inject credibility back into the NAFTA system by reforming Chapter 19.

Mr. CHAMBLISS. I wholeheartedly concur with the concerns of my colleagues regarding the far-reaching effects of NAFTA panel decisions. I am especially troubled by the fact that NAFTA panels often blatantly fail to apply the required standard of review.

NAFTA requires panels to apply the standard of review of the country imposing the duty. The panels are thus obliged to apply the same standard as would the U.S. Court of International Trade—namely, to determine whether the ITC's decision was reasonable and supported by substantial evidence on the record of the case, even if there was also evidence supporting an alternative conclusion. The courts—and NAFTA panels—are not supposed to second-guess the ITC or reweigh the evidence considered by the ITC, but simply to ensure there is a reasonable basis in the record to support the Commission's conclusions. In practice, however, NAFTA panels have often ignored this requirement and have instead substituted their judgment for that of the ITC or the Commerce Department.

This is especially problematic given that agencies review all of the evidence collected during a proceeding, have substantial experience administering the laws, and often consult with and advise Congress in the drafting of the statutes.

Unlike a court or a panel, the ITC has the resources—including industry analysts, economists, and accountants—and the expertise needed to review and analyze the often voluminous records in these proceedings. The Commission is therefore plainly better suited to make determinations based on the facts. As a result, U.S. law could not be clearer: Courts and panels are

not to second-guess an agency but are only to ensure that the agency followed the express requirements of the statute and that there is substantial evidence—''more than a scintilla''—in support of the agency's ultimate conclusion. While the U.S. courts follow this essential element of review in administrative cases, the NAFTA panels do not.

Indeed, as the recent ITC decision referenced by my colleague makes clear, in the softwood lumber injury case the NAFTA panel substituted its judgment for that of the International Trade Commission on any number of evidentiary questions. Unfortunately, the lumber panel is just the latest example of a proceeding in which NAFTA panels have reached legally untenable results completely at odds with U.S. law and NAFTA requirements. We in Congress must monitor this situation very closely. We cannot allow our domestic industries and their workers to become defenseless against unfairly traded imports due to flawed decisions by runaway panels. A better means of dispute settlement within the NAFTA must be created, and the proper standard of review requirements must be enforced.

Mrs. LINCOLN. Mr. President, there is another aspect of the recent softwood lumber NAFTA panel process that deserves our attention. As you know, NAFTA Chapter 19 is a unique form of international dispute settlement that applies to antidumping and subsidy cases involving Canada and Mexico. Normally, U.S. Government decisions to impose duties on unfairly traded goods are reviewed by the U.S. Court of International Trade, a Federal court with judges appointed by the President with the advice and consent of the Senate. For dumped and subsidized goods from Canada and Mexico, however, court review is often replaced with review by a panel of private citizens—mostly members of the bar or other private citizens who are experts in various capacities, but who are not themselves U.S. jurists.

Chapter 19 empowers these panelists to review U.S. legal decisions according to whether they are consistent with NAFTA obligations. Unlike any dispute settlement system in any other trade agreement to which the U.S. is a party, Chapter 19 also empowers these panelists to review cases according to whether they are consistent with U.S. law. NAFTA inherited this particular power from the preceding U.S.-Canada Free Trade Agreement. Unfortunately, as in the softwood case, this system has led to panel judgments that actually overturn valid U.S. legal decisions.

I find this state of affairs to be extremely troubling. In my view, Chapter 19 is clearly in need of reform, and the Senate must be prepared to act to revise this system to prevent unjust situations. If we hope to maintain confidence in, and public support for, our system of trade, then we have to repair the system when it doesn't work. The NAFTA panel in the softwood case has dealt a major blow to our faith in the system. It is time we did something about it.

Mr. CRAPO. Mr. President, I concur with my colleague that the integrity of the NAFTA panel system has been put into serious doubt as a result of the recent panel decision in the softwood lumber case. When NAFTA panels prevent appropriate enforcement of the U.S. trade laws, the public will cease supporting our participation in NAFTA. It is simply unacceptable for a NAFTA panel to dictate the outcome of an investigation to any U.S. court or agency. That is not the purpose of a NAFTA panel. Such authority was not granted by the U.S. Congress to the NAFTA, the WTO, or any other foreign organization.

Congress approved the NAFTA based on its understanding that effective trade remedies would not be eroded. Preservation of these remedies is essential to the overall process of opening foreign markets to imports of goods and services and to prevent harm to American industry and agriculture. Popular support for the principles of free trade and the NAFTA as a whole will be weakened if the dispute settlement system is continually misused to overturn legitimate agency decisions.

In my view, it is essential that future NAFTA panel decisions are carefully scrutinized by Congress. With respect to the seriously flawed NAFTA panel decision in the softwood lumber case, I believe the U.S. Government must pursue an Extraordinary Challenge Committee appeal in order to restore the rights of the American industry and its workers.

Mr. SMITH. Mr. President, I would like to join my colleagues in expressing concern about the Canadian lumber NAFTA panel decision. The experience in the lumber case suggests that greater safeguards may be needed to prevent abuse by rogue panels. Without such reform, I fear Canada will continue its strategy of litigation over negotiation. Indeed, the softwood lumber dispute has reached a critical phase. Since backing away from a tentative agreement reached in December 2003, the Canadian Government has pursued an even more aggressive litigation strategy in an effort to insulate its unfair practices. Most recently, the Canadian Government has urged the Commerce Department to act contrary to U.S. law and return on a retroactive basis antidumping and countervailing duties collected prior to recent Chapter 19 rulings.

In my view, it is imperative that the Commerce Department clearly and emphatically reject requests that deposits already collected be repaid as a consequent result of Chapter 19 panel decisions. U.S. law clearly follows the generally-accepted convention that international dispute settlement decisions are to be implemented prospectively only. The Commerce Department cannot repay deposits already made without express statutory authorization. And the law as passed by the Congress is clear that entries prior to any panel decisions would be ''liquidated'' in the circumstances of the lumber case at the duty rates that Commerce Department established in its original countervailing duty and antidumping duty determinations in 2002.

I find the Canadian Government's current position with respect to repayment of duties to be particularly remarkable considering the Commerce Department's treatment of this issue in the previous softwood lumber dispute. In 1994, the Commerce Department stated that the statute implementing the U.S.-Canada Free Trade Agreement did not permit it to refund deposits paid prior to the implementation date of a panel decision. Since the relevant statutory provisions under the NAFTA remain the same, the Canadian parties know that their position is wrong as a matter of U.S. law. Canadian parties could have appealed the 2002 lumber trade findings to the Court of International Trade, which might have issued an injunction to protect their ability to obtain a retroactive refund of the deposits, but they chose the NAFTA panel route knowing full well that NAFTA panels cannot issue such injunctions.

Of course, the deposits made could always be returned as part of a negotiated settlement that preserves the interests of U.S. workers and sawmills, as was done in 1994. But the Commerce Department is otherwise forbidden by law from refunding the deposits made prior to international panel rulings. I expect the Commerce Department to make this clear to Canada.

I think it is important for each of us to encourage the stakeholders to come back in good faith to negotiations to resolve these cases once and for all. I believe there will be a window of opportunity later this year and will work with all parties to encourage meaningful negotiations to find a balanced solution.

Mr. WYDEN. I, too, rise today to share concerns about the recent NAFTA panel decision. Today, the Canadian share of lumber in the U.S. market is reaching record highs. Canada's practice of dumping subsidized timber in our domestic market continues to wreak havoc on U.S. mills and jobs. My own State of Oregon has been hit especially hard, losing over 3000 jobs in the timber industry since 2002. For years now, my colleagues and I have worked with the International Trade Commission, the Department of Commerce, and the U.S. Trade Representative to help maintain mill operations and keep jobs in our country.

As my colleagues have made clear today, I believe the blatant disregard for U.S. law by the panel will further damage already suffering U.S. timber workers.

Moreover, I cannot refrain from adding, as I watch jobs in the timber industry continue to disappear at an

alarming rate, I find recent decisions by the administration to lower the duties, as a result of administrative reviews, to be particularly egregious and out of line. These decisions have exacerbated an already terrible crisis, and weakened my confidence in the administration's willingness to help our timber workers.

Simply put, I believe it is time to move toward a fix for a system that currently appears to be broken.

STATEMENT OF INTENTION ON S. 2796

Mr. CRAIG. Mr. President, as our colleagues know, Senator DURBIN and I have introduced S. 2796, pertaining to the legal treatment of certification marks, collective marks, and service marks.

Federal law protects all four kinds of marks equally. Specifically, 15 U.S.C. §1503 and 15 U.S.C. §1504 provide that service marks, collective marks, and certification marks ''shall be entitled to the protection provided'' to trademarks, except where Congress provides otherwise by statute. However, the clarity of the Federal laws on this point has been confused by a recent decision of the Second Circuit Court of Appeals in the case of Idaho Potato Commission v. M&M Produce Farm and Sales. That decision interpreted the Lanham Act as requiring that certification marks should be treated differently from trademarks with respect to ''no challenge'' provisions.

We introduced S. 2796 to underscore the policy that Congress clearly intended in the first place. I ask the distinguished Senator from Illinois, is that not the case?

Mr. DURBIN. Mr. President, the Senator from Idaho is correct. Let me say to all our colleagues, this bill does not change current law. Our purpose in drafting S. 2796 was to make it clear that, in our view, the Second Circuit reached an incorrect decision in its interpretation of the Lanham Act. S. 2796 would simply restate the original intent of Congress when we enacted the Lanham Act, and indicate our support of the view that these marks are to be given equal legal treatment by the courts, not the anomalous reading that the Second Circuit gave to it in the Idaho Potato Commission decision.

Mr. CRAIG. I thank the Senator for his clarification and hope all our colleagues will join us in this effort to protect important public policy interests.

Mrs. LINCOLN. Mr. President, I thank the chairman for bringing up for consideration legislation providing multiyear reauthorization of the Economic Development Administration. EDA provides critical resources to communities experiencing significant economic distress and dislocation. The partnership between the planning and development districts in my State of Arkansas and the EDA has been a successful one. It is my hope that this partnership will continue to provide the flexibility that is needed to respond to constantly changing economic conditions.

Mr. BAUCUS. It is my understanding that this legislation preserves current EDA practices and administration of the Planning Partners Program for economic development districts, as currently authorized under Public Works and Economic Development Act of 1965. This is a critical program providing important continual professional and technical assistance to rural and distressed communities to assist in developing economic strategies and implementing infrastructure improvements. It is essential that the legislation maintain this program consistent with current authorization, practices and policies.

Mr. INHOFE. Mr. President, that is correct. The EDA planning program is an important program which provides technical assistance to communities to develop and implement comprehensive economic development strategies. As a matter of fact this bill will provide an historic increase in funding for this important program and will give planning partners the additional resources to address local needs and improve the delivery of federal economic development efforts.

Mrs. LINCOLN. I thank the chairman for his strong leadership and attention to this important matter.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On August 27, 2000, Christopher Weninger, who is not gay, was walking home from a party when three men approached him and one asked him for a cigarette. As Weninger handed the man a cigarette, another man punched him in the face and called him ''queer.'' Weninger suffered a broken nose and eye socket. Police investigated the beating as a hate crime.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

NINETY YEARS OF MUSICAL SUCCESS

Mr. LEAHY. Mr. President, I am proud to salute the American Society of Composers, Authors and Publishers, better known as ASCAP, on its anniversary of 90 years of successful representation of America's songwriters and music publishers.

ASCAP formally began when a group of noted songwriters and their supporters gathered at the Hotel Claridge in New York City on February 13, 1914, at a monumental event that would forever change music history. These visionaries, whose members included some of that era's most active and talented songwriters, such as Irving Berlin, James Weldon Johnson, Jerome Kern and John Philip Sousa, began a tradition of outstanding public advocacy on behalf of songwriters that continues to this very day.

Soon after its founding, a prominent member of ASCAP, Victor Herbert, brought a lawsuit against Shanley's Restaurant that established the legal basis for songwriters to protect their ''performing right'' in the music they created. In a legal battle that took 2 years to reach the U.S. Supreme Court, ASCAP finally prevailed in a unanimous opinion written by Justice Oliver Wendell Holmes. Once their legal authority to protect the musical performing right was secure, ASCAP provided its owner-members with several ways to be compensated for the performances of their copyrighted works.

In advancing its members' interests, ASCAP has traditionally welcomed the marketing of new technologies as opportunities to expand the reach of their musical entertainment to new audiences. With the advent of radio, ASCAP began an interdependent relationship that remains one of its most important sources of revenue to this very day. Today, under the leadership of its distinguished chairman and award winning songwriter, Marilyn Bergman, ASCAP licenses over 11,500 local commercial radio stations and 2,000 non-commercial radio stations and ASCAP music is a dominant entertainment feature of our airwaves.

With the Internet explosion, ASCAP responded with its own technological innovations. It fielded ACE, the first interactive online song database, and EZ-Seeker software for tracking Internet performances. Most recently, it has developed Mediaguide which is probably the world's most comprehensive and accurate broadcast tracking system. Thus, creative innovation and vigilance on behalf of its members have been an ASCAP hallmark since its formation.

While ASCAP has had a deep involvement with the innovative telecommunications technologies and the marvels they have added to our lives, its institutional essence is its people. We have all been admirers of many of the more renowned ASCAP members who now number in the many hundreds over the years. They include such extraordinary talents as: Billy Joel, Hal David, Cy Coleman, Garth Brooks, Irving Berlin, Prince, Lyle Lovett, Henry

Mancini, Marvin Hamlisch, Louis Armstrong, Arturo Sandoval, Duke Ellington, Madonna, Jimmy Webb, Cole Porter, and, or course, the late Jerry Garcia and his bandmates in the Grateful Dead.

However, as a national organization with international impact ASCAP actually represents an additional 185,000 individual songwriter and music publisher members, who are less well known. They are the critical mass of individual talents that extend into every city, town and hamlet in our country.

Its member-owners and the officers and employees who support them are all a part of the traditional ASCAP family. And they are especially deserving of the congratulations we extend on this auspicious event. In addition, those millions of us who appreciate and enjoy the fruits of their creators' talents have become a part of ASCAP's vast extended family of enthusiasts.

So I am wishing a very happy ninetieth birthday anniversary to ASCAP's members, officers, and employees on behalf of its huge extended family for its years of music success in America and around the world.

GRANT DOLLARS AT EPA

Mr. INHOFE. Mr. President, pursuant to my remarks of October 4 on the management of Federal grant dollars at the U.S. Environmental Protection Agency, I ask unanimous consent that the document entitled ''Grants Management at the Environmental Protection Agency—A New Culture Required to Cure a History of Problems'' be printed in the RECORD.

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

GRANTS MANAGEMENT AT THE ENVIRONMENTAL PROTECTION AGENCY

A NEW CULTURE REQUIRED TO CURE A HISTORY OF PROBLEMS

On March 3, 2004, the U.S. Senate Environment and Public Works Committee held an oversight hearing into grants management at the Environmental Protection Agency (EPA). Testimony offered at the hearing referenced the need for a cultural shift within EPA necessary for new and effective grants management and oversight within EPA. These remarks are compiled from testimony from that hearing and information derived from subsequent oversight conducted by Environment and Public Works Committee (EPW) Majority Staff following that hearing.

EPA GRANTS MANAGEMENT

Each year, the EPA awards over half of its annual budget, totaling over $4 billion, in grants. This amounts to between seven to eight thousand grants or grant actions taken each year. EPA awards both discretionary and non-discretionary grants to recipients such as state, local, and tribal governments, educational institutions, non-profit organizations, foreign recipients, and individuals among other types of recipients. The U.S. General Accounting Office (GAO) completed a comprehensive report on EPA grant management which it issued in August 2003, compiling ninety-three GAO and EPA Inspector General reports, 1,232 reviews of records of awarded grants ending in fiscal year 2002, and interviews with EPA grant officials. According to the GAO report, the majority of EPA grant awards are non-discretionary grants awarded to government entities to fund infrastructure and the implementation of federal and state environmental programs. These grant funds are awarded according to statutory or regulatory formulas to the receiving governmental entities. The GAO reported that in fiscal year 2002, the EPA awarded nearly $3.5 billion in non-discretionary grants. The remaining approximately $700 million in fiscal year 2002 was awarded in discretionary grants in which EPA officials have the discretion to determine the grant amounts and recipients. Primarily, EPA awards discretionary grants to non-profit organizations, universities, and governmental entities.

EPA grants are awarded and managed both through EPA headquarters and through the ten regional EPA offices. The EPA Office of Administration and Resources Management's Office of Grants and Debarment within agency headquarters develops agency policy for grants management. Overall the program offices within EPA headquarters and the regional offices employ 109 grants specialists responsible for financial oversight of grant awards and over 1,800 project officers responsible for providing technical and programmatic oversight of grant recipients and to monitor the progress of individual grants.

EPA GRANTS MANAGEMENT HISTORY

The EPA Inspector General (OIG), the Office of Management and Budget (OMB), and the GAO have consistently identified deficiencies in EPA grant management in numerous audits and reports. The EPA has consistently identified grants management as either an agency or material weakness in recent annual Federal Managers Financial Integrity Act reports. As recently as September 2003, the OIG again recommended that the EPA again reflect that grants management is a ''material weakness.''

In its August 2003 comprehensive report on grants management, the GAO provided a condensed history of grants management within the EPA. As described in the report, the OIG first recommended in 1995 and subsequently provided congressional testimony in July 1996 that EPA demonstrated a significant weakness in grants management. This resulted in EPA identifying grants management as a ''material weakness'' in its 1996 Integrity Act report. In response, the EPA instituted new policies for monitoring grant recipients, providing grants training for project officers, and reviewing grants management effectiveness. Although EPA reported in its 1999 Integrity Act report that weaknesses in grants management had been corrected, the OIG again provided congressional testimony in November 1999 where it disclosed that OIG audits revealed management problems persisted despite new EPA policies. The EPA continued to designate grants management as an ''agency weakness'' in its 2000 Integrity Act report. In 2002, the OIG and the OMB recommended that EPA designate grants management as a ''material weakness'' within the agency. Additionally, in its August 2003 report, the GAO stated that EPA continues to encounter the problems in the following areas: (1.) selecting the most qualified applicants, (2.) effectively overseeing grantees, (3.) measuring the environmental results of grants, and (4.) effectively managing grants staff and resources. The U.S. House of Representatives Committee on Transportation and Infrastructure Subcommittee on Water Resources and Environment held a series of hearings in June 2003, October 2003, and July 2004 concerning the continued deficiencies in EPA grants management based in large part on the GAO findings.

In the President's 2004 Budget submission, the OMB identified four EPA grant programs in which it reported EPA could not adequately measure the effectiveness of those programs. Additionally, in the President's 2005 Budget submission, the OMB evaluated a total of twenty EPA programs including ten grant-based programs. Again, the OMB reported that EPA exhibits weakness in measuring the effectiveness of its grants programs.

On March 3, 2004, the Senate Environment and Pubic Works Committee held its first oversight hearing into grants management at the EPA. With such a troubling history in EPA grants management, the testimony offered at the hearing led Chairman James Inhofe to characterize the previous 10 years of grant management at EPA in the following manner:

''[F]or the last ten years, the story of grants management is seemingly a revolving door of the EPA IG audits, GAO reports, Congressional hearings, and new EPA policies in response. Even with this constant cycle of criticism, hearings, and new policies, the GAO reported later last year that the EPA continues to demonstrate the same persistent problems in grants management. These problems include a general lack of oversight of the grantees, a lack of oversight of the Agency personnel, a lack of any measurement of environmental results, and a lack of competition in awarding grants. It is imperative that Agency personnel are accountable for monitoring grants—that measurable environmental results are clearly demonstrated.''

NEW EPA RESPONSES

In September 2002, the EPA issued a new grant award competition policy which focused on requiring competition in grant awards over $75,000 with certain exceptions and created the position of grant competition advocate to enforce the policy and recommend changes. Additionally, the GAO reports that in 1998, 1999, and in February 2002, the EPA has issued oversight policies designed to increase grant baseline monitoring, increase in-depth reviews, create annual monitoring plans, and create a grantee compliance database.

In April 2003, the EPA issued its first five-year grants management plan. This plan incorporates the new grants competition and oversight policies establishing the following principal Objectives and Activities for grants management:

Enhance the skills of EPA personnel involved in grants management; promote competition in the award of grants; leverage technology to improve program performance; strengthen EPA oversight of grants; support identifying and achieving environmental outcomes.

SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE OVERSIGHT

At the March 3, 2004, Senate Environment and Public Works Committee oversight hearing into grants management at the EPA, Chairman Inhofe stated:

''I want to announce to all of you today that this Committee is going to take this oversight responsibility seriously in regards to grants management. . . . I am going to make a personal commitment that it is going to change this time. . . . We are going to have accountability and the revolving door will stop.''

The Committee heard testimony from the OIG, EPA Office of Administration and Resources Management, GAO, and a representative from Taxpayers for Common Sense. GAO and OIG reiterated the much of the same themes that have characterized their consistent criticisms of grant management at

the EPA. The GAO testified to: a lack of oversight of grantees and EPA personnel, a lack of competition in discretionary grants, and a lack of measurable environmental outcomes.

The OIG testified to: no link between funded projects and EPA mission, no assessment of probability of success, no determination of the reasonableness of the costs of the grant, no measurable environmental outcomes, and no deliverable in grant work-plans.

A representative for Taxpayers for Common Sense echoed similar criticisms offered by the OIG and GAO and, while acknowledging EPA's new focus on improving grants management, testified that EPA needs to improve: EPA personnel commitment to competition in grants selection, grantee oversight, ensuring grants are consistent with Agency goals, and EPA staff accountability.

The EPA focused its testimony on the new grants management plan and accomplishments under that plan detailing its five main goals and evidence of its initial success. The EPA testified to: new certification of grants project officers, increased competition especially among non-profit grantees, deployment of a new Intergrated Contracts Management System automating grants mangement monitoring, and increased minimal monitoring standards for all grants.

The hearing produced the following general findings: EPA discretionary grants need a system that requires wide competition for the available funds and sufficient notice of the funding opportunities that may be available; EPA discretionary and non-discretionary grants need to demonstrate and quantify measurable environmental results; and EPA administration and project officers need to ensure that new policies to more closely monitor grants, ensure measurable environmental results, and ensure wide solicitation and competition among grants, among other goals, and accomplished.

In addition, the hearing produced the specific finding that discretionary grants in particular are often the most problematic due to limited oversight from the EPA. Testimony offered by the GAO revealed that oversight through such safeguards as the Single Audit Act to ensure that discretionary grantee expenditures are allowable costs are generally not applicable to discretionary grants given the grant comparatively low dollar amounts. Responding to questions from Chairman Inhofe, GAO representative John Stephenson testified to the following:

''Senator Inhofe. Would [discretionary grants] be the most difficult to monitor?

Mr. Stephenson. I would think so. The non-discretionary grants go by formula to the States based on the need. There is a little more specificity in place as to how you oversee that category of grants. So I would agree that the discretionary grants are probably more problematic.''

The OIG offered corresponding answers to similar questions from Senator Inhofe testifying to the following:

''Senator Inhofe. You are testifying that the EPA mismanagement of only discretionary grants costs the taxpayers hundred of million of dollars each year?

Ms. Heist. Of predominately discretionary funds, yes.

Senator Inhofe. Why do you focus on discretionary recipients in particular?

Ms. Heist. In the past we found the most problem was with discretionary grants. We found problems with, as has been mentioned here today, competition. We found Agency managers continued to use the same grantees year-after-year and there has not been a lot of competition. Predominately, that is where we found the problems, so we continue to focus in that area.''

In fact, the OIG supplemented her testimony with a March 1, 2004, audit of a discretionary grant recipient non-profit organization that received a total of $4,714,638 in five selected grants from 1996 to 2004. The OIG's audit concluded with the following findings:

''Therefore, although EPA funds were awarded to a 501(c)(3) organization, in actuality, a 501(c)(4) lobbying organization performed the work and ultimately received the funds. This arrangement clearly violates the Lobbying Disclosure Act prohibition on a 501(c)(4) organization which engages in lobbying from receiving Federal funds.

In summary, the [Consumer Federation of America], a 501(c)(4) organization: (1) performed direct lobbying of Congress, and (2) received Federal funds contrary to the Lobbying Disclosure Act. Consequently, all of the costs claimed and paid under the agreements are statutorily unallowable.''

The March 1, 2004 OIG audit subsequently concluded among other findings, ''EPA recover all funds paid to the non-profit recipient'' and ''EPA suspend work under current grants or cooperative agreements not covered by the audit and make no new awards until the recipient can demonstrate that its financial management practices and controls over Federal funds comply with all regulatory requirements.''

However, lack of oversight in grants to non-profit organizations is not entirely new information. The GAO reported in 2001 that EPA exhibited weaknesses specifically in non-profit grantee oversight. In its April 2001 report that GAO specifically evaluated EPA's oversight of non-profit grantee costs. The GAO concluded, ''EPA's post-award grant management policy provides minimal assurance that unallowable costs for non-profit grantees will be identified.'' In its August 2003 report, the GO again reported it found some of the largest number of problems in discretionary grants to non-profit organizations. In fact, the GAO reported that of the grants it sampled for its report, EPA took some of the most significant remedial actions to problems within the individual grants against non-profit organizations.

Testimony received during the hearing also confirmed that EPA has continued to award discretionary grants to non-profit and other recipients often without preparing solicitations and without competition with other potential applicants. In its August 2003 EPA grants report, the GAO reported the following:

''The Federal Grant and Cooperative Agreement Act of 1977 encourages agencies to use competition in awarding grants. To encourage competition, EPA issued a grants competition policy in 1995. However, EPA's policy did not result in meaningful competition throughout the agency, according to EPA officials. Furthermore, EPA's own internal management reviews and a 2001 Inspector General report found that EPA has not always encouraged competition. Finally, EPA has not always engaged in widespread solicitation when it could be beneficial to do so. Widespread solicitation would provide greater assurance that EPA receives proposals from a variety of eligible and highly qualified applicants who otherwise may not have known about grant opportunities. According to a 2001 EPA Inspector General report, program officials indicated that widespread solicitation was not necessary because 'word gets out' to eligible applicants. Applicants often sent their proposals directly to these program officials, who funded them using 'uniquely qualified' as the justification for a noncompetitive award. This procedure created the appearance of preferential treatment by not offering the same opportunities to all potential applicants. In addition, the agency provided incomplete or inconsistent public information on its grant programs in the Catalog of Federal Domestic Assistance. Therefore, potential applicants may not have been adequately informed of funding opportunities.''

In fact, the OIG reported in May 2001 that the lack of competition and lack of solicitation in discretionary grants led to the appearance of preferential treatment in awarding grants and an uncertainty that grants were being awarded to the most meritorious and cost-effective projects:

''Without widespread solicitation [of available grants], EPA is not only limiting potential applicants, but is also creating the appearance of preferential treatment. Furthermore, during our discussions with EPA program officials we found implications of preferential treatment in the selection of grantees.''

During the hearing, EPA acknowledged neglecting competition and giving the appearance of favoritism in awarding grants as EPA responded to the following question asked by Senator Jeffords:

''Mr. O'Connor. Senator Jeffords, with respect to the competition as was noted, for years and years, our project officers were accustomed to just selecting their grantee which led to at least the appearance that we had favorites and that we were not necessarily going out there sure that we were getting the best value for the Government. That policy, quite frankly, did not go over very well initially, with our 1,800 project officers because it does require quite a bit of additional work. This was something that they had to adjust to. Frankly, we set a goal of competing, I believe it was 30 percent of the covered grants in our first year. I was very pleased with achieving the 75 percent. But that is one of a number of major mindsets that we are trying to change, and will change, over the next couple of years in how we manage our grants.''

Chairman Inhofe concluded the hearing with a closing statement acknowledging that all the witnesses could agree that discretionary grants oversight may be particularly problematic. Upon the conclusion of the hearing, Chairman Inhofe began a series of information requests to EPA. Chairman Inhofe issued the first request at the close of the March 2004 hearing. The request included a listing of all discretionary grant recipients in fiscal year 2003, the amount of the recipient, and the type of recipient for each grant award. It also requested the amounts in grants those recipients had received for the two previous fiscal years.

SUBSEQUENT OVERSIGHT

Pursuant to Environment and Public Works Committee oversight responsibility, Chairman Inhofe has submitted subsequent information requests which have included requesting project officer grant files on discretionary grant recipients and interviews with the EPA project and approving officers for discretionary grants. In each information request, EPA has fully responded, making grant files and personnel available.

Additionally, one of the first accomplishments from the Committee's oversight has been a change in availability of information on grants on the EPA Web site. At the March 2004 hearing Chairman Inhofe required, ''What would be wrong with putting all [grant awards] on a Web site where the public and anyone interested would have access to them?''

Later in the hearing, Chairman Inhofe reiterated his point of transparency in grant awarding stating, ''I like the idea of doing something, of opening the doors, and not just having a Web site where you show the various competitions coming up, but also where you show the grants that are issued. . . . I look forward to that.''

EPA has responded by reorganizing its Web site to provide a direct link to the EPA grants from its homepage and reorganized its Office of Grants and Debarment page to clearly list links concerning EPA grants. However, most importantly, EPA has created a new site of the most comprehensive information ever provided on individual grants. This new page contains information such as the awarding office, total amount of the grant, purpose of the grant, and awarding and monitoring personnel at EPA. This new page allows users to search all awarded grants by description, type of recipient, and by quarter or fiscal year all within seven days of the grant award. Additionally, this page is only an interim site as the EPA plans to develop a ''Grants Datamart'' of new publicly accessible information through its Web site by early 2005.

Although more publicly available information on available grants, new competition for those discretionary grants and full disclosure of awarded grants are a promising beginning to reform of EPA grants management, individual EPA program offices must enforce these new policies with necessary oversight of EPA personnel and EPA grantees. However, with comparatively low individual dollar amounts, discretionary grants to non-profit organizations in particular may receive the least oversight compared to recipients of larger dollar amount grants. As referenced in previous GAO reports and corroborated in the OIG recent audit of a non-profit grant recipient, discretionary grants to non-profit recipients have exhibited some of the highest amount of problems and have required the most significant remedial actions taken by the EPA.

BIG BUSINESS ENVIRONMENTALISM

In spring 2001, the Sacramento Bee began a series of articles on the operations of the national environmental groups and the current actions of the modern environmental movement. Those articles began characterizing the today's environmental groups in the following manner:

''[T]oday's groups prosper while the land does not. Competition for money and members is keen. Litigation is blood sport. Crisis, real or not, is a commodity. And slogans and sound bites masquerade as scientific fact.''

The series continued by identifying the twenty environmental organizations reporting the largest resources, each an Internal Revenue Service (IRS) registered non-profit organization, and criticizing today's environmental movement for its largesse. The series highlighted such issues and arguments as: the salaries paid to environmental group executives, the millions of dollars in assets, or billions in some cases, of environmental groups, the unprecedented focus on fundraising, the marketing and advertising on agenda-based science, the increasingly litigious business of today's environmental groups, and the subsidizing of environmental groups with federal tax dollars.

Continuing on the theme of environmental groups being subsidized by federal taxpayers, that same publication published an additional article in October 2001, specifically highlighting the issue of federal tax dollars going to environmental groups regularly engaged in lobbying and litigating against the federal government, and how that, according to federal audits, in some cases those tax dollars have been misused. Interestingly, the article adds,

''Just how much public money flows to environmental groups has never been calculated, partly because it springs from so many sources. . . . But no government agency charts the total spending, identifies trends, or assesses what taxpayers are getting for their money.''

The Washington Post published a series of articles beginning May 2003 focusing on a particular non-profit environmental group, The Nature Conservancy, branding the organization ''Big Green'' for its status as the nation's eighth largest non-profit with assets of $3 billion. The series criticized The Nature Conservancy, a regular EPA discretionary grant recipient, for its wide-ranging business interests including drilling operations, product marketing activities ranging from beef to neckties to a breakfast cereal to toilet cleaners, and million-dollar land deals to organization board members and supporters that has gained The Nature Conservancy a U.S. Senate Finance Committee investigation and subsequent audit by the IRS.

Earlier this year, FrontPage Magazine published a similarly critical article of environmental non-profit groups titled ''Environmental Activism Is In Fact Big Business,'' reporting that today's more than 3,000 environmental non-profit organizations collect more than $8.5 billion annually and that most individually collect more than $1 million each year.

Not all environmental organizations regularly receive EPA grants or receive EPA grants at all. However, some environmental groups receive millions of dollars in private contributions each year and receive hundreds of thousands of dollars in EPA grants each year as well. Additionally, those same environmental groups are closely linked with affiliate organizations which are politically involved or are closely associated with other politically involved environmental organizations.

SELECTED EPA DISCRETION NON-PROFIT GRANTEES

The following organizations are IRS registered 503(c)(3) tax exempt non-profit entities that have regularly received discretionary grant funding from the EPA. Each organization has received varying amounts of EPA discretionary grants. Each organization is also affiliated with an IRS registered 501(c)(4) or 527 political organization or is otherwise involved in political activities. Unless otherwise specified, the EPA reports that until it formally adopted its grants competition policy in 2003, although it encouraged competition, each grant was likely awarded without solicitation or competition with other potential applicants.

Natural Resources Defense Council

The Natural Resources Defense Council (NRDC) states that its purpose is to ''safeguard the Earth: its people, its plants and animals and the natural systems on which all life depends.'' The NRDC is represented by three organizations. These organizations are the NRDC, Inc., a 501(c)(3) organization; the NRDC Action Fund, a 501(c)(4) organization; and the Environmental Accountability Fund, a section 527 political organization.

The NRDC is consistently critical of the Bush Administration's environmental record and devotes a portion of its own Web site to the ''Bush Record'' which it characterizes in the following manner: ''This administration, in catering to industries that put America's health and natural heritage at risk, threatens to do more damage to our environmental protections than any other in U.S. history.'' In fact, this organization is particularly politically involved with a history of spending millions of dollars in previous election cycles. The NRDC is also involved in this year's Presidential race joining with other organizations airing television and radio advertisements against President Bush. The NRDC's section 527 political organization, the Environmental Accountability Fund, last reports to have raised nearly $1 million in the 2004 election cycle, at the time of this report. The NRDC 501(c)(3) organization is also nationally politically involved joining earlier this year with Moveon.org, another section 527 political organization, running advertisements, such as one featured earlier this year in the New York Times, accusing the Bush Administration of weakening regulations on drinking water and air quality while at the same time soliciting contributions for the NRDC 501(c)(3) affiliate.

The NRDC, Inc. organization has reported consistent end of the year annual net assets of over $70 million for the previous three years, with over $80 million of end of the year net assets reports in its tax filing of the year ending 2003. Additionally, the NRDC, Inc. reports receiving increasing amounts of direct public contributions totaling from $32.6 million in 1999 to over $55 million in 2003.

The NRDC, Inc. organization also reports spending an increasing amount on direct grassroots lobbying, from $264,253 in its filing for the year ending 1999 to $861,524 in its filing for the year ending 2003 with a total of nearly $1 million in total lobbying expenditures in 2002 alone. NRDC Lobbying Disclosure Act Reports over the same 1999–2003 period disclose NRDC, Inc. made these expenditures lobbying Congress and the Administration, including Department of Energy, the Department of the Interior and the EPA.

The NRDC, Inc. organization reported receiving over half a million dollars annually in government grants in its IRS filings for the reporting periods ending 1999 through 2003. Specifically, the NRDC, Inc. organization reports it received $850,903 in government grants in the period ending 1999, $759,596 for 2000, $679,319 for 2001, $630,910 for 2002, and $608,099 for 2003. The EPA reports that NRDC, Inc. organization has received nearly $6.5 million in twenty-three discretionary grants since 1993. EPA also reports that these individual grants ranged in amounts from $7,500 to nearly $2 million during this period. The EPA acknowledges that likely all these grants were awarded without competition with any other applicant. The EPW Majority Staff requested interviews of EPA approving and project officers for selected grants over $200,000 each. The purposes for some grants to NRDC, Inc., were wide ranging. For instance, EPA reported that some of the stated purposes for grants awarded to NRDC, Inc., have included development of energy efficient technologies, strengthening the case for smart growth, a NRDC and Ad Council clean water campaign, and promoting energy efficiency in Russian buildings. In some instances, approving officers and project officers for those grants have since retired from the EPA. However, EPW Majority Staff interviewed EPA approving and project officers for one ongoing grant awarded by the Office of Air and Radiation beginning in January 2002 through December 2004 for a total of $1,198,993.00. The grant's stated project title and description are as follows: ''Development or Long-Term Adoption of Energy-Efficient Products and Services, To work within the energy efficiency and manufacturing community toward long term market transformation of energy-efficient technologies and practices.'' EPA officials stated that the grant was awarded without solicitation or competition with other applicants, and EPA awarded the grant pursuant to a proposal NRDC, Inc. submitted to the EPA. One EPA official reported that although this particular grant proposal was unsolicited, it was subject to a peer review. However, upon further questioning EPW Majority Staff learned that the peer review consisted of the review of one other EPA official within the Climate Protection Partnerships Division of the Office of Air and Radiation. EPA officials reported that this grant received some form of review

from several levels within the Climate Protection Division from review of the technical merits of the proposal by the project officers through approval by the division director. EPW Majority Staff interviewed the approving officer and two project officers for this grant, and all reported receiving EPA grant training and receiving periodic recertification. Each interviewed personnel has been employed with the EPA for various tenures from two years to over twenty years. EPA project officers reported that monitoring for this grant consists of periodic contact by the project officer and the requirement of quarterly reports from NRDC, Inc. on its progress on the grant. All EPA officials interviewed were aware of NRDC's regular litigation against the federal government, and some were otherwise aware of NRDC's political activity and criticisms of the Bush Administration's environmental policies.

Children's Environmental Health Network

The Children's Environmental Health Network (CEHN) describes itself as a ''national multi-disciplinary organization whose mission is to protect the fetus and the child from environmental health hazards and promote a healthy environment.'' CEHN has been a 501(c)(3) tax exempt organization since 2001 and reported for the filing period ending 2000,end of the year net assets of $25,324.00. However, the CEHN also reports receiving a total of $545,626 in direct contributions in addition to $136,729.00 in government grants.

Since CEHN's beginnings in 2001, the EPA reports it has awarded four grants to CEHN in amounts ranging from a $2,600 to an ongoing grant totaling $332,304.00 for the grant term of August 2002 to July 2005. As of this report, EPA has awarded nearly $400,000 in grants to the CEHN. All EPA approving and project officers for each of these grants are still employed at the EPA, the EPW Majority Staff requested interviews with each official/EPA officials confirmed that the agency awarded each grant without solicitation and without competition with any other potential applicant.

The first of the awards was a $10,000 grant awarded from EPA Office of International Affairs to CEHN to distribute information from the Global Forum for Action, a conference sponsored by CEHN. EPA officials, however, disclosed that the original proposal from CEHN requested $70,000 to pay for a large part of the Global Form for Action conference that had already concluded prior to CEHN's submission of its grant proposal. EPA, however, agreed to provide $10,000 for dissemination of information from the conference. The second of the awards was a $43,615 grant awarded from EPA headquarters for the purpose of developing a plan for the expansion of the use of the Internet to increase information regarding environmental health threats to children. EPA officials monitored the grant by requiring quarterly progress reports. The result of the grant was a report CEHN prepared on its meetings with Internet providers and medical associations. EPA officials, however, reported that a Web site disseminating information on children's health has not been developed subsequent to this report. Interestingly, however, during this same period and thereafter, the CEHN has published its own Children's Environmental Health Bush Administration Report Card for 2001–2004. On April 5, 2004, CEHN published its most recent report card on its own Internet site which graded the Bush Administration's environment record with an ''F'' on protecting children's health citing sixteen areas where it claims the Bush Administration is lacking in protecting children's health.

The third grant to CEHN was awarded from EPA Region 3 in the amount of $2,600 for the purpose of training two Washington, D.C. highschool students to assist with environmental education in a local elementary school classroom. CEHN coordinated the training for these two highschool students in a there-week course. Representatives from the Sierra Club, Environmental Defense, the EPA, and others made presentations to the students about a variety of topics including ''lead poisoning, asthma, ozone depletion, global warming, the workings of a power plant, and water topics.'' Although the students toured a water treatment facility in conjunction with the presentations, EPA officials could not confirm that the students actually toured a power plant. The grant reports CEHN submitted also did not include a representative from the utility industry as a presenter, and EPA officials also could not confirm that the students received any information from industry representatives.

Finally, the fourth grant EPA awarded to CEHN is the largest. The EPA Office of Prevention of Pesticides and Toxic Substances awarded the first installment of an ongoing grant totaling $332,304.00 over the grant period August 2002 to July 2005. The purpose of this grant is to increase available scientific information on children's health to CEHN and other non-governmental organizations. Like all other grants awarded to CEHN, this grant was awarded through an unsolicited proposal without competition with any other potential applicants. Interestingly, the chairperson of the board of directors for CEHN is the former EPA Assistant Administrator for the Office of Pesticides and Toxic Substances during the Clinton Administration from 1993 to 1999. EPA officials involved in approving and monitoring this grant advised EPW Majority Staff that although they personally did not work closely with the former Assistant Administrator, they worked for the Office of Pesticides and Toxic Substances during the same period.

Environmental Defense, Inc.

Environmental Defense describes itself as ''fighting to protect human health, restore the oceans and ecosystems, and curb global warming.'' Environmental Defense is represented by two organizations: Environmental Defense, Inc., 501(c)(3) organization, and the Environmental Defense Action fund, Inc., a 501(c)(4) organization.

Environmental Defense, Inc. reports consistently increasing amounts of end of the year net assets from approximately $33 million in its tax filing for the period ending 1999 to over $49 million for 2003. During that same period Environmental Defense, Inc. has received increasing amounts of direct public contributions, from $28.4 million in 1999 to nearly $42 million in 2003. This organization also reports spending varying amounts in direct and grassroots lobbying expenditures for the same period, spending $528,804 for 1999, $410,975 for 2000, $857,542 for 2001, $673,548 for 2002, and $856,983 for 2003. Environmental Defense, Inc. reports making those expenditures lobbying Congress and the Administration agencies including the EPA.

Environmental Defense, Inc. also reports receiving varying amounts of annual government grants. It reported receiving $752,645 for 1999, $505,170 for 2000, $575,673 for 2001, $273,116 for 2002, and $341,338 for 2003. Environmental Defense, Inc. has also received over $4.6 million from the EPA in discretionary grants since 1993, many, if not all, awarded without competition with other potential applicants.

The Tides Center

The Tides Center describes its organization as ''working with new and emerging charitable organizations who share our mission of striving for positive social change.'' This organization is represented or affiliated with two other organizations: the Tides Foundation, a 501(c)(3) foundation, and the Tsunami Fund, a 501(c)(4) organization.

The Tides Center and Tides Foundation regularly grant funds to what it designates as its projects. To receive funding, The Tides Center's main requirement for becoming a new project is that the ''project's work falls within the Tides Mission of working toward progressive social change.'' Some of the projects the Tides Center and Tides Foundation have funded include other environmental organizations such as the Environmental Working Group, the Natural Resources Defense Council, and affiliates of the Sierra Club and Greenpeace.

The Tides Center regularly reports annual end of the year net assets increasing from $21.1 million in its tax filing for the period ending 1999 to $33.8 million in 2003. During this same period, the Tides Center reports increasing direct public contributions from $38.7 million in its 1999 filing to nearly $60 million in 2003. The Tides Center reports varying amounts of legally allowable direct and grassroots lobbying expenditures between $22,505 in its 1999 filing to $601,885 in its 2003 filing with a 2002 filing disclosing expenditures of nearly $1 million.

The Tides Center also regularly receives several millions of dollars of government grants in increasing amounts each year. The Tides Center reported receiving $1,626,906 for 1999, $1,582,370 for 2000, $2,145,499 for 2001, $3,481,484 for 2002, and $5,175,732 for 2003. Although the Tides Center has received increasing amount of funding in grants, the U.S. Department of Housing and Urban Development (HUD) Inspector General audited the Tides Center as recently as September 2002 and recommended that HUD consider suspending grant funding until the Tides Center and its project organization partner in the audited grant develop and implement appropriate management controls to ensure the Tides Center's compliance with federal rules concerning allowable expenditures for federal funding. The EPA reports that the Tides Center and Tides Foundation have received nearly $2 million in federal grants from the EPA alone since 1993. EPW Majority Staff interviewed EPA approving and project officers in four grants EPA awarded to the Tides Center. In two of the selected grants, EPA made the awards without solicitation or competition with other applicants. In fact, the single largest grant EPA has made to the Tides Center since 1993 was awarded for a term of May 2002 to December 2003 for a total of $477,275. The grant was awarded for the purpose of encouraging public participation in the cleanup of hazardous waste at federal facilities. Although the grant was awarded without solicitation or competition, EPA confirmed the project officer has made on-site visits to the grantee and has requested an audit of funds to ensure EPA grant funding is separated from other funds used by the Tides Center. In another ongoing grant to the Tides Center totaling $75,000 for the purpose of developing a white paper on the markets for environmental papers, EPA again confirmed this grant was awarded subsequent to an unsolicited proposal and without competition. In fact, in awarding funding to the Tides Center in other grants based on unsolicited proposals, EPA has simply recorded that the grantee has ''unique and superior qualifications to perform the work.'' However, in each of these previously described grants, EPA project officers confirmed that prior to this particular grant oversight with Tides Center, neither had any prior experience with the Tides Center.

In two of the other two selected grants, EPA made the awards with competition with one award approved by the awarding office's

Assistant Administrator. The first of these ongoing grants was for a total of $125,000 for a grant term of September 2003 to August 2006, for the purpose of ''strengthening the national network of brownfield environmental justice and community groups, technical assistance, training, research on schools sitting on contaminated property, regional workshops, and history of selected brownfields community efforts.'' The grant application, however, states that the Tides Center will ultimately apply for a total of $442,000 for this project. The Tides Center's submitted proposal for the grant includes conducting conferences, workshops, and producing fact sheets. The EPA Office of Solid Waste and Emergency Response awarded this grant following a review throughout the office with final approval by the office Assistant Administrator. EPA officials confirmed that the solicitation for this grant was available for forty-five days on the agency Web site. EPA received forty-four proposals and awarded twenty-one. Finally, the fourth Tides Center ongoing grant in which EPW Majority Staff interviewed EPA officials involved an awarded amount totaling of $150,000 for a grant term of May 2004 to May 2004, for the purpose of ''improving meaningful non-federal stakeholder involvement in decisions concerning clean up of hazardous waste at federal facilities. In this grant, EPA reports that it prepared a solicitation that was available for sixty days on the agency Web site and in the Federal Register. EPA received a total of twenty-three proposals and awarded one. Proposals were evaluated by a panel comprised of EPA personnel and two additional members from the Army Corps of Engineers and the Department of Energy.

Consumer Federation of America

The Consumer Federation of America describes its purpose as to ''work to advance pro-consumer policy on a variety of issues before Congress, the White House, federal and state regulatory agencies, state legislatures, and the courts.'' The Consumer Federation of America (CEA) was formerly represented by two organizations: the Consumer Federation of America Foundation, a 501(c)(3) organization, and the Consumer Federation of America, a 501(c)(4) organization. According to the CFA, currently both organizations have now merged into one 501(c)(3) organization following an EPA Inspector General audit completed March 1, 2004 that was referenced in testimony on EPA grants management before the Environment and Public Works Committee on March 3, 2004.

The CFA reported end of the year net assets of $609,745 for its IRS filing for the period ending 2003. It also reports receiving $184,110 in direct public contributions during that same reporting period. CFA has regularly filed Lobbying Disclosure Act reports disclosing lobbying expenditures between $80,000 and $200,000 from lobbying Congress and a variety of federal agencies. In fact, the EPA Inspector General included in its audit of CFA that CFA had an estimated total of $940,000 in direct lobbying costs from 1998 through 2002.

The CFA Foundation has also been a regular recipient of grant dollars from the EPA. Since 1993, the CFA or CFA Foundation has received over $8 million alone from the EPA. However, during the EPW Committee grants management oversight hearing held March 3, 2004, the OIG testified to the following:

''We have reported on EPA shortcomings in overseeing assistance agreements for over ten years. A particularly relevant example is a recent report in which we questioned $4.7 million because the work was performed by an ineligible lobbying organization. EPA awarded the cooperative agreements to an associated organization but did not have any employees, space, or overhead expenses. In addition, the ineligible organization's financial management practices did not comply with Federal regulations. The recipient did not adequately identify and separate lobbying expenses in its accounting records. As a result, lobbying costs may have been charged to the Federal projects.''

The OIG included its March 1, 2004 audit of the CFA with its testimony which concluded with the following summary:

''In summary, the [CFA] Federation, a 501(c)(4) organization: (1) performed direct lobbying of Congress, and (2) received Federal funds contrary to the Lobbying Disclosure Act. Consequently, all the costs claimed and paid under the agreements are statutorily unallowable.''

EPA has advised EPW Majority Staff that it continues to work to resolve this issue with CFA and to develop a response to the OIG audit. EPA has also disclosed that the agency offices awarding the grants to CFA that were subject to the audit did not prepare solicitations for the grants nor subject the grants to competition with other potential applicants.

World Wildlife Fund

The World Wildlife Fund (WWF) describes its purpose as the ''conservation of nature,'' and describes its conservation work as focusing on three issues: ''saving endangered species, protecting endangered habitats, and addressing global threats such as toxic pollution, over-fishing and climate change.'' The WWF advocates for a wide variety of issues, such as opposing oil and gas development in the Arctic National Wildlife Refuge, strengthening the Endangered Species Act, advocating for global warming legislation, and arguing that the Bush Administration plans to eliminate millions of acres of national forests for road building, logging, and mining interests.

The WWF is a 501(c)(3) tax exempt nonprofit organization. The WWF reports increasing end of the year net assets ranging from $114 million for its tax filing in the period ending 1998 to $146 million for 2003. During this same period the WWF reports receiving an increasing amount in direct public contributions from $66.6 million for 1998 to $79 million for 2003. The WWF also reports lobbying expenditures each year from 1998 to 2003 in amounts from $121,138 to $400,548. The WWF reports making these expenditures lobbying Congress and the Administration, including the Department of Interior, U.S. Forest Service, and the EPA.

The WWF is also a regular recipient of government grants and reported receiving over $20 million in government grants from 1998 to 2001. The WWF reported receiving government grants of over $18 million in 2002 and over $16 million in 2003 alone. Since 1993, the WWF has received over $1.6 million in EPA discretionary grants including the most recent ongoing EPA grant to the WWF for $100,000. The EPA Office of Research and Development (ORD) awarded this grant to the WWF beginning May 2002 for the purpose of providing technical assistance to governmental departments of American Samoa to assess the impacts of climate change on coral reef systems. EPW Majority Staff interviewed EPA approving and project officers for this grant. Although this grant was awarded prior the EPA's discretionary grant competition, the ORD prepared a solicitation for this grant that was available from July 2001 to October 2001 on the EPA Web site and in the Federal Register and Commerce Business Daily. The ORD received twelve proposals that were evaluated by a panel consisting of representatives from the EPA, the National Oceanic and Atmospheric Administration, and Harvard University. EPA awarded grants to five of the twelve proposals. The WWF proposal begins with the foundation that global warming due to anthropogenic effects is causing damage to coral reefs among other detrimental effects. The EPA reported that part of the monitoring requirements WWF is to meet during the term of the grant is to submit periodic reports. In each grant quarterly reports prepared by WWF, the WWF reports working with local governmental departments sampling and conducting studies gathering information on the damage to coral reefs and associated species to ultimately recommend means to protect American Samoa's corral reefs. EPA officials anticipate the grant will conclude in 2005. EPW Majority Staff also asked EPA officers responsible for monitoring the grant whether grant management was sufficiently described in their job description and whether it is an area in which EPA measures their job performance. Interestingly, one EPA officer responded that since being assigned to ORD, both aspects were true. However, the same EPA officer responded that in previous assignments neither aspect was true.

Friends of the Earth

Friends of the Earth states its mission as the following: ''Friends of the Earth defends the world and champions a healthy and just world.'' Friends of the Earth is a group critical of the Bush Administration's environmental record, suggesting that political contributors have solely determined the environmental agenda of the Bush Administration.

Friends of the Earth is represented by two organizations: Friends of the Earth, a 501(c)(3) organization, and Friends of the Earth Action, Inc., a 501(c)(4) organization.

Friends of the Earth has consistently reported end of year net assets between $1 million and $3 million in IRS filings for periods ending in 1998 through 2003. Over the same period, Friends of the Earth has reported receiving annual direct public contributions from $3.5 million for 1999 to $4.4 million for 2003. From 1999 to 2003, Friends of the Earth also reported lobbying expenditures from $29,433 to $111,849. Friends of the Earth annual lobbying reports disclose these expenditures include lobbying Congress and the Administration, including the EPA.

Since 1999, Friends of the Earth has regularly reported it has received no government grants; however, it has received small federal grants from the EPA from 1993 to 1999 totaling about $200,000. Like many other discretionary grants, EPA acknowledges that these grants likely were awarded without a public solicitation and without competition with other potential applicants.

World Resources Institute

The World Resources Institute describes itself as an independent non-profit organization and describes its mission is to ''move human society to live in way that protect Earth's environment and its capacity to provide for the needs and aspirations of current and future generations.'' The World Resources Institute (WRI) is represented by two 501(c)(3) tax exempt non-profit organization, the WRI and the World Resources Institute Fund.

The WRI board of directors consists of thirty-two members including representatives from fellow EPA grantee, the Natural Resources Defense Council, and the League of Conversation Voters. WRI describes its work as being, ''concentrated on achieving progress toward four key goals: protect Earth's living systems; increase access to information; create sustainable enterprise and opportunity; reverse global warming.''

In IRS reporting periods from 1998 to 2003, the WRI regularly reports end of the year

net assets from $46 million to $57 million. During this same period the WRI reported receiving varying amounts of annual direct public contributions, from $8.6 million for 1998, $14.3 million for 1999, $9.4 million for 2000, $15.7 million for 2001, $21.7 million for 2002, and $9.3 million for 2003. WRI has also reported consistently receiving millions of dollars in government grants each year. WRI reported receiving $3.2 million for 1998, $2.4 million for 1999, $2.9 for 2000, $2.3 for 2001, $3.4 for 2002, and $2.7 for 2003. The WRI is also a regular recipient of EPA grants, totaling around $8,132,060 million awarded since 1993. All except $575,000 of the total amount of grants awarded to WRI were awarded prior to the EPA competition policy. Additionally, all of the $575,000 awarded since 2003 has been awarded in amounts under the competition policy threshold or were incremental amounts under already awarded original grants. Unless the awarding office within EPA for any of the grants within the $8.1 million instituted its own competition policy, EPA acknowledges that all $8.1 million was likely awarded without solicitation and competition with other potential recipients.

National Wildlife Federation

The National Wildlife Federation describes itself as ''the nation's largest and oldest protector of wildlife.'' The National Wildlife Federation is involved in various environmental issues and features a ''Take Action'' page on its Web site advocating for national global warming legislation and characterizing the Bush Administration as ''ax[ing] protections for National Forest across the country.''

The National Wildlife Federation is represented by two organizations: the National Wildlife Federation, a 501(c)(3) organization, and the National Wildlife Action, a 501(c)(4) organization.

The National Wildlife Federation has reported varying annual end of the year net assets from $33.8 million in its IRS filings for the period ending 2000 to $6.7 million for 2003. During the same period, the National Wildlife Federation reports receiving direct public contributions from $34.7 million for 1999 to $37.9 million for 2003 with public contributions over $40 million for 2001 and 2002. The National Wildlife Federation also reports consistent lobbying expenditures from $140,000 to $371,000 from 2000 through 2003.

The National Wildlife Federation has also reported regularly receiving government grants each year, with $265,441 for 2000, $214,811 for 2001, $244,403 for 2002, and $330,941 for 2003. EPA reports that it has awarded the National Wildlife Federation approximately $600,000 since 1994 all of which was awarded in grants which individually amounted to well under the EPA's new discretionary grant competition policy threshold.

STAPPA–ALAPCO

STAPPA–ALAPCO is the combination of the State and Territorial Air Pollution Program Administrators, a 501(c)(3) organization, and the Association of Local Air Pollution Control Officials, a 501(c)(6) trade association. STAPPA–ALAPCO describes itself as the ''two national associations that represent air pollution control agencies in 54 states and territories and over 165 major metropolitan areas across the United States.''

STAPPA–ALAPCO receives no direct public contributions, and according to the EPA, it receives all of its funding from EPA through government grants. STAPPA–ALAPCO created a ''Secretariat'' in 1980 and that has been receiving funding through Clean Air Act grants from the EPA Office of Air and Radiation since that time. These grants are exempt from the EPA competition policy because of an exemption for co-regulators.

STAPPA–ALAPCO has drawn the past criticism of Chairman Inhofe for its regular Congressional testimony supporting a variety of new EPA rulemakings. In his opening statement in an EPW Committee hearing in July 2002 concerning environmental regulations affecting military readiness, Inhofe stated:

''How many times has STAPPA–ALAPCO testified before Congress, and how many times were they opposing the streamlining of procedural paperwork. . . . These groups of government bureaucrats invariably wind up testifying for bigger government and opposing smaller government.

''To add insult to injury, not only are the salaries of these individual government employees paid with our tax dollars; quite often the groups themselves receive separate, additional, appropriated dollars to pay for the groups themselves and the activities of these groups. As I say, these activities almost invariably amount to lobbying for bigger government and more expenditures of our tax dollars with an emphasis not on better results but rather on more procedures.''

Pursuant to a resolution of member states, EPA calculates the individual shares of each member state and sets aside funds from Clean Air Act grant allocations for a state to fund STAPPA–ALAPCO. This method of EPA directly funding STAPPA–ALAPCO has drawn past criticism. For instance, language in the conference report for the 2001 Department of Veterans Affairs, Housing and Urban Development, and Independent Agencies Appropriations Bill directed EPA to withhold state and local grant funds at the national level to pay for activities of programs only if such activities are efforts that will benefit state and local air agencies, if the activities are the responsibility of state and local air agencies and if state and local air agencies have provided their concurrence. A state is free to withdraw support from STAPPA–ALAPCO. Additionally, a state is now also free to support STAPPA–ALAPCO directly. In fact, not all states are currently members of STAPPA–ALAPCO. In response to an EPW Majority Staff request for the total amount of EPA grants awarded to the STAPPA–ALAPCO Secretariat over the period 1988–2003, EPA responded with a list of five grants for a total of $6,190,830.

CONCLUSION

The EPA awards over half of its annual budget each year in grants. The GAO, OMB, and OIG have made various common criticisms of EPA grants management, including a lack of measurable environmental results, a lack of a measurable probability of success from the grants, no evaluation of reasonable costs in grants, and a general lack of oversight of EPA personnel and grantees. Although much of EPA's grant funding is provided in formula-based non-discretionary grants to state and local governmental entities, several hundred million dollars each year are awarded to discretionary recipients. For several years, the GAO, OMB, and OIG have criticized the management of these discretionary grants, in particular citing that EPA has often awarded these grants without widespread solicitation or competition with any other potential applicants. The GAO has argued that EPA oversight of discretionary grants has been particularly problematic especially of non-profit recipients. The OIG has even argued that this lack of competition in discretionary grants has given the appearance of years of preferential treatment in EPA discretionary grant awards. EPA has responded with new competition and oversight policies and a five-year grants management plan to cure the years of criticism of its overall grants program. This preliminary report confirms some of those criticisms in some individual discretionary grants and highlights some promising practices within the EPA to better manage and award discretionary grants.

However, this report also reveals the problem that EPA has consistently awarded discretionary grants to non-politically involved groups. These grants have been awarded in large part without solicitation or competition with other applicants and may have received the least oversight from EPA. The example of the OIG audit of the Consumer Federation of America may be a discrete situation or may simply be one example of non-profit grant recipients taking advantage of past EPA grant oversight to potentially use funds for unintended purposes. In either case, however, EPA needs to be aware that it regularly subsidizes non-profit organizations with discretionary grant funding that are partisan or otherwise politically active. Of all new reforms in EPA grants management, reforms in discretionary grants can occur immediately due to the fact they are just that—discretionary. EPA should include in its new culture of grant management a careful scrutiny of all the activities of discretionary grant applicants to absolutely ensure grant awards are being used for their intended purposes. In addition, and as important as ensuring allowable costs, the Administration should ensure that it is not being undermined by the other activities of its grants recipients and give equally careful scrutiny to the wide spectrum of political activity of some of its discretionary grant recipients before making awards.

HONORING FAVORITE TEACHERS

Mr. DAYTON. Mr. President, nearly 4,000 Minnesotans honored their favorite teacher at my Minnesota State fair booth this summer. I honor these teachers further by submitting their names to the CONGRESSIONAL RECORD as follows:

Concordia College-Moorhead—Duane Mickelson; Congdon Park Elementary—Cathy Armstrong, Mary John, Dan Kopp, Kathy Sharrow; Convent of the Visitation School—Richard Barbeau, Judy Benson, Darlene Dailey, Theresa Jasper, Ann Matson, Zinny Mooney, Robert Shandorf, Brian Waltz; Cook County High School—Al Heine; Coon Rapids—Ms. Beachler, Mrs. Hussian, Jan Krunze, Lorraine Newkirk, Ms. Sonstegaard; Coon Rapids High School—Linda Carlson, Anne Collins, Paula Karjahlati, Gail Parr-Van Zee, Francis Prokash, Miles Wagner; Coon Rapids Middle School—Lori Landry, Dawn Ressler; Coon Rapids Senior High—Dave Rykken; Cooper Elementary, Minneapolis—Bill Bauer, Cathy Sullivan, Faye Wooten; Cooper High School, New Hope—Kari Christensen, Lisa Emison, Samuel Tanner; Cornelia Elementary—Pala Thomasgard; Cornell Elementary—Nancy Helgerson; Cottage Grove—Joe Adams, Mr. Herbert, Audrey Osofsky; Cottage Grove Elementary—Shannon Hagness, Jennifer Skarphol, Heather DeCramer; Cottage Grove Junior High—Mike Amidon, Ms. Hanson; Countryside Elementary—Mr. Bjerken, Margie Galvin, Ms. McCullough, Jeanne Sumnicht, Mr. Thorkelson, Deb Vork; Crawford Elementary—Gordan Leverett; Creative Arts School-ALC, St. Paul—Rich Anderson; Creek Valley Elementary—Sarah Dolphin; Crest View Elementary, Brooklyn Park—Angela Bailey-Aldrich; Crestview Elementary, Cottage Grove—Chuck Broman, Mrs. Phelps, Leah Pollman; Cretin-Derham Hall—Judith Kavanaush, Mike Main, Andrew Mons, Rob Peick, Mr. Pike, Laurel Zummerman, Jim O'Neil, Staff of the Spanish Department; Cromwell-Wright Elementary—Lea Anderson-Tiili, Bill Frienmuth,

Mr. Koenig; Crooked Lake Elementary—Ms. Clair, Mrs. Coe, Mrs. Gibson, Pam Manko, Maureen Ledin, Mrs. Stowell; Crookston—Nancy Melby; Crossroads Elementary—Ruby Buchmayer, Axel Caberea, Gina Costello, Melissa Green, Virginia Herriges, Karen Lee, Mrs. Watterrud, Brenda Petta; Crosswinds Arts and Sciences Middle School—Mark Russo; Crystal Lake Elementary—Sharon Dewald; Custer High School, Milwaukee, WI—Daniel Przybylowski; Cuyuna Range Elementary—Wendy Gindorff; Cypress Elementary, New Port Richey, FL—Susan Phillippi; Dakota Hills Middle School—Greg Montbraind, Michael Schlink, Heather Thaller; Dakota Meadows Middle School—Joe Broze, John Lawton; Dakota Prairie Unity High School—Cliff Peterson; Dallas Center Grimes Community High School, Grimes, IA—Steven Saleas; Dassel-Cokato High School—Susan Marco; Dassel-Cokato Middle School—Kip Kip Link, Julie Lund, Nathan Youngs; Dassel-Cokato Senior High Joe Harmala, Linda Bain, Lanett Daniel, Dianne Eveland, Kristin Gruber, Kate Michaels, Terry Protivinsky; Deephaven Elementary—Karl Boberg, Diane Jost; Deer Path Middle School, Lake Forest, IL—Thomas Cardamone; Deerwood Elementary—Debbie Iverson, Julia Kirschbaum; Delano High School—Mr. Johnson; Delano Middle School—Mr. Bergren, Gary Brophy, Tory Spainer; Denfelt Senior High—Ruth Schulzt; Desert Ridge Elementary, Phoenix, AZ—Mr. Cook; Desert Sands Unified School District, La Quinta, CA—Mrs. Kcop; Dexter High School, Dexter, MI—Richard Grannis; Diamond Path Elementary—Nancy Cooley; Discovery Elementary—Marsha Watkins; Douglas Elementary—Bette Jacobs; Dowling Elementary—Laurel Engman, Joseph Rossow, Bob Tscida; Downtown Open School—Kate Bowler, Abby Lindesmith, Kristin Sonquist; Duluth Kathy Fahrion, Deanne Ferguson; Duluth Central High School—Sherman Moe; Duluth East High School—LaDonna Bergum, Robert Mix, Bill Tormendson; Duluth Public Schools—Judy Kopperman; Duluth Secondary Tech School—Lou Zywicki; Eagan High School—Peter Otterson, Mrs. Zimmen, Amanda Adams, Adam Copeland, Barb Geier, Roland Hoke, Joe Joran, Jane Lee, Jesse Madsen, Paulette Reikowski, Sue Retka, Kim Waltman; Eagle Lake Elementary—Mrs. Barsness; Eagle Point Elementary, Oakdale—Lucille Bryant, Cheryl Chacka, Marge Proulx; Eagle Ridge Junior High—Tia Clausen, Mandi Johnson, Mrs. O'Connell, Barb Johnson; Earl School, Fort Peck, MT—Betty Hirsch; Earle Brown Elementary—Mr. Axen, Amy Berge, Mary Mandel; Early Childhood Family Education, Balaton—Diane Peterson; Early Childhood Family Education, Buffalo—Patty Lammers; Early Childhood Family Education, Ruthton—Tracey Kuhlman; Early Childhood Family Education, Slayton—Diane Ellens; Early Childhood Family Education, St. Michael—Mona Voelker; Early Childhood Special Education, Glencoe—Cindy May; East Bethel Community School—Kate Arnold; East Grand Forks School District—Marcie DeGroot; East High School—Mr. Bender; East Saint Paul Lutheran School—Rick Block, Karen Reem; East Side Elementary—Cheryl Hoff; East Union Elementary—Jenny Killian; Eastern Heights Elementary—Sharon Graves; Eastside Workplace Kindergarten—Michelle Brunswick; Eastview High School—Ms. Henrickson, Mary Kuettner, Frank Pasquerella, Ann Strey; Echo Park Elementary—Kim Coleman; Eden Lake Elementary—Brian Gunderson, Pat Kinch, Janet Krmpotich, Kate Plamer, Joan Tetrick, Kim Thrasher; Eden Prairie High School—Steve Cwodzinski, Michael Holm, Marty Teigen, Jo King, Margaret Bicke, Mark Bray, Karen Breittingen, Annie Cull, Mike Holm, Ms. Kanthak, Bruce Kivimaki, Kari McSherry, Dean Raths, Rob Saint Clair, Vince Thomas, Brent Turner, Linda Wallenberg, Mrs. Welter, Mrs. Werning, Mike Whipkey; Edgerton Elementary—Ann Benson, Mrs. Rasusson, Terry Tremain, Mrs. Wobbema; Edgewood Middle School—Bill Sucha, Debbie Wall, Shelly Wright; Edina High School—Daniel Baron, Mr. Benson, Kim Budde, Gail Casey, Tom Connell, Martha Cosgrove, Besty Cussler, Alegjandro Diaz-Andrade, Barney Hall, Lisa Hanson, Angela Kieffer, Colleen Raasch, Chris Reono, Michael Roddy, Brian Simpson; Edina Highlands Elementary—Mark Wallace; Edinbrook Elementary—Mrs. Gerber, LuAnn Gunderson; Edison High School—Mike Doyle, Norman Glock, Frank Goodrich, Matt Maki, Robert Sivanich, Pamela Wolfe; Education Service Center, Bloomington—Anna Smith; Edward Neill Elementary School—Judie Prayfrock; Eisenhower Elementary—Cathy Berger; El Colegio Charter School—Cathy Diaz; Elk River High School—Kathy Ellefson; Elk River School District—Mrs. Talley; Ellis Middle School—Sylvia Stier; Elton Hill Elementary—Kelly Wright-Glynn; Elysian Elementary—Mark Meyer, Sandy Mielke; Emerson Spanish Immersion—Flory Sommers, Theresa Wilson; Emmet D. Williams Elementary—Susan Bates, Diane Biederman, Ms. Hagen, Jessic Reinhart-Lind, Joni Springer; Epiphany School—Betty Flanigan, Matt Foslyn, Wendy Snyder; Ericsson Elementary—Sharon Bahe, Kathleen Hewitt, Terry Vick; Eveleth-Gilbert Senior High—Betty Daniels; Evergreen Park Elementary—Beth Neil; Excell Academy—Aaron Hjermstad, Megan Hjermstad; Excelsior Elementary—Mark Broten, Mark Garrison, Tim Ketel, Sara Macke, Sandy Miller, Mrs. Nickle, Annette Smith; EXPO for Excellence Magnet—Mrs. Desembre, Mrs. Michel, Mary Ross, Ulla Tervo-Desnick, Maura Tschida; Face to Face Academy—John Vasecka; Fairmont High School—Daniel Chicos, Mr. Gorath, Cliff Janke, Dan Schuh; Fairview Elementary—Darren Lukenbill; Faithful Shepherd Catholic School—Kim Michalak, Julee Titze; Falcon Heights Elementary—Paul Charest, Delores Cox, Kelly Klein, Meggan Lovick, Holly Maddox, Ms. Plathe, Mrs. Slashmacher, Mrs. Wingingland; Falcon Ridge Middle School—Dave Fournier, Gregg Kotsonas, Sharon Lund; Falls High School—Mr. Bjorquist; Falls Secondary—Darrell Schmidt; Faribault High School—Mrs. Bottke, Bernie Engrav; Farmington Middle School West—Sue Bieraugel, Patti Haberman; Farnsworth Elementary—Jane Vega; Fergus Falls High School—Sue Empting, Judith Halverson; Fergus Falls Middle School—Dave Ellis, Mr. Mitberg; Fertile-Beltrami—Kordula Holmrick, Joan Kronschnabel, Scoot Larson; Field Elementary—Mary Hill, Ms. Slocum, Sandy Barry, Allison Constant, Ms. Stevenson; Willow River Elementary—Brian Bassa, Jeannie Mach; Wilshire Park Elementary—Gail Beall, Ms. Burba, Kathie Frank, Jason Hartman, Sarah Taylor, Mrs. Wyatt; Windom Open Elementary—Kim Landreville; Winona Area Catholic School—Linda Schauer; Winona High School—Daryl Miller, James Miller, Meryl, Nichols; Winterquist Elementary—Brooke Pfister, Wendy Smith; Woden-Crystal Lake School District—Howard Dorman; Woodbury High School—Theresa VonRuden; Woodbury Elementary—Linda Brommer, John Flavin, Julie McGee, Kay Peliter, Dave Ross; Woodbury High School—Dave Carlson, Meredith Deullman, Bruce Monroe, Duane Tannahill, Theresa VonRuden; Woodbury Junior High—William Barr, Tania Dantas, Sarah Prunty, Shannon Smith, Frau Tol, Jim Carlson, Mrs. Rafferty, Robert Schumacher; Woodland Elementary—Joni Hodsdon, Terry Langager, Scott Lund, Diana Rotty, Stuart Samsky; Woodland Hills Academy—Wendy Robinson; Worthington High School—Mr. Sphingen; Wrenshall High School—Kris Nelson; Wylie Elementary School—Mr. Durhlam; Wyoming Elementary—Tom Erickson, Cheryl Runquist, Julie Sorenson, Terry Buerkle, Mary Ellen Dellwo; Zachary Lane Elementary—Yvonne Peterson, Angela Steiner, Mike Westby; Zanewood Elementary—Jon Fritz; Zemmer Junior High—Mike Suschler; Zimmerman Elementary—Mrs. Gerlach, Barb Roos, Ben Kvidt; Zion Lutheran Christian Day School—Sheila Sandell; Zumbrota-Mazeppa Elementary—Mary Ann Urban.

VOTING INTEGRITY AND VERIFICATION ACT

Mr. BURNS. Mr. President, I would like to take a few moments to comment on S. 2437, the Voting Integrity and Verification Act, VIVA, which prevents any vote in the upcoming election from being cast inaccurately by allowing voters to check their ballots on paper to ensure accuracy. The paper trail required with this bill would serve as a safety net if an electronic malfunction happens to occur.

American voters are skeptical coming into the 2004 election after the much debated recounts that took place in the 2000 election, and in order to put the voters at ease, we must make our voting technology better and keep every vote on record. I have heard from several Montanans who say they want the security to view an individual paper version of the ballot before it is cast and counted. They also want to know they have the opportunity to correct errors that are discovered on the individual paper version of the ballot that this bill will provide. I join Senator ENSIGN and Senator REID in urging all of my colleagues to vote in favor of the Voting Integrity and Verification Act of 2004 to ensure that votes are accurately cast in the upcoming election.

PROGRESS ON TAA

Mr. GRASSLEY. Mr. President, I rise to address the progress that's been made in how the Trade Adjustment Assistance, or TAA, program operates. You may recall that in 2002, I worked with Senator BAUCUS to shepherd landmark TAA reforms through Congress. President Bush acknowledged the role of TAA as an important part of his comprehensive trade agenda when he signed these reforms into law in August of that year. The reform legislation made a number of changes to TAA, including, for the very first time, the addition of a new health coverage tax credit, or HCTC, and a new wage insurance provision, as well as a doubling of the funds available for retraining workers dislocated by trade. Given the number and significance of the changes made to TAA, I joined Senator BAUCUS in asking the Government Accountability Office, or GAO, to study how the TAA Reform Act is being implemented. Separately, we asked GAO

to study how the health coverage tax credit is being implemented. The GAO report on TAA came out last month, and while it's clear some of the details of implementation merit further study, overall the report shows a marked improvement in the way TAA is administered.

The GAO report notes that the Department of Labor has reduced its average petition-processing time from 107 days in 2002 to 38 days in 2003, and the percentage of petitions processed in 40 days or less increased from 17 percent in 2002 to 62 percent in 2003. Certified workers are enrolling in training services more quickly than in prior years. More broadly, it is evident that the funds available under TAA are beginning to be administered more effectively. One of the hurdles that Labor officials had to overcome was a perception, at least in some states, that all TAA-eligible workers are entitled to training. According to GAO, that perception contributed to problems with managing TAA training funds.

In response, the Labor Department has encouraged, States to take steps to better administer TAA funds. The Labor Department has also improved the way it disburses training funds so that State officials can better target the funds that are available to workers who are truly in need of training. These efforts are starting to pay off; in fact, after the GAO report came out, we learned that thanks to improved administration by the Labor Department, $28.4 million dollars was available at the end of the 2004 fiscal year for supplemental distribution. Last week my home State of Iowa received an additional $559,626 dollars in additional TAA training, job search; and relocation funds. These funds will help ensure that trade-impacted Iowans will receive the benefits they are entitled to under the program. The same is true for States across the country. I think we can all agree that it is good to see our taxpayer dollars being spent more wisely.

Unfortunately, the GAO report fails to capture the full breadth of the improvements made by the Labor Department. The report States that 19 states temporarily discontinued enrolling TAA-eligible workers in training at some point between fiscal years 2001 and 2003 because they lacked adequate training funds. However, GAO collected only aggregate data, so it is unclear how many States temporarily discontinued enrollment before funding was doubled in the TAA Reform Act of 2002, versus after. That information would have been helpful. The report does note that six States temporarily discontinued enrollment during fiscal year 2004, which is quite puzzling given the fact that the TAA program had funds left over at the end of the year. I think it is important to note that Labor dispatched technical assistance teams to help those States implement needed improvements so that workers could get access to training. Since there wasn't any shortfall in funds, it seems those 6 States can work with Labor to administer the program more effectively. So, while Labor's progress has been impressive, there's certainly more work to be done.

The wage insurance provision known as alternative TAA for older workers is a brand new program, so it is not surprising that implementation has not been without hiccups. But things are improving. According to the Labor Department, as of August 2004, 32 States had already issued alternative TAA payments and another 11 States had the capability to do so. In addition, 48 States reported that information on the alternative TAA program is provided as part of their rapid response activities. Approved petitions for alternative TAA increased from 60 in fiscal year 2003 to 937 in fiscal year 2004. Importantly, since alternative TAA went into effect in August 2003, well over 700 workers have received assistance from this new program.

As for the health coverage tax credit, it is also a brand new program. The just-released GAO report shows that the HCTC was implemented at record speed and is providing valuable health care coverage to thousands of displaced workers and recipients of benefits from the Pension Benefit Guaranty Corporation, or PBGC. While the initial take-up rate may not be as high as was estimated at the time the TAA Reform Act was passed, even GAO noted that determining an actual rate of participation rate is difficult. Not all workers initially identified as being eligible will meet all the requirements, and of those that do it is not apparent how many have access to healthcare coverage via their spouse. In addition, enrollment numbers for the HCTC do not reflect all of the dependents who also benefit from the HCTC.

The Labor Department has reached out to educate the public about these and other aspects of the TAA Reform Act. Labor officials conducted 15 training sessions with stakeholders across the country in fiscal years 2002 and 2003. During fiscal year 2004, six regional forums were held for workforce practitioners in which Labor began focusing on policies and practices that integrate service delivery to dislocated workers in need of services. Labor administers a wide array of programs for trade affected workers, including both TAA and the Workforce Investment Act, or WIA. In the past, these programs have been splintered, leading to inconsistent service delivery. Through initiatives started by the current Department of Labor, workers are now receiving a wider array of services in faster time. While it is clear more work remains, the GAO reports do bear witness to the progress that's been made.

I will continue working with Senator BAUCUS to monitor developments and oversee implementation of the TAA Reform Act. We must continue to assess how the program can be improved. For example, there is currently no incentive for States to report the most accurate information possible. We should consider ways to improve the data that is reported, so the TAA program's true impact can be fully assessed. Additional study by GAO may prove helpful in this and other areas. Labor started its own 5-year rigorous impact evaluation of the TAA program this year, and that should also prove helpful. But while there is room for improvement, it is also true that much has been accomplished, and I want to take this opportunity to thank the hard working officials at the Department of Labor for their dedication in implementing the significant changes brought about by the TAA Reform Act of 2002. I also thank officials at the Internal Revenue Service, the Centers for Medicare and Medicaid Services, and PBGC, along with those in State agencies, who have worked so hard to implement the HCTC.

NUCLEAR MEDICINE WEEK

Mr. WARNER. Mr. President, I rise today to remind my colleagues that this week is Nuclear Medicine Week. Nuclear Medicine Week is the first week in October every year and is an annual celebration initiated by the Society of Nuclear Medicine. Each year, Nuclear Medicine Week is celebrated internationally at hospitals, clinics, imaging centers, educational institutions, corporations, and more.

I am particularly proud to note that the Society of Nuclear Medicine is headquartered in Reston, VA. The Society of Nuclear Medicine is an international scientific and professional organization of more than 15,000 members dedicated to promoting the science, technology and practical applications of nuclear medicine. I commend the society staff and its professional members for their outstanding work in the field of nuclear medicine and for their dedication to caring for people with cancer and other serious and life-threatening illnesses.

Some of the more frequently performed nuclear medicine procedures include: bone scans to examine orthopedic injuries, fractures, tumors or unexplained bone pain; heart scans to identify normal or abnormal blood flow to the heart muscle, measure heart function or determine the existence or extent of damage to the heart muscle after a heart attack; breast scans that are used in conjunction with mammograms to detect and locate cancerous tissue in the breasts; liver and gallbladder scans to evaluate liver and gallbladder function; cancer imaging to detect tumors; treatment of thyroid diseases and certain types of cancer; brain imaging to investigate problems within the brain itself or in blood circulation to the brain; and renal imaging in children to examine kidney function.

I thank all of those who serve in this very important medical field and join them in celebrating Nuclear Medicine Week.

ORAL HEALTH AND OLDER AMERICANS

Mr. BREAUX. Mr. President, the oral health of older Americans is in a state of decay. Millions of vulnerable seniors are unable to access the oral health care they need, suffer needlessly, and ultimately require costly and invasive treatments that unnecessarily burden our troubled health care system.

Good oral health care should begin at birth as part of overall health care. This important component of health care should not—and cannot—end at retirement. Proper dental care must be a lifetime commitment. Unfortunately, for far too many older Americans, oral health care is a luxury. Too many of our ''greatest generation'' suffer from chronic oral pain and disease, severely limiting regular activities of daily living and impeding their independence. Neglect of oral health may result in the deterioration of overall physical health. Lack of access to care for even routine dental cleanings and exams can exacerbate serious and complicated overall health problems that increase with age.

Limited access to oral health care poses one of the greatest crises for the health and well being of America's elderly. Not one older American receives routine dental care under Medicare. Medigap, used by some older Americans as a supplemental insurance to Medicare, is an expensive cavity when it comes to dental coverage. Less than 20 percent of Americans 75 and older have any form of private dental insurance. Under Medicaid, adult dental care is optional and close to 30 States are failing to meet even the most minimal standards of care. Millions suffer, often in silence.

Older adults suffer from the cumulative toll of oral diseases over their lifetime. This results in extensive oral and periodontal disease. Surveys have shown that nursing home residents with teeth suffer particularly from untreated tooth decay, while those without teeth also have a variety of oral health problems. Medications often adversely affect oral health as well. Evidence suggests that periodontal disease can complicate or is linked to diabetes, heart disease, stroke and pneumonia.

Some older Americans—especially those with special needs, the frail, and those classified by the Social Security Administration to be aged, blind and disabled—are often plagued with challenging oral health needs. Being disabled, medically compromised, homebound, or institutionalized increases the likelihood of serious dental problems and limited access to dental care. Dental care for the 1.65 million people in long-term care facilities is problematic at best.

I would like to tell you about Marcia Ball, who lives in a nursing home in Lafayette, LA. She is 64. One morning last July, she awoke to find her cheek swollen up like a balloon. An untreated abscess had run rampant, sending her to the hospital with a raging fever and labored breathing. After a surgical team drained the infection, her heart and lungs suddenly stopped working. She pulled through, but four days later developed pneumonia. A member of the medical team says that the bacteria from untreated tooth decay entered her lungs every time she inhaled. She returned to her nursing home after two weeks at the hospital. Medicaid paid for three rounds of antibiotics, two trips to the emergency room, two days in intensive care, and the remainder of her hospital stay. But Medicaid in Louisiana, like many other States, won't pay for extractions. So she still has badly decayed teeth, but she doesn't have the $60 needed to cover an extraction or insurance for routine dental care.

Marcia Ball's story is not unusual, according to Dr. Greg Folse, a geriatric dentist in Lafayette. Most of Dr. Folse's patients are keeping their teeth as they age, but he says that over 85 percent have moderate to severe gum disease and 60 percent have tooth decay. Medicaid dental services in Louisiana, where Dr. Folse takes his practice to patients in his van, are limited to dentures, which are not much use for people who still have their teeth.

A national report card released in September by the advocacy group Oral Health America before a forum of the U.S. Senate Special Committee on Aging examined seniors' access to key dental services and gave failing or near failing grades to each State and gave the Nation an overall ''D'' grade. When it comes to caring for vulnerable populations, the report said, the country is flat out failing.

This lack of access to oral health care is compounded by a shortage of skilled geriatric dental care professionals, part of a larger national shortage of geriatricians described to the U.S. Senate Special Committee on Aging by the Alliance for Aging Research in their report, Medical Never Never Land. Just finding a dentist can pose a considerable challenge for older Americans and those with a disability. The good work of community health centers is limited to providing preventative and basic dental care to only about one-in-twelve patients who are fortunate enough to have access to such a facility. In many States that provide a dental benefit, reimbursement rates are too low to attract a sufficient number of dentists willing to treat Medicaid patients.

With scientific advances and the graying of millions of baby boomers, this year the number of elderly on the planet passed the number of children for the first time. Although we have made great strides in promoting independence, productivity and quality of life, old age still brings inadequate health care, isolation, impoverishment, abuse and neglect for far too many Americans.

Oral diseases can impact an otherwise independent, productive life, triggering a downward spiral that can result in malnutrition, serious illness and even death.

In 2000, the Surgeon General's office called oral disease in this country a ''silent epidemic,'' but oral health continues to be an afterthought to other health care issues, and off the radar screen for most national leaders. Congress has never addressed the lack of oral health coverage for older Americans, failing to place these this issue into the national consciousness and addressed the issues at a national level.

We need new infrastructure and funding—focusing resources, creating accountability and changing how we think about oral health in our country, particularly as it affects vulnerable populations. We must lay the foundation to address, in a meaningful and lasting way, a devastating and growing problem that has been invisible for far too long. We can no longer neglect these difficult issues afflicting frail and elderly victims.

This effort needs to take numerous steps to improve access to oral health care:

We need to ensure the provision of oral health screening, diagnostic, and treatment services, particularly for vulnerable individuals, and nursing home and long-term care residents.

We must eliminate the barriers requiring determination of medical necessity. We must ensure that States comply with applied income laws.

We need to ensure greater communication among States and nursing home and long-term care facilities about the need for and availability of oral health services.

More and more of us will enjoy longer, healthier lives with our teeth intact, but with this gift comes the responsibility to prevent the needless suffering too often borne by our frailest citizens.

I appreciate the work of my fellow members and a wide array of excellent groups such as Oral Health America, Special Care Dentistry, and the Alliance for Aging Research, and individuals like Dr. Greg Folse on behalf of oral health and older Americans and look forward to continued support from both sides of the aisle and in both Houses to make oral health a reality for all Americans.

ADDITIONAL STATEMENTS

IN RECOGNITION OF NANCY NADEL

• Mr. CARPER. Mr. President, I rise today to recognize Nancy Nadel, recipient of the Delaware School Nurse of the Year award. Nancy has dedicated her life to her family and to the thousands of school children whose lives she has touched.

Nancy was born in Wilmington on September 16, 1952. She graduated from John Dickinson High School in 1970 and received her bachelor's degree in school nursing in 1974 from the University of Delaware. During college,

Nancy joined the U.S. Army after graduation and was assigned to Fitzsimons Army Medical Center in Aurora, CO. She retired as a Lieutenant Colonel in 1996 from the United States Army Reserve. In 1979, Nancy received her master's degree in school nursing and her Pediatric Nurse Practitioner Certificate from the University of Colorado.

Nancy returned to Delaware in 1983. Three years later, she became the school nurse for the Baltz Elementary School and remained there until 1995, when she went to Forest Oak Elementary School. At Forest Oak, she is known as a nonassuming person, who has a ''quiet way about doing what she does best—being a school nurse.'' She is kind to the children and always looking out for their best interests.

In 2002, Nancy started a fitness program at Forest Oaks Elementary. Having been inspired by a talk on obesity at the National School Nurses Convention, she submitted a grant application, and was awarded $3,300 from the State of Delaware to implement her program. The program promotes increased physical activity and healthy nutrition in first to fourth graders. Nancy hopes to expand the program to also include students in kindergarten and fifth grade and to teachers and staff.

Nancy has also helped coordinate a bike safety program and helmet program, taught open airways classes to empower students with asthma in self care, collaborated with the school guidance counselor and psychologist to meet the emotional and educational needs of students and presented staff education programs in diabetes, asthma and Attention Deficit Hyperactivity Disorder.

Nancy is a member of Sigma Theta Tau, the international nursing honor society, the National Association of School Nurses, the Delaware School Nurses Association, DSNA, and was a member of the DSNA Continuing Education Committee from 1990–1995. Nancy also serves on the Red Clay Nurse Liaison Committee, is the computer representative for the Red Clay School nurses, and is a member of the revision committee for the school nurse technical assistance manual.

Nancy is married to Joe Nadel, a psychologist and teacher at Wesley College. She has four children, Katie, Carolyn, Dan, and Susan, and three stepchildren, Joe, Ian and Mike. In her spare time, she volunteers at Mary Mother of Hope House II by sponsoring food, linen and gift drives at their shelter.

Nancy is an amazing human being. She has been and remains deeply committed to her family, her students, and her community. She has helped shape the lives of thousands in the halls of the institutions she served, and in the hearts of those who have been lucky enough to call her their friend. I rise today to honor and to thank Nancy for her selfless dedication to the betterment of others. She is a remarkable woman and a testament to the community she represents.●

NEW JERSEY ALLIANCE FOR ACTION

● Mr. CORZINE. Mr. President, I rise to recognize the 30th anniversary of the New Jersey Alliance for Action, an organization that has worked tirelessly to improve the quality of life for all New Jerseyans.

The New Jersey Alliance for Action is a nonprofit, nonpartisan consortium of business, labor, government and academic leaders dedicated to creating jobs, improving the economy and protecting the environment. These goals are achieved by modernizing our State's infrastructure to meet the needs of a growing New Jersey. Since its creation in 1974, the New Jersey Alliance for Action has worked to obtain funding and secure permits for road, rail, and aviation improvements, water projects, school construction, shore preservation, business expansion and other key infrastructure initiatives. Today, it boasts more than 600 dedicated members and has developed a solid track record of working closely with state and local governments.

The Board of Trustees of the New Jersey Alliance for Action is composed of some of New Jersey's most prominent business, labor, professional and educational leaders. Through creative partnerships between the public and private sectors, the foundation addresses many of the pressing issues that affect the great State of New Jersey.

While this organization is exemplary, two men must be singled out for their vision and hard work: Richard M. Hale and Ellis S. Vieser. They were responsible for creating an organization that crossed the boundaries, establishing an environment where the interests of New Jersey's citizens are top priority. We owe a deep debt of gratitude for their lifetime of dedication and remarkable leadership. They embodied a can-do attitude together with a sense of community. It is not difficult to see how the alliance has made such giant strides in such a relatively short period of time.

I thank the members of the New Jersey Alliance for Action for continuing the work of Richard M. Hale and Ellis S. Vieser. It is their commitment to the work of the alliance's founders that allows New Jersey to shine so brightly. Congratulations on this very special milestone.●

VETERANS' HISTORY PROJECT

● Mr. JOHNSON. Mr. President, I rise today to publicly recognize the progress of the Veterans' History Project and to honor Greg Latza, author of Blue Stars: A Selection of Stories from South Dakota's World War II Veterans.

Blue Stars honors and immortalizes the incredible stories of forty-four South Dakota World War II veterans. Greg's inspiration for writing this book came in 1994, when as a photographer for a newspaper, he covered a powerful interview of a Sioux Falls World War II veteran.

As World War II veterans grow older, it is important to collect their stories, as Greg did, before they are lost. There are 19 million war veterans living in the United States, and every day we lose 1,600 of them. We will be able to honor their services for generations to come by collecting their memories for the Veterans' History Project and preserving them at the Library of Congress.

The Veterans' History Project, which Congress unanimously approved on October 27, 2000, honors our Nation's war veterans and those who served in support of them, by creating a legacy of recorded interviews and other documents chronicling veterans' wartime experiences. The project encompasses veterans of World War I, World War II, Korea, Vietnam, Operation Desert Storm, Operation Enduring Freedom, and Operation Iraqi Freedom.

All recordings of personal histories and all documents submitted to the Veterans' History Project will be archived in the National History Collection at the Library of Congress' American Folklife Center. These important artifacts will create a comprehensive, searchable catalog of veterans' stories, thus allowing current and future generations to access them.

I congratulate Greg Latza on his efforts. Blue Stars pays a great tribute to South Dakota's contributions to World War II. Like the Veterans' History Project, it serves as an excellent example of the importance of honoring and remembering America's veterans.●

HONORING GUNNERY SERGEANT CLESTER LENOIR

● Mr. BREAUX. Mr. President, I honor not only a fellow Louisianian, but also an extraordinary Marine, Clester Lenoir. Clester Lenoir is retiring after serving more than 20 years of service in the United States Marine Corps. He was raised in Baton Rouge, LA, where he graduated from Tara High School, Baton Rouge in 1984.

Gunnery Sergeant's first duty station was in his home state of Louisiana where he served with the Fourth Marine Division in New Orleans. He was assigned as the Status of Resources and Training System Noncommissioned Officer, a staff sergeant's billet. He was tasked to assist and inspect various reserve units around the Nation. He excelled at this assignment and was awarded a Navy/Marine Corps Achievement medal for his meritorious service.

Lenoir has served as an Administrative Assistant in the Marine Corps' Office of Legislative Affairs during his last 3 years of service. That office supports Members of Congress, and their committees on matters relating to the Marine Corps and the security of our Nation.

Lenoir has carried the Marine Corps' message to these hallowed halls, providing Members the information necessary to determine how best to equip, maintain and support the United States Marine Corps and ultimately provide and ensure our Nation's security. During this period, he has been responsible for directing, and organizing numerous congressional events in the metropolitan DC area. His attention to detail in making these very important events logistically successful is noteworthy.

Lenoir has made a lasting contribution in the capability of today's Marine Corps and the future shape of tomorrow's Corps. His superior performance of duties highlight the culmination of more than 20 years of dedicated and honorable Marine Corps service. He achieved five Navy/Marine Corps Achievement medals for his exemplary service throughout his 20-year career. By his exemplary professional competence, sound judgment, and total dedication to duty, he has reflected great credit upon himself and has always upheld the highest traditions of the United States Marine Corps and the United States Naval Service.

I am proud that Clester Lenoir joined the Marine Corps from the great state of Louisiana, seeking to protect and serve our great Nation. He has done so with great distinction. On behalf of the U.S. Senate, I wish to extend my heartfelt thanks and gratitude. May he have many more years of continuing success as he pursues other interests outside of the United States Marine Corps.●

IN MEMORY OF JUDGE RICHARD SHEPPARD ARNOLD

● Mrs. CLINTON. Mr. President, on September 23, our country lost one of its greatest jurists, and Arkansas lost one of its greatest native sons, Richard Sheppard Arnold.

Judge Arnold was born into a legal family in 1936 in Texarkana, TX. His maternal grandfather, Morris Sheppard, served in this body from Texas from 1913 until 1941, and his paternal grandfather, William H. Arnold, was a circuit judge. His father, Richard Lewis Arnold, was a leading expert in public unitlies law. Judge Arnold graduated first in his class from Yale University and Harvard Law School, and in 1960 and 1961, he served as law clerk to one of our Nation's greatest Supreme Court Justices, the late William J. Brennan. Judge Arnold served in private practice, ran for Congress, served as legislative advisor to both Governor and Senator Dale Bumpers, and spent more than 25 years on the Federal district and appellate benches. Since 1980, Judge Arnold served on the 8th U.S. Circuit Court of Appeals.

Richard Arnold was one of our great legal writers with more than 700 opinions over the course of his legal career. Just this year, the American Society of Writers on Legal Subjects awarded him its lifetime achievement award, only the second in its 50-year history. His more prominent opinions advanced civil rights and voting rights, and in March of this year, as part of a three-judge panel, his 22-page opinion upheld a lower court ruling releasing the Little Rock School District from more than 40 years of Federal court supervision of its desegregation efforts.

Judge Richard Arnold was a friend to President Clinton and me and we join his wife, Kay, and his two daughters, Janet and Lydia, along with his brother, Judge Morris ''Buzz'' Arnold, in mourning his passing. He will be remembered for his remarkable life, his unequalled brilliance, character, common sense, deep religious faith, and devotion to the law. We have lost a cherished friend, and our Nation has lost a champion of justice.●

COLONEL JOHN SCHORSCH

● Mr. ALLARD. Mr. President, I rise today to express my appreciation for the outstanding service of Colonel John Schorsch, or ''Rusty'' as we all call him.

Liaison chiefs are chosen because of their expertise, their ability to manage personnel in a pressure-packed environment, and their discernment in making tough decisions in difficult situations. They generally have a well-rounded education, significant command experience, and a long track record of effectiveness. Simply put, service liaison chiefs are the best of the best.

Colonel Schorsch is certainly one of the best. He is graduate of the United States Military Academy and the U.S. Naval War College. He has been a platoon commander, a company commander, a battalion commander, and a brigade commander. Colonel Schorsch has served as an aide-de-camp and as the joint staff action officer and planner. Perhaps more importantly, Rusty served as the Army aide to two Presidents: President Bush and President Clinton.

I have traveled with Rusty many times and have greatly enjoyed the opportunity to get to know him. He is engaging, outgoing, and disarming. His stories about life in the Army often take on epic proportions and can make the most dour individual break into a grin.

Yet what separates Colonel Schorsch from most is his character. He is completely unflappable. He is undaunted by challenges. He is relentless in pursuit of a goal and absolutely determined to complete an assigned task. To Rusty, no detail is too small, no assignment too menial, and no task too trivial.

When things become difficult, Rusty remains undeterred. He does not give in. He does not cave. Indeed, whenever he has encountered seemingly unsurmountable problems, Rusty's philosophy has always been to step it up, and hold nothing back.

I have watched him time and time again tackle with the equal efficiency the largest of problems and the smallest of details. I have seen him persevere and overcome obstacles. And, during these challenges, he does not complain; and he does not flinch; he does not give in.

The Army has been fortunate to have a soldier like Rusty as its liaison chief here in the Senate. He has demonstrated to me and to many other Members the caliber and quality of Army officers. I know I speak for many of my fellow Members in expressing our disappointment in his departure. Yet I know that the Army has many good things planned for Rusty and that our country will benefit from his experience elsewhere.

With this in mind, I sincerely appreciate Colonel Schorsch's service to me and the rest of the Senate. I wish him the best in the future. He will surely be missed.●

HONORING CHUCK GROTH

● Mr. JOHNSON. Mr. President, on behalf of Senator TOM DASCHLE and myself, we publicly honor and recognize Chuck Groth. For more than 30 years, Chuck Groth has been telling the story. Whether it's about the trials and tribulations of farm families or the status of Federal policy that will impact agriculture, more than 10,000 South Dakota farm families have relied on Chuck's insightful presentation in their monthly edition of the Union Farmer.

The Union Farmer is the voice of the South Dakota Farmer's Union, covering the extensive interests of the organization's varied membership.

Chuck Groth has been responsible for more than 360 editions of the Union Farmer—an extraordinary record of longevity. Throughout the ups and downs of the industry, Chuck reported the news that captured the current state of affairs. He helped elevate the public dialogue about important issues, and made people more aware of the plight of South Dakota's farm and ranch families.

During the mid-1980s, America's farm families faced their darkest days since the Great Depression of the 1930s. Chuck helped organized thousands of Farmer's Union members to call upon their elected officials to provide assistance to rural America. The effort led to a historic act that took all 105 members of the South Dakota State Legislature to Washington, DC, in 1985 to lobby Congress about the needs of rural America.

Chuck has helped organize more than 50 fly-ins to Washington, DC, trips that helped keep farm policy at the forefront of the congressional agenda. Agriculture needed to have its story told, and Chuck was the wordsmith that made that possible.

I ask my colleagues to join Senator TOM DASCHLE and myself in saluting Chuck Groth for his distinguished career and commitment to our Nation's family farmer.●

TRIBUTE TO PAT CHRISTEN

• Mr. KENNEDY. Mr. President, this evening in San Francisco, a grateful community is coming together to honor one of the Nation's most able and respected leaders in the fight against HIV and AIDS—Pat Christen. For the past 15 years, Pat has served as executive director of the San Francisco AIDS Foundation. Tonight, she will end her tour of service to spend more time with her family particularly with her two young daughters, Morgan and Madison.

Since 1982, the San Francisco AIDS Foundation has been at the forefront of the ongoing battle against HIV and AIDS. Pat was there in the beginning, when a mysterious and deadly disease was taking so many of the San Francisco community's young people. She manned the agency's hotline as a volunteer, serving as an outlet and a resource for those facing the disease. From this caring and compassionate beginning, Pat rose to become a courageous and visionary leader against HIV.

In San Francisco, Pat saw thousands of young people in her community die needlessly because they could not obtain the proper medical care and support they needed in order to live and fight the disease. At the foundation, she helped to shape San Francisco's response to prevention and treatment of AIDS. She also took the battle to Congress and had a vital role in the development and passage of the Federal Ryan White CARE Act.

In her familiar grassroots style, Pat and the foundation galvanized other like-minded organizations around the country to help develop the CARE Act, and to provide the muscle and hustle that was necessary to galvanize action in Congress. Today, the Ryan White Act provides over $2 billion a year in HIV care and treatment to those most in need. It brings new hope and the promise of a life of dignity for tens of thousands of people living with HIV in cities and communities throughout the nation.

Under Pat's leadership, the foundation recently joined the global battle against HIV and AIDS. In December 2000, the Pangaea Global AIDS Foundation was launched in an effort to expand HIV antiretroviral treatment and care in the developing world. In just a few short years, Pangaea has become a key strategic resource in this international effort, particularly in Asia and Africa.

In October 2003, the Government of South Africa announced an unprecedented program to provide HIV antiretroviral drugs to the 5 million people in that nation suffering from HIV and AIDS. Pat and other Pangaea staff were part of a small technical support team working intensively behind the scenes with the South African Government as it prepared its national treatment initiative. Without Pat's skillful leadership, it might never have happened. Pangaea is now helping to make similar urgently needed relief available in Uganda and China.

Over the course of her career, Pat has demonstrated her willingness to speak out, to challenge others to become involved, to show compassion and understanding when others reacted with anger and vindictiveness. Above all, she had an extraordinary ability to do what others thought could not be done. To so many of us who admired her and worked with her, she became the symbol of the saying in World War II, ''the difficult we do immediately; the impossible takes a little longer.''

We all owe an enormous debt of gratitude to Pat for her inspiring leadership and her dedication to bring about the day when everyone everywhere with HIV will be able to live a long and productive life with dignity. Pat, thank you very, very much for all you have done so well across the years, and for the enormous difference you have made in the lives of so many persons in our own country and throughout the world.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:21 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1537. An act to direct the Secretary of Agriculture to convey to the New Hope Cemetery Association certain land in the State of Arkansas for use as a cemetery.

S. 1663. An act to replace certain Coastal Barrier Resources System maps.

S. 1687. An act to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

S. 1778. An act to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes.

S. 2052. An act to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail.

S. 2180. An act to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

2363. An act to revise and extend the Boys and Girls Clubs of America.

S. 2508. An act to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse.

H.R. 982. An act to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa.

H.R. 2408. An act to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges.

H.R. 2771. An act to amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program.

H.R. 4259. An act to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, to establish requirements for the Future Years Homeland Security Program of the Department, and for other purposes.

H.R. 4115. An act to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

H.R. 5105. An act to authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 2:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agree to the amendment of the Senate to the bill (H.R. 4011) to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

The message also announced that the House disagree to the amendment of the Senate to the bill (H.R. 4850) making appropriation for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House: Mr. Frelinghuysen, Mr. Istook, Mr. Cunningham, Mr. Doolittle, Mr. Weldon of Florida, Mr. Culberson, Mr. Young of Florida, Mr. Fattah, Mr. Pastor, Mr. Cramer, and Mr. Obey.

The message further announced that the House has passed the following bills, without amendment:

S. 551. An act to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes.

S. 1421. An act to authorize the subdivision and dedication of restricted land owned by Alaska Natives.

S. 1814. An act to transfer Federal lands between the Secretary of Agriculture and the Secretary of the Interior.

S. 2319. An act to authorize and facilitate hydroelectric power licensing of the Tapoco Project.

The message also announced that the House has passed the following bills, in

which it requests the concurrence of the Senate:

H.R. 854. An act to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence.

H.R. 1630. An act to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes.

H.R. 2129. An act to direct the Secretary of the Interior to conduct a special resources study regarding the suitability and feasibility of designating certain historic buildings and areas in Taunton, Massachusetts, as a unit of the National Park System, and for other purposes.

H.R. 2960. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Brownsville Public Utility Board water recycling and desalinization project.

H.R. 3391. An act to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project.

H.R. 3982. An act to direct the Secretary of Interior to convey certain land held in trust for the Paiute Indian Tribe of Utah to the City of Richfield, Utah, and for other purposes.

H.R. 4389. An act to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes.

H.R. 4593. An act to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes.

H.R. 4817. An act to facilitate the resolution of a minor boundary encroachment on lands of the Union Pacific Railroad Company in Tipton, California, which were originally conveyed by the United States as part of the right-of-way granted for the construction of transcontinental railroads.

H.R. 5202. An act to clarify the treatment of supplemental appropriations in calculating the rate for operations applicable for continuing appropriations for fiscal year 2005.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 76. Concurrent resolution recognizing that November 2, 2003, shall be dedicated to ''A Tribute to Survivors'' at the United States Holocaust Memorial Museum.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 304. Concurrent resolution expressing the sense of Congress regarding oppression by the Government of the People's Republic of China of Falun Gong in the United States and in China.

H. Con. Res. 415. Concurrent resolution urging the Government of Ukraine to ensure a democratic, transparent, and fair election process for the presidential election on October 31, 2004.

H. Con. Res. 496. Concurrent resolution expressing the sense of Congress with regard to providing humanitarian assistance to countries of the Caribbean devastated by Hurricanes Charley, Frances, Ivan, and Jeanne.

The message further announced that the House has passed the following bills, with amendments:

S. 144. An act to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land.

S. 1521. An act to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community.

The message also announced that pursuant to section 104(c)(1)(I) of the Consolidated Appropriations Act, 2004 (Public Law 108–199), and the order of the House of December 8, 2003, the Speaker and Minority Leader of the House, with the Majority and Minority Leaders of the Senate, jointly appoints Mr. Melville Peter Mcpherson of East Lansing, Michigan, Chairman of the Commission on the Abraham Lincoln Study Abroad Fellowship Program.

The message further announced that pursuant to section 2 14(a) of the Help America Vote Act of 2002 (42 U.S.C. 15344), the Minority Leader appoints Douglas H. Palmer of Trenton, New Jersey to the Election Assistance Commission Board of Advisors, to fill the remainder of the term of Willie L. Brown, Jr.

The message also announced that pursuant to section 491 of the Higher Education Act (20 U.S.C. 1098(c)), the order of the House of December 8, 2003, and upon the recommendation of the Majority Leader, the Speaker reappoints the following member on the part of the House of Representatives to the Advisory Committee on Student Financial Assistance for a 3-year term: Ms. Norine Fuller of Arlington, Virginia.

The message further announced that pursuant to section 1012(c)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 242b note), the Speaker appoints the following members on the part of the House of Representatives, to the Commission on Systemic Interoperability: Mr. Gary A. Mecklenburg of Chicago, Illinois and Dr. Don E. Detmer of Crozet, Virginia.

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–9596. A communication from the Senior Paralegal for Regulations, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Community Reinvestment Act Regulations'' (RIN 1550–AB48) received on October 4, 2004; to the Committee on Banking, Housing , and Urban Affairs.

EC–9597. A communication from the Senior Paralegal for Regulations, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Consolidation of Asset-backed Commercial Paper Programs and Other Related Issues'' (RIN 1550–AB79) received on October 4, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9598. A communication from the Deputy Assistant Administrator for Operations, Office of Protected Resources, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Sea Turtle Requirements: Coulon TED Extended Flap Modification'' (RIN 0648–AS02) received on October 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9599. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Yellowfin Sole in the Bering Sea and Aleutian Islands Management Area (BSAI)'' received on October 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9600. A communication from the Chairman, Interagency Coordinating Committee on Oil Pollution Research, Coast Guard, transmitting, pursuant to law, a report relative to the Committee's activities carried out during the current two-fiscal year period; to the Committee on Commerce, Science, and Transportation.

EC–9601. A communication from the Secretary of Energy, transmitting, pursuant to law, transmitting, pursuant to law, a report relative to the Department of Energy's competitive sourcing efforts; to the Committee on Energy and Natural Resources.

EC–9602. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Department's Alternative Fuel Vehicle (AFV) program for fiscal year 2003; to the Committee on Energy and Natural Resources.

EC–9603. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, a report entitled ''U.S.-Bahrain Free Trade Agreement: Potential Economywide and Selected Sectoral Effects''; to the Committee on Finance.

EC–9604. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, a report entitled ''Andean Trade Preference Act (ATPA)—Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution''; to the Committee on Finance.

EC–9605. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''2005 Per Diem Rates'' (Rev. Proc. 2004–60) received on October 4, 2004; to the Committee on Finance.

EC–9606. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Payments That Do Not Qualify as Qualified Transportation Fringe Benefits'' (Rev. Rul. 2004–98) received on October 4, 2004; to the Committee on Finance.

EC–9607. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Appeals Settlement Guidelines: 401(k) Accelerated Deductions'' (UIL9300 .01–01) received on October 4, 2004; to the Committee on Finance.

EC–9608. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Offer to Resolve Issues Arising From Certain Tax, Withholding, and Reporting Obligations'' (Rev. Proc. 2004–59) received on October 4, 2004; to the Committee on Finance.

EC–9609. A communication from the Chief Executive Officer, Corporation for National Community Service, transmitting, pursuant

to law, the report of the Office of Inspector General for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–9610. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of Inspector General for the Department of Education for the six-month period ending March 31, 2004; to the Committee on Governmental Affairs.

EC–9611. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled ''Presidential Inaugural Committee Reporting and Prohibition on Accepting Donations from Foreign Nationals'' received on September 29, 2004; to the Committee on Rules and Administration.

EC–9612. A communication from the Director, Regulations Management, Veterans' Health Administration, transmitting, pursuant to law, the report of a rule entitled ''Priorities for Outpatient Medical Services and Inpatient Hospital Care'' (RIN 2900–AL39) received on October 4, 2004; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 2608. A bill to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes (Rept. No. 108–385).

By Mr. LOTT, from the Committee on Rules and Administration, without amendment:

S. Res. 445. A resolution to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

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. DODD (for himself, Ms. SNOWE, Mr. KENNEDY, Mrs. CLINTON, Ms. COLLINS, Mr. DURBIN, Mr. LAUTENBERG, Mr. JOHNSON, and Mrs. MURRAY):

S. 2887. A bill to improve the Child Care Access Means Parents in School Program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself, Mr. EDWARDS, Mr. LEVIN, and Mr. KENNEDY):

S. 2888. A bill to amend the Higher Education Act of 1965 to establish a scholarship program to encourage and support students who have contributed substantial public services; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALEXANDER (for himself and Ms. LANDRIEU):

S. 2889. A bill to require the Secretary of the Treasury to mint coins celebrating the recovery and restoration of the American bald eagle, the national symbol of the United States, to America's lands, waterways, and skies and the great importance of the designation of the American bald eagle as an endangered species under the Endangered Species Act of 1973, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 2890. A bill to modify the boundary of Lowell National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself and Mr. JEFFORDS):

S. 2891. A bill to authorize the Secretary of Agriculture to sell or exchange certain National Forest System land in the State of Vermont; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DODD (for himself and Mr. BOND):

S. 2892. A bill to amend the Public Health Service Act to reauthorize and extend certain programs to provide coordinated services and research with respect to children and families with HIV/AIDS; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MURKOWSKI:

S. 2893. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY:

S. 2894. A bill to amend the Public Health Service Act to provide for the coordination of Federal Government policies and activities to prevent obesity in childhood, to provide for State childhood obesity prevention and control, and to establish grant programs to prevent childhood obesity within homes, schools, and communities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TALENT (for himself and Mr. BOND):

S. 2895. A bill to authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights in honor of breast cancer awareness month; considered and passed.

By Mr. BURNS (for himself and Mr. BREAUX):

S. 2896. A bill to modify and extend certain privatization requirements of the Communications Satellite Act of 1962; considered and passed.

By Mr. LEVIN (for himself, Mr. HATCH, Mr. BIDEN, and Mr. KENNEDY):

S. 2897. A bill to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes; to the Committee on the Judiciary.

By Mr. FITZGERALD:

S. 2898. A bill to require the review of Government programs at least once every 5 years for purposes of evaluating their performance; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCAIN (for himself, Mr. HATCH, Mr. KENNEDY, Mr. REID, and Mr. TALENT):

S. Res. 447. A resolution expressing the sense of the Senate that the President of the United States should exercise his Constitutional Authority to pardon posthumously John Arthur ''Jack'' Johnson for Mr. Johnson's racially-motivated 1913 conviction that diminished his athletic, cultural, and historic significance, and unduly tarnished his reputation; considered and agreed to.

By Mr. BROWNBACK (for himself and Mr. ROBERTS):

S. Con. Res. 140. A concurrent resolution urging the President to withdraw the United States from the 1992 Agreement on Government Support for Civil Aircraft with the European Union and immediately file a consultation request, under the Understanding on Rules and Procedures Governing the Settlement of Disputes of the World Trade Organization, on the matter of injury to, and adverse effects on, the commercial aviation industry of the United States; to the Committee on Finance.

ADDITIONAL COSPONSORS

S. 623

At the request of Mr. WARNER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 1379

At the request of Mr. JOHNSON, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1945

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 1945, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

S. 1968

At the request of Mr. ENZI, the names of the Senator from Illinois (Mr. FITZGERALD) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1968, a bill to amend the Higher Education Act of 1965 to enhance literacy in finance and economics, and for other purposes.

S. 2077

At the request of Mr. CRAIG, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2077, a bill to amend title XIX of the Social Security Act to permit additional States to enter into long-term care partnerships under the Medicaid Program in order to promote the use of long-term care insurance.

S. 2395

At the request of Mr. CONRAD, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2395, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 2425

At the request of Mr. COCHRAN, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2522

At the request of Mr. CORZINE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2522, a bill to amend title 38, United States Code, to increase the maximum amount of home loan guaranty available under the home loan guaranty program of the Department of Veterans Affairs, and for other purposes.

S. 2553

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2553, a bill to amend title XVIII of the Social Security Act to provide for coverage of screening ultrasound for abdominal aortic aneurysms under part B of the medicare program.

S. 2568

At the request of Mr. BIDEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2706

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2706, a bill to establish kinship navigator programs, to establish kinship guardianship assistance payments for children, and for other purposes.

S. 2735

At the request of Mr. MILLER, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 2735, a bill to require a study and report regarding the designation of a new interstate route from Augusta, Georgia to Natchez, Mississippi.

S. 2764

At the request of Mr. DODD, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2764, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 2786

At the request of Mr. BAYH, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2786, a bill to strengthen United States trade enforcement laws.

S. 2793

At the request of Mr. SANTORUM, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2793, a bill to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

S. 2815

At the request of Mr. DEWINE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2815, a bill to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

S. 2821

At the request of Ms. SNOWE, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2821, a bill to reauthorize certain programs of the Small Business Administration, and for other purposes.

S. 2881

At the request of Mr. VOINOVICH, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2881, a bill to clarify that State tax incentives for investment in new machinery and equipment are a reasonable regulation of commerce and not an undue burden on interstate commerce, and for other purposes.

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Michigan (Ms. STABENOW), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as ''National Visiting Nurse Association Week''.

S. CON. RES. 136

At the request of Mr. CONRAD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 271

At the request of Mr. COLEMAN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. Res. 271, a resolution urging the President of the United States diplomatic corps to dissuade member states of the United Nations from supporting resolutions that unfairly castigate Israel and to promote within the United Nations General Assembly more balanced and constructive approaches to resolving conflict in the Middle East.

S. RES. 408

At the request of Mr. SCHUMER, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 408, a resolution supporting the construction by Israel of a security fence to prevent Palestinian terrorist attacks, condemning the decision of the International Court of Justice on the legality of the security fence, and urging no further action by the United Nations to delay or prevent the construction of the security fence.

AMENDMENT NO. 3838

At the request of Mr. CONRAD, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Montana (Mr. BURNS) were added as cosponsors of amendment No. 3838 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3888

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3888 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3890

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3890 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3891

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3891 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3893

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3893 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3894

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3894 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3943

At the request of Mr. HARKIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 3943 proposed to H.R. 4278, a bill to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself, Ms. SNOWE, Mr. KENNEDY, Mrs. CLINTON, Ms. COLLINS, Mr. DURBIN, Mr. LAUTENBERG, Mr. JOHNSON, and Mrs. MURRAY):

S. 2887. A bill to improve the Child Care Access Means Parents in School Program; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I am pleased to rise today with Senators SNOWE, KENNEDY, COLLINS, MURRAY, DURBIN, LAUTENBERG, CLINTON and JOHNSON to introduce legislation which would supply greatly needed support to

college students struggling to balance their roles as parents with their roles as students. The Child Care Access Means Parents in School Act, CCAMPIS, would increase access to, support for, and retention of low-income, nontraditional students who are struggling to complete college degrees while caring for their children.

The typical college student is no longer an 18 year old recent high school graduate. According to a 2002 study by the National Center for Education Statistics, only 27 percent of undergraduates meet the ''traditional'' undergraduate criteria of earning a high school diploma, enrolling full-time, depending on parents for financial support and not working or working part-time. This means that 73 percent of today's students are considered nontraditional in some way. Clearly, nontraditional students—older students with children and various job and life experiences—are filling the ranks of college classes. Why? Because they recognize the importance of college to future success. It is currently estimated that a full-time worker with a bachelor's degree earns about 60 percent more than a full-time worker with only a high school diploma. This amounts to a lifetime gap in earnings of more than $1 million.

Today's nontraditional students face barriers unheard of by traditional college students of earlier years. Many are parents and must provide for their children while in school. Access to affordable, quality and convenient child care is a necessity for these students. But obtaining the child care that they need is often difficult because of their limited income and nontraditional schedules, compounded by declining assistance for child care through other supports. Campus based child care can fill the gap. It is conveniently located, available during the right hours, and of high quality and lower cost. Unfortunately, it is unavailable at many campuses. Even when programs do exist, they are often available to only a fraction of the eligible students. That is where the Dodd-Snowe CCAMPIS Act comes in.

The Dodd-Snowe CCAMPIS Act increases and expands the availability of campus based child care in three ways. First, it raises the minimum grant amount from $10,000 to $30,000. For most institutions of higher education, $10,000 has proven too small relative to the effort to complete a Federal application. Grant offices on campuses often pass small grants over in favor of those that appear more cost effective.

Second, the Dodd-Snowe CCAMPIS Act ensures that a wider range of students are able to access services. Present language defines low-income students as students eligible to receive a Federal Pell Grant. This language excludes graduate students, international students, and students who may be low-income but make slightly more than is allowed to qualify for Pell grants. CCAMPIS will open eligibility for these additional populations.

Third, the CCAMPIS Act raises the program's current authorization level from $45 million to $75 million so that we not only expand existing programs, we create new ones.

Research demonstrates that campus based child care is of high quality and that it increases the educational success of both parents and students. Furthermore, recipients of campus based child care assistance who are on public assistance are more likely to never return to welfare and to obtain jobs paying good wages.

Currently, there are approximately 1,850 campus based child care programs but over 4,000 colleges and universities eligible to participate in the CCAMPIS program. Currently, CCAMPIS funds only 343 programs in 25 states and the District of Columbia. Meanwhile, the number of nontraditional students across America is increasing. As these numbers increase, the need for campus based child care will be increasingly unmet.

This is a modest measure that will make a major difference to students. It will offer them new hope for starting and staying in school. I am hopeful that it can be considered and enacted as part of the Higher Education Act. I look forward to working with my colleagues to move this important measure forward.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2887

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHILD CARE ACCESS MEANS PARENTS IN SCHOOL PROGRAM.

(a) MINIMUM GRANT.—Section 419N(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1070e(b)(2)(B)) is amended by striking ''$10,000'' and inserting ''$30,000''.

(b) DEFINITION OF LOW-INCOME STUDENT.—Section 419N(b)(7) of such Act is amended to read as follows:

''(7) DEFINITION OF LOW-INCOME STUDENT.—For the purpose of this section, the term 'low-income student' means a student who—

''(A) is eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made;

''(B) would otherwise be eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made, except that the student fails to meet the requirements of—

''(i) section 401(c)(1) because the student is enrolled in a graduate or first professional course of study; or

''(ii) section 484(a)(5) because the student is in the United States for a temporary purpose; or

''(C) is from a family with an income that is less than 275 percent of the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 419N(g) of such Act is amended by striking ''$45,000,000 for fiscal year 1999'' and inserting ''$75,000,000 for fiscal year 2005''.

Ms. SNOWE. Mr. President, I am extremely pleased to join my colleague from Connecticut, Senator DODD, to introduce the Child Care Access Means Parents in School Act of 2004. Senator DODD and I have worked together to ensure access to quality child care, and this bill represents the next step in our shared commitment to this important issue. This legislation provides grants to colleges in order to provide child care for low-income students.

Countless college students have recently returned to college. At this time, we should remind ourselves that many Americans face obstacles that prevent them from participating in higher education. The absence of affordable and accessible child care is, unfortunately, one such obstacle.

For many parents with young children, the availability of on-campus child care services is central to their ability to attend college. Campus-based child care is conveniently located, available at the hours that fit students' schedules and often available at a lower cost than community-based child care centers. Student parents rate access to campus-based child care as an important factor affecting their college enrollment. Unfortunately, such services are often in very short supply, particularly for low-income parents who may find the cost of existing services prohibitive.

Higher education is becoming ever more crucial to getting a job in today's global job market. The majority of new jobs require education beyond high school. Getting the skills necessary to meet the demands of today's marketplace simply requires higher and higher levels of educational achievement. For many low-income students who are parents, the availability of campus-based child care is key to their ability to receive a higher education and thus achieve the American dream. Student parents are more likely to remain in school, and to graduate sooner and at a higher rate if they have campus-based child care. Child care services are particularly critical for older students who choose to go back to school to get their degree or to improve their skills through advanced education. Children placed in campus-based child care also reap numerous benefits, given its high quality. In fact, children in high-quality child care exhibit higher earnings as adults, higher rates of secondary school graduation, lower rates of teen pregnancy, and a reduced need for special education or costly social services.

Research shows that programs such as the High/Scope Perry Preschool Program in Ypsilanti, Michigan and the Chicago Child-Parent Centers demonstrate overwhelmingly that quality child care is a wise investment and is cost efficient. According to analysis of these programs the public saves $7 for every $1 invested in child care. These savings counted only the benefits to the public at large—in reduced costs of crime, welfare and remedial education

and in taxes paid when the preschoolers became adult workers—without even taking into account participants' increased earnings or the increased contribution to economic growth those earnings represent.

The Child Care Access Means Parents in School Act of 2004 will amend title IV of the Higher Education Act to help provide campus-based child care to low-income parents seeking a college degree. Under the bill, the Secretary of Education will award 3-year grants to institutions of higher education to support or help establish a campus-based child care program serving the needs of low-income student parents. The Secretary will award $75 million in grants—equal to 1 percent of total Pell grant funding—based on an application submitted by the institution, and the grant amount will be linked to the institution's Pell grant funding level. This bill ensures that a wide range of low-income students are able to access child care services.

Under the bill low-income students are defined as students eligible to receive a Federal Pell Grant, or students who would be eligible to receive a Pell grant if they were not in the United States temporarily, and students who are from a family with an income that is less than 275 percent of the poverty line (as defined by the Office of Management and Budget). Students typically qualify for Pell grants if their income is under $30,000 per year and in Maine, this means approximately 17,000 students could have access to high quality child care services while they earn their college degree. This bill will make a true difference in the lives of many low-income students who need child care to attend school.

This bill raises the minimum CCAMPIS grant to $30,000 and authorizes $75 million as research has found that the existing minimum grant of $10,000 is often too small relative to the effort for many institutions to complete a federal application. We have found that grant offices on campuses often pass small grants over in favor of those that are most cost effective.

Because the bill we are introducing today will help bring the American dream within the reach of American parents who need child care in order to attend college, I urge my colleagues to support this important legislation which will truly make a difference in the lives of many American parents.

By Mr. DODD (for himself, Mr. EDWARDS, Mr. LEVIN, and Mr. KENNEDY):

S. 2888. A bill to amend the Higher Education Act of 1965 to establish a scholarship program to encourage and support students who have contributed substantial public services; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise to introduce, along with Senators EDWARDS, LEVIN and KENNEDY, the Youth Service Scholarship Act. This Act would authorize the Secretary of Education to award college scholarships of up to $5,000 a year to high school students and undergraduates who perform community service.

A recent study titled Community Service and Service Learning in U.S. Public Schools reveals that 66 percent of public schools involve students in community service. This means that approximately 54,000 public schools in America currently engage about 13.7 million students in community service each year. Other studies have shown that nearly 84 percent of high school students participate in volunteer activities either in or out of school, and two-thirds of college students have recently participated in volunteer activities.

The Youth Service Scholarship Act is dedicated to assist low-income students who dedicate a significant portion of their time to volunteer service with money for college. This Act would authorize the Secretary of Education to award college scholarships of up to $5,000 to high school students who perform over 600 hours of community service in two years. In order to be considered, high school applicants must maintain a 2.0 grade point average, submit character recommendations, and write an essay on the nature of their community service. Additional money is available if the student continues to participate in a significant amount of community service once they are in college.

Volunteerism not only brings support and services to communities in need, it provides significant benefits to the students who participate. Research has shown that students who volunteer are 50 percent less likely to use drugs and alcohol, or engage in destructive behavior. Additionally, students who volunteer are more likely to receive good grades, be philanthropic, graduate, and be interested in going to college.

In the 21st Century, higher education is not a luxury, it is a necessity. For many of our low-income youth, finding money to pay for college is an obstacle to enrollment. This scholarship program provides aid to motivated and inspirational youth.

I urge my colleagues to join me in supporting the Youth Service Scholarship Act. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2888

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 ''Youth Service Scholarship Act of 2004''.

SEC. 2. FINDINGS.

Congress finds that—

(1) young people under 18 years of age are now our Nation's most impoverished age group, with 1 of every 5 living in poverty, a higher proportion than in 1968, and the percentage of minority children living in poverty is about twice as high;

(2) more than 1 of 4 families is headed by a single parent and the percentage of such families has risen steadily over the past few decades, rising 13 percent since 1990;

(3) there is a need to engage youth as active participants in decisionmaking that affects their lives, including in the design, development, implementation, and evaluation of youth development programs at the Federal, State, and community levels;

(4) existing outcome driven youth development strategies, pioneered by community-based organizations, hold real promise for promoting positive behaviors and preventing youth problems;

(5) formal evaluations of youth development programs have documented significant reductions in drug and alcohol use, school misbehavior, aggressive behavior, violence, truancy, high-risk sexual behavior, and smoking;

(6) compared to youth in the United States generally, youth participating in community-based organizations are more than 26 percent more likely to report having received recognition for good grades than youth in the United States generally and nearly 20 percent more likely to rate the likelihood of their going to college as very high; and

(7) the availability and use of Federal resources can be an effective incentive to leverage broader community support to enable local programs, activities, and services to provide the full array of developmental core resources, remove barriers to access, promote program effectiveness, and facilitate coordination and collaboration within the community.

SEC. 3. ESTABLISHMENT OF PROGRAM.

Subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq.) is amended—

(1) by redesignating section 407E as section 406E; and

(2) by adding at the end the following:

"Chapter 4—Public Service Incentives

"SEC. 407A. PURPOSE.

''The purpose of this chapter is to establish a scholarship program to reward low-income students who have, during high school, and who continue, during college, to make significant public service contributions to their communities.

"SEC. 407B. SCHOLARSHIPS AUTHORIZED.

''(a) QUALIFICATIONS FOR SCHOLARSHIPS.—The Secretary is authorized to award a scholarship to enable a student to pay the cost of attendance at an institution of higher education during the student's first 4 academic years of undergraduate education, if the student—

''(1) in order to be eligible for the first year of such scholarship, performed not less than 300 hours of qualifying public service during each of 2 academic years of the student's secondary school enrollment;

''(2) in order to be eligible for the second or any subsequent year of such scholarship, performed not less than 300 hours of qualifying public service during the academic year of postsecondary school attendance preceding the academic year for which the student seeks such scholarship;

''(3) was eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1721 et seq.);

''(4) is eligible to receive Federal Pell Grants for the year in which the scholarships are awarded, except that a student shall not be required to comply or verify compliance with section 484(a)(5) for purposes of receiving a scholarship under this chapter; and

''(5) otherwise demonstrates compliance with regulations prescribed by the Secretary under section 407G.

''(b) DEFINITION OF QUALIFYING PUBLIC SERVICE.—For purposes of subsection (a), the

term 'qualifying public service' means service that would be eligible for treatment as community service under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) or under the Federal work-study program under part C.

"SEC. 407C. AMOUNT OF SCHOLARSHIP.

''(a) AMOUNT OF AWARD.—

''(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (b), the amount of a scholarship awarded under this chapter for any academic year shall be equal to $5,000.

''(2) ADJUSTMENT FOR INSUFFICIENT APPROPRIATIONS.—If, after the Secretary determines the total number of students selected under section 407D for an academic year, funds available to carry out this chapter for the academic year are insufficient to fully fund all awards under this chapter for the academic year, the amount of the scholarship paid to each student under this chapter shall be reduced proportionately.

''(b) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—A scholarship awarded under this chapter to any student, in combination with the Federal Pell Grant assistance and other student financial assistance available to such student, may not exceed the student's cost of attendance.

"SEC. 407D. SELECTION OF SCHOLARSHIP RECIPIENTS.

''The Secretary shall designate a panel to select students for the award of scholarships under this chapter. Such panel shall be composed of 9 individuals who are selected by the Secretary and shall be composed of equal numbers of youths, community representatives, and teachers. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to the application that might impair the impartiality with which the individual conducts the review under this section.

"SEC. 407E. APPLICATIONS.

''Any eligible student desiring to obtain a scholarship under this section shall submit to the Secretary an application at such time, in such manner, and containing such information or assurances as the Secretary may require. Such application shall—

''(1) demonstrate that the eligible student is maintaining satisfactory academic progress and is achieving a grade point average of at least 2.0 (on a scale of 4), or its equivalent;

''(2) include a recommendation from—

''(A) the supervisor of the community service project of the applicant; and

''(B) another individual not related to, but familiar with the character of the applicant such as a teacher, coach, or employer; and

''(3) include an essay by the applicant on the nature of the community service performed by the applicant.

"SEC. 407F. PROGRAM DISSEMINATION AND PROMOTION.

''(a) DEVELOPMENT AND DISSEMINATION.—The Secretary shall develop and disseminate to the public information on the availability of, and application process for, scholarships under this chapter.

''(b) PROMOTION.—In disseminating information about the scholarship program under this chapter, the Secretary shall—

''(1) disseminate such information directly or through arrangements with local educational agencies, public and private elementary schools and secondary schools, nonprofit organizations, consumer groups, Federal, State, or local agencies, and the media; and

''(2) at a minimum, include a description and the purpose of the scholarship program, an explanation of how to obtain an application, and a description of the application process and procedures.

"SEC. 407G. REGULATIONS.

''The Secretary shall prescribe such regulations as may be necessary to carry out this chapter.

"SEC. 407H. EVALUATION.

''Not earlier than 2 years after the first fiscal year for which funds are made available under this chapter, the Secretary shall prepare and submit to Congress an evaluation of the effectiveness of the program under this chapter. Such evaluation shall include—

''(1) an evaluation of the demand, by grade level and types of community service sites, for the scholarships provided under this chapter;

''(2) general data on the background of program participants and the types of service performed; and

''(3) an itemization of the costs of administering the program under this chapter.

"SEC. 407I. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this chapter $5,000,000 for fiscal year 2005 and such sums as are necessary for each of the 3 succeeding fiscal years.''.

By Mr. DODD (for himself and Mr. BOND):

S. 2892. A bill to amend the Public Health Service Act to reauthorize and extend certain programs to provide coordinated services and research with respect to children and families with HIV/AIDS; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Children and Family HIV/AIDS Research and Care Act of 2004. This bipartisan legislation will address the special needs of children and youth with HIV/AIDS—needs that are too often overlooked, both domestically and internationally. This legislation recognizes the simple fact that when it comes to HIV prevention, research, care, and treatment, children and youth are not just small adults. To give them a chance for a healthy future, we must ensure that their unique needs are met.

I want to begin by thanking my good friend Senator BOND of Missouri for joining me in introducing this important legislation. Senator BOND has provided crucial support for children and for children's health. Over the years, he has been a leader in the fight to protect children from birth defects and developmental disabilities. He has also done a great deal to ensure that our nation's children's hospitals and community health centers have the resources they need to continue to provide essential care to children and families. I am very pleased to work with him to move this legislation forward.

Children's growing bodies are especially susceptible to the rapid advancement of HIV infection. Because their immune systems are still immature, the disease typically progresses more rapidly and differently in children than in adults. For example, children with HIV infection are more prone to neurological abnormalities and certain opportunistic infections than adults. In addition, because children's bodies are growing and developing, HIV/AIDS can have profound effects on children's physical growth and ability to reach developmental milestones such as crawling, walking and learning to talk.

While research has definitively shown that initiating drug treatment in children in a timely manner promotes normal growth and development, and prolongs life, treating children with HIV/AIDS presents particular challenges. Appropriately formulated and dosed HIV/AIDS drugs are urgently needed to ensure that children receive optimal care. Currently, liquid formulations that young children can swallow are not always readily available. In addition, pediatric dosing and safety information for these powerful drugs is often lacking, particularly for younger children. This lack of information puts children at risk; too much medication can be toxic and too little will not effectively suppress the virus. Over time, under-dosing can lead to drug resistance, a particularly serious concern for children who will need to use these medications for years, if not decades.

Appropriate HIV/AIDS care and treatment for children and youth also requires that special attention be paid to their social development needs. Children and youth have unique concerns regarding disclosure and stigma that may be exacerbated by frequent absences from school and social activities, and the onset of sexual maturity. Working with schools and other social and community institutions is imperative to promoting a sense of normalcy. Because children are not typically medical decision-makers, developing long-term care partnerships with parents and other caregivers is also crucial to successful care and treatment. At the same time, maximizing each child's own ability to take active participation in different aspects of his or her own care can increase a child's sense of ownership over treatment, improving adherence and overall health.

By reauthorizing and expanding Title IV of the Ryan White CARE Act this legislation will help to ensure that the unique care and treatment needs of children are addressed. This program is a lifeline for more than 53,000 women, children, and youth affected by HIV/AIDS served annually by Title IV-funded projects. Through 91 grants in 35 states, the District of Columbia, Puerto Rico and the Virgin Islands, Title IV projects provide medical care, case management, support services, mental health, transportation, child care, and other crucial services to families affected by HIV/AIDS. Title IV is the smallest of the four main titles of the Ryan White CARE Act, yet reaches the highest proportion of minorities.

Key to the success of Title IV projects is the model of ''family-centered care.'' This model of care treats the whole family as the client, whether several family members are infected by HIV, or just a parent or child. The family-centered care model is crucial to developing strong partnerships between consumers and providers, leading to better health outcomes for women,

children, and youth. By allowing affected family members to receive services, as well as the infected individuals, Title IV projects promote health at the family level, thereby prolonging life, improving quality of life, and saving money by keeping people out of the hospital.

I would like to take a moment to recognize the work done by the Children, Youth and Family AIDS Network of Connecticut, which provides Title IV services to more than 500 children, youth, women, and families affected by HIV/AIDS in my home state. I have heard from many of these individuals about just how important these services are to their quality of life.

While recommitting the Health Resources and Services Administration (HRSA) to family-centered care and the unique work of Title IV, this legislation will also expand the innovative strategies Title IV projects have used to prevent mother-to-child HIV transmission. Since 1994, when the administration of preventive drug interventions was shown to significantly reduce perinatal HIV transmission, the number of newborns infected with HIV has decreased dramatically. Yet mother-to-children transmission does continue to occur, largely due to missed opportunities for identifying HIV-positive pregnant women and providing the supportive services needed to ensure adherence to recommended treatment regimens. We propose to fund demonstration grants to assess the effectiveness of two strategies in reducing mother-to-children transmission: (1) Increasing routine, voluntary HIV testing of pregnant women and (2) increasing access to prenatal care, intensive case management, and supportive services for HIV-positive pregnant women.

In addition, this bill will encourage research into key care and treatment questions affecting the pediatric populations. These include: the long-term health effects of preventive drug regimens on HIV-exposed children; the long-term health, psycho-social, and prevention needs for children and adolescents perinatally HIV-infected; the transition to adulthood for HIV-infected children; and safer and more effective treatment options for infants, children, and adolescents with HIV disease.

Since history suggests that a vaccine may prove to be the most effective, affordable, long-term approach to stopping the spread of HIV, this legislation will also ensure that children are not an afterthought when it comes to the development of an HIV vaccine. Currently, some of the populations hardest hit by the pandemic—infants and youth—are at risk of being left behind in the search for an effective vaccine. Because we cannot assume that a vaccine tested in adults will also be safe and effective when used in pediatric populations, it will be important to ensure that promising vaccines are tested in infants and youth as early as is medically and ethically appropriate. Failure to begin planning for the inclusion of these groups in clinical trials could mean significant delays in the availability of a pediatric HIV vaccine, at the cost of countless thousands of lives. This legislation will ensure that we begin now to address the logistical, regulatory, medical, and ethical issues presented by pediatric testing of HIV vaccines so that children can share in the benefits of any advances in vaccines research.

I want to thank several organizations for lending their expertise to the development of this legislation, in particular the Elizabeth Glaser Pediatric AIDS Foundation, the AIDS Alliance for Children, Youth and Families, and the American Academy of Pediatrics, all of whom support this bill. I would also like to note that the AMS Vaccine Advocacy Coalition is endorsing this legislation. I would ask unanimous consent that three letters of endorsement be printed in the RECORD.

HIV/AIDS is the single greatest health care catastrophe facing the world today. We need to do much more to seek effective treatments and, eventually, a cure for this horrible illness. This legislation is by no means sufficient to reach that goal, but it is a step towards ensuring that children are not left behind as we make progress, and then when we do finally eradicate HIV/AIDS once and for all, children and youth are able to benefit immediately. I urge all of my colleagues to join us in support of this legislation.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AIDS ALLIANCE FOR CHILDREN,
YOUTH AND FAMILIES,
Washington, DC, October 5, 2004.

Senator CHRISTOPHER J. DODD,
Subcommittee on Children and Families,
Senator CHRISTOPHER S. BOND,
Subcommittee on Aging,
Washington, DC.

DEAR SENATORS DODD AND BOND:

As the national non-profit organization dedicated to women, children, youth and families affected by HIV/AIDS, we would like to extend our sincere gratitude for you introduction of the Children and Family HIV/AIDS Research and Care Act of 2004. We greatly appreciate your leadership on this issue.

The Children and Family HIV/AIDS Research and Care Act provides many important services to some of the most vulnerable populations of HIV-positive people: women, children, infants, youth and male caregivers. This bill reauthorizes Title IV of the Ryan White CARE Act, strengthens the model of family-centered care, reinforces other provisions in the CARE Act serving these groups, expands efforts to prevent mother-to-child HIV transmission (MTCT), and ensures that biomedical research efforts in the fight against HIV—especially the search for a preventive vaccine—take into consideration the special needs of pediatric populations.

Title IV of the Ryan White CARE Act is a lifeline to more than 53,000 women, children, youth, infants and male caregivers served each year. Through grants to 91 organizations across 35 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands, grantees and hundreds of subgrantees provide medical care, support services, case management, outreach and other services to thousands of families affected by HIV/AIDS. Title IV saves lives by providing treatment and care, improves quality of life by keeping people healthier, and saves money by reducing hospitalization. Title IV projects have also led the way in reducing MTCT from more than 2,000 babies born HIS-positive each year to fewer than 300. It is essential this program be reauthorized and expanded, and we appreciate your support.

In addition, biomedical research on a potential HIV vaccine and other research into antiretroviral treatment, psychosocial and prevention needs, and transitioning from pediatric into adult health care settings are all complicated research issues that must pay special attention to the needs of children. Children and youth are not merely ''mini-adults'' for whom the same treatment, care and prevention regimens apply. In terms of both physiological and psychosocial development, children and adolescents have different needs than adults, and research efforts must be attuned to these concerns. This bill would address those issues by developing a pediatric HIV vaccination testing plan and expand other research efforts relevant to infants, children, and youth affected by HIV/AIDS.

We fully endorse this legislation, and again thank you for your efforts to introduce and support it. We look forward to working with our offices to promote this bill and see its provisions enacted into law.

Sincerely,

IVY TURNBULL,
President.
DAVID C. HARVEY,
Executive Director.

ELIZABETH GLASER PEDIATRIC
AIDS FOUNDATION,
Washington, DC, October 5, 2004.

Hon. CHRISTOPHER J. DODD,
U.S. Senate,
Washington, DC.
Hon. CHRISTOPHER S. BOND,
U.S. Senate,
Washington, DC.

DEAR SENATORS DODD AND BOND:

On behalf of the Elizabeth Glaser Pediatric AIDS Foundation, I would like to commend your leadership in introducing the Children and Family HIV/AIDS Research and Care Act of 2004. We applaud your attention to the needs of children with HIV/AIDS and offer our strong endorsement of this bipartisan legislation.

The Foundation was created more than 15 years ago to help children with HIV/AIDS and is now the worldwide leader in the fight against pediatric AIDS and other serious and life-threatening diseases affecting children. While we have made great strides in caring for children with HIV/AIDS since the early days of the pandemic, it is an unfortunate fact that their unique needs are still too often overlooked. As we have learned firsthand, children with HIV/AIDS are not small adults. To give them the best possible chance for a healthy future, it is essential that their specific prevention, care and treatment needs are met.

The Children and Family HIV/AIDS Research and Care Act of 2004 will address those needs by reauthorizing Title IV of the Ryan White CARE Act and expanding its focus on reaching and caring for adolescents with HIV/AIDS. To further reduce mother-to-child transmission of HIV, this legislation will also promote routine, voluntary prenatal HIV testing and intensive care management for HIV-positive pregnant women. In addition, because children are at risk of being left behind in the search for an effective HIV vaccine, the bill will require federal agencies funding and regulating HIV vaccine

research to develop plans and guidelines for including pediatric populations in clinical trials as quickly as is medically and ethically appropriate. This legislation will also encourage research on key remaining pediatric research questions, including how to provide safer and more effective treatment options for children with HIV/AIDS.

Thank you again for your commitment to ensuring that the unique prevention, care and treatment needs of children with HIV/AIDS are met. We appreciate the opportunity to join you in helping children to reap the benefits of the very best that science and medicine have to offer and look forward to working with you toward passage of this critical legislation.

Sincerely,

MARK ISAAC,
Vice President, Public Policy and Communication.

AIDS VACCINE ADVOCACY COALITION,
New York, NY, October 5, 2004.

Hon. CHRISTOPHER BOND,
U.S. Senate,

Hon. CHRISTOPHER DODD,
U.S. Senate,
Washington, DC.

DEAR SENATORS BOND AND DODD: On behalf of the AIDS Vaccine Advocacy Coalition, I would like to express our strong support for the Children and Family HIV/AIDS Research and Care Act of 2004. We applaud your efforts to provide coordinated services and research with respect to children and families with HIV/AIDS.

Founded in 1995, AVAC is an internationally recognized non-profit organization committed to accelerating the ethical development and global delivery of vaccines against HIV/AIDS. We are committed to a broad, sustainable response to manage the long haul from basic science, to product development, through multiple clinical trials and, eventually and most importantly, to a safe, efficacious, accessible and affordable vaccine in use for the people and communities that need it most.

Unless issues surrounding the testing of vaccine candidates in relevant pediatric populations are addressed now, they likely won't have timely access to an effective vaccine when one is developed and licensed. That would not only deny young people of an important HIV prevention tool, but it would severely hamper global efforts to stop the AIDS pandemic.

We, therefore, strongly endorse your effort to enact legislation that prioritizes this critical research issue and calls for a plan of action to move forward. We appreciate the opportunity to join you now to ensure that the research and development process delivers treatment and prevention to the populations that need it most and look forward to working with you toward passage of this legislation.

Sincerely,

MITCHELL WARREN,
Executive Director.

Mr. BOND. Mr. President, currently, more than 3,700 children and youth under the age of 13 are living with HIV or AIDS in the United States and of the more than 40,000 Americans newly infected with HIV each year, half are young people under the age of 25 years old. When we think about this devastating virus we do not often associate it with children, especially infants or newborn babies, but the fact is this disease does not discriminate on the basis of age. It affects children in very specific and very different ways than adults.

For instance, the medical experience of children with HIV/AIDS can differ significantly from that of adults. Because children's immune systems are still immature, the disease typically progresses more rapidly in children than in adults and can have different manifestations. For example, the majorities of children with HIV have neurological abnormalities and are more susceptible to certain opportunistic infections than adults. In addition, because children's bodies are growing and developing, HIV/AIDS can have profound effects on children's physical growth and ability to reach developmental milestones such as crawling, walking and learning to walk.

Medication for young children living with HIV/AIDS can also be very different than that of an adult living with HIV/AIDS. For example, children of certain ages cannot swallow pills and require liquid formulations of life-saving HIV/AIDS drugs that are not always readily available. In addition, dosing and safety information for these powerful drugs are often strikingly different for children and adults, and for younger children, this information is typically completely missing. This lack of information puts children at risk by requiring health care providers to estimate correct dosing. Too much medication can be toxic, and too little will not effectively suppress the virus. Over time, under-dosing can lead to drug resistance.

Children are not just small adults and their growing bodies are especially susceptible to the rapid advancement of HIV infection. Early awareness that a child has HIV infection, combined with good care and support, can enhance survival and quality of life, which is why I am introducing, with my colleague Senator DODD, The Children Family HIV/AIDS Research and Care Act of 2004. This legislation will address those needs of children and adolescents living with HIV/AIDS by reauthorizing Title IV of the Ryan White CARE Act and expanding its focus on reaching and caring for adolescents with HIV/AIDS. Moreover, this legislation will continue to work to reduce mother-to-child transmission of HIV, by promoting routine, voluntary prenatal HIV testing and intensive care management for HIV-positive pregnant women. In addition, because children are at risk of being left behind in the search for an effective HIV vaccine, the bill will require federal agencies funding and regulating HIV vaccine research to develop plans and guidelines for including pediatric populations in clinical trials as quickly as is medically and ethically appropriate. This legislation will also encourage research on key remaining pediatric research questions, including how to provide safer and more effective treatment options for children with HIV/AIDS.

For a young person living with HIV or AIDS there is no cure and there is no remission. It is with them at home, on the playground, in the classroom, and at a Friday night sleepover. It will be with them as they enter high school, go to college and get their first job. For a person born with this virus it is a permanent part of their life. This bill will help to ensure that the needs of infants, children, and adolescents living with HIV/AIDS are not overlooked.

By Ms. MURKOWSKI:

S. 2893. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and for other purposes; to the Committee on Finance.

Ms. MURKOWSKI. Mr. President, I believe all Americans should have access to affordable, high-quality health care. Rising health care costs impose a burden on families and small businesses and put coverage out of reach for many Americans. According to the most recent Census Bureau findings, 45 million Americans lack health insurance; about 200,000 of the 45 million were Alaskans. The vast majority, nearly 80 percent, of uninsured Alaskans in 2003–2004 were employed or members of working families.

As part of the effort to address this problem, I have introduced legislation that will increase the number of insured Americans. The SAVE (Securing Access, Value, and Equality) Health Care Act offers a solution to the problems of accessibility, portability, and choice.

My plan does not just increase funding for current government programs; my plan provides a path to greater opportunity, more freedom, and more control over your own health care and your own future.

The SAVE Health Care Act would provide working class Americans with a tax credit that they can use to purchase health insurance. The act targets three-quarters of the total number of uninsured Americans by setting eligibility at 350 percent of poverty, or an Alaskan's annual income of $41,000 for an individual or $82,000 for a family of four.

To help make health coverage more affordable for low and middle-income individuals and families who do not have employer-provided coverage and who are not eligible for the expanded public programs, this legislation would provide a refundable tax credit of up to $1,000 for individuals and up to $3,000 for families, which could be advanced on a monthly basis.

The SAVE Act would also cover an additional 50 percent of any health insurance premiums not covered by the basic credit. This provision is targeted to help those who need health insurance the most—those who are sick, have pre-existing health conditions, or older Americans whose insurance prices are higher and who do not have access to employer-based insurance.

A tax credit proposal without this type of additional assistance would only help insure the young and the healthy because their premiums are

the lowest and most within reach financially. The additional credit is a key part of providing coverage to Americans with the greatest need.

The SAVE Act would allow those who have access to employer-sponsored plans to have up to one-half of the credit they are eligible for to help them pay for their portion of the health insurance premiums. This credit amount is a balance designed to help employees afford their portion of employer-sponsored coverage without providing employers an incentive to shift more costs to their employees.

The SAVE Act includes a provision that would make the premiums for qualified high-deductible health insurance plans that coordinate with Health Savings Accounts (HSAs) tax-deductible. Both individuals and their employers can contribute tax free dollars to an HSA, and the individual can use these dollars for qualifying out-of-pocket medical expenses.

The SAVE Act provides small business owners a refundable tax credit for contributions they make to their employees' HSAs in the amount of $500 per worker with family coverage and $200 per worker with individual coverage. More than half of the uninsured are small business employees and their families.

In addition to reducing the number of our nation's uninsured, this legislation will create an incentive for personal savings while shaping a health care marketplace driven by consumer choice.

The SAVE Act would extend and expand the State high risk pool health insurance grant program that was established under the Trade Adjustment Act of 2002. Alaska is one of 31 States that currently operates a high risk pool. I commend the work of the Alaska Comprehensive Health Insurance Association (ACHIA), the nonprofit organization that provides health insurance to 467 Alaska residents who would otherwise be denied coverage because of medical conditions. Under this legislation, Alaska will receive a portion of the $75 million allocated in this legislation to continue to operate our high risk pool and to continue insuring Alaskans that really need this program.

The SAVE Act would establish a grant program in which States would be encouraged to establish Voluntary Choice Cooperatives, or VCCs. VCCs essentially increase the clout of small businesses in negotiating with insurers. Premiums are generally higher for small businesses because they do not have as much purchasing power as large companies. This limits the ability of small businesses to bargain for lower rates. They also have higher administrative costs because they have fewer employees among whom to spread the fixed cost of a health benefits plan. Moreover, VCCs decrease the risk of adverse selection and spread the cost of health care over a broader group.

I believe this well-rounded approach will provide significant help with the cost and availability of health insurance, and make a real difference in reducing the number of uninsured Americans.

By Mr. KENNEDY:

S. 2894. A bill to amend the Public Health Service Act to provide for the coordination of Federal Government policies and activities to prevent obesity in childhood, to provide for State childhood obesity prevention and control, and to establish grant programs to prevent childhood obesity within homes, schools, and communities; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it's an honor to introduce the ''Prevention of Childhood Obesity Act''. The goal of this legislation is to deal more effectively with the growing health epidemic of obesity now faced by millions of children today. Currently, 9,000,000 children have this chronic condition, and it's putting them at high risk for diabetes, high blood pressure, and other preventable diseases. In addition, obese children frequently grow up to become obese adults, and they impose at least 11 billion dollars in medical costs on the nation each year.

Childhood obesity is the direct result of too much food and too little physical activity. One of the results is the epidemic now plaguing the nation. Children watch over 40,000 food advertisements on television a year—one food commercial every minute, urging them to eat large helpings of candy, snacks, fast foods and cereal high in sugar.

Young students have access to vending machines that now put high-fat or high-sugar snacks and beverages in them. Yet they have no opportunity for physical activity or instruction in physical education. They live in neighborhoods with instant access to fast foods, but no supermarket, no outdoor produce stand, or few fruits and vegetables. These same neighborhoods also have no bike paths, sidewalks, tracks for walking or running, and no parks or open spaces.

The result is millions of children without nutritious foods, a safe physical environment, that allows them to be active, and healthy information. Today, only 2 percent of the nation's children meet Department of Agriculture standards for daily intake. Less than a third meet the recommended guidelines for exercise, and millions have developed obesity.

According to the Centers for Disease Control, regular physical activity and healthy eating and a positive environment for such behavior are essential factors in reducing the epidemic of obesity. Our legislation focuses, therefore, on coordinating federal, state, community and school efforts to see that our children have access to a healthy environment.

This bill appoints a federal commission to see that Federal food policies promote good nutrition. Guidelines for food and physical activity advertisements will be established by a summit conference of representatives from education, industry, and health care.

At the State level, the bill provides grants and coordinates efforts by the states to implement and evaluate ways to prevent obesity. It offers grants for early childhood activities and school and after-school programs, and for developing curricular, training educators, and implementing policies to reduce poor foods, increase physical education, and help communities build sidewalks, bike trails, and create parks that encourage healthy activity and sports.

We know that regular physical activity and healthy eating can prevent childhood obesity. We need a coordinated and focused nationwide effort to halt this health epidemic facing millions of children, and prevent the chronic diseases and unnecessary suffering that afflict millions of children today. It's time for Congress to do its part, and I urge my colleagues to support us.

By Mr. FITZGERALD:

S. 2898. A bill to require the review of Government programs at least once every 5 years for purposes of evaluating their performance; to the Committee on Governmental Affairs.

Mr. FITZGERALD. Mr. President, I rise today to introduce the Program Assessment and Results Act, or ''PAR Act.'' This bill is a companion bill to H.R. 3826 that Congressman Todd Platts, Chairman of the House Government Reform Subcommittee on Government Efficiency and Financial Management, introduced on February 25, 2004.

The PAR Act builds upon the reforms adopted by Congress in the early 1990s, such as the Government Performance and Results Act of 1993 (GPRA). This bill would increase the effectiveness, and accountability of the Federal Government by requiring the review of Federal programs at least once every five years to evaluate their performance. Information obtained from these reviews would be incorporated in the President's budget requests and would assist Congress in its oversight and funding of Federal programs.

The PAR Act would strengthen the program evaluation requirements under the strategic planning requirements of GPRA, the one area that the Government Accountability Office (GAO) recognized as a government-wide deficiency under GPRA. GAO found that most agencies were implementing the requirement for program evaluation merely by making lists of observations rather than presenting and analyzing performance data.

To build upon the framework of reforms established by GPRA, the PAR Act would require the Office of Management and Budget (OMB) to work with Federral agencies to carefully and periodically assess the strengths and

weaknesses of all Federal programs. This legislation would enable policy makers to compare data from different agents to determine how different programs with similar goals are achieving their results.

The PAR Act would improve the accountability of Federal programs in a number of areas. Congress would be able to use this information to make more informed budget decisions and conduct more effective oversight. Federal managers would use the information to improve the way they manage programs. Moreover, taxpayers will be able to track the progress of these programs with more precision.

The ultimate result of the PAR Act will be a more effective and efficient government. Therefore, I urge my colleagues to support passage of this legislation.

I ask unanimous consent that the bill be printed in the RECORD following my remarks.

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

S. 2898

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 ''Program Assessment and Results Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) inefficiency and ineffectiveness in Federal programs undermines the confidence of the American people in the Government and reduces the Federal Government's ability to adequately address vital public needs;

(2) insufficient information on program performance seriously disadvantages Federal managers in their efforts to improve program efficiency and effectiveness;

(3) congressional policy making, spending decisions, and program oversight are handicapped by insufficient attention to program performance and results;

(4) programs performing similar or duplicative functions that exist within a single agency or across multiple agencies should be identified and their performance and results shared among all such programs to improve their performance and results;

(5) advocates of good government continue to seek ways to improve accountability, focus on results, and integrate the performance of programs with decisions about budgets;

(6) with the passage of the Government Performance and Results Act of 1993, the Congress directed the executive branch to seek improvements in the effectiveness, efficiency, and accountability of Federal programs by having agencies focus on program results; and

(7) the Government Performance and Results Act of 1993 provided a strong framework for the executive branch to monitor the long-term goals and annual performance of its departments and agencies.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to improve the Government Performance and Results Act of 1993 by implementing a program assessment and evaluation process that attempts to determine the strengths and weaknesses of Federal programs with a particular focus on the results produced by individual programs;

(2) to use the information gathered in the assessment and evaluation process to build on the groundwork laid in the Government Performance and Results Act of 1993 to help the executive branch make informed management decisions and evidence-based funding requests aimed at achieving positive results; and

(3) to provide congressional policy makers the information needed to conduct more effective oversight, to make better-informed authorization decisions, and to make more evidence-based spending decisions that achieve positive results for the American people.

SEC. 4. PROGRAM ASSESSMENT.

(a) REQUIREMENT FOR PROGRAM ASSESSMENTS.—Chapter 11 of title 31, United States Code, as amended by the Government Performance and Results Act of 1993, is amended by adding at the end the following new section:

''§ 1120. Program assessment

''(a) ASSESSMENT.—The Director of the Office of Management and Budget to the maximum extent practicable shall conduct, jointly with agencies of the Federal Government, an assessment of each program at least once every 5 fiscal years.

''(b) ASSESSMENT REQUIREMENTS.—In conducting an assessment of a program under subsection (a), the Director of the Office of Management and Budget and the head of the relevant agency shall—

''(1) coordinate to determine the programs to be assessed; and

''(2) evaluate the purpose, design, strategic plan, management, and results of the program, and such other matters as the Director considers appropriate.

''(c) CRITERIA FOR IDENTIFYING PROGRAMS TO ASSESS.—The Director of the Office of Management and Budget shall develop criteria for identifying programs to be assessed each fiscal year. In developing the criteria, the Director shall take into account the advantages of assessing during the same fiscal year any programs that are performing similar functions, have similar purposes, or share common goals, such as those contained in strategic plans under section 306 of title 5. To the maximum extent possible, the Director shall assess a representative sample of Federal spending each fiscal year.

''(d) CRITERIA FOR MORE FREQUENT ASSESSMENTS.—The Director of the Office of Management and Budget shall make every effort to assess programs more frequently than required under subsection (a) in cases in which programs are determined to be of higher priority, special circumstances exist, improvements have been made, or the head of the relevant agency and the Director determine that more frequent assessment is warranted.

''(e) PUBLICATION.—At least 90 days before completing the assessments under this section to be conducted during a fiscal year, the Director of the Office of Management and Budget shall—

''(1) make available in electronic form through the Office of Management and Budget website or any successor website, and provide to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate—

''(A) a list of the programs to be assessed during that fiscal year; and

''(B) the criteria that will be used to assess the programs; and

''(2) provide a mechanism for interested persons to comment on the programs being assessed and the criteria that will be used to assess the programs.

''(f) REPORT.—(1) The results of the assessments conducted during a fiscal year shall be submitted in a report to Congress at the same time that the President submits the next budget under section 1105 of this title after the end of that fiscal year.

''(2) The report shall—

''(A) include the performance goals for each program assessment;

''(B) specify the criteria used for each assessment;

''(C) describe the results of each assessment, including any significant limitation in the assessments;

''(D) describe significant modifications to the Federal Government performance plan required under section 1105(a)(28) of this title made as a result of the assessments; and

''(E) be available in electronic form through the Office of Management and Budget website or any successor website.

''(g) CLASSIFIED INFORMATION.—(1) With respect to program assessments conducted during a fiscal year that contain classified information, the President shall submit on the same date as the report is submitted under subsection (f)—

''(A) a copy of each such assessment (including the classified information), to the appropriate committees of jurisdiction of the House of Representatives and the Senate; and

''(B) consistent with statutory law governing the disclosure of classified information, an appendix containing a list of each such assessment and the committees to which a copy of the assessment was submitted under subparagraph (A), to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.

''(2) Upon request from the Committee on Government Reform of the House of Representatives or the Committee on Governmental Affairs of the Senate, the Director of the Office of Management and Budget shall, consistent with statutory law governing the disclosure of classified information, provide to the Committee a copy of—

''(A) any assessment described in subparagraph (A) of paragraph (1) (including any assessment not listed in any appendix submitted under subparagraph (B) of such paragraph); and

''(B) any appendix described in subparagraph (B) of paragraph (1).

''(3) In this subsection, the term 'classified information' refers to matters described in section 552(b)(1)(A) of title 5.

''(h) INHERENTLY GOVERNMENTAL FUNCTIONS.—The functions and activities authorized or required by this section shall be considered inherently Governmental functions and shall be performed only by Federal employees.

''(i) TERMINATION.—This section shall not be in effect after September 30, 2013.''.

(b) GUIDANCE.—Not later than 6 months after the date of the enactment of this Act, the Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of section 1120 of title 31, United States Code, as added by subsection (a), including guidance on a definition of the term ''program''.

(c) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 1115(g) of title 31, United States Code, is amended by striking ''1119'' and inserting ''1120''.

(2) The table of sections at the beginning of chapter 11 of title 31, United States Code, is amended by adding at the end the following:

''1120. Program assessment.''.

SEC. 5. STRATEGIC PLANNING AMENDMENTS.

(a) CHANGE IN DEADLINE FOR STRATEGIC PLAN.—Subsection (a) of section 306 of title 5, United States Code, is amended by striking ''No later than September 30, 1997,'' and inserting ''Not later than September 30 of each year following a year in which an election for President occurs, beginning with September 30, 2005, ''.

(b) CHANGE IN PERIOD OF COVERAGE OF STRATEGIC PLAN.—Subsection (b) of section 306 of title 5, United States Code, is amended to read as follows:

''(b) Each strategic plan shall cover the 4-year period beginning on October 1 of the year following a year in which an election for President occurs.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 447—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT OF THE UNITED STATES SHOULD EXERCISE HIS CONSTITUTIONAL AUTHORITY TO PARDON POSTHUMOUSLY JOHN ARTHUR ''JACK'' JOHNSON FOR MR. JOHNSON'S RACIALLY-MOTIVATED 1913 CONVICTION THAT DIMINISHED HIS ATHLETIC, CULTURAL, AND HISTORIC SIGNIFICANCE, AND UNDULY TARNISHED HIS REPUTATION

Mr. MCCAIN (for himself, Mr. HATCH, Mr. KENNEDY, Mr. REID, and Mr. TALENT) submitted the following resolution; which was considered and agreed to:

S. RES. 447

Whereas, Jack Johnson was a flamboyant, defiant, and controversial figure in American history who challenged racial biases;

Whereas, Jack Johnson was born in Galveston, Texas, in 1878 to parents who were former slaves;

Whereas, Jack Johnson became a professional boxer and traveled throughout the United States fighting white as well as black heavyweights;

Whereas, Jack Johnson, after being denied, on purely racial grounds, the opportunity to fight two white champions was granted an opportunity in 1908 by an Australian promoter to fight the reigning white title-holder, Tommy Burns, whom Johnson defeated to become the first African American to hold the title of Heavyweight Champion of the World;

Whereas, Jack Johnson's victory prompted a search for a white boxer who could beat Johnson, a recruitment effort dubbed the search for the ''great white hope'';

Whereas, a white former champion named Jim Jeffries left retirement to fight and lose to Jack Johnson in Reno, Nevada, in 1910 in what was deemed the ''Battle of the Century'';

Whereas, rioting and aggression toward African Americans resulted from Johnson's defeat of Jeffries and led to racially-motivated murders of African Americans nationwide;

Whereas, Jack Johnson's relationship with white women compounded the resentment felt toward him by many whites;

Whereas, between 1901 and 1910, 754 African Americans were lynched, some of whom were lynched simply for being ''too familiar'' with white women;

Whereas, in 1910 the Congress passed the Mann Act, (18 U.S.C. 2421), then known as the ''White Slave Traffic Act,'' which outlawed the transportation of women in interstate or foreign commerce ''for the purpose of prostitution or debauchery, or for any other immoral purpose'';

Whereas, in October, 1912, Jack Johnson became involved with a white woman whose mother disapproved of their relationship and sought action from the United States Department of Justice, claiming that Johnson had abducted her daughter;

Whereas, Jack Johnson was arrested on October 18, 1912, by Federal marshals for transporting this woman across State lines for an ''immoral purpose'' in violation of the Mann Act, only to have the charges dropped when the woman refused to cooperate with authorities and then married the champion;

Whereas, Federal authorities persisted and summoned a white woman named Belle Schreiber who testified that Johnson had transported her across State lines for the purpose of ''prostitution and debauchery'';

Whereas, Jack Johnson was eventually convicted in 1913 of violating the Mann Act and sentenced to one year and a day in Federal prison, but fled the country to Canada and then on to various European and South American countries, before losing the Heavyweight Championship title to Jess Willard in Cuba in 1915;

Whereas, Jack Johnson returned to the United States in July, 1920, surrendered to authorities, served nearly a year in the Federal penitentiary at Leavenworth, Kansas, and fought subsequent boxing matches, but never regained the Heavyweight Championship title;

Whereas, Jack Johnson served his country during World War II by encouraging citizens to buy war bonds and participating in exhibition boxing matches to promote the war bond cause;

Whereas, Jack Johnson died in an automobile accident in 1946; and

Whereas, in 1954 Jack Johnson was inducted into the Boxing Hall of Fame: Now, therefore, be it

Resolved, That it is the Sense of the Senate that—

(1) Jack Johnson paved the way for African American athletes to participate and succeed in racially-integrated professional sports in the United States;

(2) Jack Johnson was wronged by a racially-motivated conviction prompted by his success in the boxing ring and his relationship with white women;

(3) his criminal conviction unjustly ruined his career and destroyed his reputation; and

(4) the President of the United States should grant a pardon to Jack Johnson posthumously to expunge from the annals of American criminal justice a racially-motivated abuse of the Federal government's prosecutorial authority and in recognition of Mr. Johnson's athletic and cultural contributions to society.

SENATE CONCURRENT RESOLUTION 140—URGING THE PRESIDENT TO WITHDRAW THE UNITED STATES FROM THE 1992 AGREEMENT ON GOVERNMENT SUPPORT FOR CIVIL AIRCRAFT WITH THE EUROPEAN UNION AND IMMEDIATELY FILE A CONSULTATION REQUEST, UNDER THE UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES OF THE WORLD TRADE ORGANIZATION, ON THE MATTER OF INJURY TO, AND ADVERSE EFFECTS ON, THE COMMERCIAL AVIATION INDUSTRY OF THE UNITED STATES

Mr. BROWNBACK (for himself and Mr. ROBERTS) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 140

Whereas as recently as 1990, Boeing was the uncontested world leader in commercial aviation, and had produced over 55 percent of all the jet commercial aircraft ever produced; McDonnell Douglas produced 25 percent, while Airbus accounted for only 6 percent;

Whereas in 1992 the Agreement on Government Support for Civil Aircraft was negotiated between the United States and the European Community to address the near total subsidization of Airbus commercial aircraft development;

Whereas the agreement stated that no more than 33 percent of total aircraft development costs could be borne by the respective governments;

Whereas the agreement ''recogniz[ed] that the disciplines in the GATT Agreement on Trade in Civil Aircraft should be strengthened with a view to progressively reducing the role of government support'';

Whereas Boeing has experienced a dramatic downturn in the last three years, losing thousands of employees and a significant market share;

Whereas Airbus has continued to increase market share at a time of significant turbulence in the commercial airline industry as a result of continued government subsidies;

Whereas the European Union has not abided by the agreement to phase out subsidies;

Whereas European Union officials have publicly reaffirmed their plan to achieve global leadership in aerospace based on continued subsidization, noting in ''European Aeronautics: A Vision for 2020'', that ''gradual realization of our ambitious vision must be facilitated by an increase in public funding. European aeronautics has grown and prospered with the support of public funds and this support must continue if we are to achieve our objective of global leadership.'';

Whereas the new Airbus A380 is the most subsidized aircraft ever, having received more than $6,000,000,000 in direct subsidies from the European Union, including $3,700,000,000 in launch aid;

Whereas in public statements, Airbus representatives have indicated that the company may launch yet another new aircraft, which may require billions of dollars of additional subsidies from the European Union;

Whereas Airbus has achieved market parity with Boeing; therefore the 1992 agreement has outlived its usefulness;

Whereas the parties to the 1992 agreement noted ''their intention to act without prejudice to their rights and obligations under the GATT and under other multilateral agreements negotiated under the auspices of the GATT'';

Whereas on a visit to Washington State on August 13, 2004, President George W. Bush said ''I've instructed U.S. Trade Representative Bob Zoellick to inform European officials in his September meeting that we think these subsidies are unfair and that he should pursue all options to end these subsidies—including bringing a WTO case, if need be'';

Whereas the Boeing Company has more than 150,000 employees within the United States and has 26,000 suppliers in all 50 States;

Whereas the United States Trade Representative has strongly supported Boeing's efforts to seek redress in this matter and has patiently and appropriately pursued bilateral dialogue with the European Union in an attempt to negotiate a new agreement to discipline subsidies; and

Whereas public statements by the United States Trade Representative have made it clear that bilateral consultations on the matter of ending commercial aviation subsidies by the European Union have been unproductive and that further talk is unlikely to resolve the serious injury caused to the Boeing company: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the President should direct the United States Trade Representative to withdraw the United States from the Agreement on Government Support for Civil Aircraft that was entered into with the European Community in 1992; and

(2) the President should direct the United States Trade Representative immediately to file a consultation request, under the Understanding on Rules and Procedures Governing the Settlement of Disputes of the World Trade Organization, on the matter of serious injury to the commercial aviation industry of the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3957. Ms. COLLINS (for herself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

SA 3958. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3959. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3960. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3961. Mr. ENSIGN (for himself, Mr. SESSIONS, Mr. GRASSLEY, Mr. CHAMBLISS, and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3962. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 3809 proposed by Mr. LEVIN to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3963. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself , Mr. STEVENS, and Mr. INOUYE) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3964. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself , Mr. STEVENS, and Mr. INOUYE) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3965. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3966. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3967. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3792 submitted by Mr. KYL and intended to be proposed to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3968. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3790 submitted by Mr. KYL and intended to be proposed to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3969. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3790 submitted by Mr. KYL and intended to be proposed to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3970. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3782 proposed by Mr. LAUTENBERG to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3971. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3905 proposed by Mr. LAUTENBERG to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3972. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3973. Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill S. 2484, An Act to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, and for other purposes.

SA 3974. Mr. FRIST (for himself, Mr. DASCHLE, Mr. MCCONNELL, and Mr. REID) submitted an amendment intended to be proposed by him to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3957. Ms. COLLINS (for herself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 5, beginning on line 15, strike ''and the Department of Energy'' and insert ''the Department of Energy, and the Coast Guard''.

On page 5, beginning on line 23, strike ''including the Office of Intelligence of the Coast Guard''.

On page 6, line 10, insert '', as determined consistent with any guidelines issued by the President,'' before ''to the interests''.

On page 9, beginning on line 13, strike ''counterterrorism'' and all that follows through ''foreign intelligence'' on line 15 and insert ''intelligence activities of the United States Government between intelligence activities located abroad and intelligence''.

On page 10, line 23, strike ''a principal'' and insert ''the principal''.

On page 12, line 18, insert ''of'' before ''the National Intelligence Program''.

On page 13, line 12, insert ''appropriations for'' after ''oversee''.

On page 20, beginning on line 12, strike ''related to the national security which is''.

On page 21, line 23, strike ''(4)'' and insert ''(5)''.

On page 22, line 3, strike ''(5)'' and insert ''(6)''.

On page 25, line 10, strike ''head of the''.

On page 28, line 17, strike ''or'' and insert ''and''.

On page 30, line 24, strike ''205'' and insert ''206''.

On page 31, line 23, strike ''205'' and insert ''206 and the Clinger–Cohen Act (divisions D and E of Public Law 104–106; 110 Stat. 642)''.

On page 32, beginning on line 13, strike ''on all matters'' and all that follows through line 15 and insert ''or international organizations on all matters involving intelligence related to the national security.''.

On page 32, beginning on line 21, strike ''head of each element of the intelligence community'' and insert ''head of any department, agency, or other element of the United States Government''.

On page 59, line 20, strike ''309'' and insert ''310''.

On page 87, line 8, insert ''and analytic'' after ''intelligence collection''.

On page 93, line 17, insert ''of'' before ''electronic access''.

On page 96, beginning on line 13, strike ''National Security Council'' and insert ''President''.

On page 99, line 25, strike ''National Security Council'' and insert ''President''.

On page 134, strike lines 6 through 9 and insert the following:

(1) in consultation with the Executive Council, issue guidelines—

(A) for acquiring, accessing, sharing, and using information, including

On page 153, between lines 2 and 3, insert the following:

SEC. 207. PERMANENT AUTHORITY FOR PUBLIC INTEREST DECLASSIFICATION BOARD.

(a) IN GENERAL.—Section 710 of the Public Interest Declassification Act of 2000 (title VII of Public Law 106–567; 50 U.S.C. 435 note) is amended—

(1) by striking ''(a) EFFECTIVE DATE.—''; and

(2) by striking subsection (b).

(b) CONFORMING AMENDMENT.—The head of such section is amended by striking ''**; SUNSET**''.

On page 154, line 16, strike ''section 205(g)'' and insert ''subsections (e) and (g) of section 205''.

On page 154, line 21, strike ''section 205(g)'' and insert ''subsections (e) and (g) of section 205''.

On page 156, line 4, strike ''section 205(g)'' and insert ''subsections (e) and (g) of section 205''.

On page 170, line 19, strike ''and independent'' and insert ''independent''.

On page 171, beginning on line 1, strike ''and independent'' and insert ''independent''.

On page 171, beginning on line 8, strike ''and independent'' and insert ''independent''.

On page 171, line 14, strike ''objective and independent'' and insert ''timely, objective, independent''.

On page 171, line 20, strike ''and independent'' and insert ''independent''.

On page 175, strike lines 8 through 17 and insert the following:

(2) COVERED INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) applies to information, including classified information, that an employee reasonably believes provides direct and specific evidence of—

(i) a false or inaccurate statement to Congress contained in any intelligence assessment, report, or estimate; or

(ii) the withholding from Congress of any intelligence information material to any intelligence assessment, report, or estimate.

(B) EXCEPTION.—Paragraph (1) does not apply to information the disclosure of which is prohibited by rule 6(e) of the Federal Rules of Criminal Procedure.

On page 177, after line 17, add the following:

Subtitle D—Homeland Security Civil Rights and Civil Liberties Protection

SEC. 231. SHORT TITLE.

This title may be cited as the ''Homeland Security Civil Rights and Civil Liberties Protection Act of 2004''.

SEC. 232. MISSION OF DEPARTMENT OF HOMELAND SECURITY.

Section 101(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 111(b)(1)) is amended—

(1) in subparagraph (F), by striking ''and'' after the semicolon;

(2) by redesignating subparagraph (G) as subparagraph (H); and

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

''(G) ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland; and''.

SEC. 233. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.

Section 705(a) of the Homeland Security Act of 2002 (6 U.S.C. 345(a)) is amended—

(1) by amending the matter preceding paragraph (1) to read as follows:

''(a) IN GENERAL.—The Officer for Civil Rights and Civil Liberties, who shall report directly to the Secretary, shall—'';

(2) by amending paragraph (1) to read as follows:

''(1) review and assess information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department;'';

(3) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(3) assist the Secretary, directorates, and offices of the Department to develop, implement, and periodically review Department policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities;

''(4) oversee compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the programs and activities of the Department;

''(5) coordinate with the Privacy Officer to ensure that—

''(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

''(B) Congress receives appropriate reports regarding such programs, policies, and procedures; and

''(6) investigate complaints and information indicating possible abuses of civil rights or civil liberties, unless the Inspector General of the Department determines that any such complaint or information should be investigated by the Inspector General.''.

SEC. 234. PROTECTION OF CIVIL RIGHTS AND CIVIL LIBERTIES BY OFFICE OF INSPECTOR GENERAL.

Section 8I of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(f)(1) The Inspector General of the Department of Homeland Security shall designate a senior official within the Office of Inspector General, who shall be a career member of the civil service at the equivalent to the GS–15 level or a career member of the Senior Executive Service, to perform the functions described in paragraph (2).

''(2) The senior official designated under paragraph (1) shall—

''(A) coordinate the activities of the Office of Inspector General with respect to investigations of abuses of civil rights or civil liberties;

''(B) receive and review complaints and information from any source alleging abuses of civil rights and civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

''(C) initiate investigations of alleged abuses of civil rights or civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

''(D) ensure that personnel within the Office of Inspector General receive sufficient training to conduct effective civil rights and civil liberties investigations;

''(E) consult with the Officer for Civil Rights and Civil Liberties regarding—

''(i) alleged abuses of civil rights or civil liberties; and

''(ii) any policy recommendations regarding civil rights and civil liberties that may be founded upon an investigation by the Office of Inspector General;

''(F) provide the Officer for Civil Rights and Civil Liberties with information regarding the outcome of investigations of alleged abuses of civil rights and civil liberties;

''(G) refer civil rights and civil liberties matters that the Inspector General decides not to investigate to the Officer for Civil Rights and Civil Liberties;

''(H) ensure that the Office of the Inspector General publicizes and provides convenient public access to information regarding—

''(i) the procedure to file complaints or comments concerning civil rights and civil liberties matters; and

''(ii) the status of corrective actions taken by the Department in response to Office of the Inspector General reports; and

''(I) inform the Officer for Civil Rights and Civil Liberties of any weaknesses, problems, and deficiencies within the Department relating to civil rights or civil liberties.''.

SEC. 235. PRIVACY OFFICER.

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) in the matter preceding paragraph (1), by inserting '', who shall report directly to the Secretary,'' after ''in the Department'';

(2) in paragraph (4), by striking ''and'' at the end;

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) the following:

''(5) coordinating with the Officer for Civil Rights and Civil Liberties to ensure that—

''(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

''(B) Congress receives appropriate reports on such programs, policies, and procedures; and''.

On page 180, line 8, strike ''pertaining to intelligence relating to'' and insert ''related to intelligence affecting''.

On page 181, beginning on line 8, strike ''on all matters'' and all that follows through line 10 and insert ''or international organizations on all matters involving intelligence related to the national security.'.''.

On page 201, strike line 14 through 20 and insert the following:

(a) APPOINTMENT OF NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—Section 902(a) of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 116 Stat,. 2432; 50 U.S.C. 402b) is amended—

(1) by striking ''President'' and inserting ''National Intelligence Director''; and

(2) by striking ''Director of Central Intelligence'' and inserting ''Director of the Central Intelligence Agency''.

On page 205, line 1, strike ''**COUNTERTERRORISM**'' and insert ''**COUNTERINTELLIGENCE**''.

On page 207, between lines 13 and 14, insert the following:

''The Director of the Central Intelligence Agency.

On page 207, line 21, insert ''Deputy'' before ''Director''.

On page 44, strike line 24.

On page 45, line 1, strike ''(6)'' and insert ''(5)''.

On page 45, line 3, strike ''(7)'' and insert ''(6)''.

On page 45, line 5, strike ''(8)'' and insert ''(7)''.

On page 45, line 7, strike ''(9)'' and insert ''(8)''.

On page 45, line 9, strike ''(10)'' and insert ''(9)''.

On page 45, line 11, strike ''(11)'' and insert ''(10)''.

On page 45, line 14, strike ''(12)'' and insert ''(11)''.

On page 52, strike lines 1 through 20.

On page 52, line 21, strike ''**126.**'' and insert ''**125.**''.

On page 55, line 1, strike ''**127.**'' and insert ''**126.**''.

On page 56, line 9, strike ''**128.**'' and insert ''**127.**''.

On page 57, line 1, strike ''**129.**'' and insert ''**128.**''.

On page 57, line 17, strike ''**130.**'' and insert ''**129.**''.

On page 58, strike lines 3 through 9 and insert the following:

(c) AUTHORITIES AND FUNCTIONS.—The Chief Financial Officer of the National Intelligence Authority shall—

(1) have such authorities, and carry out such functions, with respect to the National Intelligence Authority as are provided for an agency Chief Financial Officer by section 902 of title 31, United States Code, and other applicable provisions of law;

(2) assist the National Intelligence Director in the preparation and execution of the budget of the elements of the intelligence community within the National Intelligence Program;

(3) assist the Director in participating in the development by the Secretary of Defense of the annual budget for military intelligence programs and activities outside the National Intelligence Program;

(4) provide unfettered access to the Director to financial information under the National Intelligence Program; and

(5) perform such other duties as may be prescribed by the Director or specified by law.

On page 59, line 15, strike ''**131.**'' and insert ''**130.**''.

On page 202, line 16, strike ''131(b)'' and insert ''130(b)''.

On page 19, line 12, insert ''of access'' after ''grant''.

On page 20, line 25, insert ''of'' after ''development''.

On page 53, line 2, strike ''President'' and insert ''National Intelligence Director''.

On page 173, line 11, strike ''2'' and insert ''3''.

SA 3958. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike lines 5 through 16 and insert the following:

(2) The term ''foreign intelligence'' means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term ''counterintelligence'' means foreign intelligence gathered, and information gathering activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

On page 6, line 12, strike ''counterintelligence or''.

On page 6, beginning on line 17, strike ''expressly provided for in this title'' and insert ''expressly provided for in law''.

On page 7, beginning on line 5, strike ''the Office of Intelligence of the Federal Bureau

of Investigation'' and insert ''the Directorate of Intelligence of the Federal Bureau of Investigation''.

On page 8, between lines 6 and 7, insert the following:

(8) The term ''certified intelligence officer'' means a professional employee of an element of the intelligence community who meets standards and qualifications set by the National Intelligence Director.

On page 120, beginning on line 17, strike '', subject to the direction and control of the President,''.

On page 123, between lines 6 and 7, insert the following:

(e) DISCHARGE OF IMPROVEMENTS.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint guidance of the Attorney General and the National Intelligence Director in a manner consistent with section 112(a)(8).

On page 123, line 7, strike ''(e)'' and insert ''(f)''.

On page 123, line 17, strike ''(f)'' and insert ''(g)''.

On page 126, between lines 20 and 21, insert the following:

SEC. 206. DIRECTORATE OF INTELLIGENCE OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) DIRECTORATE OF INTELLIGENCE OF FEDERAL BUREAU OF INVESTIGATION.—The element of the Federal Bureau of Investigation known as of the date of the enactment of this Act as the Office of Intelligence is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) HEAD OF DIRECTORATE.—The head of the Directorate of Intelligence shall be the Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

(c) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1) Supervision of all national intelligence programs, projects, and activities of the Bureau.

(2) The discharge by the Bureau of the requirements in section 105B of the National Security Act of 1947 (50 U.S.C. 403–5b).

(3) The oversight of Bureau field intelligence operations.

(4) Coordinating human source development and management by the Bureau.

(5) Coordinating collection by the Bureau against nationally-determined intelligence requirements.

(6) Strategic analysis.

(7) Intelligence program and budget management.

(8) The intelligence workforce.

(9) Any other responsibilities specified by the Director of the Federal Bureau of Investigation or specified by law.

(d) STAFF.—The Directorate of Intelligence shall consist of such staff as the Director of the Federal Bureau of Investigation considers appropriate for the activities of the Directorate.

On page 196, strike line 20 and all that follows through page 197, line 7, and insert the following:

SEC. 304. MODIFICATION OF COUNTERINTELLIGENCE AND NATIONAL INTELLIGENCE UNDER NATIONAL SECURITY ACT OF 1947.

Section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended—

(1) by striking paragraph (3) and inserting the following new paragraph (3):

''(3) The term 'counterintelligence' means foreign intelligence gathered, and information gathering activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.''; and

(2) in paragraph (5)(B)—

(A) by striking ''counterintelligence or''; and

(B) by striking ''expressly provided for in this title'' and insert ''expressly provided for in law''.

SA 3959. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPTROLLER GENERAL STUDY AND REPORT.

(a) STUDY.—The Comptroller General of the United States shall conduct a study that examines—

(1) detention alternatives for monitoring aliens who do not require a secure detention setting while they are awaiting hearings during removal proceedings or the appeals process, including—

(A) electronic monitoring devices;

(B) home visits;

(C) work visits; and

(D) reporting by telephone;

(2) the effectiveness of the Intensive Supervision Appearance Program of the Bureau of Immigration and Customs Enforcement, Department of Homeland Security; and

(3) any other matters that the Comptroller General considers appropriate.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report to Congress that contains—

(1) the results of the study conducted under subsection (a);

(2) any recommendations, including recommendations for administrative and legislative action, that the Comptroller General considers appropriate.

SA 3960. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

TITLE IV—HUMAN SMUGGLING PENALTY ENHANCEMENT

SEC. 401. SHORT TITLE.

This title may be cited as the ''Human Smuggling Penalty Enhancement Act of 2004''.

SEC. 402. ENHANCED PENALTIES FOR ALIEN SMUGGLING.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking ''knowing that a person is an alien, brings'' and inserting ''knowing or in reckless disregard of the fact that a person is an alien, brings'';

(II) by striking ''Commissioner'' and inserting ''Under Secretary for Border and Transportation Security''; and

(III) by inserting ''and regardless of whether the person bringing or attempting to bring such alien to the United States intended to violate any criminal law'' before the semicolon;

(ii) in clause (iv), by striking ''or'' at the end;

(iii) in clause (v)—

(I) in subclause (I), by striking '', or'' and inserting a semicolon;

(II) in subclause (II), by striking the comma and inserting ''; or''; and

(III) by inserting after subclause (II) the following:

''(III) attempts to commit any of the preceding acts; or''; and

(iv) by inserting after clause (v) the following:

''(vi) knowing or in reckless disregard of the fact that a person is an alien, causes or attempts to cause such alien to be transported or moved across an international boundary, knowing that such transportation or moving is part of such alien's effort to enter or attempt to enter the United States without prior official authorization;''; and

(B) in subparagraph (B)—

(i) in clause (i)—

(I) by striking ''or (v)(I)'' and inserting '', (v)(I), or (vi)''; and

(II) by striking ''10 years'' and inserting ''20 years'';

(ii) in clause (ii), by striking ''5 years'' and inserting ''10 years''; and

(iii) in clause (iii), by striking ''20 years'' and inserting ''35 years'';

(2) in paragraph (2)—

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

(i) by inserting '', or facilitates or attempts to facilitate the bringing or transporting,'' after ''attempts to bring''; and

(ii) by inserting ''and regardless of whether the person bringing or attempting to bring such alien to the United States intended to violate any criminal law,'' after ''with respect to such alien''; and

(B) in subparagraph (B)—

(i) in clause (ii), by striking '', or'' and inserting a semicolon;

(ii) in clause (iii), by striking the comma at the end and inserting ''; or'';

(iii) by inserting after clause (iii), the following:

''(iv) an offense committed with knowledge or reason to believe that the alien unlawfully brought to or into the United States has engaged in or intends to engage in terrorist activity (as defined in section 212(a)(3)(B)(iv)),''; and

(iv) in the matter following clause (iv), as added by this subparagraph, by striking ''3 nor more than 10 years'' and inserting ''5 years nor more than 20 years''; and

(3) in paragraph (3)(A), by striking ''5 years'' and inserting ''10 years''.

SEC. 403. AMENDMENT TO SENTENCING GUIDELINES RELATING TO ALIEN SMUGGLING OFFENSES.

(a) DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the Sentencing Guidelines and Policy Statements reflect—

(A) the serious nature of the offenses and penalties referred to in this title;

(B) the growing incidence of alien smuggling offenses; and

(C) the need to deter, prevent, and punish such offenses;

(2) consider the extent to which the Sentencing Guidelines and Policy Statements adequately address whether the guideline offense levels and enhancements for violations of the sections amended by this title—

(A) sufficiently deter and punish such offenses; and

(B) adequately reflect the enhanced penalties established under this title;

(3) maintain reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the Sentencing Guidelines; and

(6) ensure that the Sentencing Guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

SA 3961. Mr. ENSIGN (for himself, Mr. SESSIONS, Mr. GRASSLEY, Mr. CHAMBLISS, and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE IV—OTHER MATTERS

SEC. 401. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR VISA SCREENING.—

(1) IMMIGRANT VISAS.—Subsection (b) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following: ''All immigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(2) NONIMMIGRANT VISAS.—Subsection (d) of such section is amended by adding at the end the following: ''All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: ''As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.''.

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) REQUIREMENT FOR SPECIALIST.—

(A) IN GENERAL.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify the diplomatic and consular posts at which visas are issued that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall assign or designate at each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

(B) EXCEPTIONS.—The Secretary of State is not required to assign or designate a specialist as described in subparagraph (A) at a diplomatic and consular post if an employee of the Department of Homeland Security is assigned on a full-time basis to such post under the authority in section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236).

SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 2,000 the number of positions for full-time active duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were made available during the preceding fiscal year. Of the additional border patrol agents, in each fiscal year not less than 20 percent of such agents shall be assigned to duty stations along the northern border of the United States.

SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were made available during the preceding fiscal year.

SA 3962. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 3809 proposed by Mr. LEVIN to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 3, strike ''military'' and all that follows through page 2, line 9, and insert the following:

uniformed services personnel, except that the Director may transfer military positions or billets if such transfer is for a period not to exceed three years; and

(E) nothing in section 143(i) or 144(f) shall be construed to authorize the Director to specify or require the head of a department, agency, or element of the United States Government to approve a request for the transfer, assignment, or detail of uniformed services personnel, except that the Director may take such action with regard to military positions or billets if such transfer is for a period not to exceed three years.

SA 3963. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike line 4 and all that follows through page 2, line 2 and insert the following:

Nothing in this Act, or the amendments made by this Act, shall be construed to impair the authority of—

(1) the Director of the Office of Management and Budget; or

(2) except as otherwise provided in this Act, or the amendments made by this Act, the principal officers of the executive departments,

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SA 3964. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike lines 4 through 6 and insert the following:

Except as otherwise provided by this Act, or the amendments made by this Act, nothing in the Act, or the amendments made by this Act, shall be construed to impair the authority of—

SA 3965. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert:

(II) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

''(9) managing the Homeland Security Information Clearinghouse established under section 801(d); and

''(10) managing the Noble Training Center in Fort McClellan, Alabama.''

SA 3966. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. ___. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended—

(1) by striking ''DEFINITION.—In this section, the term'' and inserting the following: ''DEFINITIONS.—In this section—

''(1) the term'';

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(2) the term 'expert advice or assistance' means any act, effort, or service—

''(A) by a person who, by reason of education, training, experience, or profession, has scientific, technical, or other specialized knowledge concerning the matter of science or skill to which the act, effort, or service applies; and

''(B) that is directed at helping, furthering, guiding, or enhancing the operation, management, financing, mission, or performance, of terrorist activity by the terrorist or foreign terrorist organization.

''(3) the term 'training' means instruction or teaching in a scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative, military, or other field that is directed in any way at furthering, enhancing, or improving the individual or organizational performance of terrorist activity by the terrorist or foreign terrorist organization; and

''(4) the term 'personnel' means any third person that will provide services to assist in, or in any way further, the operation, management, financing, mission, or performance of terrorist activity by the terrorist or foreign terrorist organization.''.

(b) PROHIBITED ACTIVITIES.—Section 2339B(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking '', within the United States or subject to the jurisdiction of the United States, knowingly''; and

(B) by inserting ''with the intention that such material support or resources be used, or with the knowledge that such material support or resources are to be used, in full or in part, to further the terrorist activities of the organization,'' after ''conspires to do so,''; and

(2) by adding at the end the following:

''(3) BURDEN OF PROOF.—A defendant shall not be found guilty of violating paragraph (1) unless the United States proves that the defendant has knowledge, that the organization referred to in paragraph (1)—

''(A) is designated a 'foreign terrorist organization' under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

''(B) has engaged or does engage in international or domestic terrorism.''.

SA 3967. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. ___. TERRORISM SUBPOENAS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332f the following:

''§ 2332g. Terrorism subpoenas

''(a) AUTHORIZATION OF USE.—

''(1) IN GENERAL.—In any terrorism investigation within the jurisdiction of the Department of Justice, the Attorney General may issue in writing and cause to be served a subpoena requiring the production of any records or other materials that the Attorney General, or designee, finds relevant to the investigation, or requiring testimony by the custodian of the materials to be produced concerning the production and authenticity of those materials under the circumstances set forth in paragraph (5).

''(2) CONTENTS.—A subpoena issued under paragraph (1) shall describe the records or items required to be produced and may require production as soon as possible, but in no event less than 24 hours after service of the subpoena unless the subpoena recipient consents to production forthwith.

''(3) DELEGATION.—The Attorney General's authority to issue terrorism subpoenas under this section may be delegated, with authority to redelegate only to the following officials:

''(A) Each United States attorney.

''(B) The Assistant Attorney General for the Criminal Division.

''(C) The Director of the Federal Bureau of Investigation or a designee of the Director.

''(4) LIMITATION ON DELEGATION.—The authority to issue subpoenas under this section by the Federal Bureau of Investigation is limited to circumstances under which the issuer of the subpoena has a good faith belief for asserting, and certifies on the face of the subpoena, that either—

''(A) an Assistant United States attorney was not readily available at the time the subpoena was issued; or

''(B) a grand jury investigating the relevant matter was not currently sitting in the district in which the subpoena was being issued. If a subpoena is issued under this subsection, the issuing agent must notify and provide a copy of the subpoena to the United States attorney for the district in which the terrorism investigation is being conducted not later than 3 days after the date of issuance of the subpoena.

''(5) ATTENDANCE OF WITNESSES AND PRODUCTION OF RECORDS.—

''(A) IN GENERAL.—The attendance of witnesses and the production of records may be required from any place in any State, or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing.

''(B) LIMITATION.—A witness shall not be required to appear at any hearing more than 500 miles distant from the place where the witness was served with a subpoena.

''(C) REIMBURSEMENT.—Witnesses summoned under this section shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

''(b) SERVICE.—

''(1) IN GENERAL.—A subpoena issued under this section may be served by any person designated in the subpoena as the agent of service.

''(2) SERVICE OF SUBPOENA.—

''(A) NATURAL PERSON.—Service of a subpoena upon a natural person may be made by personal delivery of the subpoena to that person, or by certified mail with return receipt requested.

''(B) BUSINESS ENTITIES AND ASSOCIATIONS.—Service of a subpoena may be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association that is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

''(C) PROOF OF SERVICE.—The affidavit of the person serving the subpoena entered by that person on a true copy thereof shall be sufficient proof of service.

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—In the case of the contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or the subpoenaed person resides, carries on business, or may be found, to compel compliance with the subpoena.

''(2) ORDER.—Any court of the United States described under paragraph (1) may issue an order requiring the subpoenaed person, in accordance with the subpoena, to appear, to produce records, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as contempt thereof.

''(3) SERVICE OF PROCESS.—Any process under this subsection may be served in any judicial district in which the person may be found.

''(d) NONDISCLOSURE ORDER.—

''(1) IN GENERAL.—A United States district court, upon application of the United States, may issue an ex parte order that no person or entity disclose to any other person or entity (other than to an attorney in order to obtain legal advice) the existence of such summons for a period of up to 120 days if there is reason to believe that such disclosure may result in a danger to the national security of the United States, the endangerment to the life or physical security of any person, flight to avoid prosecution, destruction of or tampering with evidence, or intimidation of potential witnesses.

''(2) EMERGENCY NONDISCLOSURE AUTHORITY.—Notwithstanding any other provision of this title, when the Attorney General or designee reasonably determines that—

''(A) an emergency situation exists with respect to the issuance of a subpoena under this section in order to obtain relevant information before an order authorizing nondisclosure can with due diligence be obtained; and

''(B) the factual basis for issuance of a nondisclosure order under this section exists,

the Attorney General or designee may authorize the issuance of a subpoena under this section and order that it not be disclosed if an order in accordance with paragraph (1) is made to a Federal district judge as soon as practicable, but not later than 72 hours after the Attorney General or designee authorizes the nondisclosure subpoena. Any nondisclosure order issued by a district court under this section shall be effective as if entered at the time the subpoena was issued.

''(3) NOTICE OF NONDISCLOSURE REQUIREMENT.—The subpoena, or an officer, employee, or agency of the United States in writing, shall notify the person to whom the subpoena is directed of the nondisclosure requirements under paragraph (1).

''(4) FURTHER APPLICABILITY OF NONDISCLOSURE REQUIREMENTS.—Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

''(5) ENFORCEMENT OF NONDISCLOSURE REQUIREMENT.—Any person who knowingly violates a nondisclosure order issued by a district court shall be imprisoned for not more than 1 year. If the violation is committed with the intent to obstruct an investigation or judicial proceeding, the person shall be imprisoned for not more than 5 years.

''(6) NONDISCLOSURE EXTENSIONS.—An order under this subsection may be renewed for additional periods of up to 120 days upon a showing that the circumstances described in paragraph (1) continue to exist. An officer, employee, or agency of the United States in writing, shall notify the person to whom the subpoena is directed when a nondisclosure order is no longer effective.

''(e) JUDICIAL REVIEW.—

''(1) IN GENERAL.—At any time before the return date specified in a subpoena issued under this section, the person or entity subpoenaed may, in the United States district court for the district in which that person or entity does business or resides, petition for an order modifying or setting aside the subpoena.

''(2) MODIFICATION OF NONDISCLOSURE REQUIREMENT.—A district court may modify or set aside a nondisclosure order imposed under paragraph (1) or (2) of subsection (d) at the request of a person to whom a subpoena has been directed if the court finds that the reasons supporting the original nondisclosure order no longer exist. The burden is on the government to support the validity and continuity of any nondisclosure orders under this section.

''(3) REVIEW OF GOVERNMENT SUBMISSIONS.—In all proceedings under this subsection, the

court shall review the submission of the Federal Government, which may include classified information, ex parte and in camera.

''(f) IMMUNITY FROM CIVIL LIABILITY.—Any person, including officers, agents, and employees of a non-natural person, who in good faith produce the records or items requested in a subpoena, shall not be liable in any court of any State or the United States to any customer or other person for such production, or for nondisclosure of that production to the customer or other person.

''(g) GUIDELINES.—Not later than 6 months after the date of enactment of this section, the Attorney General shall, by rule, establish such guidelines as are necessary to ensure the effective implementation of this section including guidelines for effective retention and recordkeeping.

''(h) INFORMATION SHARING.—Information acquired by the government under this section may be disclosed under the exceptions and pursuant to the procedures set forth in rule 6(e)(3) of the Federal Rules of Criminal Procedure.

''(i) CONGRESSIONAL OVERSIGHT.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Attorney General shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that contains, with respect to each preceding 12-month period—

''(1) the number of subpoenas issued by the Federal Bureau of Investigation under subsection (a)(4);

''(2) any guidelines or changes to guidelines implemented by the Attorney General under subsection (g); and

''(3) whether judicial enforcement of any terrorism subpoena was pursued and the result of that litigation.''.

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332f the following:

''2332g. Terrorism subpoenas.''.

SA 3968. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike line 19 and all that follows through page 3, line 9.

SA 3969. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3790 submitted by Mr. KYL and intended to be proposed to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 5, strike line 14 and all that follows through page 12, line 9, and insert the following:

SEC. ___. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended—

(1) by striking ''DEFINITION.—In this section, the term'' and inserting the following: ''DEFINITIONS.—In this section—

''(1) the term'';

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(2) the term 'expert advice or assistance' means any act, effort, or service—

''(A) by a person who, by reason of education, training, experience, or profession, has scientific, technical, or other specialized knowledge concerning the matter of science or skill to which the act, effort, or service applies; and

''(B) that is directed at helping, furthering, guiding, or enhancing the operation, management, financing, mission, or performance, of terrorist activity by the terrorist or foreign terrorist organization.

''(3) the term 'training' means instruction or teaching in a scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative, military, or other field that is directed in any way at furthering, enhancing, or improving the individual or organizational performance of terrorist activity by the terrorist or foreign terrorist organization; and

''(4) the term 'personnel' means any third person that will provide services to assist in, or in any way further, the operation, management, financing, mission, or performance of terrorist activity by the terrorist or foreign terrorist organization.''.

(b) PROHIBITED ACTIVITIES.—Section 2339B(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking '', within the United States or subject to the jurisdiction of the United States, knowingly''; and

(B) by inserting ''with the intention that such material support or resources be used, or with the knowledge that such material support or resources are to be used, in full or in part, to further the terrorist activities of the organization,'' after ''conspires to do so,''; and

(2) by adding at the end the following:

''(3) BURDEN OF PROOF.—A defendant shall not be found guilty of violating paragraph (1) unless the United States proves that the defendant has knowledge, that the organization referred to in paragraph (1)—

''(A) is designated a 'foreign terrorist organization' under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

''(B) has engaged or does engage in international or domestic terrorism.''.

SA 3970. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3782 proposed by Mr. LAUTENBERG to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike lines 4 through 7, and insert the following:

(a) IN GENERAL.—Any Federal funds appropriated to the Department of Homeland Security for grants or other assistance shall be allocated based strictly on an assessment of risks and vulnerabilities.

(b) PRESERVATION OF PRE-9/11 GRANT PROGRAMS.—This section shall not be construed to affect any authority to award grants under any Federal grant program listed under subsection (c), which existed on September 10, 2001, to enhance traditional missions of State and local law enforcement, firefighters, ports, emergency medical services, or public health missions.

(c) PROGRAMS INCLUDED.—The programs referred to in subsection (b) are the following:

(1) The Firefighter Assistance Program authorized under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229).

(2) The Emergency Management Performance Grant Program and the Urban Search and Rescue Grant program authorized under—

(A) title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.);

(B) the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law 106–74; 113 Stat. 1047 et seq.); and

(C) the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

(4) The Edward Byrne Memorial State and Local Law Enforcement Assistance Programs authorized under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(5) The Public Safety and Community Policing (COPS ON THE BEAT) Grant Program authorized under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.).

(6) Grant programs under the Public Health Service Act regarding preparedness for bioterrorism and other public health emergencies and the Emergency Response Assistance Program authorized under section 1412 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2312).

SA 3971. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3905 proposed by Mr. LAUTENBERG to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, beginning with line 20, strike through line 3 on page 4, and insert the following:

''(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall require imported merchandise, excluding merchandise entered temporarily under bond (including in bond), remaining on the wharf or pier onto which it was unladen for more than 7 calendar days without entry being filed to be removed from the wharf or pier and deposited in the public stores, a general order warehouse, or a centralized examination station where it shall be inspected for determination of contents, and thereafter a permit for its delivery may be granted.

SA 3972. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. 206. INFORMATION SHARING.

(a) DEFINITIONS.—In this section:

(1) ADVISORY BOARD.—The term ''Advisory Board'' means the Advisory Board on Information Sharing established under subsection (i).

(2) EXECUTIVE COUNCIL.—The term ''Executive Council'' means the Executive Council on Information Sharing established under subsection (h).

(3) HOMELAND SECURITY INFORMATION.—The term ''homeland security information'' means all information, whether collected, produced, or distributed by intelligence, law enforcement, military, homeland security, or other activities relating to—

(A) the existence, organization, capabilities, plans, intentions, vulnerabilities,

means of finance or material support, or activities of foreign or international terrorist groups or individuals, or of domestic groups or individuals involved in transnational terrorism;

(B) threats posed by such groups or individuals to the United States, United States persons, or United States interests, or to those of other nations;

(C) communications of or by such groups or individuals; or

(D) groups or individuals reasonably believed to be assisting or associated with such groups or individuals.

(4) NETWORK.—The term ''Network'' means the Information Sharing Network described under subsection (c).

(b) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks upon the United States, Congress makes the following findings:

(1) The effective use of information, from all available sources, is essential to the fight against terror and the protection of our homeland. The biggest impediment to all-source analysis, and to a greater likelihood of ''connecting the dots'', is resistance to sharing information.

(2) The United States Government has access to a vast amount of information, including not only traditional intelligence but also other government databases, such as those containing customs or immigration information. However, the United States Government has a weak system for processing and using the information it has.

(3) In the period preceding September 11, 2001, there were instances of potentially helpful information that was available but that no person knew to ask for; information that was distributed only in compartmented channels, and information that was requested but could not be shared.

(4) Current security requirements nurture over-classification and excessive compartmentalization of information among agencies. Each agency's incentive structure opposes sharing, with risks, including criminal, civil, and administrative sanctions, but few rewards for sharing information.

(5) The current system, in which each intelligence agency has its own security practices, requires a demonstrated ''need to know'' before sharing. This approach assumes that it is possible to know, in advance, who will need to use the information. An outgrowth of the cold war, such a system implicitly assumes that the risk of inadvertent disclosure outweighs the benefits of wider sharing. Such assumptions are no longer appropriate. Although counterintelligence concerns are still real, the costs of not sharing information are also substantial. The current ''need-to-know'' culture of information protection needs to be replaced with a ''need-to-share'' culture of integration.

(6) A new approach to the sharing of intelligence and homeland security information is urgently needed. An important conceptual model for a new ''trusted information network'' is the Systemwide Homeland Analysis and Resource Exchange (SHARE) Network proposed by a task force of leading professionals assembled by the Markle Foundation and described in reports issued in October 2002 and December 2003.

(7) No single agency can create a meaningful information sharing system on its own. Alone, each agency can only modernize stovepipes, not replace them. Presidential leadership is required to bring about governmentwide change.

(c) INFORMATION SHARING NETWORK.—

(1) ESTABLISHMENT.—The President shall establish a trusted information network and secure information sharing environment to promote sharing of intelligence and homeland security information in a manner consistent with national security and the protection of privacy and civil liberties, and based on clearly defined and consistently applied policies and procedures, and valid investigative, analytical or operational requirements.

(2) ATTRIBUTES.—The Network shall promote coordination, communication and collaboration of people and information among all relevant Federal departments and agencies, State, tribal, and local authorities, and relevant private sector entities, including owners and operators of critical infrastructure, by using policy guidelines and technologies that support—

(A) a decentralized, distributed, and coordinated environment that connects existing systems where appropriate and allows users to share information among agencies, between levels of government, and, as appropriate, with the private sector;

(B) the sharing of information in a form and manner that facilitates its use in analysis, investigations and operations;

(C) building upon existing systems capabilities currently in use across the Government;

(D) utilizing industry best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible;

(E) employing an information access management approach that controls access to data rather than to just networks;

(F) facilitating the sharing of information at and across all levels of security by using policy guidelines and technologies that support writing information that can be broadly shared;

(G) providing directory services for locating people and information;

(H) incorporating protections for individuals' privacy and civil liberties;

(I) incorporating strong mechanisms for information security and privacy and civil liberties guideline enforcement in order to enhance accountability and facilitate oversight, including—

(i) multifactor authentication and access control;

(ii) strong encryption and data protection;

(iii) immutable audit capabilities;

(iv) automated policy enforcement;

(v) perpetual, automated screening for abuses of network and intrusions; and

(vi) uniform classification and handling procedures;

(J) compliance with requirements of applicable law and guidance with regard to the planning, design, acquisition, operation, and management of information systems; and

(K) permitting continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

(d) IMMEDIATE ACTIONS.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Executive Council, shall—

(1) submit to the President and to Congress a description of the technological, legal, and policy issues presented by the creation of the Network described in subsection (c), and the way in which these issues will be addressed;

(2) establish electronic directory services to assist in locating in the Federal Government intelligence and homeland security information and people with relevant knowledge about intelligence and homeland security information; and

(3) conduct a review of relevant current Federal agency capabilities, including—

(A) a baseline inventory of current Federal systems that contain intelligence or homeland security information;

(B) the money currently spent to maintain those systems; and

(C) identification of other information that should be included in the Network.

(e) GUIDELINES AND REQUIREMENTS.—As soon as possible, but in no event later than 180 days after the date of the enactment of this Act, the President shall—

(1) in consultation with the Executive Council—

(A) issue guidelines for acquiring, accessing, sharing, and using information, including guidelines to ensure that information is provided in its most shareable form, such as by separating out data from the sources and methods by which that data are obtained; and

(B) on classification policy and handling procedures across Federal agencies, including commonly accepted processing and access controls;

(2) in consultation with the Privacy and Civil Liberties Oversight Board established under section 211, issue guidelines that—

(A) protect privacy and civil liberties in the development and use of the Network; and

(B) shall be made public, unless, and only to the extent that, nondisclosure is clearly necessary to protect national security; and

(3) require the heads of Federal departments and agencies to promote a culture of information sharing by—

(A) reducing disincentives to information sharing, including overclassification of information and unnecessary requirements for originator approval; and

(B) providing affirmative incentives for information sharing, such as the incorporation of information sharing performance measures into agency and managerial evaluations, and employee awards for promoting innovative information sharing practices.

(f) ENTERPRISE ARCHITECTURE AND IMPLEMENTATION PLAN.—Not later than 270 days after the date of the enactment of this Act, the Director of Management and Budget shall submit to the President and to Congress an enterprise architecture and implementation plan for the Network. The enterprise architecture and implementation plan shall be prepared by the Director of Management and Budget, in consultation with the Executive Council, and shall include—

(1) a description of the parameters of the proposed Network, including functions, capabilities, and resources;

(2) a delineation of the roles of the Federal departments and agencies that will participate in the development of the Network, including identification of any agency that will build the infrastructure needed to operate and manage the Network (as distinct from the individual agency components that are to be part of the Network), with the delineation of roles to be consistent with—

(A) the authority of the National Intelligence Director under this Act to set standards for information sharing and information technology throughout the intelligence community; and

(B) the authority of the Secretary of Homeland Security and the role of the Department of Homeland Security in coordinating with State, tribal, and local officials and the private sector;

(3) a description of the technological requirements to appropriately link and enhance existing networks and a description of the system design that will meet these requirements;

(4) an enterprise architecture that—

(A) is consistent with applicable laws and guidance with regard to planning, design, acquisition, operation, and management of information systems;

(B) will be used to guide and define the development and implementation of the Network; and

(C) addresses the existing and planned enterprise architectures of the departments and agencies participating in the Network;

(5) a description of how privacy and civil liberties will be protected throughout the design and implementation of the Network;

(6) objective, systemwide performance measures to enable the assessment of progress toward achieving full implementation of the Network;

(7) a plan, including a time line, for the development and phased implementation of the Network;

(8) total budget requirements to develop and implement the Network, including the estimated annual cost for each of the 5 years following the date of the enactment of this Act; and

(9) proposals for any legislation that the Director of Management and Budget determines necessary to implement the Network.

(g) DIRECTOR OF MANAGEMENT AND BUDGET RESPONSIBLE FOR INFORMATION SHARING ACROSS THE FEDERAL GOVERNMENT.—

(1) ADDITIONAL DUTIES AND RESPONSIBILITIES.—

(A) IN GENERAL.—The Director of Management and Budget, in consultation with the Executive Council, shall—

(i) implement and manage the Network;

(ii) develop and implement policies, procedures, guidelines, rules, and standards as appropriate to foster the development and proper operation of the Network; and

(iii) assist, monitor, and assess the implementation of the Network by Federal departments and agencies to ensure adequate progress, technological consistency and policy compliance; and regularly report the findings to the President and to Congress.

(B) CONTENT OF POLICIES, PROCEDURES, GUIDELINES, RULES, AND STANDARDS.—The policies, procedures, guidelines, rules, and standards under subparagraph (A)(ii) shall—

(i) take into account the varying missions and security requirements of agencies participating in the Network;

(ii) address development, implementation, and oversight of technical standards and requirements;

(iii) address and facilitate information sharing between and among departments and agencies of the intelligence community, the Department of Defense, the Homeland Security community and the law enforcement community;

(iv) address and facilitate information sharing between Federal departments and agencies and State, tribal and local governments;

(v) address and facilitate, as appropriate, information sharing between Federal departments and agencies and the private sector;

(vi) address and facilitate, as appropriate, information sharing between Federal departments and agencies with foreign partners and allies; and

(vii) ensure the protection of privacy and civil liberties.

(2) APPOINTMENT OF PRINCIPAL OFFICER.—Not later than 30 days after the date of the enactment of this Act, the Director of Management and Budget shall appoint, with approval of the President, a principal officer in the Office of Management and Budget whose primary responsibility shall be to carry out the day-to-day duties of the Director specified in this section. The officer shall report directly to the Director of Management and Budget, have the rank of a Deputy Director and shall be paid at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(h) EXECUTIVE COUNCIL ON INFORMATION SHARING.—

(1) ESTABLISHMENT.—There is established an Executive Council on Information Sharing that shall assist the Director of Management and Budget in the execution of the Director's duties under this Act concerning information sharing.

(2) MEMBERSHIP.—The members of the Executive Council shall be—

(A) the Director of Management and Budget, who shall serve as Chairman of the Executive Council;

(B) the Secretary of Homeland Security or his designee;

(C) the Secretary of Defense or his designee;

(D) the Attorney General or his designee;

(E) the Secretary of State or his designee;

(F) the Director of the Federal Bureau of Investigation or his designee;

(G) the National Intelligence Director or his designee;

(H) such other Federal officials as the President shall designate;

(I) representatives of State, tribal, and local governments, to be appointed by the President; and

(J) individuals who are employed in private businesses or nonprofit organizations that own or operate critical infrastructure, to be appointed by the President.

(3) RESPONSIBILITIES.—The Executive Council shall assist the Director of Management and Budget in—

(A) implementing and managing the Network;

(B) developing policies, procedures, guidelines, rules, and standards necessary to establish and implement the Network;

(C) ensuring there is coordination among departments and agencies participating in the Network in the development and implementation of the Network;

(D) reviewing, on an ongoing basis, policies, procedures, guidelines, rules, and standards related to the implementation of the Network;

(E) establishing a dispute resolution process to resolve disagreements among departments and agencies about whether particular information should be shared and in what manner; and

(F) considering such reports as are submitted by the Advisory Board on Information Sharing under subsection (i)(2).

(4) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Council shall not be subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).

(5) REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Director of Management and Budget, in the capacity of Chair of the Executive Council, shall submit a report to the President and to Congress that shall include—

(A) a description of the activities and accomplishments of the Council in the preceding year; and

(B) the number and dates of the meetings held by the Council and a list of attendees at each meeting.

(6) INFORMING THE PUBLIC.—The Executive Council shall—

(A) make its reports to Congress available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(B) otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(i) ADVISORY BOARD ON INFORMATION SHARING.—

(1) ESTABLISHMENT.—There is established an Advisory Board on Information Sharing to advise the President and the Executive Council on policy, technical, and management issues related to the design and operation of the Network.

(2) RESPONSIBILITIES.—The Advisory Board shall advise the Executive Council on policy, technical, and management issues related to the design and operation of the Network. At the request of the Executive Council, or the Director of Management and Budget in the capacity as Chair of the Executive Council, or on its own initiative, the Advisory Board shall submit reports to the Executive Council concerning the findings and recommendations of the Advisory Board regarding the design and operation of the Network.

(3) MEMBERSHIP AND QUALIFICATIONS.—The Advisory Board shall be composed of no more than 15 members, to be appointed by the President from outside the Federal Government. The members of the Advisory Board shall have significant experience or expertise in policy, technical and operational matters, including issues of security, privacy, or civil liberties, and shall be selected solely on the basis of their professional qualifications, achievements, public stature and relevant experience.

(4) CHAIR.—The President shall designate one of the members of the Advisory Board to act as chair of the Advisory Board.

(5) ADMINISTRATIVE SUPPORT.—The Office of Management and Budget shall provide administrative support for the Advisory Board.

(j) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and semiannually thereafter, the President through the Director of Management and Budget shall submit a report to Congress on the state of the Network and of information sharing across the Federal Government.

(2) CONTENT.—Each report under this subsection shall include—

(A) a progress report on the extent to which the Network has been implemented, including how the Network has fared on the government-wide and agency-specific performance measures and whether the performance goals set in the preceding year have been met;

(B) objective systemwide performance goals for the following year;

(C) an accounting of how much was spent on the Network in the preceding year;

(D) actions taken to ensure that agencies procure new technology that is consistent with the Network and information on whether new systems and technology are consistent with the Network;

(E) the extent to which, in appropriate circumstances, all terrorism watch lists are available for combined searching in real time through the Network and whether there are consistent standards for placing individuals on, and removing individuals from, the watch lists, including the availability of processes for correcting errors;

(F) the extent to which unnecessary roadblocks, impediments, or disincentives to information sharing, including the inappropriate use of paper-only intelligence products and requirements for originator approval, have been eliminated;

(G) the extent to which positive incentives for information sharing have been implemented;

(H) the extent to which classified information is also made available through the Network, in whole or in part, in unclassified form;

(I) the extent to which State, tribal, and local officials—

(i) are participating in the Network;

(ii) have systems which have become integrated into the Network;

(iii) are providing as well as receiving information; and

(iv) are using the Network to communicate with each other;

(J) the extent to which—

(i) private sector data, including information from owners and operators of critical infrastructure, is incorporated in the Network; and

(ii) the private sector is both providing and receiving information;

(K) where private sector data has been used by the Government or has been incorporated into the Network—

(i) the measures taken to protect sensitive business information; and

(ii) where the data involves information about individuals, the measures taken to ensure the accuracy of such data;

(L) the measures taken by the Federal Government to ensure the accuracy of other information on the Network and, in particular, the accuracy of information about individuals;

(M) an assessment of the Network's privacy and civil liberties protections, including actions taken in the preceding year to implement or enforce privacy and civil liberties protections and a report of complaints received about interference with an individual's privacy or civil liberties; and

(N) an assessment of the security protections of the Network.

(k) AGENCY RESPONSIBILITIES.—The head of each department or agency possessing or using intelligence or homeland security information or otherwise participating in the Network shall—

(1) ensure full department or agency compliance with information sharing policies, procedures, guidelines, rules, and standards established for the Network under subsections (c) and (g);

(2) ensure the provision of adequate resources for systems and activities supporting operation of and participation in the Network; and

(3) ensure full agency or department cooperation in the development of the Network and associated enterprise architecture to implement governmentwide information sharing, and in the management and acquisition of information technology consistent with applicable law.

(l) AGENCY PLANS AND REPORTS.—Each Federal department or agency that possesses or uses intelligence and homeland security information, operates a system in the Network or otherwise participates, or expects to participate, in the Network, shall submit to the Director of Management and Budget—

(1) not later than 1 year after the date of the enactment of this Act, a report including—

(A) a strategic plan for implementation of the Network's requirements within the department or agency;

(B) objective performance measures to assess the progress and adequacy of the department or agency's information sharing efforts; and

(C) budgetary requirements to integrate the agency into the Network, including projected annual expenditures for each of the following 5 years following the submission of the report; and

(2) annually thereafter, reports including—

(A) an assessment of the progress of the department or agency in complying with the Network's requirements, including how well the agency has performed on the objective measures developed under paragraph (1)(B);

(B) the agency's expenditures to implement and comply with the Network's requirements in the preceding year; and

(C) the agency's or department's plans for further implementation of the Network in the year following the submission of the report.

(m) PERIODIC ASSESSMENTS.—

(1) COMPTROLLER GENERAL.—

(A) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and periodically thereafter, the Comptroller General shall evaluate the implementation of the Network, both generally and, at the discretion of the Comptroller General, within specific departments and agencies, to determine the extent of compliance with the Network's requirements and to assess the effectiveness of the Network in improving information sharing and collaboration and in protecting privacy and civil liberties, and shall report to Congress on the findings of the Comptroller General.

(B) INFORMATION AVAILABLE TO THE COMPTROLLER GENERAL.—Upon request by the Comptroller General, information relevant to an evaluation under subsection (a) shall be made available to the Comptroller General under section 716 of title 31, United States Code.

(C) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—If a record is not made available to the Comptroller General within a reasonable time, before the Comptroller General files a report under section 716(b)(1) of title 31, United States Code, the Comptroller General shall consult with the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives concerning the Comptroller's intent to file a report.

(2) INSPECTORS GENERAL.—The Inspector General in any Federal department or agency that possesses or uses intelligence or homeland security information or that otherwise participates in the Network shall, at the discretion of the Inspector General—

(A) conduct audits or investigations to—

(i) determine the compliance of that department or agency with the Network's requirements; and

(ii) assess the effectiveness of that department or agency in improving information sharing and collaboration and in protecting privacy and civil liberties; and

(B) issue reports on such audits and investigations.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $50,000,000 to the Director of Management and Budget to carry out this section for fiscal year 2005; and

(2) such sums as are necessary to carry out this section in each fiscal year thereafter, to be disbursed and allocated in accordance with the Network implementation plan required by subsection (f).

SA 3973. Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill S. 2484, An Act to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004''.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. SIMPLIFICATION AND IMPROVEMENT OF GRADE AND PAY PROVISIONS FOR PHYSICIANS AND DENTISTS.

(a) SIMPLIFICATION OF GRADES AND GRADE REQUIREMENTS.—(1) Subsection (b) of section 7404 is amended—

(A) by striking ''(1)'' after ''(b)'';

(B) in the Physician and Dentist Schedule, by striking the items relating to the grades and inserting the following:

''Physician grade.

''Dentist grade.''; and

(C) by striking paragraph (2).

(2) Subsection (a) of such section is amended by adding at the end the following: ''The pay of physicians and dentists serving in positions to which an Executive order applies under the preceding sentence shall be determined under subchapter III of this chapter instead of such Executive order.''.

(b) SIMPLIFICATION AND IMPROVEMENT OF PAY AUTHORITIES.—Subchapter III of chapter 74 is amended to read as follows:

''SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

''§ 7431. Pay

''(a) ELEMENTS OF PAY.—Pay of physicians and dentists in the Veterans Health Administration shall consist of three elements as follows:

''(1) Base pay as provided for under subsection (b).

''(2) Market pay as provided for under subsection (c).

''(3) Performance pay as provided under subsection (d).

''(b) BASE PAY.—One element of pay for physicians and dentists shall be base pay. Base pay shall meet the following requirements:

''(1) Each physician and dentist is entitled to base pay determined under the Physician and Dentist Base and Longevity Pay Schedule.

''(2) The Physician and Dentist Base and Longevity Pay Schedule is composed of 15 rates of base pay designated, from the lowest rate of pay to the highest rate of pay, as base pay steps 1 through 15.

''(3) The rate of base pay payable to a physician or dentist is based on the total number of the years of the service of the physician or dentist in the Veterans Health Administration as follows:

''For a physician or dentist with total service of:	The rate of base pay is the rate payable for:
two years or less	step 1
more than 2 years and not more than 4 years	step 2
more than 4 years and not more than 6 years	step 3
more than 6 years and not more than 8 years	step 4
more than 8 years and not more than 10 years	step 5
more than 10 years and not more than 12 years	step 6
more than 12 years and not more than 14 years	step 7
more than 14 years and not more than 16 years	step 8
more than 16 years and not more than 18 years	step 9
more than 18 years and not more than 20 years	step 10
more than 20 years and not more than 22 years	step 11
more than 22 years and not more than 24 years	step 12
more than 24 years and not more than 26 years	step 13
more than 26 years and not more than 28 years	step 14
more than 28 years	step 15.

''(4) At the same time as rates of basic pay are increased for a year under section 5303 of

title 5, the Secretary shall increase the amount of base pay payable under this subsection for that year by a percentage equal to the percentage by which rates of basic pay are increased under such section for that year.

''(c) MARKET PAY.—One element of pay for physicians and dentists shall be market pay. Market pay shall meet the following requirements:

''(1) Each physician and dentist is eligible for market pay.

''(2) Market pay shall consist of pay intended to reflect the recruitment and retention needs for the specialty or assignment (as defined by the Secretary) of a particular physician or dentist in a facility of the Department of Veterans Affairs.

''(3) The annual amount of the market pay payable to a physician or dentist shall be determined by the Secretary on a case-by-case basis.

''(4)(A) In determining the amount of market pay for physicians or dentists, the Secretary shall consult two or more national surveys of pay for physicians or dentists, as applicable, whether prepared by private, public, or quasi-public entities in order to make a general assessment of the range of pays payable to physicians or dentists, as applicable.

''(B)(i) In determining the amount of the market pay for a particular physician or dentist under this subsection, and in determining a tier (if any) to apply to a physician or dentist under subsection (e)(1)(B), the Secretary shall consult with and consider the recommendations of an appropriate panel or board composed of physicians or dentists (as applicable).

''(ii) A physician or dentist may not be a member of the panel or board that makes recommendations under clause (i) with respect to the market pay of such physician or dentist, as the case may be.

''(iii) The Secretary should, to the extent practicable, ensure that a panel or board consulted under this subparagraph includes physicians or dentists (as applicable) who are practicing clinicians and who do not hold management positions in the medical facility of the Department at which the physician or dentist subject to the consultation is employed.

''(5) The determination of the amount of market pay of a physician or dentist shall take into account—

''(A) the level of experience of the physician or dentist in the specialty or assignment of the physician or dentist;

''(B) the need for the specialty or assignment of the physician or dentist at the medical facility of the Department concerned;

''(C) the health care labor market for the specialty or assignment of the physician or dentist, which may cover any geographic area the Secretary considers appropriate for the specialty or assignment;

''(D) the board certifications, if any, of the physician or dentist;

''(E) the prior experience, if any, of the physician or dentist as an employee of the Veterans Health Administration; and

''(F) such other considerations as the Secretary considers appropriate.

''(6) The amount of market pay of a physician or dentist shall be evaluated by the Secretary not less often than once every 24 months. The amount of market pay may be adjusted as the result of an evaluation under this paragraph. A physician or dentist whose market pay is evaluated under this paragraph shall receive written notice of the results of such evaluation in accordance with procedures prescribed under section 7433 of this title.

''(7) No adjustment of the amount of market pay of a physician or dentist under paragraph (6) may result in a reduction of the amount of market pay of the physician or dentist while in the same position or assignment at the medical facility of the Department concerned.

''(d) PERFORMANCE PAY.—(1) One element of pay for physicians and dentists shall be performance pay.

''(2) Performance pay shall be paid to a physician or dentist on the basis of the physician's or dentist's achievement of specific goals and performance objectives prescribed by the Secretary.

''(3) The Secretary shall ensure that each physician and dentist of the Department is advised of the specific goals or objectives that are to be measured by the Secretary in determining the eligibility of that physician or dentist for performance pay.

''(4) The amount of the performance pay payable to a physician or dentist may vary annually on the basis of individual achievement or attainment of the goals or objectives applicable to the physician or dentist under paragraph (2).

''(5) The amount of performance pay payable to a physician or dentist in a fiscal year shall be determined in accordance with regulations prescribed by the Secretary, but may not exceed the lower of—

''(A) $15,000; or

''(B) the amount equal to 7.5 percent of the sum of the base pay and the market pay payable to such physician or dentist in that fiscal year.

''(6) A failure to meet goals or objectives applicable to a physician or dentist under paragraph (2) may not be the sole basis for an adverse personnel action against that physician or dentist.

''(e) REQUIREMENTS AND LIMITATIONS ON TOTAL PAY.—(1)(A) Not less often than once every two years, the Secretary shall prescribe for Department-wide applicability the minimum and maximum amounts of annual pay that may be paid under this section to physicians and the minimum and maximum amounts of annual pay that may be paid under this section to dentists.

''(B) The Secretary may prescribe for Department-wide applicability under this paragraph separate minimum and maximum amounts of pay for a specialty or assignment. If the Secretary prescribes separate minimum and maximum amounts for a specialty or assignment, the Secretary may establish up to four tiers of minimum and maximum amounts for such specialty or assignment and prescribe for each tier a minimum amount and a maximum amount that the Secretary determines appropriate for the professional responsibilities, professional achievements, and administrative duties of the physicians or dentists (as the case may be) whose pay is set within that tier.

''(C) Amounts prescribed under this paragraph shall be published in the Federal Register, and shall not take effect until at least 60 days after the date of publication.

''(2) Except as provided in paragraph (3) and subject to paragraph (4), the sum of the total amount of the annual rate of base pay payable to a physician or dentist under subsection (b) and the market pay determined for the physician or dentist under subsection (c) may not be less than the minimum amount, nor more than the maximum amount, applicable to specialty or assignment of the physician or dentist under paragraph (1).

''(3) The sum of the total amount of the annual rate of base pay payable to a physician or dentist under subsection (b) and the market pay determined for the physician or dentist under subsection (c) may exceed the maximum amount applicable to the specialty or assignment of the physician or dentist under paragraph (1) as a result of an adjustment under paragraph (3) or (4) of subsection (b).

''(4) In no case may the total amount of compensation paid to a physician or dentist under this title in any year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3.

''(f) TREATMENT OF PAY.—Pay under subsections (b) and (c) of this section shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.

''(g) ANCILLARY EFFECTS OF DECREASES IN PAY.—(1) A decrease in pay of a physician or dentist resulting from an adjustment in the amount of market pay of the physician or dentist under subsection (c) shall not be treated as an adverse action.

''(2) If the pay of a physician or dentist is reduced under this subchapter as a result of an involuntary reassignment in connection with a disciplinary action taken against the physician or dentist, the involuntary reassignment shall be subject to appeal under subchapter V of this chapter.

''(h) DELEGATION OF RESPONSIBILITIES.—The Secretary may delegate to an appropriate officer or employee of the Department any responsibility of the Secretary under subsection (c), (d), or (e) except for the responsibilities of the Secretary under subsection (e)(1).

''§ 7432. Pay of Under Secretary for Health

''(a) BASE PAY.—The base pay of the Under Secretary for Health shall be the annual rate of basic pay for positions at Level III of the Executive Schedule under section 5314 of title 5.

''(b) MARKET PAY.—(1) In the case of an Under Secretary for Health who is also a physician or dentist, in addition to the base pay specified in subsection (a) the Under Secretary for Health may also be paid the market pay element of pay of physicians and dentists under section 7431(c) of this title.

''(2) The amount of market pay of the Under Secretary for Health under this subsection shall be established by the Secretary.

''(3) In establishing the amount of market pay of the Under Secretary for Health under this subsection, the Secretary shall utilize an appropriate health care labor market selected by the Secretary for purposes of this subsection.

''(c) TREATMENT OF PAY.—Pay under this section shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.

''§ 7433. Administrative matters

''(a) REGULATIONS.—(1) The Secretary shall prescribe regulations relating to the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

''(2) In prescribing the regulations, the Secretary shall take into account the recommendations of the Under Secretary for Health on the administration of this subchapter. In formulating recommendations for the purpose of this paragraph, the Under Secretary shall request the views of representatives of labor organizations that are exclusive representatives of physicians and dentists of the Department and the views of representatives of professional organizations of physicians and dentists of the Department.

''(b) REPORTS.—(1) Not later than 18 months after the Secretary prescribes the regulations required by subsection (a), and annually thereafter for the next 5 years, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

''(2) Each report under this subsection shall include the following:

''(A) A description of the rates of pay in effect during the current fiscal year with a comparison to the rates in effect during the fiscal year preceding the current fiscal year, set forth by facility and by specialty.

''(B) The number of physicians and dentists who left the Veterans Health Administration during the preceding fiscal year.

''(C) The number of unfilled physician positions and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and an assessment of the reasons that such positions remain unfilled.

''(D) An assessment of the impact of implementation of this subchapter on efforts to recruit and retain physicians and dentists in the Veterans Health Administration.

''(3) The first two annual reports under this subsection shall also include a comparison of staffing levels, contract expenditures, and average salaries of physicians and dentists in the Veterans Health Administration for the current fiscal year and for the fiscal year preceding the current fiscal year, set forth by facility and by specialty.''.

(c) INITIAL RATES OF BASE PAY FOR PHYSICIANS AND DENTISTS.—The initial rates of base pay established for the base pay steps under the Physician and Dentist Base and Longevity Pay Schedule provided in section 7431(b) of title 38, United States Code (as added by subsection (b)), are as follows:

Base Pay Step:	Rate of Pay:
1	$90,000
2	$93,000
3	$96,000
4	$99,000
5	$102,000
6	$105,000
7	$108,000
8	$111,000
9	$114,000
10	$117,000
11	$120,000
12	$123,000
13	$126,000
14	$129,000
15	$132,000.

(d) EFFECTIVE DATE.—(1) Notwithstanding the 60-day waiting requirement in section 7431(e)(1)(C) of title 38, United States Code (as amended by subsection (b)), pay provided for a physician or dentist under subchapter III of chapter 74 of such title, as amended by subsection (b), shall take effect on the first day of the first pay period applicable to such physician or dentist that begins on or after January 1, 2006.

(2) Pay provided for the Under Secretary for Health under subchapter III of chapter 74 of title 38, United States Code, as amended by this section shall take effect on the first day of the first pay period applicable to the Under Secretary that begins on or after January 1, 2006.

(e) TRANSITION PROVISIONS.—

(1) PHYSICIANS AND DENTISTS.—

(A) PAY.—(i) The amount of the pay payable on and after the date of the enactment of this Act to a physician or dentist in receipt of pay under section 7404 or 7405 of title 38, United States Code, as of the day before such date shall continue to be determined under such section (as in effect on the day before such date) until the effective date that is applicable under subsection (d) to such physician or dentist, as the case may be.

(ii) A physician or dentist appointed or reassigned on or after the date of the enactment of this Act, but before the effective date applicable under subsection (d) to such physician or dentist, shall be compensated in accordance with applicable provisions of section 7404 or 7405 of title 38, United States Code (as in effect on the day before date of the enactment of this Act), until such effective date.

(B) SPECIAL PAY.—(i) A special pay agreement entered into by a physician or dentist under subchapter III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, a physician or dentist in receipt of special pay pursuant to such an agreement on that date shall continue to receive special pay under the terms of such agreement until the effective date that is applicable under subsection (d) to such physician or dentist.

(ii) A physician or dentist described in subparagraph (A)(ii) may be paid special pay under applicable provisions of section 7433, 7434, 7435, or 7436 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of the appointment or reassignment of such physician or dentist, as the case may be, and ending on the effective date applicable under subsection (d) to such physician or dentist. However, no special pay agreement shall be required for the payment of special pay under this clause.

(C) TREATMENT OF SPECIAL PAY.—(i) Special pay paid under subparagraph (B) to a physician or dentist during the period beginning on the date of the enactment of this Act and ending on the effective date applicable under subsection (d) to such physician or dentist shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act).

(ii) Special pay paid to a physician or dentist under section 7438 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(D) PRESERVATION OF PAY.—The amount of pay paid to a physician or dentist after the effective date of this Act shall not be less than the amount of pay paid to such physician or dentist on the day before the effective date of this Act while such physician or dentist remains in the same position or assignment.

(2) UNDER SECRETARY FOR HEALTH.—

(A) SPECIAL PAY.—(i) The current special pay agreement entered into by the Under Secretary for Health under subchapters I and III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, the Under Secretary shall continue to receive special pay under the terms of such agreement until the effective date that is applicable under subsection (d) to the Under Secretary.

(ii) An individual appointed as Under Secretary for Health on or after the date of the enactment of this Act and before the effective date applicable under subsection (d) to the Under Secretary shall be paid special pay in accordance with the provisions of sections 7432(d)(2) and 7433 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of appointment and ending on such effective date. However, no special pay agreement shall be required for the payment of special pay under this clause.

(B) TREATMENT OF SPECIAL PAY.—Special pay paid under subparagraph (A) during the period beginning on the date of the enactment of this Act and ending on the effective date applicable under subsection (d) to the Under Secretary—

(i) shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act); and

(ii) shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(f) CONFORMING AMENDMENTS.—Section 7404 is amended—

(1) in subsection (c), by striking ''special pay'' and inserting ''pay''; and

(2) in subsection (d), by striking ''pay may not be paid'' and all that follows and inserting ''pay for positions for which basic pay is paid under this section may not be paid at a rate in excess of the rate of basic pay authorized by section 5316 of title 5 for positions in Level V of the Executive Schedule.''.

(g) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 74 is amended by striking the items relating to subchapter III and inserting the following new items:

''SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

''Sec. 7431. Pay.

''Sec. 7432. Pay of Under Secretary for Health.

''Sec. 7433. Administrative matters.''.

SEC. 4. ALTERNATE WORK SCHEDULES FOR REGISTERED NURSES.

(a) IN GENERAL.—(1) Chapter 74 is amended by inserting after section 7456 the following new section:

''§ 7456A. Nurses: alternate work schedules

''(a) APPLICABILITY.—This section applies to registered nurses appointed under this chapter.

''(b) 36/40 WORK SCHEDULE.—(1)(A) Subject to paragraph (2), if the Secretary determines it to be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work three regularly scheduled 12-hour tours of duty within a work week shall be considered for all purposes to have worked a full 40-hour basic work week.

''(B) A nurse who works under the authority in subparagraph (A) shall be considered a 0.90 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings.

''(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) to have worked a full 40-hour basic work week shall be subject to subparagraphs (B) and (C).

''(B) The hourly rate of basic pay for a nurse covered by this paragraph for service performed as part of a regularly scheduled 36-hour tour of duty within the work week shall be derived by dividing the nurse's annual rate of basic pay by 1,872.

''(C) The Secretary shall pay overtime pay to a nurse covered by this paragraph who—

''(i) performs a period of service in excess of such nurse's regularly scheduled 36-hour tour of duty within an administrative work week;

''(ii) for officially ordered or approved service, performs a period of service in excess of 8 hours on a day other than a day on which such nurse's regularly scheduled 12-hour tour of duty falls;

''(iii) performs a period of service in excess of 12 hours for any day included in the regularly scheduled 36-hour tour of duty work week; or

''(iv) performs a period of service in excess of 40 hours during an administrative work week.

''(D) The Secretary may provide a nurse to whom this subsection applies with additional pay under section 7453 of this title for any period included in a regularly scheduled 12-hour tour of duty.

''(3) A nurse who works a work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for every nine hours of absence.

''(c) HOLIDAY PAY.—A nurse working a work schedule under subsection (b) that includes a holiday designated by law or Executive order shall be eligible for holiday pay under section 7453(d) of this title for any service performed by the nurse on such holiday under such section.

''(d) 9-MONTH WORK SCHEDULE FOR CERTAIN NURSES.—(1) The Secretary may authorize a registered nurse appointed under section 7405 of this title, with the nurse's written consent, to work full time for nine months with 3 months off duty, within a fiscal year, and be paid at 75 percent of the full-time rate for such nurse's grade for each pay period of such fiscal year.

''(2) A nurse who works under the authority in paragraph (1) shall be considered a 0.75 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings.

''(3) Work under this subsection shall be considered part-time service for purposes of computing benefits under chapters 83 and 84 of title 5.

''(4) A nurse who works under the authority in paragraph (1) shall be considered a full-time employee for purposes of chapter 89 of title 5.

''(e) NOTIFICATION OF MODIFICATION OF BENEFITS.—The Secretary shall provide each employee with respect to whom an alternate work schedule under this section may apply written notice of the effect, if any, that the alternate work schedule will have on the employee's health care premium, retirement, life insurance premium, probationary status, or other benefit or condition of employment. The notice shall be provided not later than 14 days before the employee consents to the alternate work schedule.

''(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.''.

(2) The table of sections at the beginning of chapter 74 is amended by inserting after the item relating to section 7456 the following new item:

''Sec. 7456A. Nurses: alternate work schedules.''.

(b) POLICY AGAINST CERTAIN WORK HOURS.—(1) It is the sense of Congress to encourage the Secretary of Veterans Affairs to prevent work hours by nurses providing direct patient care in excess of 12 consecutive hours or in excess of 60 hours in any 7-day period, except in the case of nurses providing emergency care.

(2) Not later than one year after the date of the enactment of this Act and every year thereafter for the next two years, the Secretary shall certify to Congress whether or not each Veterans Health Administration facility has in place, as of the date of such certification, a policy designed to prevent work hours by nurses providing direct patient care (other than nurses providing emergency care) in excess of 12 consecutive hours or in excess of 60 hours in any 7-day period.

SEC. 5. NURSE EXECUTIVE SPECIAL PAY.

Section 7452 is amended by adding at the end the following new subsection:

''(g)(1) In order to recruit and retain highly qualified Department nurse executives, the Secretary may, in accordance with regulations prescribed by the Secretary, pay special pay to the nurse executive at each location as follows:

''(A) Each Department health care facility.

''(B) The Central Office.

''(2) The amount of special pay paid to a nurse executive under paragraph (1) shall be not less than $10,000 or more than $25,000.

''(3) The amount of special pay paid to a nurse executive under paragraph (1) shall be based on factors such as the grade of the nurse executive position, the scope and complexity of the nurse executive position, the personal qualifications of the nurse executive, the characteristics of the health care facility concerned, the nature and number of specialty care units at the health care facility concerned, demonstrated difficulties in recruitment and retention of nurse executives at the health care facility concerned, and such other factors as the Secretary considers appropriate.

''(4) Special pay paid to a nurse executive under paragraph (1) shall be in addition to any other pay (including basic pay) and allowances to which the nurse executive is entitled, and shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5, and other benefits, but shall not be considered basic pay for purposes of adverse actions under subchapter V of this chapter.''.

SA 3974. Mr. FRIST (for himself, Mr. DASCHLE, Mr. MCCONNELL, and Mr. REID) submitted an amendment intended to be proposed by him to the resolution S. Res 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on intelligence; which was ordered to lie on the table; as follows:

At the end of the resolution, insert the following:

SEC. 100. PURPOSE.

It is the purpose of titles I through V of this resolution to improve the effectiveness of the Senate Select Committee on Intelligence, especially with regard to its oversight of the Intelligence Community of the United States Government, and to improve the Senate's oversight of homeland security.

TITLE I—HOMELAND SECURITY OVERSIGHT REFORM

SEC. 101. HOMELAND SECURITY.

(a) COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS.—The Committee on Governmental Affairs is renamed as the Committee on Homeland Security and Governmental Affairs.

(b) JURISDICTION.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

(1) Department of Homeland Security except matters relating to the Coast Guard, to the Transportation Security administration, and to the Federal Law Enforcement Training Center, and the revenue functions of the Customs Service.

(2) Archives of the United States.

(3) Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

(4) Census and collection of statistics, including economic and social statistics.

(5) Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.

(6) Federal Civil Service.

(7) Government information.

(8) Intergovernmental relations.

(9) Municipal affairs of the District of Columbia, except appropriations therefor.

(10) Organization and management of United States nuclear export policy.

(11) Organization and reorganization of the executive branch of the Government.

(12) Postal Service.

(13) Status of officers and employees of the United States, including their classification, compensation, and benefits.

(c) ADDITIONAL DUTIES.—The committee shall have the duty of—

(1) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(2) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

(3) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(4) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

(d) JURISDICTION OF SENATE COMMITTEES.—The jurisdiction of the Committee on Homeland Security and Governmental Affairs provided in subsection (b) shall supersede the jurisdiction of any other committee of the Senate provided in the rules of the Senate.

TITLE II—INTELLIGENCE OVERSIGHT REFORM

SEC. 201. INTELLIGENCE OVERSIGHT.

(a) COMMITTEE ON ARMED SERVICES MEMBERSHIP.—Section 2(a)(3) of Senate Resolution 400, agreed to May 19, 1976 (94th Congress) (referred to in this section as ''S. Res. 400'') is amended by—

(1) inserting ''(A)'' after ''(3)''; and

(2) inserting at the end the following:

''(B) The Chairman and Ranking Member of the Committee on Armed Services (if not already a member of the select Committee) shall be ex officio members of the select Committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.''.

(b) NUMBER OF MEMBERS.—Section 2(a) of S. Res. 400 is amended—

(1) in paragraph (1), by inserting ''not to exceed'' before ''fifteen members'';

(2) in paragraph (1)(E), by inserting ''not to exceed'' before ''seven''; and

(3) in paragraph (2), by striking the second sentence and inserting ''Of any members appointed under paragraph (1)(E), the majority leader shall appoint the majority members and the minority leader shall appoint the minority members, with the majority having a one vote margin.''.

(c) ELIMINATION OF TERM LIMITS.—Section 2 of Senate Resolution 400, 94th Congress, agreed to May 19, 1976, is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(d) APPOINTMENT OF CHAIRMAN AND RANKING MEMBER.—Section 2(b) of S. Res. 400, as redesignated by subsection (c) of this section, is amended by striking the first sentence and inserting the following: ''At the beginning of each Congress, the Majority Leader of the Senate shall select a chairman of the select Committee and the Minority Leader shall select a vice chairman for the select Committee.''.

(e) SUBCOMMITTEES.—Section 2 of S. Res. 400, as amended by subsections (a) through (d), is amended by adding at the end the following:

''(c) The select Committee may be organized into subcommittees. Each subcommittee shall have a chairman and a vice chairman who are selected by the Chairman

and Vice Chairman of the select Committee, respectively.''.

(f) REPORTS.—Section 4(a) of S. Res. 400 is amended by inserting '', but not less than quarterly,'' after ''periodic''.

(g) STAFF.—Section 15 of S. Res. 400 is amended to read as follows:

''SEC. 15. (a) The select Committee shall hire or appoint one employee for each member of the select Committee to serve as such Member's designated representative on the select Committee. The select Committee shall only hire or appoint an employee chosen by the respective Member of the select Committee for whom the employee will serve as the designated representative on the select Committee.

''(b) The select Committee shall be afforded a supplement to its budget, to be determined by the Committee on Rules and Administration, to allow for the hire of each employee who fills the position of designated representative to the select Committee. The designated representative shall have office space and appropriate office equipment in the select Committee spaces, and shall have full access to select Committee staff, information, records, and databases.

''(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee clearance requirements for employment by the select Committee.''.

(h) NOMINEES.—S. Res. 400 is amended by adding at the end the following:

''SEC. 17. (a) The select Committee shall have final responsibility for reviewing, holding hearings, and voting on civilian persons nominated by the President to fill a position within the intelligence community that requires the advice and consent of the Senate.

''(b) Other committees with jurisdiction over the nominees' executive branch department may hold hearings and interviews with that person.''.

TITLE III—COMMITTEE STATUS

SEC. 301. COMMITTEE STATUS.

(a) HOMELAND SECURITY.—The Committee on Homeland Security and Governmental Affairs shall be treated as the Committee on Governmental Affairs listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

(b) INTELLIGENCE.—The select Committee on Intelligence shall be treated as a committee listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

TITLE IV—INTELLIGENCE-RELATED SUBCOMMITTEES

SEC. 401. SUBCOMMITTEE RELATED TO INTELLIGENCE OVERSIGHT.

(a) ESTABLISHMENT.—There is established in the select Committee on Intelligence a Subcommittee on Oversight which shall be in addition to any other subcommittee established by the select Committee.

(b) RESPONSIBILITY.—The Subcommittee on Oversight shall be responsible for ongoing oversight of intelligence activities.

SEC. 402. SUBCOMMITTEE RELATED TO INTELLIGENCE APPROPRIATIONS.

(a) ESTABLISHMENT.—There is established in the Committee on Appropriations a Subcommittee on Intelligence. The Subcommittee on Military Construction shall be combined with the Subcommittee on Defense into 1 subcommittee.

(b) JURISDICTION.—The Subcommittee on Intelligence of the Committee on Appropriations shall have jurisdiction over funding for intelligence matters.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This resolution shall take effect on the convening of the 109th Congress.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. COLLINS. 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 October 5, 2004, at 2:30 p.m., to conduct a hearing on the nomination of Pamela Hughes Patenaude, of New Hampshire, to be Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Ms. COLLINS. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet on Tuesday, October 5, 2004, at 9:30 a.m., on E-Rate.

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

COMMITTEE ON FOREIGN RELATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 5, 2004, at 9:30 a.m., to hold a hearing on the Millennium Challenge Corporation: A Progress Report.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, October 5, 2004, at 10 a.m., in SD–342 to consider the nomination of Gregory Jackson to be an Associate Judge of Columbia Superior Court.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing entitled ''Reducing Childhood Obesity: Public-Private Partnerships to Improve Nutrition and Increase Physical Activity in Children'' during the session of the Senate on Tuesday, October 5, at 10 a.m., in SD–430.

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

COMMITTEE ON THE JUDICIARY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Tuesday, October 5, 2004, at 10 a.m., in SD–226.

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

COMMITTEE ON RULES AND ADMINISTRATION

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, October 5, 2004, at 9:30 a.m., to conduct a special meeting of the committee to consider a resolution related to recommendations of the National Commission on Terrorist Attacks Upon the United States.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on October 5, 2004, for a markup on the nominations of Robert N. Davis, to be a Judge, U.S. Court of Appeals for Veterans Claims; Mary J. Schoelen, to be a Judge, U.S. Court of Appeals for Veterans Claims; William A. Moorman, to be a Judge, U.S. Court of Appeals for Veterans Claims; and Robert Allen Pittman, to be Assistant Secretary, Human Resources and Administration, U.S. Department of Veterans Affairs.

The meeting will take place in S–216 in the Capitol, immediately following the first rollcall vote of the Senate after 3 p.m.

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

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Nancy Faulk, who is a fellow in my office, be given the privilege of the floor today.

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

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 705, S. 2483.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2483) to increase, effective as of December 1, 2004, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

There being no objection, the Senate proceeded to consider the bill.

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on legislation which was reported, after a unanimous affirmative vote, by the Committee on Veterans' Affairs on July 20, 2004, and which is the subject of my request today that the bill be unanimously approved by the Senate. S. 2483 would grant to nearly 3 million beneficiaries who receive certain ''cash-transfer'' payments from the Department of Veterans Affairs, VA, a cost-of-living adjustment, COLA, increase in their benefits effective with checks received on or after January 1, 2005, and thereafter.

An annual cost-of-living adjustment in veterans benefits is an important tool which protects veterans' cash-

transfer benefits against the corrosive effects of inflation. The principal programs affected by the adjustment that would be made by S. 2483 would be compensation paid to disabled veterans, and dependency and indemnity compensation, so-called ''DIC,'' payments made to the surviving spouses, minor children and other dependents of service members who died in service and to the survivors of former service members who died after service as a result of service-connected injuries or disease.

The impact of the COLA which would be enacted here is outlined in detail in Report 108–351 which accompanied the Committee on Veterans' Affairs approval of the bill on July 20, 2004. In summary, this legislation would grant to VA compensation and DIC beneficiaries the same percentage increase in benefits that will be granted to recipients of Social Security benefits in 2005—that is, an increase equal to the percentage increase in the consumer price index, CPI, for fiscal year 2004 as measured and reported by the Department of Labor's Bureau of Labor Statistics later this year. The President's proposed budget for fiscal year 2005 requested such an increase, then estimated to be 1.3 percent, and the Senate has already concurred with the committee's judgment that such an increase is appropriate with its approval earlier this year of a budget resolution which assumes that such an increase will be enacted and which sets aside the funds necessary to finance the COLA increase envisioned by this legislation.

I urge my colleagues to support enactment of this vital legislation and that they ''clear'' the bill for passage today. The bill still must clear the House of Representatives before it is presented to the President. As my colleagues fully understand, the days remaining for the House to take this action are dwindling.

Mr. GRAHAM of Florida. Mr. President, as ranking member of the Committee on Veterans' Affairs, I urge my colleagues to continue to support our veterans and their families by passing H.R. 4175, the proposed Veterans' Compensation Cost-of-Living Adjustment Act of 2004.

The Veterans' Compensation Cost-of-Living Adjustment Act would increase the rate of disability compensation for veterans with service-connected disabilities and the rate of dependency and indemnity compensation for surviving spouses with minor children. This bill requires, effective December 1, 2004, that the Secretary of Veterans Affairs increase the rates of compensation by the same percentage provided to Social Security recipients.

In keeping with the commitment to care for the brave men and women who have served this great Nation, we must make every effort to continue to meet their needs. This legislation ensures that veterans and their families will be able to adjust their incomes to keep pace with inflation and is vital to the financial stability of many veterans and their families who are struggling with the rising costs of goods and services. Our veterans and their families depend on the cost-of-living increase for their livelihood, therefore, it is important that we swiftly move this legislation.

We must demonstrate our commitment to those who have already paid a great price through their selfless service to our Nation. At a time when our airmen, soldiers, sailors, and marines are in harm's way, we must remember the sacrifices that those before them have made on behalf of this grateful Nation by providing this cost-of-living adjustment.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and the Committee on Veterans' Affairs then be discharged from further consideration of H.R. 4175 and the Senate proceed to its consideration; provided that all after enacting clause be stricken and the text of S. 2483 be inserted in lieu thereof; the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, en bloc, and that any statements relating to the bill be printed in the RECORD. I further ask unanimous consent that S. 2483 be returned to the calendar.

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

The bill (S. 2483) was read the third time.

The bill (H.R. 4175), as amended, was read the third time and passed.

GATEWAY ARCH ILLUMINATION IN HONOR OF BREAST CANCER AWARENESS MONTH

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2895, which was introduced earlier today by Senator TALENT.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2895) to authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights in honor of Breast Cancer Awareness Month.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

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

The bill (S. 2895) was read the third time and passed, as follows:

S. 2895

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ILLUMINATION OF GATEWAY ARCH IN HONOR OF BREAST CANCER AWARENESS MONTH.

In honor of breast cancer awareness month, the Secretary of the Interior shall authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights for a certain period of time in October, to be designated by the Secretary of the Interior.

MODIFICATION AND EXTENSION OF CERTAIN PRIVATIZATION REQUIREMENTS

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2896, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2896) to modify and extend certain privatization requirements of the Communications Satellite Act of 1962.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

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

The bill (S. 2896) was read the third time and passed, as follows:

S. 2896

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRIVATIZATION REQUIREMENTS MODIFIED AND EXTENDED.

Section 621(5) of the Communications Satellite Act of 1962 (47 U.S.C. 763) is amended—

(1) in subparagraph (A)(ii), by striking ''June 30, 2004'' and inserting ''June 30, 2005''; and

(2) by adding at the end the following new subparagraph:

''(F) Notwithstanding subparagraphs (A) and (B), a successor entity may be deemed a national corporation and may forgo an initial public offering and public securities listing and still achieve the purposes of this section if—

''(i) the successor entity certifies to the Commission that—

''(I) the successor entity has achieved substantial dilution of the aggregate amount of signatory or former signatory financial interest in such entity;

''(II) any signatories and former signatories that retain a financial interest in such successor entity do not possess, together or individually, effective control of such successor entity; and

''(III) no intergovernmental organization has any ownership interest in a successor entity of INTELSAT or more than a minimal ownership interest in a successor entity of Inmarsat;

''(ii) the successor entity provides such financial and other information to the Commission as the Commission may require to verify such certification; and

''(iii) the Commission determines, after notice and comment, that the successor entity is in compliance with such certification.

''(G) For purposes of subparagraph (F), the term 'substantial dilution' means that a majority of the financial interests in the successor entity is no longer held or controlled, directly or indirectly, by signatories or former signatories.''.

EXPENDITURES FOR VISITORS CENTER AT LITTLE ROCK CENTRAL HIGH SCHOOL NATIONAL HISTORIC SITE

Mr. FRIST. I ask unanimous consent that the Energy and Natural Resources Committee be discharged from further consideration of S. Res. 420 and that the Senate then proceed to its 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. 420) recommending expenditures for an appropriate visitors center at Little Rock Central High School National Historic Site to commemorate the desegregation of Little Rock Central High School.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without further intervening action or debate.

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

The resolution (S. Res. 420) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 420

Whereas the United States recognizes that in September 1957, 9 young students changed the course of American history by claiming the right to receive an equal education;

Whereas Ernest Green, Elizabeth Eckford, Jefferson Thomas, Terrence Roberts, Carlotta Walls, Minnijean Brown, Gloria Ray, Thelma Mothershed, and Melba Pattillo, known as the ''Little Rock Nine'', and their parents had the courage necessary to break the bonds of prejudice and desegregation and venture onto the world stage, with full knowledge of the perils and complexities inherent in their endeavor;

Whereas despite their effort to enroll at Little Rock Central High School and receive an education, the Little Rock Nine were met with severe adversity;

Whereas Little Rock Central High School became not only a crucial battleground in the struggle for civil rights, but symbolic of the United States Government's commitment to eliminating separate systems of education for African-Americans and Caucasians;

Whereas the enrollment of the Little Rock Nine was recognized by Dr. Martin Luther King, Jr. as such a significant event in the struggle for civil rights that he attended the graduation of the first African-American from Little Rock Central High School;

Whereas the sacrificial accomplishments that were made in September 1957 have continuing benefits for the United States today;

Whereas the United States will always revere the accomplishments that 9 young high school students made by showing the Nation and the world that ''all men are created equal'' and the rule of law is paramount in the democracy of the United States;

Whereas the Little Rock Nine were forced to obtain the blessings of liberty that are inherent in the United States Constitution through the intervention of the judicial branch and executive branch of the United States Government;

Whereas existing visitor facilities at Little Rock Central High School are inadequate, resulting in limited opportunities for citizens to learn about civil rights and our Nation's heritage; and

Whereas the legislative branch of the United States Government has the opportunity to appropriately commemorate the legacy that these heroic individuals left by fully funding the design and construction of an informative memorial: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the courage displayed by the Little Rock Nine should be commemorated as an example of American sacrifice through extreme adversity;

(2) Congress should fully fund the design and construction of a visitor center at Little Rock Central High School National Historic Site; and

(3) the new facilities should open by September 2007 in order to commemorate the 50th anniversary of the historic events that occurred at Little Rock Central High School.

PROTECTING OLDER AMERICANS FROM FRAUD MONTH

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 749, S. Res. 424.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 424) designating October 2004 as Protecting Older Americans From Fraud Month.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The resolution (S. Res. 424) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 424

Whereas perpetrators of financial crimes frequently target their fraud schemes at older Americans because older Americans possess a large percentage of the individual household wealth in the United States;

Whereas many older Americans have been divested of their hard-earned life savings by fraud and frequently pay a high emotional cost, losing not only their money, but also their self-respect and dignity;

Whereas perpetrators of fraud schemes against older Americans reach their victims through the telephone, the mail, or the Internet;

Whereas the United States Postal Inspection Service responded to nearly 80,000 fraud complaints, arrested 1,453 fraud offenders, secured nearly 1,387 fraud convictions, and initiated 102 civil or administrative actions involving fraud in fiscal year 2003;

Whereas fraud investigations by the United States Postal Inspection Service in fiscal year 2003 resulted in nearly $1,500,000,000 in court-ordered and voluntary restitution payments;

Whereas older Americans are often the disproportionate targets of cross-border fraud, including prize promotions, sweepstakes scams, foreign money offers, advance-fee loans, and foreign lotteries, and file 20 percent of all cross-border fraud complaints;

Whereas there was an 80 percent increase in 2003 of reports of Internet fraud targeting older Americans, and the amount of money lost by older Americans to Internet fraud increased from $2,690,618 in 2002 to $12,818,313 in 2003, a 375 percent increase in money lost;

Whereas the Federal Trade Commission reports that 27,300,000 people in the United States have been victims of identity theft in the last 5 years, including 9,900,000 people in the last year alone, and that identity theft has cost businesses and financial institutions nearly $48,000,000,000, in addition to the reported $5,000,000,000 in out-of-pocket expenses incurred by consumer fraud victims;

Whereas there was a 200 percent increase in 2002 of identity theft targeting older Americans, and credit card fraud is perpetrated against older Americans at a higher rate than the general population of the United States;

Whereas the Federal Trade Commission continues to successfully implement its do-not-call registry, with 60 percent of consumers surveyed stating that they registered and 80 percent of the registered consumers surveyed reporting fewer calls, but more older Americans need to be aware that the do-not-call registry is available;

Whereas fraud schemes targeting older Americans have caused losses estimated at millions of dollars a year, and have cost some older Americans their homes;

Whereas consumer awareness is the best protection from telemarketing, mail, Internet, and identity fraud schemes, and the Federal Trade Commission and the United States Postal Inspection Service have resources available to educate and assist the public; and

Whereas it is vital to increase public awareness of the enormous impact that fraud has on older Americans and to educate the public, older Americans, their families, and their caregivers about a wide array of fraud schemes, such as telemarketing, mail, Internet, and identity fraud, and how to report suspected fraud to the appropriate authorities: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 2004 as ''Protecting Older Americans From Fraud Month''; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe the month with appropriate activities and programs that—

(A) prevent the purveyors of telemarketing, mail, Internet, and identity fraud from victimizing the people of the United States; and

(B) educate and inform the public, older Americans, their families, and their caregivers about a number of financial crimes, such as telemarketing, mail, Internet, and identity fraud.

DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE PERSONNEL ENHANCEMENT ACT OF 2004

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 713, S. 2484.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2484) to amend title 38, United States Code, to simplify and improve pay

provisions for physicians and dentists, to authorize alternate work schedules and executive pay for nurses.

The Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2484

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 ''Department of Veterans Affairs Health Care Personnel Enhancement Act of 2003''.

[SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

[Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

[SEC. 3. IMPROVEMENT AND SIMPLIFICATION OF PAY PROVISIONS FOR PHYSICIANS AND DENTISTS.

[(a) Chapter 74 is amended—

[(1) In section 7404b—

[(A) by striking ''(1)'' after ''(b)'';

[(B) by striking the list of position grades under the caption, ''PHYSICIAN AND DENTIST SCHEDULE'' and inserting in lieu thereof the following:

[''Physician grade.

[Dentist grade.''; and

[(C) by striking paragraph (2) in its entirety;

[(2) In section 7404(c) by striking ''special''; and

[(3) By striking Subchapter III in its entirety and inserting in lieu thereof the following sections:

[''SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

[''§ 7431. Pay authority

[''(a) In order to recruit and retain highly qualified physicians and dentists in the Veterans Health Administration, the Secretary shall establish and periodically adjust the rates of pay for physicians and dentists based upon the factors specified in subsection (b). Total pay shall be benchmarked to representative salaries of non-Department physicians, dentists, and health care clinician-executives.

[''(b) Pay for physicians and dentists employed in the Veterans Health Administration shall have three components:

[''(1) BASE PAY.—This shall be a uniform pay band applicable nationwide. The minimum rate shall be the maximum rate for Chief grade in the Veterans Health Administration Physician and Dentist Pay Schedule in effect on the day before the date of enactment of this Act. The maximum rate may not exceed the rate of basic pay authorized by section 5316 of title 5 for Level V of the Executive Schedule. The Secretary shall adjust annually the minimum rate by the same percentage as the adjustment under section 5303 of title 5 in the rates of pay for the General Schedule, and the maximum rate in accordance with section 5318 of title 5. Administration facilities, under regulations prescribed by the Secretary, may set individual base pay anywhere within the pay band.

[''(2) MARKET PAY.—This shall be a variable pay band based on geographic area, specialty, assignment, personal qualifications, and individual experience, and shall be established and adjusted locally in accordance with regulations prescribed under subsection (c). Administration facilities will set individual market pay in accordance with regulations prescribed by the Secretary. The Under Secretary for Health shall periodically review and recommend to the Secretary adjustments to the market pay band based on published healthcare workforce employment and compensation data. The Secretary may adjust the market pay band periodically based on the recommendations of the Under Secretary and in response to changing health-care labor trends.

[''(3) PERFORMANCE PAY.—

[''(A) There shall be a variable pay band linked to the physician's or dentist's achievement of specific corporate goals and individual performance objectives. Physicians and dentists other than those specified in subsection (f)(1) shall not be eligible for this component during the first year of appointment. The amount payable to a physician or dentist for this component may vary based on individual achievement. The performance component paid to any physician or dentist other than those specified in subsection (f)(1) will be in accordance with regulations prescribed by the Secretary and may not exceed $10,000 in a year.

[''(B) In accordance with regulations prescribed by the Secretary, ten percent of the benchmark total pay for physicians and dentists specified in subsection (f)(1) shall be linked to the physician's or dentist's achievement of specific corporate goals and individual performance objectives as a performance component. Administration facilities may set the performance pay in accordance with regulations prescribed by the Secretary.

[''(c) Compensation paid under this subchapter shall be considered pay for all purposes, included but not limited to retirement benefits under chapters 83 and 84 of title 5, United States Code, and other benefits. Notwithstanding the preceding sentence, amounts paid for performance pay under subsection (b)(3)(A) shall not be considered pay for retirement benefits under chapters 83 and 84 of title 5, United States Code.

[''(d) Any decrease in pay that results from an adjustment to the market or performance component of a physician's or dentist's total compensation does not constitute an adverse action.

[''(e) In no case may the total amount of compensation paid to a physician or dentist under this title in any one year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3, United States Code.

[''(f) COVERED POSITIONS.—

[''(1) This subsection applies to physicians and dentists in the following positions: Chiefs of Staff or equivalent facility-level and Network-level clinical management positions (including Network Clinical Service Managers), facility and Network or Regional executive positions (including Network Service Line Coordinators and Medical Center/Health Care System Directors), Central Office executive positions, and such other positions under this title as the Secretary may determine in accordance with regulations prescribed in accordance with section 7434(a).

[''(2) Notwithstanding the special relationships of the Veterans Health Administration with affiliated institutions under section 7302, physicians and dentists serving in covered positions and receiving compensation under this subchapter may not receive any compensation on or after the date specified in regulations issued by the Secretary, through employment or contract with, or negotiate or accept any offer of employment from, any institution or other entity that is affiliated with the VA medical center to which they are assigned, or affiliated with a VA medical center which falls under their official responsibilities. This limitation shall include receiving compensation through or from practice groups or any other entities associated with the affiliated institution(s), or from entities under contract with the affiliated institution(s). Compensation includes anything of monetary value, including but not limited to honoraria, salary, and any fringe benefits such as: tuition waiver, insurance protection, contributions to a retirement fund, payment for books, below-market interest loans, or employee discounts. Nothing in this section precludes physicians and dentists in covered positions from holding uncompensated appointments as other than officer, director, or trustee with affiliated institutions in furtherance of section 7302.

[''(3) Subject to any conditions the Secretary may be regulation prescribe, the Secretary may, on a case-by-case basis, suspend or waive the limitation in paragraph (2) to an individual physician or dentist, when necessary and appropriate to carry out the purposes of section 7302, to assist communities or practice groups to meet medical needs which otherwise would not be met, or where the Secretary determines that suspension or waiver would be in the best interest of the United States. The Secretary shall make any suspension or wavier made pursuant to this paragraph in writing.

[''§ 7432. Transition to new pay system

[''(a) All current special pay agreements entered into under the provisions of this subchapter in effect on the day before the date of enactment of this Act shall terminate on the date of enactment of this Act. Any physician or dentist in receipt of special pay on that date shall continue to be compensated as if such agreement were still in effect until the date specified in regulations issued by the Secretary implementing this new subchapter.

[''(b) Physicians and dentists appointed or reassigned on or after the date of enactment of this Act, but before implementation of this subchapter shall be compensated in accordance with sections 7404, 7405, 7433, 7434, 7435, and 7436, as applicable, in effect on the day before the date of enactment of this Act. Any such physician or dentist shall continue to be compensated at the applicable rates until such date specified in regulations issued by the Secretary implementing the new pay system. No special pay agreement will be required of any physician or dentist receiving such pay.

[''(c) During the period from the date of enactment of this Act through the date of implementation of this subchapter, physicians and dentists paid pursuant to this section shall be subject to paragraphs (1), (2), (4), (5), and (6) of subsection (b) of section 7438 in effect on the day before the date of enactment of this Act.

[''(d) The amount of pay paid under this subchapter for a physician or dentist appointed before the effective date of regulations implementing this subchapter shall be not less than the amount of base pay and special pay such physician or dentist received under this title on the day before such effective date.

[''(e) Special pay subject to the provisions of section 7438, as in effect before the date of enactment of this section, or subject to subsection (c), paid to Veterans Health Administration physicians and dentists appointed before the effective date of regulations implementing this subchapter and who separate after such effective date, shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5.

[“§ 7433. Pay for Under Secretary for Health

[“(a) Section 5314 of title 5 establishes the base pay for the Under Secretary for Health at Level III of the Executive Schedule.

[“(b) In addition to base pay under section 5314 of title 5, the Under Secretary for Health shall be eligible for Market Pay under section 7431(b)(2).

[“(c) TRANSITION.—The current special pay agreement of the Under Secretary for Health entered into under the provisions of this subchapter in effect on the day before the date of enactment of this Act shall terminate on the date of enactment of this Act. The incumbent Under Secretary for Health on the date of enactment of this Act shall continue to receive special pay as if such agreement were still in effect until the date specified in regulations issued by the Secretary implementing this new subchapter. Any Under Secretary for Health appointed on or after the date of enactment of this Act, but before the date specified in regulations issued by the Secretary implementing this new subchapter, shall receive special pay in accordance with sections 7432(d)(2), 7433, and 7437(a) in effect on the day before the date of enactment of this Act.

[“§ 7434. Administrative provisions

[“(a) After receiving the recommendations of the Under Secretary for Health, the Secretary, pursuant to the authority in section 7421(a), shall prescribe regulations implementing the physician and dentist pay system established in this new subchapter. Such regulations shall include the method for computing the pay for all physicians and dentists in the Veterans Health Administration under this title.

[“(b) Eighteen months after the Secretary issues regulations implementing this subchapter and annually thereafter for the next ten years, the Secretary shall provide to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the authorities under this subchapter. Each report shall include:

[“(1) a description of the rates of pay in effect during the preceding fiscal year with a comparison to the rates in effect during the previous fiscal year by facility and by specialty;

[“(2) the number of physicians and dentists who left employment with the Veterans Health Administration during the preceding year;

[“(3) the number of unfilled physician and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and a summary of the reasons that such positions remain unfilled; and

[“(4) an assessment of the impact of implementation of this subchapter on efforts to recruit and retain physicians and dentists in the Veterans Health Administration.

[In addition, the first two reports following implementation of this subchapter shall also include a comparison of staffing levels, contract expenditures, and average salary of physicians and dentists by facility and specialty for the preceding and previous fiscal years.”.

[(b) The title and list of sections for Subchapter III in the table of sections at the beginning of Chapter 74 is amended to read as follows:

[“SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

[“Sec. 7431. Pay authority.
[“Sec. 7432. Transition to new pay system.
[“Sec. 7433. Pay for Under Secretary for Health.
[“Sec. 7434. Administrative provisions.”.

[SEC. 4. ALTERNATE WORK SCHEDULES.

[(a) Chapter 74 is amended by adding a new section 7456a:

[“§ 7456a. Alternate work schedules

[“(a) COVERAGE.—This section applies to registered nurses appointed under this chapter.

[“(b) 36/40 WORK SCHEDULE.—

[“(1) Subject to paragraph (2), if the Secretary determines it be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work three regularly scheduled 12-hour tours of duty within a workweek shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 40-hour basic workweek.

[“(2)(A) Basic and additional pay for a registered nurse who is considered under paragraph (1) to have worked a full 40-hour basic workweek shall be subject to subparagraphs (B) and (C).

[“(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 36-hour tour of duty within the workweek shall be derived by dividing the nurse's annual rate of basic pay by 1,872.

[“(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled 36-hour tour of duty within a workweek is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a day on which such nurse's regularly scheduled three 12-hour tours fall, or in excess of 12 hours for any day included in the regularly scheduled 36-hour tour of duty, or in excess of 40 hours during an administrative workweek.

[“(ii) Except as provided in subparagraph (i), a registered nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

[“(3) A nurse who works a 36/40 work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for nine hours of absence.

[“(c) 7/7 WORK SCHEDULE.—

[“(1) Subject to paragraph (2), if the Secretary determines it be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work seven regularly scheduled 10-hour tours of duty, with seven days off duty, within a two-week pay period, shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 80 hours for the pay period.

[“(2)(A) Basic and additional pay for a registered nurse who is considered under paragraph (1) to have worked a full 80-hour pay period shall be subject to subparagraphs (B) and (C).

[“(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 70-hour tour of duty within the pay period shall be derived by dividing the nurse's annual rate of basic pay by 1,820.

[“(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled 70-hour tour of duty within a pay period is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a day on which such nurse's regularly scheduled seven 10-hour tours fall, or in excess of 10 hours for any day included in the regularly scheduled 70-hour tour of duty, or in excess of 80 hours during a pay period.

[“(ii) Except as provided in subparagraph (i), a registered nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 10-hour tour of duty.

[“(3) A nurse who works a 7/7 work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of eight hours of leave for seven hours of absence.

[“(d) 9-MONTH WORK SCHEDULE.—The Secretary may authorize a registered nurse appointed under section 7405, with the nurse's written consent, to work full-time for nine months with three months off duty, within a fiscal year, and be paid at 75 percent of the full-time rate for such nurse's grade for each pay period of such fiscal year. Such employee shall be considered a .75 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings. Service on this schedule shall be considered part-time service for purposes of computing benefits under chapters 83 and 84 of title 5.

[“(e) The Secretary shall prescribe regulations for the implementation of this section.”.

[(b) The title and list of sections for Subchapter IV in the table of sections at the beginning of Chapter 74 is amended to read as follows:

[“SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

[“Sec. 7451. Nurses and other health-care personnel: competitive pay.
[“Sec. 7452. Nurses and other health-care personnel: administration of pay.
[“Sec. 7453. Nurses: additional pay.
[“Sec. 7454. Physician assistants and other health care professionals: additional pay.
[“Sec. 7455. Increases in rates of basic pay.
[“Sec. 7456. Nurses: special rules for weekend duty.
[“Sec. 7456a. Alternate work schedules.
[“Sec. 7457. On-call pay.
[“Sec. 7458. Recruitment and retention bonus pay.”.

[SEC. 5. NURSE EXECUTIVE SPECIAL PAY.

[(a) Section 7452 is amended by adding at the end thereof:

[“(g)(1) In order to recruit and retain highly qualified Department nurse executives, the Secretary, in accordance with regulations the Secretary shall prescribe, shall pay special pay to the nurse executive at each Department health-care facility or at Central Office.

[“(2) Special pay paid under paragraph (1) shall be a minimum of $10,000 and a maximum of $25,000. The amount paid to each nurse executive shall be based on factors such as the grade of the nurse executive position, the scope and complexity of the nurse executive position, the nurse executive's personal qualifications, the characteristics of the health-care facility, e.g., tertiary, single site or multi-site, nature and number of specialty care units, demonstrated recruitment and retention difficulties, and such other factors the Secretary deems appropriate.

[“(3) Special pay paid under paragraph (1) shall be in addition to any other pay (including basic pay) and allowances to which the

nurse executive is entitled, and shall be considered pay for all purposes, including but not limited to retirement benefits under chapters 83 and 84 of title 5, United States Code, and other benefits, but shall not be considered basic pay for purposes of adverse actions under subchapter V.''.

[SEC. 6. EFFECTIVE DATE.

[The amendments to title 38, United States Code, contained herein shall take effect on the first day of the first pay period on or after the later of April 1, 2004, or six months after the date of enactment.

[SEC. 7. ADMINISTRATIVE PROVISION.

[(a) Chapter 74 is amended by adding a new section 7427:

["§ 7427. Functions

[''The functions assigned to the Secretary and other officers of the Department of Veterans Affairs under this chapter are vested in their discretion.'']

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004''.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. SIMPLIFICATION AND IMPROVEMENT OF GRADE AND PAY PROVISIONS FOR PHYSICIANS AND DENTISTS.

(a) SIMPLIFICATION OF GRADES AND GRADE REQUIREMENTS.—Section 7404(b) is amended—

(1) by striking ''(1)'' after ''(b)'';

(2) in the Physician and Dentist Schedule, by striking the items relating to the grades and inserting the following:

''Physician grade.

''Dentist grade.''; and

(3) by striking paragraph (2).

(b) SIMPLIFICATION AND IMPROVEMENT OF PAY AUTHORITIES.—Subchapter III of chapter 74 is amended to read as follows:

''SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

"§ 7431. Pay

''(a) ELEMENTS OF PAY.—Pay of physicians and dentists in the Veterans Health Administration shall consist of three elements as follows:

''(1) Base pay as provided for under subsection (b).

''(2) Market pay as provided for under subsection (c).

''(3) Incentive pay as provided for under subsection (d).

''(b) BASE PAY.—One element of pay for physicians and dentists shall be base pay. Base pay shall meet the following requirements:

''(1) Each physician and dentist is entitled to base pay determined under the Physician and Dentist Base and Longevity Pay Schedule.

''(2) The Physician and Dentist Base and Longevity Pay Schedule is composed of 15 rates of base pay designated, from the lowest rate of pay to the highest rate of pay, as base pay steps 1 through 15.

''(3) The rate of base pay payable to a physician or dentist is based on the total number of the years of the service of the physician or dentist in the Veterans Health Administration as follows:

"For a physician or dentist with total service of:	***The rate of base pay is the rate payable for:***
two years or less	*step 1*
more than 2 years and not more than 4 years	*step 2*
more than 4 years and not more than 6 years	*step 3*
more than 6 years and not more than 8 years	*step 4*
more than 8 years and not more than 10 years	*step 5*
more than 10 years and not more than 12 years	*step 6*
more than 12 years and not more than 14 years	*step 7*
more than 14 years and not more than 16 years	*step 8*
more than 16 years and not more than 18 years	*step 9*
more than 18 years and not more than 20 years	*step 10*
more than 20 years and not more than 22 years	*step 11*
more than 22 years and not more than 24 years	*step 12*
more than 24 years and not more than 26 years	*step 13*
more than 26 years and not more than 28 years	*step 14*
more than 28 years	*step 15.*

''(4) At the same time as rates of basic pay are increased for a year under section 5303 of title 5, the Secretary shall increase each rate of base pay payable under this subsection for that year by a percentage equal to the percentage by which rates of basic pay are increased under such section for that year.

''(c) MARKET PAY.—One element of pay for physicians and dentists shall be market pay. Market pay shall meet the following requirements:

''(1) Subject to paragraph (3), each physician and dentist is eligible for market pay.

''(2) Market pay shall consist of pay intended to reflect the value to the Veterans Health Administration of the skills, experience, and availability of a particular physician or dentist within a particular health care labor market.

''(3) The annual amount of the market pay payable to a physician or dentist shall be determined by the Secretary on a case-by-case basis, subject to paragraph (5). The sum of the total amount of the market pay determined for a physician or dentist under this subsection and the annual rate of base pay payable to the physician or dentist under subsection (b) may not be less than the minimum amount, nor more than the maximum amount, applicable to the physician or dentist under paragraph (4).

''(4)(A) Not less often than once every two years, the Secretary shall prescribe for Departmentwide applicability the minimum and maximum amounts of annual pay (excluding incentive pay under subsection (d)) that may be paid under this section to physicians and the minimum and maximum amounts of annual pay (excluding incentive pay under subsection (d)) that may be paid under this section to dentists.

''(B) The Secretary may prescribe for Departmentwide applicability under this paragraph separate minimum and maximum amounts of pay for a specialty or subspecialty. If the Secretary prescribes separate minimum and maximum amounts for a specialty or subspecialty, the Secretary may establish up to four tiers of minimum and maximum amounts for such specialty or subspecialty and prescribe for each tier a minimum amount and a maximum amount that the Secretary determines appropriate for the professional responsibilities, professional achievements, and administrative duties of the physicians or dentists (as the case may be) whose pay is set within that tier.

''(5)(A) In determining the amount of the market pay for a physician or dentist and determining a tier (if any) to apply to a physician or dentist under paragraph (4)(B), the Secretary shall consult with and consider the recommendations of the Medical Professional Standards Board for the medical facility of the Department at which the physician or dentist is employed, except in the case of a physician or dentist whose market pay is determined under subparagraph (B).

''(B) In the case of a physician or dentist who is a member of a Medical Professional Standards Board, the Secretary shall determine the amount of the market pay and the tier (if any) applicable to the physician or dentist under paragraph (4)(B) in accordance with such procedures and standards as the Secretary shall prescribe. Such procedures and standards shall, to the maximum extent practicable, be similar to the procedures and standards applicable to determinations of the amount of market pay and the tier applicable to physicians and dentists under paragraph (4)(B) who are not members of a board. Under such regulations, no member of a board may participate in or have a consultative role in determining the amount of market pay or tier of such member or any other member of such board.

''(C) A Medical Professional Standards Board consulted under this subparagraph shall consist of at least three and not more than five persons, each of whom is either a physician or a dentist. Not less than a majority of the members of the board shall be practicing clinicians in their professions.

''(6) Subject to paragraph (7), the determination of the amount of market pay of a physician or dentist shall take into account—

''(A) the level of experience of the physician or dentist in the specialty or subspecialty of the physician or dentist;

''(B) the need for the specialty or subspecialty of the physician or dentist at the Department facility concerned;

''(C) the health care labor market for the specialty or subspecialty of the physician or dentist, which may cover any geographic area the Secretary considers appropriate for the specialty or subspecialty;

''(D) the professional reputation of the physician or dentist;

''(E) the board certifications, if any, of the physician or dentist;

''(F) the prior experience, if any, of the physician or dentist as an employee of the Veterans Health Administration; and

''(G) such other considerations as the Secretary considers appropriate.

''(7) The amount that any consideration specified in paragraph (6) may contribute to the amount of market pay may not exceed, or be less than, such amount as the Secretary may specify in regulations prescribed under section 7433 of this title, or in directives issued for purposes of this subsection.

''(8) In determining amounts of market pay, the Secretary—

''(A) shall consult two or more national surveys of pay for physicians or dentists, as applicable, whether prepared by public, private, or quasi-public entities; and

''(B) may utilize the recommendations or assistance of one or more boards of physicians or dentists, as applicable, that are appointed by the Secretary for purposes of this subsection.

''(9) The amount of market pay of a physician or dentist shall be adjusted at such times as the Secretary considers appropriate in order to ensure the retention of qualified physicians and dentists by the Veterans Health Administration.

''(10) The amount of market pay of a physician or dentist shall be evaluated by the Secretary not less often than once every 24 months. The amount of market pay may be adjusted as the result of an evaluation under this paragraph. A physician or dentist whose market pay is increased by reason of an evaluation under this paragraph shall receive written notice of the increase in accordance with procedures prescribed under section 7433 of this title.

''(11) No adjustment of the amount of market pay of a physician or dentist under paragraph (9) or (10) may result in a reduction of the amount of market pay of the physician or dentist.

''(d) INCENTIVE PAY.—One element of pay for physicians and dentists shall be incentive pay. Incentive pay shall meet the following requirements:

''(1) Each physician and dentist is eligible for incentive pay.

''(2) Incentive pay shall consist of an amount intended to recognize outstanding contributions by a physician or dentist to—

''(A) the facility in which employed;

''(B) the furnishing of care to veterans; or

''(C) the practice of medicine or dentistry, as applicable.

''(3) The amount of incentive pay shall be determined for a physician or dentist by the Secretary.

''(4) The amount of incentive pay shall be determined for a physician or dentist on a case-by-case basis.

''(5) The amount of incentive pay paid to a physician or dentist in a calendar year may not exceed $10,000.

''(e) DELEGATION OF RESPONSIBILITIES.—The Secretary may delegate to an appropriate officer or employee of the Department any responsibility of the Secretary under subsection (c) or (d), except for the responsibilities of the Secretary under subsection (c)(4).

''(f) LIMITATION ON TOTAL COMPENSATION.—In no case may the total amount of compensation paid to a physician or dentist under this section in any year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3.

''(g) TREATMENT OF PAY.—(1) Except as provided in paragraph (2), pay under this subchapter shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.

''(2) Incentive pay under subsection (d) shall not be considered pay for purposes of retirement benefits under chapters 83 and 84 of title 5.

''(h) DECREASES IN CERTAIN PAY NOT TREATABLE AS ADVERSE ACTION.—A decrease in pay of a physician or dentist resulting from an adjustment in the amount of incentive pay of the physician or dentist under subsection (d) shall not be treated as an adverse action.

''§ 7432. Pay of Under Secretary for Health

''(a) BASE PAY.—The base pay of the Under Secretary for Health shall be the annual rate of basic pay for positions at Level III of the Executive Schedule under section 5314 of title 5.

''(b) MARKET PAY.—(1) In the case of an Under Secretary for Health who is also a physician or dentist, in addition to the base pay specified in subsection (a) the Under Secretary for Health may also be paid the market pay element of pay of physicians and dentists under section 7431(c) of this title.

''(2) The amount of market pay of the Under Secretary for Health under this subsection shall be established by the Secretary.

''(3) In establishing the amount of market pay of the Under Secretary for Health under this subsection, the Secretary shall utilize an appropriate health care labor market selected by the Secretary for purposes of this subsection.

''§ 7433. Administrative matters

''(a) REGULATIONS.—(1) The Secretary shall prescribe regulations relating to the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

''(2) In prescribing the regulations, the Secretary shall take into account the recommendations of the Under Secretary for Health on the administration of this subchapter.

''(b) REPORTS.—(1) Not later than 18 months after the Secretary prescribes the regulations required by subsection (a), and annually thereafter for the next 10 years, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

''(2) Each report under this subsection shall include the following:

''(A) A description of the rates of pay in effect during the preceding fiscal year with a comparison to the rates in effect during the fiscal year preceding fiscal year, set forth by facility and by specialty.

''(B) The number of physicians and dentists who left the Veterans Health Administration during the preceding fiscal year.

''(C) The number of unfilled physician positions and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and an assessment of the reasons that such positions remain unfilled.

''(D) An assessment of the impact of implementation of this subchapter on efforts to recruit and retain physicians and dentists in the Veterans Health Administration.

''(3) The first two annual reports under this subsection shall also include a comparison of staffing levels, contract expenditures, and average salaries of physicians and dentists in the Veterans Health Administration for the fiscal year preceding such report and for the fiscal year preceding such fiscal year, set forth by facility and by specialty.''.

(c) INITIAL RATES OF BASE PAY FOR PHYSICIANS AND DENTISTS.—The initial rates of base pay established for the base pay steps under the Physician and Dentist Base and Longevity Pay Schedule provided in section 7431(b) of title 38, United States Code (as added by subsection (b)), are as follows:

Base Pay Step:	Rate of Pay:
1	$90,000
2	$93,000
3	$96,000
4	$99,000
5	$102,000
6	$105,000
7	$108,000
8	$111,000
9	$114,000
10	$117,000
11	$120,000
12	$123,000
13	$127,000
14	$130,000
15	$133,000.

(d) TRANSITION PROVISIONS.—

(1) PHYSICIANS AND DENTISTS.—

(A) PAY.—(i) A physician or dentist in receipt of pay under section 7404 or 7405 of title 38, United States Code, as of the day before the date of the enactment of this Act shall continue to receive pay under such section (as in effect on the day before the date of the enactment of this Act) until the effective date of this Act under section 8 of this Act.

(ii) A physician or dentist appointed or reassigned on or after the date of the enactment of this Act, but before the effective date of this Act, shall be compensated in accordance with applicable provisions of section 7404 or 7405 of title 38, United States Code (as in effect on the day before date of the enactment of this Act), until the effective date of this Act.

(B) SPECIAL PAY.—(i) A special pay agreement entered into by a physician or dentist under subchapter III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, a physician or dentist in receipt of special pay pursuant to such an agreement on that date shall continue to receive special pay under the terms of such agreement until the effective date of this Act.

(ii) A physician or dentist described in subparagraph (A)(ii) may be paid special pay under applicable provisions of section 7433, 7434, 7435, or 7436 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date appointment or reassignment of such physician or dentist, as the case may be, and ending on the effective date of this Act. However, no special pay agreement shall be required for the payment of special pay under this clause.

(C) TREATMENT OF SPECIAL PAY.—(i) Special pay paid under subparagraph (B) shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act).

(ii) Special pay paid under subparagraph (B) shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(D) PRESERVATION OF PAY.—The amount of pay paid under subchapter III of chapter 74 of title 38, United States Code (as amended by subsection (a)), to a physician or dentist appointed or reassigned before the effective date of this Act may be not less than the aggregate amount of pay and special pay paid to the physician or dentist under chapter 74 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), as of the day before the effective date of this Act.

(2) UNDER SECRETARY FOR HEALTH.—

(A) SPECIAL PAY.—(i) The current special pay agreement entered into by the Under Secretary for Health under subchapter III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, the Under Secretary shall continue to receive special pay under the terms of such agreement until the effective date of this Act.

(ii) An individual appointed as Under Secretary for Health on or after the date of the enactment of this Act and before the effective date of this Act shall be paid special pay in accordance with the provisions of section 7432(d)(2), 7433, and 7437(a) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of appointment and ending on the effective date of this Act. However, no special pay agreement shall be required for the payment of special pay under this clause.

(B) TREATMENT OF SPECIAL PAY.—Special pay paid under subparagraph (A) shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(e) CONFORMING AMENDMENT.—Section 7404(c) is amended by striking ''special pay'' and inserting ''pay''.

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 74 is amended by striking the items relating to subchapter III and inserting the following new items:

''SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

''Sec. 7431. Pay.
''Sec. 7432. Pay of Under Secretary for Health.
''Sec. 7433. Administrative matters.''.

SEC. 4. ALTERNATE WORK SCHEDULES FOR REGISTERED NURSES.

(a) IN GENERAL.—(1) Chapter 74 is amended by inserting after section 7456 the following new section:

''§ 7456A. Nurses: alternate work schedules

''(a) APPLICABILITY.—This section applies to registered nurses appointed under this chapter.

''(b) 36/40 WORK SCHEDULE.—(1) Subject to paragraph (2), if the Secretary determines it be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work three regularly scheduled 12-hour tours of duty within a workweek shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with

personnel ceilings) to have worked a full 40-hour basic workweek.

''(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) to have worked a full 40-hour basic workweek shall be subject to subparagraphs (B) and (C).

''(B) The hourly rate of basic pay for a nurse covered by this paragraph for service performed as part of a regularly scheduled 36-hour tour of duty within the workweek shall be derived by dividing the nurse's annual rate of basic pay by 1,872.

''(C)(i) A nurse covered by this paragraph is entitled to overtime pay for work performed in such periods as the Secretary shall prescribe.

''(ii) Except as otherwise provided in clause (i), a nurse covered by this paragraph is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

''(3) A nurse who works a work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for every nine hours of absence.

''(4) A nurse working a work schedule under this subsection shall be eligible for holiday pay under section 7453(d) of this title for any service performed by the nurse on a designated holiday under such section, regardless of whether such holiday occurs during or outside the nurse's regularly scheduled tour of duty under such work schedule.

''(c) 9-MONTH WORK SCHEDULE FOR CERTAIN NURSES.—(1) The Secretary may authorize a registered nurse appointed under section 7405 of this title, with the nurse's written consent, to work fulltime for nine months with 3 months off duty, within a fiscal year, and be paid at 75 percent of the fulltime rate for such nurse's grade for each pay period of such fiscal year.

''(2) A nurse who works under the authority in paragraph (1) shall be considered a 0.75 fulltime equivalent employee in computing fulltime equivalent employees for the purposes of determining compliance with personnel ceilings.

''(3) Work under this subsection shall be considered parttime service for purposes of computing benefits under chapters 83 and 84 of title 5.

''(4) A nurse who works under the authority in paragraph (1) shall be considered a fulltime employee for purposes of chapter 89 of title 5.

''(d) TREATMENT AS FULL-TIME EMPLOYEE.—(1) A nurse working a work schedule under subsection (b) or (c) who is a full-time employee in non-probationary status at the commencement of work under such work schedule shall remain a full-time employee in non-probationary status while working under such work schedule.

''(2)(A) A nurse under a part-time appointment under section 7405(d) of this title who, while working a work schedule under subsection (b) or (c), performs hours of service (as determined in accordance with such subsection) equivalent to two years of service shall be treated as a full-time employee and no longer in probationary status.

''(B) In determining the hours of service performed by a nurse for purposes of subparagraph (A), any hours of service not performed under a work schedule under subsection (b) or (c) shall not be included.

''(e) NOTIFICATION OF MODIFICATION OF BENEFITS.—The Secretary shall provide each nurse with respect to whom an alternate work schedule under this section may apply written notice of the effect, if any, the alternate work schedule will have on the nurse's health care premium, retirement, life insurance premium, probationary status, or other benefit or condition of employment. The notice shall be provided not later than 14 days before the nurse consents to the alternate work schedule.

''(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.''.

(2) The table of sections at the beginning of chapter 74 is amended by inserting after the item relating to section 7456 the following new item:

''Sec. 7456A. Nurses: alternate work schedules.''.

(b) POLICY AGAINST WORK SHIFTS IN EXCESS OF 12 HOURS.—(1) It is the sense of Congress to encourage the Secretary of Veterans Affairs to prevent work shifts by nurses providing direct patient care in excess of 12 hours in any 24 hour period.

(2) Not later than one year after the date of the enactment of this Act and every year thereafter for the next two years, the Secretary shall certify to Congress whether or not each Veterans Health Administration facility has in place, as of the date of such certification, a policy designed to prevent work shifts by nurses providing direct patient care in excess of 12 hours in any 24 hour period.

(c) REPORT ON OVERTIME FOR CERTAIN NURSES.—(1) Not later than one year after the effective date of this Act, the Secretary of Veterans Affairs shall submit to Congress a report on the overtime, if any, worked by nurses covered by work schedules described by subsections (b) and (c) of section 7456A of title 38, United States Code (as added by subsection (a)), during the one-year period ending on the date of such report.

(2) The report shall set forth—

(A) the aggregate number of hours of overtime worked by nurses under each such work schedule during the one-year period ending on the date of the report; and

(B) the aggregate amount of overtime pay paid to nurses working under each such work schedule during such period.

SEC. 5. RATE OF PAY FOR DIRECTOR OF NURSING SERVICE.

(a) SENIOR EXECUTIVE SERVICE ES–6 RATE.—(1) Subchapter IV of chapter 74 is amended by adding at the end the following new section:

''§ 7459. Director of Nursing Service: rate of pay

''(a) SENIOR EXECUTIVE SERVICE ES–6 RATE.—The rate of pay for the Director of Nursing Service shall be equal to the sum of the maximum rate of basic pay established for the Senior Executive Service under section 5382 of title 5 and the amount of the locality-based comparability payment provided under section 5304 of such title for the Director's locality.

''(b) INAPPLICABILITY OF NURSE PAY PROVISION.—Section 7451 of this title does not apply to the Director of Nursing Service.''.

(2) The table of sections at the beginning of chapter 74 is amended by inserting after the item relating to section 7458 the following new item:

''Sec. 7459. Director of Nursing Service: rate of pay.''.

(b) CONFORMING AMENDMENT.—Section 7404(d) is amended by striking ''section 7457'' and inserting ''sections 7457 and 7459''.

SEC. 6. NURSE EXECUTIVE SPECIAL PAY.

Section 7452 is amended by adding at the end the following new subsection:

''(g)(1) In order to recruit and retain highly qualified Department nurse executives, the Secretary may, in accordance with regulations prescribed by the Secretary, pay special pay to the nurse executive at each location as follows:

''(A) Each Department healthcare facility.

''(B) The Central Office.

''(2) The amount of special pay paid to a nurse executive under paragraph (1) shall be not less than $10,000 or more than $25,000.

''(3) The amount of special pay paid to a nurse executive under paragraph (1) shall be based on factors such as the grade of the nurse executive position, the scope and complexity of the nurse executive position, the personal qualifications of the nurse executive, the characteristics of the healthcare facility concerned, the nature and number of specialty care units at the healthcare facility concerned, demonstrated difficulties in recruitment and retention of nurse executives at the healthcare facility concerned, and such other factors as the Secretary considers appropriate.

''(4) Special pay paid to a nurse executive under paragraph (1) shall be in addition to any other pay (including basic pay) and allowances to which the nurse executive is entitled, and shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5, and other benefits, but shall not be considered basic pay for purposes of adverse actions under subchapter V.''.

SEC. 7. CLARIFICATION OF DISCRETIONARY NATURE OF VETERANS HEALTH ADMINISTRATION PERSONNEL ADMINISTRATION AUTHORITIES.

(a) IN GENERAL.—Chapter 74 is amended by inserting after section 7426 the following new section:

''§ 7427. Discretionary nature of functions

''Any authority assigned to the Secretary or another officer of the Department under this chapter shall be carried out at the discretion of the Secretary or other officer, as the case may be.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 74 is amended by inserting after the item relating to section 7426 the following new item:

''7427. Discretionary nature of functions.''.

SEC. 8. EFFECTIVE DATE.

The amendments to title 38, United States Code, made by this Act shall take effect one year after the date of the enactment of this Act.

Mr. SPECTER. Mr. President, I seek recognition today to ask for Senate approval of a manager's amendment to S. 2484, the proposed ''Department of Veterans Affairs Personnel Enhancement Act of 2004,'' and to ask for Senate approval of the bill as so amended. This amendment was developed in consultation with, and it has been approved by, the ranking member of the Senate Veterans' Affairs Committee, Senator BOB GRAHAM.

I introduced S. 2484 on June 1, 2004 at the request of the administration. That bill, in the form I introduced it, and as it was amended prior to its approval by the Senate Committee on Veterans' Affairs on July 20, 2004, is already explained in Senate Report 108–357. Accordingly, I will not detail provisions of the bill that are already explained in the Committee Report. Rather, I will confine this explanation to highlighting how the bill as now further amended—the ''Manager's bill''—would modify the reported bill.

Section 3 of the reported bill makes changes in the system used by the Department of Veterans Affairs—VA—to compensate its physicians and dentists. The managers' bill contains many changes to this section. Some are primarily technical in nature and are designed to assure that the language of the bill actually accomplishes its intended purpose. These changes would, among other things, clarify how VA physicians' and dentists' retirement credits will be computed during the transition from the current to the new pay system; assure that statutory language requiring comparability pay increases is consistent with language in other Federal pay system statutes; and specify that physicians and dentists who work in VA headquarters will also

be eligible for pay under the new pay system.

Other changes made to section 3 of the reported bill are more substantive. Almost entirely, they respond to comments that were made on the reported bill by VA officials, by VA employee representatives, by physician and dentist professional organizations, and by the staffs of interested Senators, and by the staff of the House of Representatives' Committee on Veterans' Affairs. First, there are two changes that would foster more public awareness of, and input on, decisions made by VA that would affect the pay of physicians and dentists. One change would require that the VA Secretary publish in the Federal Register any updates in the national ''pay bands'' he or she might establish under authority of this legislation; another would require VA's Under Secretary for Health to solicit the views of exclusive employee representatives and physicians' and dentists' professional organizations before making recommendations to the Secretary on ''pay band'' modifications or other regulatory changes.

Second, the Managers' bill would modify the reported bill's requirement that VA consult local Medical Professional Standards Boards—PSBs—prior to making decisions concerning the pay of physicians or dentists. It would only be required that an appropriate panel of physicians or dentists, as applicable, be consulted since not all VA facilities have an appropriate PSB in place. The managers' bill would also excise references to the required size of the board.

Third, the Managers' bill would require VA to provide a physician or dentist written notice of decisions made by VA concerning his or her ''market-based'' pay. Under the reported bill, such notification was only required in the event a physician's or dentist's pay were to increase.

Fourth, the Managers' bill would create an exception to the general rule contained in the reported bill that a physician's or dentist's pay may not be reduced during his or her tenure with VA. The managers' amendment would permit VA to change pay—and reduce pay—if a physician or dentist changes his or her assignment within a medical facility or moves from one VA facility to another. For example, if VA were to hire a cardiologist at the prevailing market salary for a practicing cardiologist, but that physician later becomes a VA primary care physician, VA would be allowed to adjust his or her pay to the primary care physician level. Similarly, if a physician is hired in Manhattan at a Manhattan salary and later transfers to the DesMoines VA Medical Center, VA would be allowed to adjust his or her pay to DesMoines market rates. In cases where the move or change in assignment is involuntary due, for example, to disciplinary action, VA would be required to afford the employee an opportunity to appeal.

Fifth, the reported bill included a provision which would have allowed VA to award ''incentive pay'' of up to $10,000 to physicians or dentists in recognition of outstanding contributions to the facility, to the care of veterans, or to the practice of medicine or dentistry. It was suggested that these standards were too general. In response, the managers' bill specifies that such pay—renamed ''performance pay''—would be awarded on the basis of the physician's or dentist's achievement of specific goals or objectives as revealed by the Secretary in advance. Additionally, the managers' bill would raise the amount payable as ''performance pay'' to $15,000 annually or 7.5 percent of the sum of a physician's or dentist's base and market pay, whichever is lower. Inasmuch as the achievement of ''performance pay'' objectives are intended to be encouraged only by the ''positive reinforcement'' of a prospective bonus, the managers' bill would prohibit VA from taking disciplinary actions against physicians or dentists for failing to meet goals outlined under this program.

Finally, the managers' bill, at VA's request, would make all of the changes to the VA physician and dentist compensation system effective the first pay period following January 1, 2006.

Section 4 of the reported bill authorizes alternate work schedules for VA nurses. The managers' bill makes a number of technical changes, and two substantive changes. On the technical side, the managers' bill, for example, clarifies the full-time vs. part-time status of nurses working alternate schedules and specifies a requirement that VA provide notice to employees whose benefits might change under a new work schedule. Substantively, one modification would require that VA pay overtime to nurses on a 36/40 schedule in three instances: when work over 12 hours in one day is performed; when more than 40 hours are worked in an administrative work week; and when more than 8 hours are worked on a day not originally scheduled for a 12-hour shift. Each of these over-time scenarios is consistent with current practice; the change is made purely to ensure maintenance of the status quo. A second substantive change would express the Sense of the Congress that VA should prevent work hours by nurses in excess of 12 consecutive hours or over 60 hours in any seven-day period, and require VA to certify to Congress that each VA facility has policies in place designed to prevent nurses from working more than these tours of duty. The patient safety-related reasons for these requirements are explained in Senate Report 108–357.

Section 5 of the reported bill would have provided a pay increase for the Director of Nursing Services in VA's Central Office. Due to disagreements concerning the implementation of this section of the bill, action on this proposed pay increase is deferred.

The substance of Section 6 of the reported bill is unchanged. It is merely renumbered in light of the removal of section 5.

Section 7 of the reported bill would have clarified VA authority with respect to certain personnel decisions. This provision, requested by VA as a purely technical ''clarification'' of existing law, was subject to much discussion and debate among VA officials, Committee staff, and employee representatives. It was taken by employee representatives to be a ''stealth attempt'' by VA to circumvent current collective bargaining agreements. The Committee does not ascribe such motives to VA, but it has withdrawn this provision from the managers' bill.

Section 8 of the reported bill specified that all provisions of the bill would have been effective one year following the date of enactment. Section 3 of the managers' bill changes the effective date applicable to that provision to the first pay period following January 1, 2006. The other provisions of the managers' bill would now take effect upon enactment of the managers' bill.

This legislation is the product of almost unprecedented open negotiation with very senior VA officials, unions representing Government employees, professional representatives of VA physicians and dentists, and other interested persons. This unprecedented ''sunshine'' has resulted, I think, in an exceptional bill. But for the extraordinary efforts of VA, union, and professional organization officials to resolve their differences in good faith, this improved managers' bill could not have emerged. They and the Congressional staff are to be complimented. But the efforts of one person—Mr. William T. Cahill, the Veterans Affairs Committee's Health Policy Counsel—deserve to be singled out for recognition. But for his steadfast and determined efforts to push this project through numerous impasses that had impeded its development, we would not have gotten to this day.

Mr. GRAHAM. Mr. President, I rise today to urge swift passage of S. 2484, which reflects a compromise agreement on a new system for compensating physicians and dentists in the Department of Veterans Affairs' VA health care system, as well as alternative work schedules for VA nurses. VA doctors and dentists have not gotten a pay adjustment in over a decade. All of these measures are aimed at improving VA's ability to recruit and retain quality health care professionals. I would like to highlight some of the key aspects of this legislation.

The compromise agreement sets forth a three-tiered system for paying VA physicians and dentists. The three tiers consist of base, market, and performance pay. The base pay element is similar to that employed by other Federal agencies, also known as the General Schedule GS—system. As such, increases are guaranteed for every 2 years a physician or dentist remains employed by VA.

The second component of the new pay system is market pay. This element will be implemented by the Secretary in the form of pay bands that will be determined by surveys of regional salaries in the academic and private sectors. Also relevant to the market pay determinations are factors such as the scarcity—or abundance—of certain specialty physicians, type and years of experience, and board certifications. Finally, the Secretary will consult with professional review panels composed of other physicians or dentists.

The final component is performance pay. Performance pay will be awarded to doctors and dentists if they meet certain goals and measures set forth by the Secretary. Currently, VA has extensive performance measures that it utilizes to motivate its health care providers and ensure quality of care. This element has a maximum of $15,000 or 7.5 percent of the sum of the base and market pay.

One other major section of this agreement establishes alternative work schedules for VA nurses. It is widely known that the entire country is suffering from a nursing shortage. VA anticipates that it will be hit especially hard by the retirement of a significant portion of its nursing workforce over the next 10 years. S. 2484 allows VA to employ different types of working schedules in order to attract more nurses to the system.

I am proud to have worked on this valuable piece of legislation for our Nation's veterans.

Mr. FRIST. I ask unanimous consent the substitute amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the amendment to the title be agreed to, the motions to reconsider be laid on the table en bloc, and any statements be printed in the RECORD.

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

The amendment (2973) was agreed to.

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

The committee amendment in the nature of a substitute, as amended was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The bill (S. 2484), as amended, was passed.

The title was amended so as to read:

''An Act to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, and for other purposes.''.

ORDERS FOR WEDNESDAY, OCTOBER 6, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, October 6. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then be a period of morning business for up to 30 minutes, with the first half under the control of the majority leader and the second half under the control of the minority leader; further, that the Senate then resume consideration of S. 2845, the intelligence reform bill, as provided under the previous order; provided further that the debate prior to 11:30 be equally divided between the two managers, and that 15 minutes of that time be under the control of Senators WARNER and LEVIN.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow morning the Senate will continue debate on the intelligence reform bill. Under a previous order, at 11:30 a.m. there will be a series of stacked votes on amendments to the bill. Following those votes, the Senate will continue working through the remaining amendments to the bill, and Senators should expect votes throughout the day.

I remind my colleagues that postcloture debate will expire late tomorrow afternoon. If we use all the remaining time, Senators should expect a stacked series of votes which will include any remaining pending amendments and final passage. It is my hope that we will not use all postcloture debate time.

In addition, I encourage Members to work together to dispose of as many amendments as possible in order to avoid a ''mini vote-arama.'' Tomorrow will be a very busy day. I ask all Senators to plan accordingly.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order, following the remarks of Senator TALENT.

THANKING SENATORS

Mr. FRIST. Mr. President, shortly I will go into a quorum call while we wait a few minutes for Senator TALENT, but let me thank my colleagues on both sides of the aisle. We have had a very productive day, a very productive week. We set out with an objective several weeks ago of completing this very important intelligence reform bill. With the cooperation of all of our colleagues, we will complete this bill tomorrow.

Following completion of that bill, we will proceed to our internal Senate oversight reforms, and look forward to hopefully addressing that late tomorrow afternoon.

There are a number of other issues we laid out in the course of the day that are underway, including the FSC/ETI jobs manufacturing bill and the Homeland Security Appropriations bill. So we have a lot of work to do in a short period of time during the remainder of this week.

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. TALENT. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

ILLUMINATION OF THE GATEWAY ARCH IN ST. LOUIS

Mr. TALENT. Mr. President, I rise tonight in support of legislation which I have sponsored along with Senator BOND that would authorize the Secretary of the Interior to illuminate the gateway arch with pink lighting in honor of Breast Cancer Awareness Month. I want to say how much I appreciate the cooperation from both sides of the aisle on this important measure so that we can get it done and passed in time to honor those who have struggled against this disease during that month which has been set aside to recognize what they have done.

It is amazing how many American families have been touched by this disease. Speaking personally, my mother fought and eventually lost the battle against breast cancer. Her struggle certainly had a profound impact on me and on my family.

Currently, breast cancer is the second leading cause of cancer deaths for women in the United States. Approximately 40,000 women in this country will die from the disease in 2004, and the American Cancer Society estimates that a woman in the United States has a 1 in 7 chance of developing invasive breast cancer during her lifetime, and this risk was 1 in 11 in 1975.

For the past 20 years, October has been designated as Breast Cancer Awareness Month. Events around the world are dedicated to spreading the message of early detection so that prevention and the ongoing search for a cure can continue. Throughout the month, women are reminded in many ways that regular screening for breast cancer continues to be the most effective way to detect this disease in its earliest stages and therefore save lives.

Recently, I was contacted by a group of Missourians who wanted to highlight the need for breast cancer awareness. They wanted to illuminate the arch, which is, of course, a landmark not only in Missouri but in the country—a landmark with both national and local significance. They wanted to illuminate it with pink lighting in order to commemorate Breast Cancer Awareness Month. People everywhere associate the pink ribbon and the color pink as a symbol of breast cancer

awareness and the ongoing search for the cure.

Lighting the arch with pink lighting will also recognize the millions of women who are currently battling breast cancer and those who have lost their lives fighting their disease.

The bill I introduced will give the Secretary of the Interior the authority to allow for that kind of lighting of the arch one night in October. I am hopeful that women not only in Missouri but all around the country and around the world will see the arch and take the message of that lighting to heart.

I am very grateful to the majority leadership and the Democratic leadership as well for clearing this bill. I am grateful to the Senate for passing it by unanimous consent this evening.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m. tomorrow.

There being no objection, the Senate, at 8:17 p.m., adjourned until Wednesday, October 6, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 5, 2004:

FEDERAL HOUSING FINANCE BOARD

RONALD ROSENFELD, OF OKLAHOMA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR THE REMAINDER OF THE TERM EXPIRING FEBRUARY 27, 2009, VICE JOHN THOMAS KORSMO, RESIGNED.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

MICHAEL BUTLER, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2008, VICE ERIC D. EBERHARD, TERM EXPIRED.