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Senate

INTELLIGENCE COMMITTEE REORGANIZATION—Continued

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Nevada is recognized.

Mr. REID. Mr. President, everybody should stay where they are. We are going to have a vote in a few minutes, unless something goes awry. In the next 3 or 4 minutes, there will be a vote.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

(The remarks of Mr. DASCHLE pertaining to the introduction of S. 2938 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 3994

Mr. REID. What is the matter now before the Senate?

The PRESIDING OFFICER. The Chambliss-Kennedy amendment No. 3994.

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

Mr. REID. Will the Senator reconsider?

Mr. CHAMBLISS. I withdraw that request.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3994.

The amendment (No. 3994) was agreed to.

Mr. MCCONNELL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 3995

Mr. MCCONNELL. Mr. President, the pending business is the Bayh amendment?

The PRESIDING OFFICER. That is correct.

The Senator from Nevada.

Mr. REID. Mr. President, if I can make a suggestion, there are negotiations that need to take place on the Bayh amendment that has been offered. I respectfully suggest that there are two important meetings that are going to take place: one we are having and one the Republicans are having. I am wondering if it wouldn't be in the best interest of all—1 o'clock is the filing deadline for amendments—that the Senate stand in recess from 1 p.m. until 2 p.m. today.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I will not object to that request—in fact, I agree to it—but I also want to make the point that one of the most important amendments we anticipate is an amendment by Senator MCCAIN. I know earlier he had contacted us indicating he wanted to come over and offer it. Since we will be in recess under the consent agreement Senator REID is going to offer from 1 p.m. to 2 p.m., it is my hope Senator MCCAIN will be able to come over and offer that at 2 p.m. and we can get that in the queue.

Mr. REID. I make that request.

The PRESIDING OFFICER. Is there objection to a request for a recess from 1 p.m. to 2 p.m.? Without objection, it is so ordered.

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

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

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent to speak as in morning business for 5 minutes.

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

USING INDIAN HEALTH SERVICE FACILITIES TO REGISTER NEW VOTERS

Mr. BINGAMAN. Mr. President, I wish to speak briefly about an article that was in yesterday's Washington Post that I thought raised a very disturbing issue of which the Senate needs to be aware. The article is entitled ''Indian Health Agency Barred New-Voter Drive.'' I will read a couple of paragraphs from the article so that people understand the issues.

It says:

Officials at a federal program that runs hospitals and clinics serving Native Americans this summer prohibited employees from using those facilities to sign up new voters, saying that even nonpartisan voter registration was prohibited on federal property.

Staff members at several Indian Health Service hospitals and clinics in New Mexico, a presidential battleground state where about one-tenth of the population is Native American, were trying to register employees, patients and family members who use the facilities.

In a July e-mail, Ronald C. Wood, executive officer of the program's regional Navajo office, told his hospital and clinic directors that ''we are in a very sensitive political season'' and he outlined a policy that he said came from Indian Health Service headquarters.

''There have been some recent questions about whether we can do nonpartisan voter registration drives in our IHS facilities during non-duty hours''. . . .''The guidance from HQs staff is that we should not allow voter

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

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registration in our facilities or on federal property.''

This is of concern because of the history of Native Americans being denied the right to vote in my State and perhaps in other parts of the country as well.

The history of this issue in New Mexico, very briefly, is that a returning Marine Corps veteran, someone who served in the Second World War in the Marine Corps, named Miguel Trujillo, was denied the right to vote in our State. In 1948, he had to bring suit in Federal court to obtain the right to vote. He was an Isleta Pueblo Indian member, and he was teaching at Laguna Pueblo in my State and was denied the right to vote as a Native American.

I should point out that his son Michael Trujillo went on to become the head of the Indian Health Service. His daughter Josephine Waconda was the first American Indian woman to be a rear admiral in the career Indian Health Service. So they have a tremendous part of our history in that family.

It is absolutely inexcusable that the Indian Health Service would be giving direction saying that it is inappropriate or illegal or prohibited for people to use Federal property or Indian Health Service facilities to register people to vote on a nonpartisan basis.

Yesterday, I sent a letter to Tommy Thompson, Secretary of Health and Human Services, urging that even though it is not going to affect this year's election since voter registration in our State is essentially over this week in New Mexico, even though it does not affect voter registration, it is imperative that he, as head of that Department, issue a policy and clarify that this is not the policy of the Department of Health and Human Services, this is not the policy of the Indian Health Service.

We have a very strong policy that is recognized in the Defense Department that they encourage military personnel and others who are part of the military family to participate in registering others, either on or off base, to vote. That is as it should be. That is on a nonpartisan basis. I think we all support that. We need to have the very same policy with regard to Indian Health Service facilities and Indian Health Service personnel.

I hope very much that Secretary Thompson will respond to my letter positively, will issue a directive so that it is clear from now on that Indian Health Service personnel are not in any way prohibited from participating in voter registration drives on a nonpartisan basis. This is an issue that deserves attention before it is lost in the shuffle of this campaign. I hope we can get a response from the Secretary in the near future.

Mr. President, I ask unanimous consent to print in the RECORD the letter I sent to Secretary Thompson.

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

U.S. SENATE,
October 6, 2004.

Hon. TOMMY THOMPSON,
Secretary, Department of Health and Human Services, 200 Independence Ave. SW, Washington, DC.

DEAR SECRETARY THOMPSON: I was dismayed to read a report in the Washington Post this morning that officials at the Indian Health Service were prohibiting employees at several locations in New Mexico from using IHS facilities to register new voters. While it would certainly not be appropriate or legal under the Hatch Act for federal employees to be involved in partisan political activity on federal property, the proposed Indian Health Service (IHS) voter registration program, as described in the Washington Post article, would not be prohibited under the Hatch Act because the program is described as nonpartisan. In addition, according to the article, the activity would take place during non-working hours, which should allay the fears of anyone concerned that the IHS employees would feel coerced to take part in the activity or that the program would interfere with employees' regular duties. As long as the program were conducted in a nonpartisan way, *e.g.* employees leading the effort do not attempt to influence the registrants in any way, and employees were free to choose whether or not to participate, it would be perfectly legal.

It is well known that the Defense Department has undertaken efforts to make sure that as many of its employees are registered to vote and participate in next month's elections as are eligible to do so. The Defense Department's efforts, like those proposed by Indian Health Agency employees, are designed to increase citizen involvement in one of the most important elections in our history. These are admirable goals that should be encouraged, not prohibited.

While it is clearly too late to clarify the Department's policy with regard to this year's election, I would still ask that you act as expeditiously as possible to issue a directive that makes it clear that the Department of Health and Human Services will not prohibit its employees from engaging in nonpartisan voter registration on federal property. In fact, I would hope that you would encourage your Department to engage in the same active voter registration efforts that the Department of Defense does. It is the right thing to do in the service of full participation in the democratic process, a goal that I know you share with me.

Please let me know of your plans to encourage voter registration as soon as possible.

Sincerely,

JEFF BINGAMAN.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 1 p.m. having arrived, the Senate stands in recess until 2 p.m.

Thereupon, the Senate, at 1 p.m., recessed until 2:04 p.m. when called to order by the Presiding Officer (Mr. SESSIONS).

INTELLIGENCE COMMITTEE REORGANIZATION—Continued

Mr. REID. 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. (Mr. ALEXANDER). Without objection, it is so ordered.

The Senator from Arizona.

AMENDMENT NO. 3999 TO AMENDMENT NO. 3981

Mr. MCCAIN. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside, and I call up an amendment which is at the desk.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, and Mr. LOTT, Mr. LIEBERMAN, Ms. SNOWE, Mr. ROBERTS, and Mr. BAYH, proposes an amendment numbered 3999 to amendment No. 3981.

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

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

The amendment is as follows:

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

(Purpose: To strike section 402 and vest intelligence appropriations jurisdiction in the Select Committee on Intelligence)

Strike section 402 and insert the following:

SEC. 402. JURISDICTION OVER INTELLIGENCE APPROPRIATIONS.

Notwithstanding subparagraph (b) of paragraph 1 of Rule XXV of the Standing Rules of the Senate, the Select Committee on Intelligence shall have jurisdiction over all proposed legislation, messages, petitions, memorials, and other matters relating to appropriation, rescission of appropriations, and new spending authority related to funding for intelligence matters.

Mr. MCCAIN. Mr. President, I don't expect that this amendment should require a lot of debate. It is an issue that we have all talked about a lot. It is all a question of turf and jurisdiction. It is something that would never be seriously considered by this body under any other circumstances except that we are talking about the war on terrorism and the overwhelming issue of how we are going to defend this Nation. I will be more than happy to agree to a time agreement with the appropriators who will lead the fight against this amendment which would be agreeable to them.

This Chamber can be very proud of its bipartisan work that resulted in the overwhelming passage of S. 2845, the National Intelligence Reform Act of

2004. That bill addressed 38 of the 9/11 Commission's 41 recommendations to further secure our homeland. Not only the two managers of that bill—Senator COLLINS and Senator LIEBERMAN—deserve our gratitude but the two leaders, as well, worked together to ensure the Senate acted on this important reform legislation prior to adjourning before the elections.

I ask unanimous consent that Senators LIEBERMAN, LOTT, SNOWE, ROBERTS, and BAYH be added as cosponsors.

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

Mr. MCCAIN. Mr. President, one of the Commission's two options which the Commission recommended for how best Congress can improve congressional structure over intelligence—the underlying resolution does not propose either of the Commission's two options creating either a joint committee modeled after the Joint Atomic Energy Committee or House and Senate committees with combined authorizing and appropriating powers.

Let me tell you what this is all about. The Commission report was clear that along with the need to reform the executive branch, congressional reform is needed. And I quote from the report:

> The other reforms we have suggested for a national counterterrorism center and national intelligence director will not work if congressional oversight does not change too.

I want to repeat that:

> The other reforms . . . will not work if congressional oversight does not change too.
>
> Unity of effort in executive management can be lost if it is fractured by divided congressional oversight.

We can't leave this week with our job incomplete. We have to address the Commission's recommendations regarding the urgent need to reform congressional oversight, intelligence and homeland security. To do this in a meaningful way to carry out the important institutional reforms recommended by the Commission, each of us in Congress must sacrifice our own self-interest. We do not serve the American public well with shortsighted, parochial turf battles.

The Commission acknowledges that this won't be an easy task.

The report states:

> Of all our recommendations, strengthening congressional oversight may be among the most difficult and important. So long as oversight is governed by current congressional rules and resolutions, we believe the American people will not get the security they want and need. The United States needs a strong, stable and capable congressional committee structure to give America's national intelligence agencies oversight, support and leadership.

The Commission also stated:

> Tinkering with the existing structure is not sufficient.

It calls the congressional oversight "dysfunctional."

Their recommendations clearly state that we must have a committee with both authorizing and appropriating authority.

It is not any simpler nor more complicated than that.

I have a letter from the 9/11 Commission which states:

> If Senator McCain offers an amendment in support of Commission recommendations on Congressional oversight, we will support it.
>
> We urge the Senate to adopt provisions for the strongest possible reform of Congressional oversight.

I ask unanimous consent that three letters be printed in the RECORD.

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

OCTOBER 6, 2004.

Thomas H. Kean and Lee H. Hamilton, former Chair and Vice Chair of the National Commission on Terrorist Attacks Upon the United States (also known as the "9/11 Commission) today released the following statement:

"We continue to believe that reform of Congressional oversight is necessary in order for the Commission's overall recommendation to be effective."

"If Senator McCain offers an amendment in support of Commission recommendations on Congressional oversight, we will support it."

"The proposals of Senator McConnell and Reid constructive, positive and move in the right direction. They are useful and modest steps. They are not as far-reaching as those recommended by the Commission."

"We urge the Senate to adopt provisions for the strongest possible reform of Congressional oversight."

JOHN F. LEHMAN,
New York, NY, October 7, 2004.

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

DEAR JOHN: I am writing to reiterate my strong support for real Congressional reform as recommended by the 9/11 Commission.

As our report makes clear, the important executive branch reforms that passed the Senate yesterday will not work if congressional oversight does not change too. Unfortunately, the McConnell/Reid proposal does not fulfill the Commission's vision for comprehensive reform. The intelligence committee needs real power and prominence, which is why the Commission strongly recommended a new committee structure combining authorizing and appropriating authority, and a simplified and functional homeland security committee structure.

I urge the Senate to make the Commission's recommendations for Congressional reform as high a priority as it made our other recommendations, which received an overwhelming bipartisan vote of 96.2. The Congressional reforms are equally important and necessary.

Sincerely,

JOHN F. LEHMAN.

October 7, 2004.

Senator JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: I write to reaffirm my strong support for Congressional action to implement the recommendation of the 9/11 Commission Report to strengthen Congressional oversight of intelligence and homeland security.

As you know the bipartisan 9/11 Commission was unanimous in its recommendation that serious reform was necessary. In the language of the Commission: "Tinkering with the existing structure is not sufficient. . . . the goal should be a structure—codified by resolution with powers expressly granted and carefully limited—allowing a relatively small group of members of Congress, given time and reason to master the subject and the agencies, to conduct oversight of the intelligence establishment and be clearly accountable for their work."

This is best implemented by establishing a single committee in each house of Congress combining authorizing and appropriating authorities. Therefore, I endorse your amendment to the current bill which will ensure this single authority.

Thank you for your work to ensure that the recommendations of the 9/11 Commission are implemented.

Sincerely,

BOB KERREY.

Mr. MCCAIN. Mr. President, Bob Kerrey writes:

> I write to reaffirm my strong support for Congressional action to implement the recommendations of the 9/11 Commission Report to strengthen Congressional oversight of intelligence and homeland security.

Bob Kerrey, by the way, served here for two terms, as I recall, for 12 years.

He further states in his letter:

> This is best implemented by establishing a single committee in each House of Congress combining authorizing and appropriating authorities. Therefore, I endorse your amendment in the current bill which will ensure the single authority.
>
> Thank you for your work to ensure the recommendations of the 9/11 Commission are implemented.
>
> Sincerely, Bob Kerrey.

I would like to point out just as way of background how we got to the proposal we have on the table.

My understanding is both leaders appointed both whips—the Senator from Nevada and the Senator from Kentucky—as part of two 11-person committees to come up with recommendations.

We met a couple times, the 11 Republicans, and discussed various issues, then there was another meeting of both, and then we were told that Senator REID and Senator MCCONNELL would come up with some recommendations. That is not exactly what I had in mind when I was asked to serve as part of an 11-Senator committee. Here came these recommendations.

I don't want to digress but, for example, the Transportation Security Administration is left in the Commerce Committee. I am glad to have more discussions with the Senator from Kentucky about that.

I asked, How could the Transportation Security Administration not be made part of the new Homeland Security Committee? The Transportation Security Administration is the heart and soul of it. His answer was—maybe he will have a different answer—it was part of the negotiations. What does that mean?

I digress. The fact is, unless we give the authorizing committee the proper appropriating capability, we will continue to have, as the 9/11 Commission said, a dysfunctional oversight of intelligence. It is a good idea to make Intelligence Committee members permanent members and not have them term

limited. I think it is a good idea to have it an A committee, although that may cause significant problems if we do not give the Permanent Committee on Intelligence appropriating authority.

It is sometimes nice to have a real-world example of why we need this. I am not a member of the Intelligence Committee. I have no access to classified information. Frankly, I have never sought any because of the fear that some information I might have I might speak about in a public forum.

There was a very expensive and very controversial intelligence program, and the Intelligence Committee—this is a relatively short time ago—the Intelligence Committee, after many hearings, extensive scrutiny and a thorough scrubbing of this program, determined that the program should be canceled. We are talking about a multibillion-dollar program.

Do you know what happened? The Appropriations Committee funded it.

So if you are the bureaucrat over in Langley or at the National Security Agency or any place else, where do you go? Where do you go when you want your projects done? Do you go to the authorizing committee or do you go to the appropriating committee? The power resides in the purse. The Golden Rule prevails around here. We all know the Golden Rule.

So if we are going to have a truly effective Intelligence Committee oversight that can function with strength and power, we are going to have to give them appropriations authority. I predict after the initial attractiveness of serving on the Intelligence Committee, if they do not have appropriating authority, we will have difficulty getting people to serve on the authorizing committee because, again, the power is not there.

We know why many of the authorizing committees are not nearly as important or as powerful as they used to be. It is because the appropriations process is what drives not only the money but also the policy.

We are going to have an Omnibus appropriations bill sometime. Usually what happens, coincidentally, it is within 24 hours of when we go out of session. It always seems to work out that way. There will be numerous policy changes. There will be numerous moneys and earmarks put in. Last year there were 14,000 earmarks put in the appropriations bills, up from 4,000 in 1994.

We are going to see things that will astonish some Members. For example, I was astonished several years ago when there was a line item in an appropriations bill that called for the leasing of Boeing aircraft. We had never had a hearing in the Senate Armed Services Committee. We never looked at the issue. No one even suggested it, that I know of, and I have been on the committee for 18 years. There was a line item that appeared in an appropriations bill that said we would lease Boeing aircraft.

Do you know what happened since then? The GAO and the Office of Management and Budget determined that it was a $5.7 billion additional cost to the taxpayer. We now ended up, with this long trail that began with a line in an appropriations bill, with one of the former employees of the Department of Defense pleading guilty and receiving a 9-month prison term, saying she had rigged the contract to the benefit of Boeing aircraft.

Now, why do I bring up that example? Because I can tell Members right now that if that had been a subject for the Armed Services Committee, we would have had hearings on it. We would have examined the leasing idea and rejected it as the ridiculous, expensive idea that it was.

I can go with many other examples. Cruise ships that cost the taxpayers $200 million in loan guarantees that were half built at Pascagoula, MS. I can tell Members of line items in appropriations bills that say when the broadcasters reach 85 percent of high-definition television in 85 percent of the homes in America, which the Chairman of the Federal Communications Commission says will never happen—I could go over a long list of items that are not only money but also policy.

What will happen if we do not give the authorizing Intelligence Committee the appropriations power? Exactly what has happened in the past. Projects that cost a great deal of money that the Intelligence Committee either approves or disapproves of are overridden in the appropriations process. It happens time after time after time.

I usually pride myself in straight talk. I would be surprised if I win on this amendment. One of the Commissioners called me and told me, ''I'm under intense pressure''—those are his words—''not to support your amendment but I will go ahead and do so.''

There are Members of this Senate who are under intense pressure, as well.

If we want to tell the American people with the justified pride that we take in the actions we have achieved in the Senate in the last few days, which is remarkable—at least from my standpoint, one of the prouder moments I have experienced in the number of years I have spent here as we have gone through an incredible process, beginning with hearings before Senator COLLINS's committee back in August, which culminated in a tremendous achievement and the most significant governmental reform since 1947—then we have done about half to three-quarters of the job. If we do not give the authorizing committee either appropriating power or some kind of power, some kind of authority, then we will see a basically dysfunctional and toothless Intelligence Committee.

The Senator from Nevada came to me and said he was going to move to table. I tell the Senator from Nevada, one, I want everyone to be able to talk, so we will just reintroduce the amendment if it is tabled, unless everyone gets to talk. But I also say to the Senator from Nevada that I would be glad to enter into a time agreement for passage of this legislation. I intend to get an up-or-down vote. I will reintroduce it unless the Senator from Nevada allows an up-or-down vote on the amendment. I think it is that important.

Mr. REID. If I could, through the Chair to my friend from Arizona, I have no problem with an up-or-down vote. I would rather he told me he wanted an up-or-down vote. I would say fine. I have no problem.

I also say to my friend, I want to make sure everyone who wants to speak will have the opportunity. I have no problem at all with an up-or-down vote on this.

Mr. MCCAIN. I ask unanimous consent that Senator BAYH not be added as a cosponsor.

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

Mr. MCCAIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. My friend from Hawaii was on the floor first. Does he wish to speak on this matter?

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, today, the Senate is considering the resolution which responds to the recommendations of the 9/11 Commission to revamp the congressional oversight process for intelligence and homeland security. I would like to take this opportunity to say a few words about this matter.

The Commission recommended two options for Congress to consider regarding intelligence oversight. First, they suggested that the Congress could create a joint bicameral committee modeled after the Joint Committee on Atomic Energy, as they said, to streamline the congressional review over intelligence functions. They supported this idea because they believe we need to have a very powerful Intelligence Committee which can stand up to the administration and speak authoritatively for the Congress. I understand there is virtually no support within the Senate for this suggestion.

The other alternative suggested by the Commission was to give the Intelligence Committees the authority to appropriate funds, and this is the matter now being discussed. The Intelligence Committee—some of the members—believes the inability to appropriate funds allows the administration to play the Intelligence Committee off against the Appropriations Committee. They argue this weakens congressional oversight. My colleagues are undoubtedly aware that granting an authorization committee such authority would be unprecedented in modern times.

Chairman STEVENS and I were surprised that neither one of us was contacted by the members of the 9/11 Commission as they conducted their review

and prepared their recommendations. We were shocked that, without even consulting us or our House counterparts on the Appropriations Committee, they would recommend that Congress eliminate our role in intelligence oversight. As such, I cannot offer any personal explanation for the Commission's recommendation.

Furthermore, their report provides scant explanation why they believe the Appropriations Committee should be excluded from its mission to fund all Federal agencies. In fact, there is not a single word in the 9/11 Commission's report to suggest that the appropriations subcommittee was at fault in its oversight of the intelligence budget. Never once were we accused of that shortfall.

I believe the Intelligence Committee's role in spending authority is already powerful enough without any new authority. Under the National Security Act of 1947, as amended by section 504, the intelligence community cannot spend appropriated funds unless the funds are specifically authorized. Now, I think this is worth repeating. The intelligence community cannot spend appropriated funds unless the funds are specifically authorized. As such, the Select Intelligence Committee already has more authority than any standing committee.

Let me be clear about what that means. If the Appropriations Committee were to fund programs that were not included in the annual intelligence authorization bill, the appropriated funding for those programs cannot and will not be spent by the executive branch.

This authority is virtually unheard of in other budget functions. The authority was granted to the Intelligence Committee to ensure that the executive branch could not use the wide latitude provided in appropriations law to circumvent the will of the Congress. Appropriations acts are written with broad authority to hide the amounts for classified programs in large lump sums. This ensures that the amounts for these programs remain undisclosed. As such, the limits on spending for classified programs are very broad. The authorization requirement ensures that both committees agree on how much should be spent to provide a better check on the administration.

More important, I believe the idea of centralizing congressional oversight is not only a bad idea, it could be dangerous to the Nation. In all areas of Government, except intelligence, our system requires and allows public scrutiny. The media, nongovernment organizations, and even lobbyists all provide information and insight to Members of Congress on everything except intelligence.

Congress needs to have a system of checks and balances internal to the legislative branch because there are no other checks. We all remember Iran-Contra, which was able to go unchecked even though multiple committees had some degree of intelligence oversight. What chance would we have of uncovering that type of abuse if only one committee were examining intelligence matters?

We know there have been other abuses by the intelligence community. I remember a former chairman of the Senate Intelligence Committee expressing outrage to discover that the National Reconnaissance Office was spending significantly more money to build a new headquarters than the chairman was aware. I recall how Chairman STEVENS uncovered a slush fund in the same agency that had been accumulating outside of the knowledge of the Congress.

Do any of my colleagues really believe that having only one committee perform oversight of the intelligence community's budget will provide more effective oversight?

In addition, a single committee overseeing intelligence for the Senate would create a powerful czar. Little opportunity would exist for meaningful debate on intelligence budgets because so few Members would be aware of the details of intelligence matters. Of equal concern, a more powerful chairman could end up being co-opted or at least overly influenced by the intelligence community and potentially lose objectivity. The Senate would be at his or her mercy with little outside scrutiny. That is not an appropriate or effective form of oversight for the Congress.

Having a few committees cleared for intelligence programs, such as Armed Services, Appropriations, and Intelligence, and each with some role in determining how resources are provided would ensure that fewer bad ideas get legislated, and it would also create more effective oversight and competitive analysis by the Congress.

I also note that maintaining the link to the Appropriations Committee is beneficial to the intelligence community. Intelligence funding is protected by inclusion under the Appropriations Committee. By combining all appropriations resources, the committee has historically solved many intelligence shortfalls.

If the Appropriations Committee is removed from intelligence matters, it will be less likely to support intelligence requirements. First, the committee will not be as knowledgeable of intelligence needs. Second, it is human nature for chairmen and ranking members to care about the programs over which they have jurisdiction. If they do not have some oversight over intelligence programs, they will not have the link to the intelligence providers or necessarily the desire to help.

The Intelligence Committee would be subject to 302 budget reductions and other general reductions levied against all committees by the Budget Committee. To believe that they would be held harmless in across-the-board cuts or other cutbacks I think is very naive. Their funding level is more likely to be decreased than increased.

Linking Defense and Intelligence is critical. DOD cannot operate without good intelligence. The Defense Subcommittee has ensured that intelligence resources support the needs of the warfighter. Today, the Defense Subcommittee reviews the recommendations of both the Armed Services and Intelligence Committees. The Appropriations Committee can minimize redundancies and make sure that the needs of both Defense and Intelligence are met. Separating Defense from Intelligence through the creation of an all-powerful Intelligence Committee would hurt oversight and hurt the community they hope to help.

In recent testimony before the House Intelligence Committee former Deputy Defense Secretary, Defense Comptroller, and staffer to the Senate Armed Services Committee, Dr. John Hamre stated that the Intelligence and Armed Services Committees worry too much about input and not enough about output.

His counsel was to let the Appropriations Committee worry about input in the budget process, to determine what we should spend money on and let the authorizing committees worry about how the agencies are performing with these resources. He noted that the authorizing committees spend far too much time on the budget and therefore had insufficient time for oversight. I am pleased that the leadership has decided to recommend creating an Intelligence subcommittee on oversight to highlight its importance.

Since the Civil War it has been the mission of the Appropriations Committee to balance needs among competing priorities. While the 9/11 tragedy exposed problems with intelligence oversight, it did not expose problems with the appropriations process for intelligence. Certainly, nothing was uncovered that would be resolved by giving the Intelligence Committee the authority to appropriate funds.

The intelligence budget should not be considered in a vacuum. It needs to be considered in conjunction with the Defense budget. While some speculate we can simply separate national intelligence from military intelligence, it is not that simple. Many programs have both national and military, strategic or tactical, components. Military personnel provide a large proportion of the intelligence community workforce. The Defense Department and Intelligence Community both need to support maintaining this relationship and benefit from doing so. It should remain the Appropriations Committee's responsibility to ensure that the needs of both defense and intelligence are met.

The Collins-Lieberman bill that the Senate adopted yesterday recognizes the need for maintaining a close working relationship between DoD and intelligence. Creating an Intelligence Committee that could separate itself from all the other actors in the intelligence support arena would be, quite simply, a colossal mistake.

Some of our colleagues think that the Congress needs to reorganize dramatically to meet the challenges of the 21st century. There are also those that believe that the Intelligence Committee needs to be stronger. The resolution that has been offered by the leadership in fact will provide some significant enhancements to the authority of the Intelligence Committee which will hopefully improve oversight. However, I believe the real key to better oversight is for our authorizing committees to focus on outputs as Dr. Hamre noted and for the Appropriations Committee to focus an allocating resources as efficiently and effectively as possible.

I was the first chairman of the Senate Intelligence Committee. I have great regard for the work of that committee and a great fondness for its chairman and vice chairman. I have also served on the Appropriations Committee for the past 30 years. I understand the critical role that this committee plays in our Nation's security both in defense and intelligence. I can say with no false modesty that the work that Chairman STEVENS and the committee does in overseeing the intelligence budget with the assistance of our very experienced professional staff is unmatched anywhere in Congress.

As powerful as the Joint Committee on Atomic Energy was, it did not control appropriations. Maintaining Appropriations Committee control over funding would preserve a check on unlimited spending by an authorizing committee and would allow at least one other committee to have some review of Intelligence matters. I for one do not think that this is sufficient oversight, but it is clearly the minimum that the Senate should accept.

This is a very important matter. Senator REID and Senator MCCONNELL have spent the past 3 weeks deliberating on this issue. They have consulted with many Members who have competing interests in this arena. The resolution they propose represents a compromise that balances these many and varied views. I cannot say I am completely happy with their recommendation, but I can say this: Their recommendation is far superior to the alternative that is being proposed by the Senator from Arizona.

I urge all my colleagues to vote to support the bipartisan leadership and defeat the McCain amendment.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent that following my remarks, the Senator from Florida be recognized. He has kindly agreed to let me proceed because I am due at a conference committee meeting in 5 minutes.

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

Mr. ROBERTS. Will the Senator yield?

Mr. STEVENS. I yield to the Senator from Kansas.

Mr. ROBERTS. I ask unanimous consent that I be recognized after the distinguished Senator from Florida.

Mr. REID. Mr. President, I object. We can't do that. The Senator from Florida has been here since 2 o'clock. I think we should keep our regular order here.

Mr. MCCAIN. Reserving the right to object, and I will not object, the Senator from Florida, with all due respect, is not speaking on the amendment. Usually we go back and forth for and against the amendment.

Mr. REID. He is speaking on the amendment.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. Mr. President, this amendment realigns responsibility for intelligence appropriations from the Appropriations Committee to the Intelligence Committee. This includes all funding relating to intelligence, national, joint military programs, and tactical military funding and classified intelligence matters as in FBI and other Government agencies.

I think it would be a mistake to adopt this amendment. First, it ignores the history of the appropriations process and the lessons we have learned in both Houses of Congress. In 1865, the House created the Appropriations Committee. The Senate followed suit in 1867. Then from 1867 to 1885, the House and Senate Appropriations Committees were stripped of their control over appropriations as one authorization committee after another gained the authority to report appropriations.

In 1885, both Houses realized this ad hoc approach was detrimental, and by 1922 both the House and Senate had reinvested appropriations authority back into one committee in each House. History has proven that moving appropriations to authorization committees creates a decentralized appropriations process that leads to greater spending and less accountability. That would be even more so today under the Budget Act.

In 1910, Congressman James Tawney, Chairman of the House Appropriations Committee from 1905 to 1911, said:

> The division of jurisdiction and responsibility in the matter of initiating appropriations has contributed more than any single cause to the enormous increase in the appropriations during recent years.

Congressman Tawney's conclusions were backed up by a 1987 study that found expenditures for rivers and harbors between 1877 and 1885 rose sharply after the authorizing committee gained the right to appropriate. A book published in 1989 by Charles Stewart III contains similar findings. Even after accounting for price changes, economics, population, and territorial growth, wars and major programmatic changes sponsored by the authorizing committee, Mr. Stewart found the greater decentralization of the appropriations between 1877 and 1885 led to greater spending.

Contrast those to the findings of a 1992 study conducted by James F. Kogan who found that deficits are rare and nonexistent when spending jurisdiction lies within the committee.

Let me go now to the 9/11 Commission recommendations. They are not only ill informed, but they are also unfounded. Not one line in the Commission's report stated that the Senate and House Appropriations Committees were not performing effective intelligence oversight—not one line. Consolidating appropriations and authorization for intelligence matters will undermine nearly 140 years of congressional tradition and ignore our years of experience in such matters.

I have heard some grumblings about how those of us who oppose provisions in this legislation are merely protecting turf. I am not interested in turf. I am interested in function as well as effective oversight. You cannot move the responsibilities for appropriations and authorizations around without having a real impact on function. And you certainly should not make recommendations that aim to do that without even discussing those broad, sweeping changes with the Members of Congress who are familiar with and part of the appropriations process.

My colleague from Hawaii has discussed this at length. I don't want to be redundant, but Dr. Hamre, whom he quoted, is not alone in his assessment that the budget issues are overemphasized when policy and appropriations are jointly considered. Listen to this. Even the 9/11 Commission acknowledged that risk on page 421 of their report, where they write:

> We also recommend that the Intelligence Committee should have a subcommittee specifically dedicated to oversight, freed from the consuming responsibility of working on the budget.

If budget issues pose such all-consuming risk to the entire oversight process, it is the view of this Senator that they should be used within a separate committee that would fully address them. This would encourage collaboration and coordination, the hallmarks of our Government system.

The legislative appropriations process works best where there is friction between the committees and bodies of Congress. That is what the Founding Fathers believed in, a system of checks and balances. It is our suggestion that the organizations of our Government are founded upon that concept, and this amendment doesn't reflect that philosophy.

The insights I offer are not an attempt to protect turf. They are recommendations I would have given to the 9/11 Commission had they talked to me or to my colleague from Hawaii. Given my 36 years in the Senate, 8 of which I have spent as chairman or ranking member of the Appropriations Committee, I think they are very important in this debate.

Mr. President, I will speak against this amendment. I have serious concerns about any effort that would move appropriations responsibilities from

the Appropriations Committee to the new Intelligence Committee.

I have spent over 30 years working on defense and intelligence matters. I have served as the Chairman of the Appropriations Committee for 6 years. Those experiences give me a unique perspective on the appropriations process, intelligence organizations, national security and defense. Based on that experience, I am very concerned about any effort that would combine appropriations and policy responsibilities and place them under the jurisdiction of a single committee.

Collapsing appropriations and policy functions and housing them in the new Intelligence Committee would be a mistake.

First, it ignores the history of the appropriations process and the lessons we have learned in both Houses of Congress.

In 1865, the House created the Appropriations Committee. The Senate followed suit in 1867. Then, from 1867 to 1885 the House and Senate Appropriations Committees were stripped of their control over appropriations as one authorization committee after another gained the authority to report appropriations. In 1885 both Houses realized that this ad hoc approach was detrimental, and by 1922, both the House and Senate had vested appropriations authority back in one committee.

History has proven that moving appropriations to authorization committees creates a decentralized appropriations process. And that leads to greater spending and less accountability.

In 1910, Congressman James Tawney, Chairman of the House Appropriations Committee from 1905 to 1911, said the ''division of jurisdiction and responsibility in the matter of initiating appropriations has contributed more than any single cause to the enormous increase in appropriations during recent years.''

Congressman Tawney's conclusions were backed up by a 1987 study that found that expenditures for rivers and harbors and agriculture between 1877 and 1885 ''rose sharply after authorizing committees gained the right to appropriate.''

A book published in 1989 by Charles H. Stewart III contained similar findings. Even after accounting for price changes; economic, population, and territorial growth; wars; and major programmatic changes sponsored by the authorizing committees, Mr. Stewart found that greater decentralization of the appropriations process between 1877 and 1885 led to greater spending.

Contrast those findings with a 1992 study conducted by John F. Cogan that found deficits are rare or nonexistent when spending jurisdiction lies within the Appropriations Committee, and I think you will agree, Mr. President, that we are better off with a centralized appropriations process.

Of course, when you look at how the 9/11 Commission conducted its investigation, it's not surprising that their recommendations ignore this history. Not one of the 9/11 commissioners or 9/11 commission staff members interviewed Senator INOUYE or me about intelligence oversight. Nor did they interview the Chairmen and Ranking Members of the House Appropriations Committee.

So, I do not find it surprising that their recommendations ignore decades of ''lessons learned'' by the House and the Senate. But, I do find it difficult to understand how the Commission could recommend a major realignment of Congressional organization and attempt to change the process for conducting Congressional business without ever speaking to any of the Members of Congress responsible for the appropriations process.

The 9/11 Commission's recommendations are not only ill-informed, they are also unfounded. Not one line in the Commission's report stated that the Senate and House Appropriations Committees were not performing effective intelligence oversight Not one line! And consolidating appropriations and authorization for intelligence matters would undermine nearly 140 years of Congressional tradition and would ignore our years of experience with such matters.

I have heard some grumblings about how those of us who oppose provisions in this legislation are merely protecting their ''turf.'' I'm not interested in ''turf.'' I am intensively interested in function as well as effective oversight. You can't move the responsibilities for appropriations and authorizations around without having a real impact on function. And you certainly shouldn't make recommendations that aim to do that without even discussing those broad and sweeping changes with the members of Congress who are familiar with and part of the appropriations process.

If the 9/11 Commission had asked me about these recommendations I would have told them that Congress has tried to place policy and appropriations functions under the jurisdiction of one committee before, with poor results. We have found that mixing policy legislation with appropriations legislation is inefficient and more importantly, not supportive of the individual processes. Those past experiences led to rules in the House and Senate that institutionalized the separation of policy and appropriations functions.

Every year, Congress needs to fulfill its appropriations responsibilities in a timely manner; if we don't, the government can't keep operating. But the appropriations timetable is completely at odds with the complex and controversial deliberations that surround most policy legislation.

History has shown that combining policy and appropriations functions leads us down one of two paths: either Congress rushes policy deliberations in order to meet fiscal year deadlines and risks adopting bad policy or we must delay the timely passage of appropriations bills in the interest of debating policy issues and we risk disrupting government operations.

Whichever path we follow we shortchange one goal in order to fulfill the other.

The 9/11 Commission hopes that if we combine policy and budget oversight in one committee, policy deliberations will guide our efforts. But my years of experience tell me it will have the opposite effect. Budget decisions will rule the committee and policy oversight will take a back seat.

Former Deputy Secretary of Defense John Hamre expressed concern about the dominance of budget issues in intelligence oversight when he testified before the Appropriations Committee a few weeks ago. He said:

> Frankly, the quality of congressional oversight is not good. It is not as strong as it needs to be. I think we are confusing it by this issue of consolidating authorizations and appropriations. I have said to the Armed Service Committees—I used to work there, as you know—that they have made a huge mistake thinking that they are powerful only by trying to do what you do, shape the dollars.
>
> There are reasons you have authorization committees. They are to set the broad trends and directions for the policy goals and to oversee the functioning of the Government. But they spend far too much time wanting to shape the way you appropriate little lines in the budget, and I think that is a mistake.
>
> You play a crucial and indispensable role. They play a crucial and indispensable role, but they are neglecting it, in my view, by putting too much time and attention on budget detail. I would like to see them spend far more time looking at the large purposes, the large policy directions, and overseeing the true functioning of these institutions. That is what I think was intended by having separate authorization and appropriations processes. They can be complementary, but during the last 20 years, frankly, they have been in conflict with each other. And I think that needs to change, and I will be glad to amplify on that further at another time.

But Dr. Hamre is not alone in his assessment that budget issues are overemphasized when policy and appropriations are jointly considered. Even the 9/11 Commission acknowledged this risk. On page 421 of their report they write:

> We also recommend that the intelligence Committee should have a subcommittee specifically dedicated to oversight, freed from the consuming responsibility of working on the budget.

If budget issues pose such an all-consuming risk to the entire oversight process, it is the view of this Senator that they should be housed within a separate committee that can fully address them, not delegated to subcommittee. This would encourage collaboration and coordination—hallmarks of our system of government.

Those kinds of experiences suggest that the language included in this amendment is the wrong way to address the budget and policy issues facing our nation's intelligence community. Consolidating appropriations and authorization into one committee

means fewer members of Congress and staff members will be looking at these complex issues—how does that improve Congressional oversight? It seems to me we would have less oversight, not more.

The legislative and appropriations process works best when there is friction between committees and bodies of Congress. That is what the Founding Fathers believed in—a system of check and balances. Our Constitution and the organization of our government are founded on that concept, and this amendment does not reflect that philosophy.

The insights I am offering are not attempts to protect ''turf.'' They are the recommendations that I would have offered had the 9/11 Commission interviewed me. Given my 36 years in the Senate 8 of which have been spent as chairman or ranking member of the Appropriations Committee—I think they are an important part of this debate.

Mr. COCHRAN. Mr. President, I oppose the amendment offered by the Senator from Arizona. The Senator's amendment would have the effect of harming the Senate's oversight capabilities and making it ineffective.

The Senator from Arizona argues that if we don't combine intelligence oversight and appropriations into a single committee we are wasting our time with reform efforts. I disagree. The resolution authored by the Senators from Kentucky and Nevada accomplishes all of the goals outlined by the 9/11 Commission and it does it in a way that maintains an established system of checks and balances we have had in the Senate since the Appropriations Committee was established in 1867. The appropriations and authorizing committees serve important but distinct and separate roles, and it would be unwise to combine them.

Currently, intelligence funding is shared by five appropriations subcommittees, and intelligence oversight is divided among three committees. Supporters of the Senator's amendment say that if you combine intelligence appropriations and authorization into a single committee, you will centralize and have more powerful oversight.

This is not the case. Not since the early 19th and 20th centuries did congressional committees originate both authorizing and appropriations bills. Programs back then were often authorized permanently. Oversight and appropriations functions were separated because it was determined that having joint authorizing and appropriations committees lead to greater spending and less accountability. We don't need to repeat that mistake of the past.

Another reason for opposing this amendment is a matter of practicality. The Intelligence Committee meets several times a week. I have heard from my colleagues on the committee that it is the most demanding committee assignment they have. Under the resolution their workload and responsibility will significantly increase. We would be asking the Intelligence Committee to take on even more work by adding appropriations responsibility. It would make their workload enormous.

For those who believe the Appropriations Committee divides responsibility for intelligence between too many subcommittees, this resolution addresses that complaint. The resolution would combine all intelligence appropriations into a new Intelligence Appropriations Subcommittee. While I would prefer we leave it to the Appropriations Committee to make the determination on whether this consolidation is warranted, I will support the resolution before us.

We have passed already this year, and the President has signed into law, the Defense Appropriations bill. This bill contains most of funding this year for the intelligence agencies of our government. We have not, however, been able to approve this year an Intelligence Authorization bill for the next fiscal year. I do not believe the Senator's amendment serves us well if intelligence funding would now be held hostage to policy disputes in the Intelligence Committee that are holding up passage of an authorization bill.

The resolution Senator MCCONNELL and REID have laid before the Senate is totally consistent with the 9/11 Commission's recommendations and we should approve it.

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

Mr. GRAHAM of Florida. Mr. President, I am honored to have served 10 years on the Senate Select Committee on Intelligence, including the opportunity to serve 18 months as its chairman. Today, I will make some comments on the general context of congressional reform in support of reform of the intelligence agencies, including some specific remarks relative to the amendment that is on the floor at this time.

While some of us in Congress had recognized the problems within the Intelligence Community over the years—and we have been working on specific reforms—the tragedy of September 11, 2001, revealed systemic weaknesses that require sweeping changes. In the last few weeks, I have spoken about these issues in floor statements. We have now finished work on an excellent piece of legislation that will establish a strong national intelligence director and lay the groundwork for serious reform of our national intelligence community.

It is my hope the House of Representatives will soon follow our lead, so that we may proceed to conference and turn this legislation into law. Now it is time to turn to one final, critical component of reform: Us.

We in the Congress must be candid and admit that one of the targets of reform must be the current committee structure by which Congress has organized itself to provide oversight to the intelligence community. Our oversight has been proven to be haphazard at best. The 9/11 Commission report states:

> Of all our recommendations, strengthening congressional oversight may be among the most difficult and the most important. So long as oversight is governed by current congressional rules and resolutions, we believe the American people will not get the security that they want and need. The United States needs a strong, stable, capable congressional committee structure to give America's national intelligence agencies oversight, support, and leadership.

The 9/11 Commission goes on:

> The future challenges of America's intelligence agencies are daunting. They include the need to develop leading-edge technologies that give our policymakers and our warfighters a decisive edge in any conflict where the interests of the United States are vital. Not only does good intelligence win wars, but the best intelligence enables us to prevent them from happening altogether.
>
> Under the terms of existing rules and resolutions, the House and Senate Intelligence Committees lack the power, influence, and sustained capability to meet this challenge. . . .
>
> The other reforms we have suggested—for a National counterterrorism Center and a National Intelligence Director—will not work if congressional oversight does not change, too. Unity of effort in executive management can be lost if it is fractured by divided congressional oversight.

To those remarks, I say amen.

I am pleased that many of our colleagues have joined the chorus and cried amen as well. We now have many amendments before us that can accomplish the necessary changes to our Senate committee structure. I thank Senators REID and MCCONNELL, along with their staffs, for the work they have invested in this issue.

The Reid-McConnell working group has come forward with a number of wise recommendations. I want to endorse a few of those recommendations in greater detail, while explaining my reasons for opposing the amendment that is now before us. I also want to make some recommendations that go beyond the resolution, but which I suggest would give the new structure enhanced oversight and direction on the intelligence community.

The first recommendation I strongly support is the abolition of term limits for members of the Intelligence Committees. The terms of Intelligence Committee members should be made permanent so that the accumulated experience and expertise of the committee members can be retained.

When a Member joins almost any other committee in the House or the Senate, he or she typically brings some base of knowledge to the task, such as a lawyer serving on the Judiciary Committee, or a military veteran serving on Armed Services, or someone with a financial services background joining the Banking Committee.

It is a rare Member who has firsthand experience with the intelligence community. The complexity of the issues, the technologies involved in collection

analysis, means that it is a very steep learning curve when someone joins the Intelligence Committee. It is not an exaggeration to suggest that it can take as much as half of the current 8-year term before the Member feels confident in their knowledge of the intelligence community and can begin to make wise, informed judgments. That tutorial exhausts half of the time of Members currently serving.

The justification for those term limits dates back to the creation of the Intelligence Committees in the 1970s, following Senator Frank Church's investigation of abuses by the CIA. It was feared that members of the Intelligence Committee would become captives of those they were overseeing, given the general lack of public scrutiny of the workings of the committee.

However, in order to ensure that committee members have the expertise necessary to exercise effective oversight, we must give them adequate time to build up the experience they need. We must hope that their constituents will pay enough attention to their oversight of the intelligence agencies to ensure that the committee members remain independent. I expect this will be the case, given the increasing awareness of the importance of intelligence to our national security.

There is another step that I believe should be taken, and that is an increased emphasis on training of Members who will join or who currently belong to the Intelligence Committee. This is, as our President has said, hard work, serving on the Intelligence Committees. The background, organizational history, financial matters affecting the community, as well as the emerging threats the community is responsible for understanding and assisting in our defense, are difficult. Members of the committee should devote greater time to their personal and collective training so they can better discharge these responsibilities.

The second recommendation I would like to endorse is the distribution of the Intelligence Committee's responsibilities through the use of subcommittees, especially here a subcommittee on oversight that could examine adverse actions within the intelligence community which often require a detailed after-incident report.

One of my principal concerns about the Intelligence Committee during my decade of service was the inordinate amount of time that was spent looking through the rearview mirror at the problems that had already come to fruition, including several significant cases of counterespionage, which left an inadequate amount of time to look through the front windshield at the threats that were coming at us.

I believe the establishment of a subcommittee which had the specific responsibility for oversight, including these after-incident events, would contribute substantially to the committee's capability to look to the future.

Another suggestion within the committee structure, since we will now be reorganizing the intelligence agencies around mission-based intelligence centers, should be the basis for establishing other subcommittees with oversight responsibilities within the Intelligence Committee itself. As an example, in the legislation we just passed, two intelligence centers are established by statute: one counterterrorism, the other counterproliferation of weapons of mass destruction. Clearly, the Intelligence Committee should have subcommittees with specific responsibility to oversee the action of these two critical centers to assure that the threats are being properly identified, the resources are available to respond to those threats, that the centers are accomplishing their objective, and as other centers are created by action of the national intelligence director, they, too, deserve a special focus of a subcommittee within the Intelligence Committee.

Next, I believe it is crucial that the appropriations for the intelligence community be detached from the budget of the Department of Defense so that intelligence funding can respond to intelligence needs and not simply fluctuate with the defense budget.

The reality is that while the intelligence budget is inside the defense budget, that has resulted in, over time, a percentage relationship. And so as happened in the 1990s, when the overall size of the defense budget contracts because the Cold War was over and there was a feeling that we did not need to spend the resources we had when we were face to face with the Soviet Union, the consequence was we were also constricting the size of the intelligence budget at exactly the time the intelligence community needed to be expanding.

We spent 40 years looking at the Soviet Union. We knew a lot about it. We had people who understood the language and the cultures of our adversary. But after the fall of the Berlin Wall, the world did not suddenly declare peace. Rather, a new set of threats emerged from a different part of the world, largely the Middle East and central Asia, and we were grossly deficient, particularly in our human intelligence capability, to understand and react to those new threats.

By divorcing the intelligence budget from the defense budget, we will have a greater opportunity to look specifically at the needs of both of those two important parts of our national security system, but to do so independently on their own merits.

I am familiar with the proposal Senator MCCAIN and others have put forward to give the Intelligence Committee both authorizing and appropriation authority. I respectfully disagree. Having two committees that pay attention to intelligence matters can be very helpful. I will admit that at one time, I was intrigued with the idea of permanently merging the House and Senate Intelligence Committees in the way the old Joint Atomic Energy Committee was merged and in a way for the last Congress the two committees merged for purposes of the 9/11 inquiry.

I have now disabused myself of that suggestion. I believe it is important that, particularly with intelligence where there are so few Americans who have the background to make proper judgments and so many of those do not have the information upon which to make precise judgment, and where there are few eyes outside of the Congress, the press, interest groups, citizens groups, and others who can effectively monitor the intelligence community, it is particularly important that we have a sufficient number of eyes within the Congress that are focused on intelligence issues.

During the runup to the invasion of Iraq, for instance, there were four congressional committees that had some form of oversight over the administration's push for war. Only one of those four—and I see on the floor now the chairman of the Senate Intelligence Committee who, with his colleague Senator ROCKEFELLER, was largely responsible for this—it was only the Senate Select Committee on Intelligence which asked the tough questions which submitted the findings which have accelerated the pace of reform within the intelligence community.

If there are four congressional committees with some oversight over intelligence funding—the two authorizing committees and the two appropriating subcommittees—there is less chance that all relevant congressional committees will be negligent in their oversight of administration action.

I suggest two reforms which would enhance the establishment of a separate subcommittee of appropriations for intelligence. One of those is to increase the authority of the Intelligence Committee over the authorization process. As Senator INOUYE mentioned in his remarks, there is currently law that says funds cannot be appropriated to the intelligence community which have not been authorized. The problem has been that there are sources of authorization other than the intelligence community. So if the Intelligence Committee, which is now invested with the particular responsibility, decides what it believes to be the appropriate priorities, those priorities could be disrupted by authorizations which come from other sources and which, in turn, validate appropriations.

The second point I suggest is that the chair and vice chair of the Intelligence Committees serve on the appropriations subcommittee. There is precedent for this. As an example, in reverse order, the current chairman of the Senate Appropriations Committee serves on the Armed Services Committee. The rationale is that Armed Services represents such a significant part of the total appropriations that it is desirable to have the person most responsible for those appropriations be a member of the Armed Services Committee.

I would recommend that the same type of interlocking relationship

should exist between the leadership of the Intelligence Committee and the new intelligence appropriations subcommittee.

Finally, I recommend that the Intelligence Committee expand the use of advisory panels, such as the technical task force which has served the Senate Intelligence Committee extremely well over the last 5 years.

I would like to recognize my colleague, Senator SHELBY, who was very instrumental in the initial establishment of that technical committee. This advisory panel has reduced the tendency toward group think, which has afflicted the intelligence agencies themselves, as we witnessed so clearly in the report of Senator ROBERTS and the Intelligence Committee on the runup to the Iraq war.

One possibility would be to have an advisory panel for each of the subcommittees, locking the Intelligence Committee into the pattern that mirrors and supports mission-based intelligence centers.

There has been a term in the military referred to as incestuous amplification, which is a condition of warfare where one only listens to those who are already in lockstep agreement, reinforcing set beliefs, creating a situation ripe for miscalculation.

Current events have offered powerful evidence that the intelligence community has been engaged in incestuous amplification. It is therefore especially important that the oversight committees of the Congress avoid that temptation.

While I regret to say it, in many ways the Congress deserves the comments which have been made by the 9/11 Commission, but I believe the action we are considering today will go a long way toward assuring that the Congress will be a full partner in reforming the intelligence community of the United States, and the intelligence community in turn can be a fuller partner in assuring the safety of Americans.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 3999

Mr. ROBERTS. Mr. President, I rise to support Senator MCCAIN and his amendment to the McConnell-Reid measure amending S. Res. 445.

First, I pay tribute to the former chairman of the Senate Intelligence Committee, Mr. GRAHAM. I thank him for his service to our country. He is retiring, although that certainly does not describe the Senator, but I thank him for his leadership and his suggestions as we go through this very difficult task of reforming how we do our oversight responsibilities in reference to our intelligence obligations.

Back to Senator MCCAIN and his amendment, if we approve the McCain amendment, Senators will implement what is the most important recommendation of the 9/11 Commission for improvement of congressional oversight of intelligence activities—most important by the 9/11 Commission.

Now, why is JOHN MCCAIN getting in the middle of what would have to be termed a sheep and cattle war, if one goes back to the history of Arizona, and taking on the challenge of suggesting that the Intelligence Committee, or any authorizing committee, have appropriations power? That is tough. I mean, that really is tough.

I think everybody knows there is more than one way to skin a cat that is sticking his head in a bootjack than simply pulling on his tail. That is hard work. That is where nobody wants to reach their hand into, but there again that is JOHN MCCAIN.

JOHN is from Arizona. I used to reside in Arizona. There is a lot of cactus in Arizona. One does not have to sit on each and every one of them. Sometimes people think that Senator MCCAIN does that. Why is he doing this? Why is he fighting this sometimes lonely battle? Well, on page 420 of the 9/11 report, the Commissioners wrote this:

> Under the terms of existing rules and resolutions the House and Senate intelligence committees lack the power, influence and sustained capability to meet this challenge.

He is right. He is dead on. He is pulling that cat by the tail in the bootjack. And in terms of being right, there are times that one can take on tough measures and sort of let them go and slide or one can do the right thing. The truth of it is that I can tell my colleagues, as chairman of the Intelligence Committee and an 8-year veteran of that committee—and it has been a privilege—we are fractionalized when we talk to Lee Hamilton, Governor Kean, Bob Kerrey, the former Secretary of the Navy, John Lehman, and others. They came to visit before the Intelligence Committee with Senator ROCKEFELLER and myself, Senator ROCKEFELLER being the distinguished vice chairman and my bipartisan partner in trying to do what is right on behalf of our national security—and we think we have done a good job, by the way, backed up by 22 professional staffers, the most of any committee. So, consequently, what happens to us is that when we do our work as quoted by the 9/11 Commission—and after the visit by the 9/11 Commission to the Committee, they agreed with us that we are fractionalized, that our job is pretty tough, that in terms of being an authorizing committee we probably are expected to have the most obligation, independence, leadership, clout in regards to oversight in reference to intelligence and national security of any committee in the Congress, but we have the least.

Why is that? It is because we are fractionalized in terms of sequential referral on demand. I am not going to get into that speech again because I think we are trying to work it out. I think we have a compromise, or I hope we have a compromise, and I thank Senator ROCKEFELLER for being a leader in this instance.

Whatever we do, we know that we have to then first go to the Armed Services Committee and then, of course, we have to go to the Appropriations Committee.

Now, that is not a bad thing because we have many fine people serving on the Appropriations Committee. I do not mean to perjure the Appropriations Committee. Far from it. They have many obligations. They have their constitutional authority to do this. But what happens? The intelligence community comes before us during the long session of 6 months, 8 months, 9 months when we do our authorization and make priority changes and make recommended changes and make reform changes, some of which have been very dramatic. And I think they understand that, obviously, then we are going to have to go to the Armed Services Committee and then, obviously, we are going to have to go to the Subcommittee on Defense of the Appropriations Committee where they have done, I might add, a splendid job of doing their very best in terms of their obligations to meet our national security obligations vis-a-vis the intelligence community.

Now, what would someone do if they were a member of the intelligence community? They would appear before the authorizing committee, the Senate Intelligence Committee—and I am not saying it was wink them, blink them, and nod to a committee that has no authority, but one can sort of make that case—and I do not perjure anybody who has come before the committee because they are great people. They are laying their lives on the line. They are dedicated people. That is not my point.

What they do, however, is go to the Senate Armed Services Committee and then they also go to two primary members of this Senate whom I personally call friends and admire and respect, and there have been no two people in the Congress of the United States, perhaps in the history of the United States, who have done more for the military and done more during those times where we were stretched thin and hollow and addressing the tremendous problems we have today. I am talking about the distinguished Senator from Alaska, who is chairman of the committee, TED STEVENS and his counterpart, the Senator from Hawaii, DAN INOUYE. I do not know who has been the stagecoach driver and who has ridden shotgun. During these particular years, they both worked equally well.

But what happens to them is that time demands come in and the intelligence community comes in and says: Wow, we have a problem. We have just had an ''Oh, my God'' hearing before the Intelligence Committee. Oh, my God, how did this happen? Khobar Towers, embassy bombings, USS *Cole*, the lack of really trying to figure out what happened when we missed the India nuclear explosion, 9/11, Somalia—do you know what. It was all tied together.

So the Appropriations Committee is faced with this urgent need, and they

respond. And the intelligence community pretty well gets what they want. That is not all bad, especially when we are facing some kind of emergency, but it basically cuts out the Intelligence Committee's authorization process to some degree. It cuts out what the Armed Services Committee does as well. It is time based.

The 9/11 Commission took a look at this and said: Congressional oversight for intelligence and counterterrorism is now dysfunctional. Congress should address this problem. We have considered various alternatives. The primary suggestion: a single committee in each House of Congress combining authorizing and appropriating authorities. The McCain amendment will accomplish this alternative. The McCain amendment will accomplish this by giving appropriations authority to the Senate Intelligence Committee.

The distinguished chairman of the Appropriations Committee, a man whom I admire, a man who has been a great friend, basically cited the example between 1865 and 1885 that when they took away powers from the Appropriations Committee, storm clouds arrived, lightning struck, and it was doom and gloom time until they restored that authority.

Let me suggest another number. It is called 9/11. Let me suggest all the hearings we have held in the Intelligence Committee—I call them ''Oh, my God'' hearings: Oh, my God, how did this happen?—indicated the systemic failure of the global intelligence community in regard to WMD and the situation in Iraq—not just the United States, everyone, including the United Nations.

The chairman of the Appropriations Committee and his counterpart, the ranking member—when he says there is no turf battle, I believe him. I don't know of any two Members who would put turf over conscience and turf over performance and the obligations of what they have already done. I know the chairman has mentioned that he and the members and the qualified staff of the Appropriations Committee have gone the world over, and they have. I know. I have been with them on many occasions, looking at intelligence and looking to see how the money is spent on the ground, taking a hard look. I understand that.

But we have 22 staffers, 22 professional staffers who have background and experience in regard to being an analyst at the DIA, being an analyst at the CIA with at least 10 years' experience. We have the staffers who put together the 521-page WMD report, where the chips fell where they may. Guess what happened. The intelligence was wrong. Some people try to put that at the foot of the President. He made very declarative and aggressive comments. Others in this Congress received the same intelligence and made the same statements. Now, of course, a lot of that has changed because it is an even-numbered year, and you know what kind of situation we are in.

But I am trying to say your Intelligence Committee stands ready to do a professional job in regard to budget authority, should we be granted that privilege, with 22 professional staffers. We have done that. There have been occasions where we have been granted access. I don't mean that in a cynical way because the Appropriations Committee usually is in a big hurry with what they have to do, meeting obligations that are emergencies—where we have made our suggestions. Some of them, not all of them—as a matter of fact, not very many of them—were accepted by the Appropriations Committee or, for that matter, the Armed Services Committee. Some of them, a lot of them, ended up on the cutting-room floor.

In some cases we were not granted access because of the time equation, and wouldn't you know that many of the recommendations of the 9/11 Commission and many of the problems we have experienced that nobody wants to see that we have had hearings on are the same kinds of things we have tried to fix in the Intelligence Committee and maybe could have had we not had this fractionalized process that the 9/11 Commission has talked about.

I have talked about what a hard job this is. I talked about the courage Senator MCCAIN has had to approach this topic. It is a tough topic. Really, this is not hard. Members have a choice. They have a choice to make. A vote for the McCain amendment enhances the congressional oversight by addressing the findings of the 9/11 Commission, period. The amendment will enhance the power, influence, and sustained capability of the Senate Intelligence Committee; that is, to conduct oversight of this Nation's intelligence activities. It couldn't be any more simple.

Members, you should vote for the measure if you want to enhance the Senate Intelligence Committee's ability to conduct congressional oversight as recommended by the 9/11 Commission and, by the way, virtually every other commission that has studied this. So the McCain amendment is in harmony with the 9/11 Commission's major recommendation for improving congressional oversight and intelligence activities.

I am not saying the appropriators or the Armed Services Committee has done anything wrong, egregious, dysfunctional, whatever. They have done a great job under the circumstances with the setup of the Congress as it has been. But we stand ready with 22 professional staffers to do the job. I believe we can do the job.

I am voting for the McCain amendment. In behalf of our national security, I urge my colleagues to do the same.

I yield the floor.

Mr. BYRD. Mr. President, Senator MCCAIN has introduced an amendment to address the 9/11 Commission's recommendation for the creation of a committee on intelligence with appropriations powers.

I have a great respect for the 9/11 Commission. They are dedicated members who have the Nation's best interests in heart and mind, and, for the most part, they have done an excellent job. Like the Commission members, I want our Government to take steps that will help ensure that our Nation will never again suffer a catastrophe like 9/11. But, I fail to comprehend how giving a legislative committee its own checkbook will help avoid another such disaster. Legislative committees have their plates quite full with evaluating policy. They should not take on the heavy lifting of appropriating public monies as well.

The fact that the Commission made this recommendation left me wondering just how it came up with such a proposal.

First, I looked at the Commission's report to see what evidence they cited for making this recommendation. I was startled to find that the Commission provides no specifics in its report to substantiate or justify this revolutionary proposal. The Commission offers no examples, no rationales, no justifications, no explanations. In short, the Commission provides no evidence that the appropriations process is flawed when it comes to intelligence matters. There simply is no substantive rationale for the need for this kind of drastic recommendation.

According to the Commission, this recommendation was garnered from interviews with ''numerous members of Congress from both parties, as well as congressional staff members. . . . We found that dissatisfaction with congressional oversight remains widespread.'' But curiously the report never mentions any specific member or any staffer by name or position. Who are these phantom critics? Why were they especially qualified to comment? The point is, unspecified dissatisfaction from unidentified Members of Congress and unidentified congressional staff offers very little basis for embracing such a precedent-setting proposal.

While I do not know who the Commission interviewed to reach this determination, I do know who they did not interview. They did not speak to Senator STEVENS, the chairman of the Senate Appropriations Committee and chairman of its Defense Subcommittee. I know they did not talk to Senator INOUYE, the ranking member of the Defense Subcommittee. Both Senators STEVENS and INOUYE are long experienced legislators and appropriators in the field of intelligence. Why weren't they interviewed? Nor did they talk to me, and I am the ranking Democrat on the Appropriations Committee and the former chairman of the committee.

Knowing just whom the Commission did and did not interview is important because of the makeup of the Commission. While undoubtedly sincere, well-meaning, and honorable, only 4 of the members of the 10 individuals on the 9/11 Commission had ever served in Congress, and only 2 of them had experience with the appropriations process.

This recommendation, to grant both appropriation and authorization powers to a legislative committee, in my judgment reflects this lack of experience. Moreover, it belies a lack of familiarity with the history of the appropriations process.

This particular recommendation would blur the existing oversight process which tends to ensure a more thorough examination of intelligence matters because of a focus on policy matters which is separate from the focus on budgetary matters. In other words, the commission wants to increase oversight of intelligence matters by paradoxically lessening and collapsing oversight on intelligence operations.

The Commission's recommendation would limit the watchdog duties over secret intelligence functions to a tiny group of Senators, thereby fomenting an environment that would probably promote ''group think,'' and secrecy. In other words, the Commission wants to end, or, at the least, reduce ''group think'' and incestuous oversight in intelligence matters, but it is making a recommendation that would create an environment that would likely promote both.

Most importantly, the historian in me marvels at the degree to which the Commission's recommendation flies in the face of history. The current Appropriations Committee just happens to be the carefully considered antidote to several past failures of the same sort of decentralized appropriation's fixes which the 9/11 Commission now incredibly recommends. There is nothing new or innovative in this Commission recommendation. It has been tried before, and it has failed miserably.

In 1816 the Senate established the Committee on Finance and assigned it appropriations responsibilities in an effort to enhance congressional fiscal control. But as the country grew, the problems did too.

The War with Mexico, 1846–1848, for example, caused Federal spending to nearly triple, and this dramatic explosion placed great pressures on Congress to revamp its appropriations process. In 1850, the Senate adopted its first rule governing appropriations. It banned amendments for additional appropriations not previously authorized by law.

The Civil War, 1861–1865, as one might expect, vastly expanded and complicated Federal spending. Congress abruptly learned how the lack of centralized control in the Senate played to the strong advantage of the President. Congressional control of the power of the purse went out the window as President Lincoln spent millions of dollars without even bothering to secure formal congressional appropriations. He could be forgiven because he was trying to hold the union together, but the Constitution was circumvented and congressional power of the purse was, for a time, effectively seized.

Following the Civil War on March 6, 1867, the Senate established a Committee on Appropriations in an effort to bring unity, authority, conformity, and order to the Federal spending process.

As soon as the Appropriations Committee was established, however, authorizing committees began a vigorous struggle to regain their lost appropriations authority. Several House committees first grabbed appropriations authority. Soon, Senate committees were demanding the same. Everybody wanted a piece of the action. What kind of Pandora's box are we opening if we grant appropriations power to the Intelligence Committee? Why not also the Department of Homeland Security? Once the box is opened, the grabbing begins. In the late nineteenth century the grabbing gathered steam even amid stern warnings.

Congressman Samuel Randall, D-Pa, the chairman of the House Appropriations Committee at the time, warned that combining authorizing and appropriating authorities under one committee's jurisdiction would lead to greater Federal spending. ''Experience and observation,'' he pointed out, ''demonstrate such distribution leads to continually increasing appropriations, and renders it more difficult to keep expenditures within the limits of receipts.'' In other words, blending authority and appropriating leads to deficits.

When the Senate debated granting the Committee on the District of Columbia the right to make appropriations in 1883, members of the Appropriations Committee argued against the move. Pointing out that the Appropriations Committee serves as a necessary, coordinating agent with the legislative committees, Senator Beck of Kentucky argued, ''it is not wise legislation to vest any committee with absolute power as to the amount of money necessary to carry those laws into effect. . . . We ought to have one committee as a check upon another, one guard placed upon another, so that no body of men sitting as a committee of Congress should have absolute power over the money of the people.''

Again, that is another important lesson for us today. The Appropriations Committee is a needed, important partner with Congress's legislative committees. When the 9/11 Commission argues for more supervision of intelligence matters, it is bogus to suggest that we start by decreasing oversight.

But, in the late 19th century, these members of the Appropriations Committee were ignored. After the DC Committee had sought appropriations powers, more and more authorizing committees began seeking appropriations authority. Responding to pressure, the Senate returned appropriations authority to most Senate committees. The result, a repetition of all of the past problems. Without central authority, oversight and a central controlling mechanism, Federal finances again fell into disarray. Legislative committees were off pursuing their own individual agendas. Budget requests were submitted piecemeal. The practice known as ''coercive deficiencies,'' wherein executive agencies went through their year's appropriation within a matter of months, and then appealed to Congress for additional funds to get them through the year, again became common. Most importantly, the decentralized system of appropriations was simply not capable of managing the expenditures of a Federal Government that was growing large in size and in expense. No one was minding the fiscal store.

I would urge any Senator who thinks that giving appropriation power to an authorizing committee will help restrain spending or increase discipline to study Congressional history. Congressman James Tawney, the chairman of the House Appropriations Committee from 1905 to 1911, concluded that ''division of jurisdiction and responsibility in the matter of initiating appropriations has contributed more than any other single cause to the enormous increase in appropriations during recent years.'' Everyone always wants to get an oar in the water.

A number of scholarly studies support Congressman Tawney's observation, including the 1987 study by David Brady and Mark Morgan, Reforming the Structure of the House Appropriations Process, and the book by Charles Stewart, Budget Reform Politics. These works document that without a central authority to impose overall budgetary discipline on the legislative committees, accountability all but vanished, and the public's money was spent with abandon.

World War I, like both the Mexican and Civil Wars, forced the Congress to confront the financial mess that decentralized funding had created, and to establish a supervisory control over the appropriations process. In 1922, the Senate returned jurisdiction over all appropriations measures to the Appropriations Committee. Thus, they created the system that has now served us well for more than 80 years.

Now, the 9/11 Commission proposes to return to the failed system of the past, and I adamantly oppose it. It is a formula for less accountability over public funds and for even larger deficits.

The lessons of history must not be brushed aside.

Most of us probably know the historical truism that those who do not remember the past are condemned to repeat it. History really does repeat itself because human nature does not change. In our desire to correct the reasons for our intelligence failures, let us avoid past mistakes. In our understandable desire to improve our intelligence system following 9/11, at least, we can try to avoid so-called solutions which have a proven track record of disaster.

While it also endeavors to preserve its Constitutional purpose and traditions the U.S. Senate has an obligation to adapt to new challenges.

I know that Senators REID and MCCONNELL examined the recommendations of the 9/11 Commission with those thoughts in mind. I know that the Working Group they co-chaired has proposed changes that will implement many of the reforms of the 9/11 Commission, while respecting the rights of Senators and the institution of the Senate.

I cannot say the same about this amendment.

Authorization committees and appropriation committees have very different mandates, one to oversee policy, the other to oversee budgets. Different authorization and appropriations committees ensure checks and balances and better oversight.

The amendment would result in fewer Senators looking into intelligence matters. It would eliminate the double punch of oversight with an authorization committee focused on policy matters and the Appropriations Committee focused on budget matters.

The message of the 9/11 Commission was to increase, not decrease, the role of the Congress in intelligence matters. It asked the Congress to pursue more vigorous oversight and to ask tougher questions. This amendment would take us in the opposite direction.

I urge the defeat of this amendment.

Mr. LEVIN. Mr. President, I do not support the McCain amendment to grant appropriation powers, in addition to oversight powers, on intelligence matters to the Senate Intelligence Committee.

I am a member of the Intelligence Committee and I support the effort in this resolution to strengthen the oversight capabilities of the Senate Intelligence Committee. However, I cannot support this amendment. Because much of the work done by the Intelligence Committee is necessarily done in closed session, it is all the more important to have the checks and balances of additional committees involved in the review and funding decisions concerning intelligence activities. Intelligence matters, by their nature, require secrecy. However, democracy works best with active and open debate. For this reason, it is critical that this process, while secret, involve more than a small number of Senators.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, after conversation with the managers, I believe we have other issues to address. I think everybody is familiar with this issue. If it is agreeable to the managers, perhaps we could have an agreement.

How much time does the Senator from Connecticut want?

Mr. LIEBERMAN. Five minutes.

Mr. MCCAIN. Five minutes. The Senator from Pennsylvania wants 5 minutes; the Senator from Missouri, 5 minutes; and I be allowed 5 minutes.

Mr. REID. I would like to be able to speak for a few minutes.

Mr. MCCAIN. Two minutes?

Mr. REID. A few minutes. I will do it as quickly as I can.

Mr. MCCAIN. The Senator from Nevada, 5 minutes?

Mr. REID. I may need 10.

Mr. MCCAIN. The Senator from Nevada, 10 minutes, and that followed by a rollcall vote?

Mr. REID. The Senator from Arizona should be the last speaker?

Mr. MCCAIN. Yes. Part of that unanimous consent request is that I be the last speaker, for 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, there would be no amendments in order prior to the vote up or down as the sponsor of the amendment wants.

Mr. MCCAIN. For the benefit of Members, Mr. President, would you repeat the terms of the unanimous consent agreement?

The PRESIDING OFFICER. Under the unanimous consent agreement, the Senator from Connecticut will have 5 minutes, the Senator from Pennsylvania will have 5 minutes, the Senator from Missouri will have 5 minutes, the Senator from Nevada will have 10 minutes, the Senator from Arizona will be the concluding speaker with 5 minutes, and there will be no amendments allowed before the final vote on this amendment.

Mr. MCCAIN. Followed by a rollcall vote?

The PRESIDING OFFICER. There will be a rollcall vote.

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the McCain amendment. The McCain amendment is part of the package of legislation Senator MCCAIN and I and others introduced on September 7 to implement all of the recommendations of the 9/11 Commission. That is why I am pleased to be a cosponsor of the amendment.

Governor Kean, Congressman Hamilton, members of the Commission made clear to Congress that they had three major and most urgent recommendations. The first was to create a national intelligence director, the second was to create a National Counterterrorism Center, and the third was to reform the way in which Congress oversees intelligence.

The first two, the national intelligence director and counterterrorism center, we accomplished yesterday in passing the bill that came out of our Governmental Affairs Committee. Senator COLLINS and I joked along the way that maybe we got the easier assignment than Senator REID and Senator MCCONNELL, who had to deal with Congress's own internal organization. I believe they have done well.

I do want to say a few things, and I will have more to say about this in a bit.

With regard to homeland security, the legislation Senator MCCAIN and I introduced embracing the 9/11 Commission said that Congress should either establish a new committee with sole jurisdiction over homeland security or give that jurisdiction to another existing committee.

Senator REID and Senator MCCONNELL and the working group chose to give that jurisdiction to the Governmental Affairs Committee on which I am privileged to serve. At the same time, it is significant to note that it is now going to be called the Committee on Homeland Security but at same time large chunks of the homeland security jurisdiction—the Coast Guard and Transportation Security Administration, now part of the Immigration and Naturalization Service—have been taken back by the other committees. That is the kind of action that encourages those who are cynical about this Chamber, and I hope we can try to do better on that.

With regard to the oversight of intelligence, the working group made a significant reform proposal which sponsors have described. But the McCain amendment embraces the recommendation of the 9/11 Commission, which I still respectfully believe is the better course to follow, which is to combine the expertise of the intelligence community and their considerable staff in authorizing with the power to appropriate and in that sense to make sure that this most critical aspect of the war on terrorism, intelligence, has the most active and informed and aggressive oversight from Congress.

The enormous achievement that the legislation we adopted yesterday represents in reforming our intelligence and homeland security apparatus will not fully be realized, or may go astray, unless there is the strongest possible congressional involvement in oversight. I believe this amendment will provide for that. That is why I rise to support it.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have sought recognition to speak in opposition to the amendment offered by the Senator from Arizona for a number of reasons.

First, the Intelligence Committee, with its current responsibilities, has a very heavy workload. I was on the Intelligence Committee for 8 years and chaired the Intelligence Committee in the 104th Congress. It is a very time-consuming job. I think it would be unwise to give them the additional burden of deciding appropriations.

As a member of the Appropriations Committee—and I do not make this argument on a turf basis—we spend a lot of time making the allocations among the 13 subcommittees which we have. We have a budget resolution. We have a specific amount of money and we have to make the allocations.

If we have a committee such as the Intelligence Committee not a part of

the appropriations process, to evaluate intelligence appropriations in contrast to the other appropriations functions, it simply does not give the full picture.

We, obviously, never have as much money as the individual members would like to have for their respective subcommittees, but when the committee makes a decision as to allocations, it is keeping the entire budget in mind. That would be lost if you had the Intelligence Committee with the authority simply to carve out whatever amount of money they chose without regard to the other appropriations processes.

In addition, the experience as detailed by the chairman of the Appropriations Committee, the Senator from Alaska, has been that when authorization and appropriations were combined, there were enormous appropriations. At a time of deficits and at a time of large national debt, we ought not create another structure which would add to the burden of additional funding.

The separateness of an intelligence appropriations subcommittee from the intelligence authorizing committee also lends for more congressional Senate oversight. With all of the work we have to do, there is insufficient time to give appropriate oversight to the intelligence functions. A separate appropriations subcommittee would have an opportunity to add to that oversight and would have an opportunity to add as a check and balance to what the authorizers may do.

We are proposing some very far-reaching changes here. I believe the resolution is a sound one in that it strengthens the hand of the intelligence authorizing committee by taking away term limits so the members of that committee will develop real expertise. But we should not abandon the traditional division of responsibility between authorizers and appropriators.

I have great respect for what the Senator from Arizona seeks to do. He has made very cogent critiques of the Appropriations Committee from time to time when the Appropriations Committee seeks to take on the authorizing role. There are not supposed to be authorizations on the appropriations bill.

We know, as a practical matter, that happens on occasion. Really, it happens with excessive frequency. But just as the separateness ought to be maintained with appropriators not authorizing; so, too, the separators ought to be made with authorizers not appropriating.

It is for these reasons that I oppose the amendment offered by the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise in opposition to the McCain amendment.

I joined the Senate Select Committee on Intelligence knowing full well that our system needed reform. Since that time, I have worked very hard with our distinguished chairman and members on both sides to try to bring about real reform that will enhance our Nation's ability to fight the war on terror by assuring we have the most accurate, actionable, and timely intelligence available.

I applaud the provisions of the Collins-Lieberman bill, and commend my colleagues for coming together on that important piece of legislation. It is now time, however, for Congress to get into the really difficult battle; that is, reorganizing and reforming ourselves. That is necessary so long as such reform makes sense. The 9/11 Commission concluded:

The House and Senate intelligence committees lack the power, influence and sustained capability to meet the challenge of overseeing the United States intelligence community, and executive branch reform will not work if congressional oversight does not change too.

That doesn't mean that a commission to investigate the facts and circumstances relating to the terrorist attacks of September 11, 2001, should become the only basis for intelligence reform and we must adopt every recommendation. We have spent a good bit of time in this body—I have personally and I know my other members on the Intelligence Committee have worked on these issues far longer than the 9/11 Commission worked on them. I know from my experience on the Appropriations Committee how important that responsibility is, and I daresay that those of us on the Appropriations Committee have lots of experience on how the appropriations process works.

I feel very strongly in the case of this amendment and the Commissions's recommendation to combine authorization and appropriations powers that we need to reject it.

A longstanding lesson in the Congress that we have observed, I think wisely, is that it is inefficient and undesirable to mix policy legislation with appropriations legislation. Appropriations are required on a timely basis to keep the Government operating with as little disruption as possible, particularly funds for the intelligence community which are paramount to the day-to-day operations in continuity of our national security. It should not get stalled or held up as a result of potential policy disagreements.

Every year on the appropriations bills which we process, we work hard to get the appropriations out on time and try to focus on those issues that need to be resolved in appropriating.

Combining this legislation with appropriations can result in undesirable situations such as a rush job on policy deliberations in order to meet fiscal year deadlines, and thus potentially shortchanging the policy changes we need to make as a result of our oversight, or delays in appropriations, thus disrupting Government operations as we get involved in controversial policy debates.

The longstanding lesson and separation has been institutionalized in rules for both the House and Senate. Over the years, various attempts have been made in history to mix policy and appropriations functions into a single committee. In the past, this has been judged as undesirable.

If we want to get rid of the Appropriations Committees and spread appropriations throughout all the authorizing committees, that is a long and much more extended debate than we are having here. I do not think we can or should single out intelligence and say in intelligence alone they will have the appropriations functions along with the authorizing functions.

Congress already has a mixed policy budget oversight model adopted in the 1980s for intelligence, the past legislation that provides the Intelligence Committees with powerful control over the budget. Section 504 says no funds may be obligated unless authorized, and over time the Intelligence Committee began to authorize at the level of detail of appropriations.

I was very happy to support our chairman's position in Collins-Lieberman that protects our jurisdiction and enhances the power of the Intelligence Committee. The Intelligence Committee as an authorizing committee ought to have greater powers. The need to authorize funding at the detailed budgetary levels would compel the Intelligence Committee to behave like an Appropriations Committee.

I am familiar with how they work. It is better that the Intelligence Committee not get into this field. It is undesirable if our intent is to make our Intelligence Committee more effective. The Senate Intelligence Committee potentially becomes dominated and consumed by budget review and arguing over specific appropriations items.

The question we have before the Senate is, should Congress reorganize. That would be a bad idea. We heard, as the Senator from Pennsylvania has discussed, objections to legislating on an appropriations bill. I object to appropriating on an authorizing bill. I hope my colleagues support that point of view.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Before my friend leaves, we have served together for many years. We do things in that committee that are so important for the State of Nevada. We authorize programs dealing with flood control, which Nevada has tremendous problems with, with the growth taking place. We do things there to help flood control in Las Vegas and the Appropriations Committee will not give us the money we feel we need.

Superfund is a program I believe in, but we authorize things in that committee and the Appropriations Committee lets us down almost every time. We do it with the Corps of Engineers. We do it with the endangered species.

I say, why shouldn't we have the Environment and Public Works Committee do their own appropriating?

Then we would not have to worry about Las Vegas flooding. We would take care of it. I would go each year as quickly as I could to get the first bill passed and get all the money so there is none left for the rest of the committees.

The fact is programs that are within that jurisdiction—FEMA is an example—these are programs that are essential. I get upset at the Appropriations Committee, even though I am a member, for not getting money to the things I support, as someone who has been chairman of that committee on two separate occasions.

I know the good intentions of my friend from Arizona. He and I came to the House together. We came to the Senate together. I never like to get involved in a legislative battle with Senator MCCAIN because of his passion with legislative battles and life in general. The fact is, even though I don't like to get involved, and I rarely do, he is wrong this time. He is wrong.

What would happen if this amendment is passed? There would be more secrecy. There would be too much power consolidated, as the former chairman who served on the committee 10 years, BOB GRAHAM, has said. He has served as chairman and wrote a book on the Intelligence Committee. He said it would be the wrong thing to do. It would reduce the number of people and staff looking at the critical matters.

The appropriations and authorization process has been separate for 170 years. Why? This is not by accident. It is because there has to be some control, ultimately, of money. That is why we do not allow Senator REID of the Environment and Public Works Committee, Senator REID and others who serve on authorizing committees to have a free hand in the money.

Now, the authorizers look at matters of policy. That is the way it should be. The appropriators are spending the people's money the way the law states.

The solution we have come up with is a better solution that strengthens the Intelligence Committee and creates a new intelligence appropriations subcommittee.

Governor Kean, the cochair of the 9/11 Commission, said:

> I think [an intelligence appropriations subcommittee] would be very much in my mind within the spirit of our recommendations.

I know my friend from Arizona wrote a letter saying this is fine, maybe, but what we want is better. I don't want to get in a nitpicking ''he said, they said,'' but I am reading from page 421 of the 9/11 Commission:

> We also recommend that the intelligence committee should have a subcommittee specifically dedicated to oversight, freed from the consuming responsibility of working on the budget.

I don't know if it was an oversight, but I wrote a book once and they sent it to an editor, someone who worked at the University of Texas. She was a professional editor. This is my book, a history book, and she came back with all of the contradictions that I had made myself right in my book. I was so stunned how good she was.

Whoever was doing the editing of this report made a mistake, because you cannot have it both ways. You cannot have limited budget authority and have them do the appropriation and the authorizing all at one time.

This is something that is very important. Senator MCCAIN is wrong. It would not be hard, for example, to find someone to serve on the Intelligence Committee. He said we cannot find people to serve on the Intelligence Committee and this will make it worse.

Walk through those doors and through another set of doors and you wind up in Senator DASCHLE's office. The most sought-after committee by Democrats in the Senate is the Intelligence Committee. There is a long line of people wanting to serve on that committee. Why? Because it deals with the most important aspects of what goes on in this country. It deals with the intelligence aspects of our Federal Government. They deal with what no one else deals with. Senator ROBERTS and Senator ROCKEFELLER have done a wonderful job with very few tools to do it with. What we did yesterday and what we are doing here today is creating an Intelligence Committee that has the tools to do work that they have done in a very difficult way. We are giving the Intelligence Committee superpower authority.

I suggest to my friend Senator MCCAIN, it is going to be easy to find people to serve on this committee. It has been easy in the past and it will be easier now because the committee is better than ever.

He describes the lack of oversight in the current intelligence process, but his process is to give only a handful of Senators unprecedented power. We propose more checks and balances. That is what we need—more, not less.

This amendment is an amendment that is offered in good faith. I know my friend from Arizona feels he is doing the right thing, but it is the wrong thing to do. It would be bad; it would consolidate power. This is exactly what we do not need.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I thank my colleague from Nevada, and especially I thank Senator ROBERTS who brings great expertise to this issue, given his position as chairman of the Committee on Intelligence.

I mention again the families and the Commission fully support this amendment. I have no doubt when we take this vote, my friends, that the Commission unanimously, and the families of September 11 support this amendment.

I will quote from Jim Thompson, former Governor of Illinois, a member of the Commission, who says:

> . . . I urge the Senate to make the Commission's recommendations for Congressional reform as high a priority as it made our other recommendations. The congressional reforms are important and necessary.

That is why the Commission was unanimously strongly recommending a new committee structure combining authorizing and appropriating authority in a simplified and functional Homeland Security committee structure.

Mr. Richard Ben-Veniste:

> I urge the Senate to make the Commission's recommendations for Congressional reform as high a priority as it made our other recommendations.

The Commission strongly recommended new committee structure combining authorizing and appropriating authority in a simplified and functional Homeland Security committee structure.

There is no doubt how the Commission stands or how the families stand. What this is all about is contained on page 419 of the 9/11 Commission report, the bestselling report:

> Of all our recommendations—

''Of all our recommendations''—

> strengthening congressional oversight may be among the most difficult and important. So long as oversight is governed by current congressional rules and resolutions, we believe the American people will not get the security they want and need.

This is really what this amendment is all about.

> . . . the American people will not get the security they want and need.

So we are not talking about a turf battle here. We are not talking about who is going to do what and who is going to have the power of the purse. We are talking about the security that the American people want and need, according to the 9/11 Commission.

Mr. President, I am a bit of a realist. I think it is going to be very difficult to win this vote. ''Intense pressure'' has been put on Members of the Senate as well as members of the Commission.

I thank the members of the Commission who have stood up to that pressure, but I have no doubt that if this amendment goes down, we will perform two-thirds of our duties, and one-third, which, as the Commission pointed out, is the most difficult and most important, we will have failed that. And that is congressional oversight. That is really what this vote is all about.

Mr. President, I yield the floor and ask for the vote.

The PRESIDING OFFICER. Under the previous order, the vote will now be held on the amendment of the Senator from Arizona. The question is on agreeing to the amendment.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Georgia (Mr. CHAMBLISS) is necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The result was announced—yeas 23, nays 74, as follows:

[Rollcall Vote No. 200 Leg.]

YEAS—23

Alexander	Feingold	Nickles
Bayh	Fitzgerald	Roberts
Biden	Graham (SC)	Santorum
Cantwell	Kyl	Sessions
Collins	Lieberman	Snowe
Crapo	Lott	Sununu
DeWine	Lugar	Voinovich
Ensign	McCain	

NAYS—74

Akaka	Dodd	Levin
Allard	Dole	Lincoln
Allen	Domenici	McConnell
Baucus	Dorgan	Mikulski
Bennett	Durbin	Miller
Bingaman	Enzi	Murkowski
Bond	Feinstein	Murray
Boxer	Frist	Nelson (FL)
Breaux	Graham (FL)	Nelson (NE)
Brownback	Grassley	Pryor
Bunning	Gregg	Reed
Burns	Hagel	Reid
Byrd	Harkin	Rockefeller
Campbell	Hatch	Sarbanes
Carper	Hollings	Schumer
Chafee	Hutchison	Shelby
Clinton	Inhofe	Smith
Cochran	Inouye	Specter
Coleman	Jeffords	Stabenow
Conrad	Johnson	Stevens
Cornyn	Kennedy	Talent
Corzine	Kohl	Thomas
Craig	Landrieu	Warner
Daschle	Lautenberg	Wyden
Dayton	Leahy	

NOT VOTING—3

Chambliss	Edwards	Kerry

The amendment (No. 3999) was rejected.

Mr. STEVENS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I think it may be important that we pause for a minute and figure out what we have done. I would like to have a colloquy with the Senator from Maine. We are now at a position where we are supposed to be consolidating authority in the homeland security committee. In fact, the distinguished Senator from Kentucky said last night:

> The most sweeping change we recommend is to consolidate congressional jurisdiction over the Department of Homeland Security. If you don't think this is major reform, ask the roughly 25 Senate committee or subcommittee chairmen who currently have jurisdiction over Homeland Security agencies or programs.

Truth in advertising: The homeland security committee has 38 percent of the Department's budget and 8 percent of the Department's employees. That is the great consolidation. Why don't we just stop, why don't we call it a night and say the heck with this farce. This is crazy. This is stupid.

The amendment I am about to propose does, what? Something shocking. It takes the Transportation Security Administration, which is the heart and soul of homeland security, and moves it to, guess what. The homeland security committee from the committee on which I have been proud to serve for 18 years.

Guess where the Coast Guard remains. The Coast Guard remains, guess where. In the Commerce Committee. This is a joke. This is a joke, I say to my dear friends.

Mr. President, I ask unanimous consent to engage in a colloquy with the Senator from Maine.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, can this Senator be part of that colloquy?

Mr. MCCAIN. Sure.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Maine.

Ms. COLLINS. Mr. President, if we are going to create jurisdiction in one committee for homeland security, let's do it. Let's not pretend that we are doing it. Let's not do it in name only. As a result of the proposal put before the Senate with its exclusions and the amendment adopted this morning, as the Senator from Arizona indicated, the homeland security committee would have exclusive jurisdiction over less than 38 percent of the Department's budget.

It would have exclusive jurisdiction over fewer than 8 percent of the Department's employees. That is 13,000 employees out of 175,000 employees. There are more amendments filed that would take still more agencies away from the committee's jurisdiction.

Mr. MCCAIN. If the Senator will yield for a question, it is my memory, if my memory serves me correctly, after 9/11, the first major step that we took was the creation of what agency? The Transportation Security Administration? Is that true?

Ms. COLLINS. The Senator is correct.

Mr. MCCAIN. So what are we doing with the TSA, may I ask the Senator from Maine? Are we moving it into her committee so she has jurisdiction over it?

Ms. COLLINS. No.

Mr. MCCAIN. Ah, I can hardly believe that. I mean, after all, that is what homeland security is really all about, I thought.

Ms. COLLINS. The fact is that Congress has held 312 hearings over the past 2 years on homeland security. The Department has conducted 2,200 briefings. There are 25 Senate committees and subcommittees with jurisdiction over the Department of Homeland Security. This is an intolerable situation for the Department. It is why the Department and the President are pleading with us to consolidate all of the Department under one authorizing committee.

Mr. MCCAIN. If the Senator will yield for a further question, if Secretary Ridge or Deputy Secretary Hutchinson had to testify before Congress as far as the activities of the TSA, to whom would they testify?

Ms. COLLINS. They would testify all over. They testified before 88——

Mr. MCCAIN. But what about now?

Ms. COLLINS. Well, that is a good question. I have had hearings. Other hearings have been held. Twenty-five Senate committees and subcommittees have a claim over DHS. It is why Secretary Ridge called up in desperation and said: Please give us some relief from this. This is intolerable. We are supposed to be running the Department. Instead, we are constantly testifying.

Mr. STEVENS. Will the Senator yield to me on that?

Mr. MCCAIN. Sure.

Mr. STEVENS. I have a chart of the Department of Homeland Security summary of appropriations, and it shows the total amount is $38,840,000,000. The two items that are not in that jurisdiction that would come out total $11 billion. The total amount the homeland security committee will have is $22,945,000,000.

Now, Mr. Ridge appeared before the Commerce Committee under the chairmanship of the Senator from Arizona only twice.

Mr. MCCAIN. Secretary Ridge——

Mr. STEVENS. I am reliably informed the reason it went to the Commerce Committee in the first place was the Senator from Arizona wrote a memorandum for the Parliamentarian saying that is where it should be, in the Commerce Committee, because we have jurisdiction over all the means of transportation and all of the entities TSA deals with.

Now, the Senator's committee—I am a member of that committee—will not have jurisdiction over railroads, trains, buses, boats, all of the entities that TSA affects. TSA has moved into the facilities owned by those entities. They have not built their own buildings; they have moved into those occupied by the airlines, buses, wherever. The conflict we have to resolve is between TSA and entities that provide the transportation.

Now, if we are going to have a consolidation of jurisdiction, that is why we have done this, that is why the Senator from Arizona wrote the memorandum in the first place, because we have the jurisdiction over the means of transportation.

Mr. MCCAIN. The Senator from Alaska is probably correct that I asserted jurisdiction over transportation at the time that TSA was created. That was before the 9/11 Commission was formed and made their recommendations and their decision was made. At least we told the American people that we would give those responsibilities to that committee.

Now, maybe Ridge only testified before us twice; Hutchinson, many times. There were a multitude of hearings where we called upon TSA, exercising our oversight responsibilities, to provide us with information, briefings, and hearings.

The TSA belongs under homeland security, I say to the Senator from Alaska, whether they go by bicycle,

skateboard, or bus. The fact is that this is a joke when we leave the heart and soul of homeland security in the Commerce Committee, of which I am proud, and I know, according to the recommendations of the 9/11 Commission, must be consolidated.

I do not know what budget the Senator is looking at, but the facts that the Senator from Maine and I have is that it is 38 percent of the homeland security budget and 8 percent of the Department's employees.

My response is, fine, if the Senator from Alaska feels that it belongs in the Commerce Committee, he is entitled to that opinion. Let us just not tell people we are consolidating. Let us tell them the truth. Let us tell them it is business as usual in the Senate, as the last vote just proved. It is business as usual, and let us not waste the time of our colleagues and try to fool the American people that somehow we are making any significant changes when as it stands 8 percent of the Department's employees fall under the committee on homeland security and 38 percent of the budget.

Mr. STEVENS. I asked the Senator from Maine a question. I have not received a response. I am not a part of this dialog. I will make my statement later. I really take offense at the attitude of the Senator from Arizona.

Mr. MCCAIN. The Senator usually does.

Mr. STEVENS. Let's keep the personalties out of it.

Mr. MCCAIN. The Senator from Alaska asked to join in the colloquy and he was welcome to join the colloquy. If he chooses not to stay in the colloquy, then please do not remain in the colloquy.

Mr. STEVENS. I do not shout as loud as the Senator from Arizona and then interrupt people.

Mr. MCCAIN. The Senator is welcome to join in the colloquy. I thought the colloquy was an exchange of views, ideas, and thoughts. I certainly would look forward to engaging in any colloquy with the Senator from Alaska. I have the greatest respect for him and the power and authority that we just saw exercised in the last vote.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I want to clarify the issue. It is not just TSA and the homeland security functions of the Coast Guard that are not transferred to the new homeland security committee. It is the immigration functions of the bureaus of Customs and Border Protection, Immigration and Customs Enforcement, and the Citizenship and Immigration Services stay now in the Judiciary Committee. Certain functions of the bureaus of Customs and Border Protection and Immigration and Customs Enforcement stay in Finance. So I think if we add in all of the exclusions, then we get to the percentages that I quoted.

I say to my colleagues, my point is this: Are we going to do this or not? If we are not going to consolidate all of the functions of the Department of Homeland Security under one authorizing committee, as they are under one appropriations subcommittee, appropriately so, then let us not pretend that we are.

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

Ms. COLLINS. I would be happy to yield.

Mr. MCCAIN. What is the view of the Senator as to the primary role of the U.S. Coast Guard today?

Ms. COLLINS. The primary role of the Coast Guard today is port security. It has in some ways taken away from its many other important functions in fisheries enforcement and regulation, for example.

Mr. MCCAIN. Under this proposal that we are contemplating, where does the Coast Guard remain?

Ms. COLLINS. The Coast Guard would remain in the Commerce Committee.

The point is this: The administration has called for this consolidation. Let us either do it or not do it, but let us not pretend we are doing it by changing the name of a committee but only transferring to its exclusive jurisdiction 38 percent of the budget and 8 percent of the people.

If some of the pending amendments are approved, such as one to no longer have the Secret Service transferred, then we are just going to end up with jurisdiction over Tom Ridge's personal staff. That is about what is going to be left.

Mr. MCCAIN. If the Senator will yield for another question, I would like to mention as part of this colloquy a recommendation of the 9/11 Commission: Congress should create a single principal point of oversight and review for homeland security. Congressional leaders are best able to judge what committee should have jurisdiction over the Department's duties, but we believe that Congress does have the obligation to choose one in the House and one in the Senate.

Now, is it true that under an amendment that has just been adopted by voice vote earlier, more responsibilities have been taken from the Senator's committee?

Ms. COLLINS. The Senator is correct. The underlying resolution as amended this morning now leaves the vast majority of the homeland security jurisdiction in committees other than in the new homeland security committee. I think that is a mistake. I think, if we are going to take that route, then we have not done the consolidation that the administration has called for.

Perhaps that is the will of this body. I understand these issues are difficult, that committees think they have a special relationship with these agencies. But let's not pretend we are consolidating agencies to parallel the consolidation that we undertook when we created the Department of Homeland Security.

Mr. MCCAIN. I ask the Senator from Maine, I am sure she is aware but I think our colleagues should know, that the legislation creating the Transportation Security Administration, under the title ''Functions,'' reads:

> The Under Secretary shall be responsible for security in all modes of transportation including carrying out chapter 449 relating to civil aviation security, related research and development activities, security responsibilities over other modes of transportation, be responsible for day-to-day Federal security screen operations, for passenger air transportation, interstate transportation. . . .

It goes on and on. It is all security. That is the job of the Transportation Security Administration. That is one of the reasons why it is so named.

So rather than take the Transportation Security Administration and put it under the committee on homeland security and governmental affairs, we leave it in the Commerce Committee.

Ms. COLLINS. The Senator is correct. That is the effect of the underlying resolution.

AMENDMENT NO. 4000 TO AMENDMENT NO. 3981

Mr. MCCAIN. Mr. President, I perhaps foolishly have an amendment at the desk. I ask for its immediate consideration.

Mr. STEVENS. I object. What was the request?

Mr. MCCAIN. No, I didn't make a request. I said I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection setting aside the pending amendment?

Hearing none, it is so ordered.

Mr. STEVENS. I still don't understand. Is the Senator now calling up the amendment on Commerce?

The PRESIDING OFFICER. At the present time, yes.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 4000 to amendment No. 3981.)

Mr. MCCAIN. 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 ensure that the Committee has jurisdiction over the Transportation Security Administration)
>
> On page 2, beginning in line 13, strike ''to the Transportation Security Administration,''.

Mr. MCCAIN. I pretty well described this amendment just as we were discussing in this colloquy. Basically, it moves the Transportation Security Administration from the Commerce Committee to the new committee on homeland security and governmental affairs. I pretty well described it. I think it is clear, given the responsibilities of the Transportation Security Administration which I read a few minutes ago. They all have to do with transportation security. Obviously, homeland

security is the appropriate place for it to be.

I ask consideration of the amendment. I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, this is an important amendment for the Senate. I hope Members will listen because the Transportation Security Agency is the one that manages basically the entities at the airports, the bus stations, wherever they may be where people enter into forms of transportation.

All of those transportation means are under the jurisdiction of Commerce. I don't know about the rest of you, but I went to Nome one time and I found the Transportation Security Administration had moved into the Alaska Airlines terminal, owned by that airline, and said: Move out of the way. We have to put in these security devices. And they did that. They built a wall through that terminal and they proceeded to take it over.

I have had more complaints about the Transportation Security Administration than I have any other entity since I have been in the Senate because of the way they impact the traveling public.

I remind the Senate, there is a provision in the bill that authorized the Transportation Security Agency to transition to private enterprise when the time came that private enterprise could handle it. This is not a permanent Government entity. We sincerely believe that those involved in the transportation mechanisms should transition to the point where they, working with private enterprise, provide these functions. Right now these are temporary functions. We have provided Government employees to do it temporarily, not permanently. So this whole premise is that it should go over to the Governmental Affairs Committee—on which I am proud to serve and was once chairman—and they should oversee this entity, which we in Commerce want to see transition to become a part of the systems of transportation and not something maintained by Government forever.

This is not something that really ought to be done this way at all. I do not disagree with the Senator from Maine. There are a substantial number of entities that are under the jurisdiction of various committees that should come to the governmental affairs and homeland security committee, as it is now to be renamed. But in terms of that transition, those things do not impact the overall commerce of the United States the way this one does.

The Coast Guard, by the way—the Coast Guard's primary mission is not port security. It is to maintain the jurisdiction in the United States in peacetime over the waters that are essential to our commerce and in wartime to become part of the Department of Defense.

What sense does it make to split it up? By the way, a portion of the Coast Guard is already under Homeland Security. It is already there. We agreed to it in the bill that created the Homeland Security Department. This takes the rest of it, the part that deals with fishing, that deals with boat inspection, that deals with the various aspects of using the Coast Guard around the world as it did off Iraq when it had the job of handling interdicting shipping that violated the sanctions against Iraq importing certain goods. That was done by the Coast Guard. This isn't homeland security, either.

Its primary function up my way is to patrol the fisheries, to maintain the maritime border. That has nothing to do with the security of the United States. It has to do with the protection of the basic resources of our oceans.

If anyone has worked with the Coast Guard, they know they are part of the drug interdiction job. Maybe DEA ought to be transferred to homeland security. I am not sure. But it is certainly not the kind of thing we are talking about now.

The Coast Guard has missions beyond ports. It has waterways, coastal security, drug interdiction, migrant interdiction, defense readiness, maritime safety, search and rescue. Search and rescue is absolutely essential to our State, to have the Coast Guard deal with those souls who are at sea, in danger. They do a marvelous job. They do environmental protection. What does environmental protection have to do with homeland security? That is a different matter—oil spills, contamination of the water, ice protections, and whether we can have transit of the vessels that are capable of going through ice. We now have a considerable number of icebreakers up our way. That is what they deal with.

There is an enormous number of categories that have nothing to do with homeland security and those that deal with homeland security we already transferred to homeland security. The idea the Coast Guard is taking now, the rest of it—the amendment would say, take the rest of it and put it over there. I don't know if it is in this one, but that is the proposal, as I understand it.

Admiral Collins, the Commandant of the Coast Guard, when asked about the future asset acquisition of the Commerce Committee this last April, stated:

> To enhanced mission performance, The Coast Guard must optimize its unique authorities and capabilities, accomplishing partnerships while gaining capacity it needs to complete the full range of our missions. New assets will be used to conduct fishery patrols, search and rescue cases, as well as protecting the Nation against terrorist attacks.

We have no problem putting the terrorist activities in. They are already in Homeland Security. You don't need this process to go through to split that jurisdiction up again.

The problem right now is that Commerce Committee, having jurisdiction over all forms of transportation, would be faced with the problem of how to deal with this Transportation Security Agency. I think the committee under the chairmanship of the Senator from Arizona has a great record in dealing with this. As a matter of fact, they approved nine bills this year alone related to transportation security in this Congress and none of them dealt with security. One did—the Aviation Security Improvement Act was enhancement of security with regard to airlines themselves.

I think if one examines the record of this Commerce Committee, it has conducted its jurisdiction under the Senator from Arizona. I look forward to continuing that as chairman in the next Congress.

I want to give my friend from Hawaii time to speak on this.

With regard to the nominations on the TSA and Coast Guard, they have been done in record time in Commerce. As compared to the rest of the Congress, nominations before our committee are expedited, and necessarily so. The impact of this matter obviously is that the confirmations of the Coast Guard will be taken over to homeland security. Those Coast Guard people do a lot more than just port security.

I am getting redundant.

But the difficulty with this is the transportation infrastructure itself should not be broken up. We should aim for the goal that this problem which is handled by TSA will be taken over by private enterprise. It should be. We envisioned that at the time we passed the original bill.

We have jurisdiction, as I said, over aircraft, rail, and highways. There is no question when we look at it that putting those concepts that affect our livelihoods right now and dragging them down is the considerable impact of TSA on their operations—not only on this operation as passengers, but the whole spectrum of the relationship with TSA to the transportation entities, I think, needs to be considered.

The McCain amendment would transfer jurisdiction over there to the homeland security and governmental affairs agency.

We had a hearing this morning about the plight of the airline industry. There is no industry that has been affected as much by TSA as the airline industry. TSA is examining how to counter the threat posed by shoulder-launched missiles. The FAA has that jurisdiction.

We have jurisdiction in Commerce over the FAA. Why should we transfer to Governmental Affairs the jurisdiction over an entity that is dealing with this type of equipment? They also have jurisdiction ultimately over some of the aspects of the transportation mechanisms themselves—design of airplanes, design of buses, design of trucks, cars; the whole thing. I believe all of that ought to stay where it is, with Commerce.

The FAA currently governs baggage weight and rules for lost and damaged

baggage. TSA only deals with baggage security. We are going to take baggage security and put a whole entity over there when the problem is the problem of the industry which has the responsibility legally for the baggage no matter who handles it. I think this is absolutely wrong.

Currently, the airline industry pays $14 billion in user fees, according to the air transportation testimony. Those fees have to be reduced. The only way to reduce them is to get TSA's function into the hands of private enterprise related to the entity they serve—not the whole transportation system but the system they are working with. TSA is designed almost as a ''one size fits all'' for everything. That should not be. We should have a security system that is related to the responsibility of those providing the transportation and let the users of that transportation pay for it and not the taxpayers. This is where in the long run we are going to go, and I believe it is the right thing to do.

I cannot believe we should have two committees dealing with the airline industry. Governmental Affairs has no competence in this area in terms of the impact of entities like TSA on the airline industry. We do. We assert it in the committee under the chairmanship of the Senator from Arizona. It has been a good relationship. I believe it should be continued.

I have talked a little bit about the Coast Guard. I don't think that is covered by this amendment. The current amendment covers only Commerce, as I understand it. Is that correct? I have not seen the amendment yet. Parliamentary inquiry: Does this amendment currently only apply to the Commerce Department? Is it under TSA and the Commerce Committee jurisdiction?

Mr. MCCAIN. It only applies to TSA.

Mr. STEVENS. I thank the Senator.

Does the Senator from Hawaii wish to be recognized?

Mr. MCCAIN. Mr. President, I don't want to take a lot of time. I wonder if we could get an agreement that perhaps Senator INOUYE be recognized for—how much time would he need?

Mr. INOUYE. Twenty minutes.

Mr. MCCAIN. Twenty minutes; followed by Senator LIEBERMAN for 5 minutes; Senator LOTT for 5 minutes; whatever time Senator STEVENS would need; and then 5 minutes for me to wrap up, followed by a rollcall vote.

Mr. REID. Mr. President, I don't know whether I will use any time, but I would like to be included to speak for up to 5 minutes.

Mr. MCCAIN. I ask unanimous consent for that agreement.

How much time does the Senator from Alaska need? Five minutes as well.

Let me repeat: I ask unanimous consent that the Senator from Hawaii be allowed 20 minutes; the Senator from Connecticut 5 minutes; the Senator from Mississippi 5 minutes; the Senator from Alaska 5 minutes; if needed, the Senator from Nevada 5 minutes; and the Senator from Arizona for 5 minutes, followed by a rollcall vote.

Mr. REID. Mr. President, I ask unanimous consent that the request be modified: that there be no amendments in order prior to final passage on this amendment.

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

Mr. MCCAIN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I wish to join my colleague from Alaska in opposition to this amendment to transfer jurisdiction over the TSA to the soon-to-be renamed Governmental Affairs Committee.

As noted by Senator STEVENS, this amendment would effectively strip the Commerce Committee of its ability to oversee and coordinate the safety and security needs of our Nation's transportation system. To consider security in a vacuum, without understanding the impacts of security policy on the safety and operations of the mode of transportation, could give rise to unrealistic, contradictory, and counterproductive policies.

The McCain amendment would sever issues and responsibilities that have enabled the Commerce Committee to craft and enact two of the most significant transportation security measures this body has adopted since the 9/11, 2001 attack on our Nation.

The Aviation and Transportation Security Act created the TSA, the Transportation Security Administration, mandated the Federal takeover of aviation security functions, and created a fee to pay for the new responsibilities.

The Maritime Transportation Security Act created a new regime for maritime security within the TSA and the U.S. Coast Guard.

The Commerce Committee also successfully completed a conference with the House earlier this year on a second port security bill, the Coast Guard and Maritime Security Act.

These efforts were successful because of the Commerce Committee's understanding of the transportation industry, and the integral link between security, safety, and operations.

The committee has worked for more than a decade to improve transportation security and has had to deal with the inertia of the Federal Government as well as fight entrenched interests to change the way we secure the transportation system.

As far back as 1996, attempts were made to transfer security functions from the airlines to the Federal Government. Similarly, the port security act was initiated prior to the terrorist attacks of 9/11. The 9/11 attacks created sufficient public pressure to fundamentally change the way the Federal Government secured our aviation system and the ports.

The problems we are having in improving security are not the result of an outdated committee system; they are the result of ''growing pains'' of a newly created department with insufficient resources to fulfill its responsibilities.

The 9/11 Commission made many recommendations. However, the recommendations with respect to the transportation sector were very general, with no specifics. An effective approach would require taking operational needs of transportation systems, the funding streams for these systems, the economics of the industries, and the safety regulatory framework that is so crucial to protecting our citizens.

In setting transportation security policy, all of these aspects come into play: safety regulations imposed by the Department of Transportation, safety regulations and recommendations by the National Transportation Safety Board, and the need to efficiently move passengers and cargo.

For example, the Commerce Committee developed legislation to strengthen cockpit doors based on its jurisdictional aviation funding programs, the FAA's certification approval process, and aviation system safety. We had working knowledge of aircraft structure and the carrier maintenance schedules.

The Commerce Committee was able to develop funding streams for the installation of another explosive detection system because of the committee's jurisdiction over airport funding programs and the use of the airport and airways trust fund.

Similarly, the authorization for pilots to carry guns required an understanding of a wide variety of issues, including structural integrity of the aircraft, training programs, and the pilot licensing process.

For example, if you left it up to a gun merchant or gun expert, he might say, give the pilots a .45. If you fired a .45 in one of those aircraft, it will blow the plane apart under the pressure of the atmosphere. So we have some sort of background and knowledge about aircraft structure. So the pilots would be carrying a smaller caliber pistol, something that will not put the aircraft into an explosive position.

You cannot separate safety considerations, security considerations, and the operational theory. Keep in mind that when we passed the Airport Security Act, we initiated a user fee system, a system where the beneficiaries, if you want to call them that, the airlines, pay a fee for the metal detectors, pay a fee for the x ray machines, pay a fee for the personnel. They have been paying $14 million per year.

If you separate this function to another organization that will have no knowledge about the economics involved in the airlines, not realizing that the airlines are now on the verge of bankruptcy, who knows, we may really put them out of business. And the major mission of our airlines is to

carry passengers, to carry on the mobility of the citizens of the United States.

Transportation security decisions cannot be separated from the safety and operational concerns. The Senate leadership, tasked with the mission of developing a reorganization plan, recognized this vital link. That is why the leadership amendment keeps matters relating to the Coast Guard and the transportation security within the jurisdiction of the Commerce Committee.

Even the Department of Homeland Security recognizes that security decisions can have safety and operational ramifications. This link is embodied in a recent memorandum of understanding between the Department of Homeland Security and the Department of Transportation.

Transportation security and safety are so intertwined that separating them, as the McCain amendment would do, could do harm rather than benefit our transportation system.

After we created the Transportation Security Administration, long before we had a Department of Homeland Security, the President put in charge a tough law enforcement official who knew little about transportation. He did not last long because he knew only one side of the equation. He was succeeded by Admiral Loy who understood not only the balance between safety and security but the need to support policies and positions to maintain our safety needs while meeting our security challenges.

Those tasked with the responsibilities of securing our transportation system must take into account the intricacy of the operations of the system, from safety standards to mock in place realities. The two cannot be separated. Without such context, security decisions will be made in a vacuum that at best might produce misguidance and extraneous efforts and at worst could triple the transportation modes that ensure the free flow of commerce and traffic upon which our Nation has been built.

Competition, safety, and security are interrelated and inseparable aspects of interstate transportation, and each element significantly impacts a carrier's operation.

I realize this amendment does not discuss the Coast Guard, so I will not discuss that matter at this moment.

This is not a debate about protecting turf. It is a debate about the best way to do the job our Nation has entrusted to us. It is about our role in transportation safety and security and our ability to craft effective and timely solutions.

Although the report said Congress should create a single board of review for homeland security, I feel certain the commission did not intend that such a consolidation would result in more harm than good. Each of us must look at what is in the best interest of our Nation. Senators REID and MCCONNELL have done that. Therefore, I urge my colleagues to vote against the McCain amendment.

Finally, it has been said the homeland security proposal submitted by the leadership of the Senate did not change the status quo. It recommends, as this resolution will point out, that the new homeland security and governmental affairs committee have sole jurisdiction of three of the four directorates in the Department of Homeland Security: directorate of information analysis, science and technology programs under the under secretary, and emergency preparedness and response director.

Yes, we have tried our best to make a change but not at the expense of a good, efficient, safe, and profitable transportation system.

Mr. REID. Mr. President, as we were listening to Senator MCCAIN and the unanimous consent request for time, the cloakroom had a call from Senator LAUTENBERG. I ask unanimous consent that the order now before the Senate be amended to allow Senator LAUTENBERG 10 minutes. I am hopeful I will not have to use my 5 minutes, so it would not extend things for more than 5 minutes, 10 at the most. I ask Senator LAUTENBERG be allowed 10 minutes prior to Senator MCCAIN speaking.

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

Mr. LIEBERMAN. I rise to support this amendment. When the 9/11 Commission Report came out—and the Commissioners said the top three priorities were the creation of a national intelligence director; second, national counterterrorism center; and, third, reform of congressional oversight of intelligence and homeland security functions—a lot of cynics said none of this is going to be easy; maybe they will be able to reorganize the administrative branch of our Government, but they will never do the job themselves on themselves.

I am afraid the Senate is in the process of proving the cynics right, and it is a shame. We are creating a shell here. This is like a shell game. We are calling a committee a homeland security committee, but if you pick up the shell, there is not much homeland security under it.

I remember when the Department of Homeland Security legislation, in the aftermath of September 11, was brought before our committee and before the Congress. This was originally a recommendation of the Hart-Rudman Commission which some of us picked up and advocated here in the Congress.

During the legislative consideration of the Homeland Security Department, almost every agency that is now a part of the Department came to us and said: We can't go to this Department; it is too big; we can't work together. We appealed to them that they had to put their own interests aside, and in the aftermath of September 11, a national crisis which proved we were not organized to protect our homeland, they had to get together in one department and make it work for the public's benefit. We accomplished that in the Department, and they are now. It has not all been smooth, but I don't think there is anybody who would say we are not safer today than we were before the creation of the Department of Homeland Security because they are all working together.

That is why the 9/11 Commission said, if you want to do effective oversight of homeland security, if you want to make sure the Secretary of Homeland Security is not spending so much time jumping around from committee to committee up here in Congress but actually protecting the homeland, then create one homeland security committee of the Senate and the House.

I have no particular argument to be made about which committee that should be. In the legislation Senator MCCAIN and I put in, we mirrored the report of the 9/11 Commission: Either give one existing committee all of the homeland security oversight legislatively or create a whole new committee on homeland security. The Senate is on a path to do neither and, therefore, not meet the challenge of the 9/11 Commission and the challenge of our current circumstances in the war on terrorism to create such a committee.

Here in this amendment, Senator MCCAIN is trying to restore to the Governmental Affairs Committee, or being renamed the homeland security committee, the Transportation Security Administration. The total Department of Homeland Security has 175,000 employees. TSA has more than 51,000. Its functions are totally with regard to homeland security. Incidentally, the Coast Guard is totally within the Homeland Security Department. There may have been some misunderstanding about that here. Some of its functions are clearly not directed to homeland security. But TSA is totally homeland security. It belongs in the Department of Homeland Security, and it belongs in the committee designated here in the Senate to do oversight and authorization of homeland security.

So I appeal to my colleagues, if you want to give this title to the Governmental Affairs Committee, fine. Senator COLLINS and I and members of our committee will do the best job we can. But if you are giving us the title, give us the responsibility to do the job right. If not, give it all to another committee or create a new committee. But right now, remembering the famous old saying about "if it walks like a duck and quacks like a duck and looks like a duck, it must be a duck," we are creating a committee that does not have the budgetary authorization for most of the Department of Homeland Security, does not oversee most of the employees of the Department of Homeland Security, and we are calling it the committee on homeland security. It is not. And I do not see a good reason for doing it other than business as usual here in the Senate.

So I appeal to my colleagues, let's do what is right for the country and put all of this in one committee. You can decide which one you want it to be. It does not have to be the one I happen to be ranking Democrat on. But let's do what is right and put it in one committee.

I thank the Chair and yield the floor.

Mr. MCCAIN. Mr. President, what is the order?

The PRESIDING OFFICER. The Senator from Mississippi is the next Senator to be recognized.

Mr. MCCAIN. When is the Senator from New Jersey to speak?

The PRESIDING OFFICER. The Senator from New Jersey is to speak just before the Senator from Arizona is to close.

Mr. MCCAIN. Mr. President, may I be recognized before the Senator from Mississippi? I think it is appropriate for the Senator from Alaska to speak, as the main opponent of the amendment, before I speak, which would be after the Senator from New Jersey. I ask unanimous consent that the Senator from Alaska be allowed to speak prior to me speaking, which would then wrap it up, since the Senator from Alaska is the primary opponent of the amendment and I am the sponsor of the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, I don't know what that does to the other order.

Mr. MCCAIN. It puts the Senator from New Jersey, Mr. LAUTENBERG, prior to you rather than after you.

Mr. STEVENS. That is fine. I have no objection. Senator LOTT precedes that?

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

Mr. STEVENS. Mr. President, there is not a quorum call in effect, is there?

The PRESIDING OFFICER. There is not.

Mr. STEVENS. I am informed Senator LAUTENBERG will not be returning to the floor to speak. Next will be Senator LOTT, right?

Mr. MCCAIN. Yes, Senator LOTT.

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. LOTT. 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. LOTT. Mr. President, under the time agreement, is this the time that I will have to speak on the amendment?

The PRESIDING OFFICER. That is correct.

Mr. LOTT. Mr. President, first I want to speak on the broader subject, and with only 5 minutes, I don't have much time. But I am really worried that what we are doing here is not enough. I understand that the whips, who have been designated to carry out this task by our leaders, Senator MCCONNELL and Senator REID, have worked very hard to try to accommodate everybody's interests and concerns, but there is something bigger here than just individual interests and concerns or turf or jurisdiction, and I feel a lot of that is still at play.

If we do not do anything more to this resolution than what is already in it, it is worth having. I do not want to complain about that. At least we are making the Intelligence Committee permanent.

There are a number of things that are in this resolution that are worth having, but I am worried it is not enough. I don't like going against my friends and colleagues on the Appropriations Committee, Senator STEVENS, Senator COCHRAN. I have faith in both of them. But I don't have faith in the way the system is set up now. The way things are spread out all over this institution, both on intelligence and homeland security, it is a prescription not to be able to do our job. That really does bother me. I didn't feel this way until I went on the Intelligence Committee.

But I say to my colleagues, after a year and a half on the Intelligence Committee, I am really scared. I am worried that our intelligence community has not done its job and that it is not organized properly. We are trying to do something about that with the legislation we passed yesterday. I don't think we did enough. I still think there are a lot of people trying to protect the status quo. The Pentagon doesn't want to give up 80 percent of the budget. They want to make sure that everything is done the way it has been being done. The Pentagon wants to make sure the Secretary of Defense still controls certain nominations. Again, too many people are worried about trying to keep what they have now when what we ought to be worrying about is how do we do a better job of getting better intelligence, not only for the men and women in the military but across the board in intelligence.

And this is the thing that really bothers me: part of it is our fault. We have not been doing our job. What is the proof? Look at 9/11. Look at the other things that we have found that the intelligence community did not know were about to happen or gave us information that was not accurate. If they failed, we failed.

When these two pieces of legislation are finished, both the intelligence reform in the administration and the congressional reform, are we going to be better off? Are we going to have somebody we can hold accountable? Are we going to be able to make sure the Pentagon is doing its job, the CIA is doing its job? I don't believe so. The intelligence authorization committee is not set up to do the job. Even with this arrangement we are working on now, it is all going to be controlled by appropriations and the black budget.

I want to emphasize, I trust Senator STEVENS, and I know he wants the security of this country to be looked after. But if we are not going to have an Intelligence Committee with the authority to do the job and without the knowledge of what is happening on appropriations, I would recommend we all get off because we are going to be held responsible and we are not going to be able to do the oversight that is necessary.

We are working at it. That is good. I commend everybody. On the homeland security, I debated on this particular point. I am on the Commerce Committee. I want all the jurisdiction we can possibly get. I am very concerned about the Coast Guard. The Coast Guard should be more than port security. The Coast Guard is about search and rescue. The Coast Guard should be about drug interdiction, which it is. It has a big agenda. I think you can make a strong case that it ought to stay in the Commerce Committee, and under the amendment, as I understand it, it would. That is a critical point.

But if we are going to have a separate homeland security committee, or if we are going to put that issue under the Governmental Affairs Committee, we ought to do it in a way where we do cut down this duplication. I, again, am worried that we are talking about doing more than we are really doing.

I have debated about whether we need a separate homeland security committee. But I think if we are going to do it, to only put 38 percent of the homeland security matters before the committee is not accomplishing the job, just like I am worried that on intelligence authorization, we still have not solved the problem with sequential referral to the Armed Services Committee. We still have not solved the problem about how do the authorizers know what the appropriators are doing, and how do the appropriators know what the authorizers are doing. We are not doing enough.

I urge my colleagues, as we to go conference on the other bill, more work needs to be done. As we work toward completion on this legislation, I hope we will strengthen the hand of those who have negotiated on it and those who are going to be held responsible for what is the end result.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, under the order, Senator LAUTENBERG has 10 minutes. He will not need that time so that can be stricken. What is the order of the speaking now?

The PRESIDING OFFICER. The Senator from Nevada has 5 minutes, followed by the Senator from Alaska, followed by the Senator from Arizona, each for 5 minutes.

Mr. REID. Mr. President, I don't have a dog in this fight other than the fact that I have worked for a month to the point where we are now. I don't want anyone here to think the new committee on homeland security-governmental affairs does not have a lot of

work to do and a lot of jurisdiction. They are totally responsible for three directorates. The new homeland security-governmental affairs committee will have sole jurisdiction over three of the four primary directorates in the Department of Homeland Security: science and technology directorate, emergency preparedness and response directorate, information analysis and infrastructure protection, and share parts of the directorate of border and transportation security.

For my good friend, the Senator from Maine, to stand and say, We don't have anything to do, basically, is simply not factual.

I would also say we have transferred jurisdiction from 10 standing committees and given jurisdiction to this committee. This is not a numbers game as to how many employees are involved. It is the number of functions they have been asked to take a look at. And if it is any indication that we haven't given them anything, you should understand that every chairman of the 10 committees has been telling us we gave them too much. You can't have it both ways.

I would also say, even though I don't have a dog in this fight, no one should ever suggest that Senator INOUYE and Senator STEVENS are not equipped to handle what has been left with them in Commerce. Remember, Senator INOUYE is a Medal of Honor winner. Senator STEVENS is a World War II veteran. That may not make them better Senators, but it certainly doesn't make them worse Senators.

The only reason I am standing, people can vote however they believe they should, but they should not vote based on the fact that we have given this new homeland security subcommittee no jurisdiction. They have lots of work to do, including all the work they did before. It is not as if they don't have anything to do. They have all they had to do before plus all the other things they have been given as a result of this legislation that we hope will pass soon.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I think the Senate should realize that when you are talking about the Transportation Security Agency, we are talking about 45,000 screeners in the current system. Passenger screening takes about $1.8 billion; baggage screening, $1.3 billion. Security and enforcement takes $703 million. The security part of TSA is very small compared to the manpower looking at passengers and baggage. That is their primary function now. And of this $2 billion, $70 million comes from aviation user fees, and $95 million comes from transfer from carryover for the fiscal year 2003.

This is a function, in terms of this part of the homeland security agency, that is directly related to the transportation mechanisms. We urged and have continued to urge that the aviation industry pay the vast portion of this now because the major portion of TSA affects the airports and airways. We believe, and I sincerely believe, that we should find a way to have airlines collecting these user fees, have them provide the kind of screening that is necessary for the passengers and for their baggage.

As a matter of fact, we have placed in this bill—this is the Homeland Security appropriations bill, of which I am a member of the conference, and they are meeting right now—a substantial amount of taxpayer money to continue this process of getting all of the baggage screening and all the passenger screening done. But the bulk of the money, two-thirds of the money each year is coming from the aviation industry itself, which is currently terribly hampered. They are hiring people still. In the small airports, it is very unique because they still have the people who are handling the passengers, but they have these people hired by TSA who are using a third or more of their buildings. That has to stop. That has to transition to a private enterprise.

If we do this, and we put it in Governmental Affairs, that is not going to happen. They don't have the pressure from the entities that are carrying these passengers. We do in Commerce, and we have tried our best so far to meet the process and to be fair to both the Governmental agencies that have the temporary job and the transportation agencies that are paying the bulk of the cost of that job.

But there has to be a transition. We cannot keep it up. In fact, very soon the airlines are going to be unable to pay those charges. They are going to have to be paid by the taxpayers. We heard this morning they are not even going to be able to make their contribution to the retirement funds. This must be changed.

I will use the remainder of my time to say I agree with Senator LOTT. We had a conversation at noon today about the whole system. It hasn't been since 1977 that we reorganized the Senate. We should do that. We should recognize the changes in the economy, changes in our people, changes in the whole global concept. But we have not done that. This is attempting now—because Homeland Security agencies have come upon us—by the way, it has been on us for a while; we didn't need the 9/11 Commission to tell us what to do. We created Homeland Security before they were created. They took it upon themselves to tell us how to do our own laundry. We can do this ourselves.

By January, we will have to see what the House has done. We have the problem of dealing with 100 people, but they have 435 in the House. We are going to have to change to meet the reorganization they are going to bring about. They have a reorganization group going. We should have a reorganization group. With this group, the two whips have done a marvelous job trying to meet the demands of the 9/11 Commission, which is piecemeal as far as the Senate is concerned.

We should have another reorganization. Whose job is that? That is the job of Rules and the Governmental Affairs Committees to reorganize and find a way to deal with the reorganization that is required for the Senate to meet current and future needs. This isn't the way to do it.

The Senator keeps mentioning that two-thirds somehow or another is in Commerce. That is not so. We have one-third of this budget. We have one-third of the burden from the financing of Homeland Security, which is in TSA. I have the figures.

I have table 3 from the Department of Homeland Security summary of appropriations for fiscal 2004 and 2005. This is prepared by the CRS. I ask unanimous consent that it be printed in the RECORD.

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

TABLE 3.—DEPARTMENT OF HOMELAND SECURITY: SUMMARY OF APPROPRIATIONS

[In millions of dollars]

Operational component	FY 2004 enacted	FY 2005 request	FY 2005 House	FY 2005 Senate	FY 2005 conf.
Title I: Departmental Management and Operations:					
Subtotal: Title I	453	713	584	562	
Title II: Security, Enforcement, and Investigations:					
Office of the Undersecretary for Border and Transportation Security	8	10	10	9	
Visitor and Immigrant Status Indicator project (US VISIT)	328	340	340	340	
Customs and Border Protection	4,899	5,122	5,154	5,158	
Immigration and Customs Enforcement	3,407	3,307	3,363	3,760	
Transportation Security Administration	2,508	3,152	3,225	3,412	
U.S. Coast Guard	6,764	7,335	7,307	7,469	
U.S. Secret Service	1,134	1,163	1,183	1,163	
Subtotal: Title II	19,048	20,430	20,583	21,311	
Title III: Preparedness and Recovery:					
Office of Domestic Preparedness/Office of State and Local Government Coordination and Preparedness	4,013	3,561	4,115	4,034	
Counter terrorism fund	10	20	10	10	
Emergency Preparedness and Response	9,351	5,625	5,425	5,648	

TABLE 3.—DEPARTMENT OF HOMELAND SECURITY: SUMMARY OF APPROPRIATIONS—Continued

[In millions of dollars]

Operational component	FY 2004 enacted	FY 2005 request	FY 2005 House	FY 2005 Senate	FY 2005 conf.
Subtotal: Title III (current year, net)	13,374	9,206	9,550	9,692	
Title IV: Research and Development, Training, Assessments, and Services:					
Citizenship and Immigration Services	235	140	160	140	
Information analysis and infrastructure protection	834	865	855	856	
Federal Law Enforcement Training Center	192	196	221	224	
Science and technology	913	1,039	1,132	1,059	
Subtotal: Title IV	2,173	2,240	2,368	2,279	
Amount in this bill, for any year	35,048	32,590	33,085	33,085	
Scorekeeping adjustments (rescissions; airline relief) (net)	(−4,786)				
Total, Dept. of Homeland Security	30,262	32,590	33,085	33,844	
Discretionary (current year, this bill)	29,242	31,504	32,000	32,000	
Mandatory	1,020	1,085	1,085	1,085	
Section 302(b) allocation	29,242		32,000	32,000	
Difference, bill and allocation	0		0	0	

Source: H.R. 4567 passed by the House June 18, 2004; S. 2537 introduced by the Senate June 17, 2004; and unofficial House Appropriations Committee tables, April 8, 2004.

Mr. STEVENS. Mr. President, it is very clear. We are talking about one-third, not two-thirds.

The other part of this is the other agencies spread throughout this maze of jurisdiction we have. When we reorganized in 1997, someone used a mixing bowl, and the committees spilled out first. It wasn't a good, sound reorganization. We need a good, sound reorganization. This is not the way to do it.

Mr. MCCAIN. Mr. President, I want to quote from the 9/11 Commission report so we can put this into the perspective that I think this amendment deserves:

Of all of the recommendations, strengthening congressional oversight may be among the most difficult and important. So long as oversight is governed by current congressional rules and resolutions, we believe the American people will not get the security they want and need.

The underlying resolution, as amended, leaves the vast majority of homeland security jurisdiction in committees other than the new homeland security committee. TSA and the Coast Guard stay in Commerce. By the way, the Coast Guard is under the Department of Homeland Security. The revenue functions of the Bureau of Customs and Border Protection and Immigration and Customs Enforcement stay in Finance. The revenue functions of the Bureau of Customs and Border Protection and Immigration and Customs Enforcement and Citizenship and Immigration Services stay in Judiciary. It goes on and on.

Screeners are responsible for security. The Coast Guard's primary responsibility is our Nation's security. I wish they could return primarily to their old line of work.

So what do we end up with? We end up with a homeland security committee with jurisdiction over less than 38 percent of the Department's budget and fewer than 8 percent of the Department's employees. TSA employs 51,000 people. Those remain under the Commerce Committee. Not only that, but it is clear that what we have done here is essentially nothing. What we ought to do, perhaps, is just say we failed. I am not going to rant and rave anymore about how unfortunate it is that the Appropriations Committee is able to, as they have in the past, fund programs that the Intelligence Committee has thoroughly scrutinized and say should be canceled, at a cost of billions of dollars.

I think we all know what the job of the Transportation Security Administration is. It is security. It is fighting the war on terrorism. Where should it be? It should, obviously, be under our new committee on homeland security and governmental affairs. So I won't bring up an amendment on the Coast Guard. The Coast Guard should be also under this committee because it is under the Department of Homeland Security. It is just logical.

So as I say to my colleagues, if this amendment fails, why don't we just call it a day and say it is business as usual. We have had great success on executive reorganization and I am proud of the work the committee has done. Unfortunately, we have failed to act in any significant manner as far as the reorganization of the Senate is concerned, and that was recognized by the 9/11 Commission.

I yield the remainder of my time, and I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. MCCONNELL. Before the vote, Mr. President——

Mr. MCCAIN. Mr. President, what is the regular order?

The PRESIDING OFFICER. The regular order is to proceed to a vote.

Mr. MCCAIN. I don't object, Mr. President. I wish the Senator from Kentucky had asked for time during the normal unanimous consent agreement. I don't object.

Mr. REID. He is not going to speak on the amendment.

Mr. MCCONNELL. Mr. President, I was going to say to our colleagues that it is the intention of Senator REID and myself to continue to process amendments into the evening, with the goal of finishing tonight. We still have 30-some-odd amendments. There is certainly no requirement that they all be offered. We intend to keep plowing ahead and try to reach the finish line tonight.

Mr. REID. Mr. President, the two leaders are emphatic that they want to move forward. We have a lot of stuff to do. Tomorrow is the scheduled day for departure. That will be difficult. I wish people would follow the example of the Senator from Arizona, and I say that seriously. He never takes a lot of time. He doesn't waste a lot of time. He sets a tone for how we should move forward. I appreciate his cooperation on these two very important amendments. These are the two most important amendments we will have on this bill now before the body. I appreciate his cooperation.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Georgia (Mr. CHAMBLISS) and the Senator from New Mexico (Mr. DOMENICI) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 63, as follows:

[Rollcall Vote No. 201 Leg.]

YEAS—33

Alexander	Feingold	Lincoln
Bayh	Feinstein	Lott
Biden	Fitzgerald	Lugar
Bingaman	Graham (FL)	McCain
Carper	Graham (SC)	Nickles
Chafee	Hagel	Pryor
Coleman	Inhofe	Santorum
Collins	Jeffords	Specter
Cornyn	Kyl	Sununu
Crapo	Levin	Talent
Enzi	Lieberman	Voinovich

NAYS—63

Akaka	Brownback	Conrad
Allard	Bunning	Corzine
Allen	Burns	Craig
Baucus	Byrd	Daschle
Bennett	Campbell	Dayton
Bond	Cantwell	DeWine
Boxer	Clinton	Dodd
Breaux	Cochran	Dole

Dorgan	Kohl	Roberts
Durbin	Landrieu	Rockefeller
Ensign	Lautenberg	Sarbanes
Frist	Leahy	Schumer
Grassley	McConnell	Sessions
Gregg	Mikulski	Shelby
Harkin	Miller	Smith
Hatch	Murkowski	Snowe
Hollings	Murray	Stabenow
Hutchison	Nelson (FL)	Stevens
Inouye	Nelson (NE)	Thomas
Johnson	Reed	Warner
Kennedy	Reid	Wyden

NOT VOTING—4

Chambliss	Edwards
Domenici	Kerry

The amendment (No. 4000) was rejected.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Mr. President, I know Senator HATCH has an amendment. I do not see him on the floor at the moment.

I do see him on the floor. I am hopeful that Senator HATCH will shortly be prepared to send his amendment to the desk.

Mr. DURBIN. Will the Senator from Kentucky yield for a question?

Mr. MCCONNELL. I yield the floor.

Mr. DURBIN. I ask the Senator from Kentucky, I have a pending amendment which has been agreed to with a modification by Senator ROBERTS. I am prepared to offer it whenever appropriate so we can take care of it.

Mr. MCCONNELL. It appears as if Senator HATCH may not be quite ready, so why don't we have Senator DURBIN go ahead and offer his amendment.

AMENDMENT NO. 4036 TO AMENDMENT NO. 3981

Mr. DURBIN. Mr. President, I send an amendment to the desk

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 4036 to Amendment No. 3981.

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

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

The amendment is as follows:

(Purpose: To modify the provisions relating to the staffing and budget of the select Committee)

In section 201, at the end of subsection (g), add the following:

''(d) Of the funds made available to the select Committee for personnel—

''(1) not more than 55 percent shall be under the control of the Chairman; and

''(2) not less than 45 percent shall be under the control of the Vice Chairman.''.

Mr. DURBIN. Mr. President, I have good news for the Chamber. I believe we have reached an agreement on this amendment which will help us move this important resolution along.

I saw Senator ROBERTS on the floor a moment ago. I have had a conversation with Senator ROBERTS and Senator ROCKEFELLER. The purpose of this amendment is to move us closer to the bipartisan model which we want to establish for this important intelligence committee. Yesterday, with an overwhelming vote of 96 to 2, the Members of this Chamber adopted the intelligence reform suggested by the 9/11 Commission, and it is a product of the fine bipartisan cooperation of Senator SUSAN COLLINS of Maine and Senator JOE LIEBERMAN of Connecticut.

I believe in the time I have been fortunate enough to represent Illinois in the Senate, it was one of our finer moments because we responded to a national crisis. We did it in a timely fashion. We did it in an orderly way. We brought together amendments which were substantive and numerous and voted in nonpartisan rollcalls. We came to the floor, and after a week and a half of debate brought this bill out with a vote of 96 to 2 to reform the executive branch. I think the message of the process and the message of the reform bill is that we want to take partisanship out of the intelligence operations of the executive branch.

I believe by the joint effort of the Senator from Nevada, Mr. REID, and the Senator from Kentucky, Mr. MCCONNELL, we are seeing that same thing today about the legislative branch.

This amendment which I propose is an effort to move us closer to parity in staffing. I believe that establishing this by rule is a good thing for the future of the Intelligence Committee. What it says is that regardless of the partisan split of the committee, which is now a split of eight to seven, if I am not mistaken, we are going to divide staff by a 55–45 proportion, 55 percent to the chairman representing the majority of the committee, and 45 percent to the ranking member representing the minority on the committee.

Along with Senator ROBERTS, who is on the majority side of this committee, and Senator ROCKEFELLER, the ranking member, we had a conversation and we have agreed to a new number which I will present as a modification to this amendment shortly. It is a number of 60 percent for the chairman with the majority membership of the committee, 60 percent of the staffing funds in control of the chairman, and 40 percent of the funds in the control of the minority ranking member.

I think this is a fair compromise. I believe it is offered by both sides in the spirit of moving us toward this bipartisanship on the Intelligence Committee. I believe it will have the net effect of improving the product of the committee.

Let me quickly add that I don't believe there are necessarily Democratic or Republican answers to the tough issues we face on the Intelligence Committee. But I believe both sides should be adequately staffed so they can rise to the occasion when we face challenges for investigations and hearings that are held with witnesses being brought before us. By establishing 40 percent of the personnel funds to the ranking member and 60 percent to the chairman, I think we are moving closer to that model.

For those who have been involved, Senator MCCONNELL and Senator REID, let me make it clear this would apply to the committee staff and not to individual member staffs. The effort in the preparation of this resolution was made so that every member of the Intelligence Committee who has personal staff would not be affected by this amendment. The 60–40 would apply strictly to the other committee staff over and above the personal staff of the committee.

Mr. MCCONNELL. Mr. President, will the Senator yield for a question?

Mr. DURBIN. Yes.

Mr. MCCONNELL. I believe the amendment at the desk is 55–45. Is the Senator going to modify the amendment?

Mr. DURBIN. Yes. At this point I will be happy to yield for any other questions or comments.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I would like to verify what the Senator from Illinois has said.

Senator ROBERTS can't be here at this particular time, but he authorized me to say he is in agreement with this. It is a sensible approach. It is bipartisan in nature. As far as we are concerned, there is agreement on both sides. What the managers decide is up to them.

AMENDMENT NO. 4036, AS MODIFIED

Mr. DURBIN. Mr. President, if there are no further comments or questions, I ask unanimous consent that the amendment now pending before the Senate be modified on its face, and in paragraph (d), subparagraph (1), the number 55 be changed to 60; and in paragraph (d), subparagraph (2), the number 45 be changed to 40.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4036), as modified, is as follows:

In section 201, at the end of subsection (g), add the following:

''(d) Of the funds made available to the select Committee for personnel—

''(1) not more than 60 percent shall be under the control of the Chairman; and

''(2) not less than 40 percent shall be under the control of the Vice Chairman.''.

Mr. DURBIN. Mr. President, I urge adoption of the amendment.

Mr. MCCONNELL. Mr. President, I believe we are prepared to move forward.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4036), as modified, was agreed to.

Mr. MCCONNELL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Mr. President, Senator HATCH is here and ready to offer an amendment.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 4037 TO AMENDMENT NO. 3981

Mr. HATCH. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. LEAHY, and Mr. SPECTER, proposes an amendment numbered 4037 to amendment No. 3981.

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

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

The amendment is as follows:

(Purpose: To retain jurisdiction over the Secret Service in the Committee on the Judiciary)

In section 101(b)(1), after ''Service'' insert '', and the Secret Service''.

Mr. HATCH. Mr. President, I rise to offer a Leahy-Specter-Hatch amendment that would preserve the Judiciary Committee's oversight jurisdiction over the U.S. Secret Service.

The reason for the amendment is not simply the committee's longstanding relationship with the Secret Service, although that relationship is strong and healthy. It is a very good reason why we should retain the status. The Judiciary Committee has had jurisdiction over the Secret Service's title 18 authority since June 25, 1948. I was astonished to hear one of my colleagues say on the floor earlier today that the Judiciary Committee was trying to move jurisdiction to the Judiciary Committee. The committee has had jurisdiction over the Secret Service for the last 56 years.

The more important reason is that a huge percentage of Secret Service operations are authorized by title 18 of the criminal code. That will obviously and appropriately remain under the Judiciary Committee's jurisdiction. If the point of this bill is to reform congressional oversight, then it would make no sense to reduce the Judiciary Committee's ability to examine how title 18 of the criminal code authority is used while continuing to rely upon the Judiciary Committee to make sure that title 18 provides appropriate authority to the Secret Service.

A little bit of history may be helpful. The Secret Service was established as a law enforcement agency in 1865. While most people associate the Secret Service with Presidential protection, its original mandate was to investigate counterfeiting of U.S. currency. Today, the primary investigative mission of the Secret Service is to safeguard the payment and financial systems of the United States.

The Secret Service has exclusive jurisdiction for investigations involving the counterfeiting of U.S. obligations and securities. That authority to investigate counterfeiting is derived from title 18 of the United States Code, section 3056. Some of the counterfeited U.S. obligations and securities commonly dealt with by the Secret Service include U.S. currency and coins, U.S. Treasury checks, Department of Agriculture food coupons, and U.S. postage stamps.

The Secret Service combats counterfeiting by working closely with Federal, State and local law enforcement agencies, as well as foreign law enforcement agencies, to aggressively pursue counterfeiters. Secret Service agents commonly work with Federal prosecutors—employees of the Department of Justice, over which the Judiciary Committee retains jurisdiction.

It is important for Congress to keep up with the times when determining the scope of Title 18. Since 1984, the Secret Service's investigative responsibilities under Title 18 have expanded to include crimes that involve financial institution fraud, computer and telecommunications fraud, false identification documents, access device fraud, advance fee fraud, electronic funds transfers, and money laundering.

People who counterfeit things are creative, and so are those who invent new products that are susceptible to being counterfeited. It is important that Title 18 provide the Secret Service with appropriately updated authority, and therefore it is crucial that the Judiciary Committee have the ability to require the Secret Service to report on its use of authority.

Listen to some of the types of criminal investigations that the Financial Crimes Division of the Secret Service plans and coordinates:

Financial Systems Crimes, including bank fraud; access device fraud; telemarketing; telecommunications fraud; computer fraud; the Federal Deposit Insurance Corporation and Farm Credit Administration violations.

These are all traditional criminal investigations and they are all governed by Title 18. They are at the core of Judiciary Committee jurisdiction and expertise.

Another division of the Secret Service, Forensic Services Division, FSD, is almost entirely focused on providing analysis for questioned documents, fingerprints, false identification, credit cards, and other related forensic science areas. A main purpose of this division is to investigate crimes and provide evidence for prosecutors to use in court. FSD also manages the Secret Service's polygraph program and coordinates photographic, graphic, video, and audio enhancement.

Here's an example of how the Judiciary Committee's relationship with the Secret Service works: As part of the 1994 Crime Bill, Congress mandated the Secret Service to provide forensic/technical assistance in matters involving missing and sexually exploited children. The Forensic Service Division offers this assistance to Federal, State, and local law enforcement agencies, the Morgan P. Hardiman Task Force and the National Center for Missing and Exploited Children. It is important for the Judiciary Committee to continue its relationship with the Secret Service to make sure that its capabilities are utilized in important areas of law enforcement such as these.

For these reasons, I urge my colleagues to vote for keeping the jurisdiction where it belongs, with the people who have to deal with these criminal laws all the time. Frankly, it is a tough process. We should not move the Secret Service out of the Judiciary Committee jurisdiction because that is where this very tough anticrime approach has to occur and has to take place.

I hope my colleagues will listen to me. I have no axes to grind here. I am not just trying to preserve jurisdiction; it doesn't make sense to take it out of the hands of the Judiciary Committee as much as some think it may. I don't think it can make a good case that it should be taken out of the Judiciary Committee.

I ask unanimous consent to have printed in the RECORD what looks like 50 or more jurisdictional aspects of the Secret Service investigational approaches.

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

TITLE 18 USC 3056

Secret Service has jurisdiction to investigate the following:

—213—Acceptance of loan or gratuity by financial institution examiner

—216—Punishments for 213

—471—Counterfeiting US obligations

—472—Uttering Counterfeiting securities

—473—Dealing in Counterfeiting obligations or securities

—474—Possession of device to counterfeit obligations

—476—Theft of tools used to counterfeiting obligations

—477—Selling of tools for counterfeiting obligations

—478—Counterfeiting of foreign obligations

—479—Uttering Counterfeit foreign obligations

—480—Possessing counterfeit foreign obligations

—481—Possession of electronic images for counterfeiting foreign obligations

—482—Forgery or Counterfeiting Bank Notes

—483—Uttering counterfeit foreign bank notes

—484—Fraudulently combining multiple United States Instruments

—485—Counterfeiting United States coins

—486—Unauthorized passing of United States coins

—487—Making or possessing counterfeit dies for coins

—488—Making or possessing counterfeit dies for foreign coins

—489—Making or possessing likeness of United States or foreign coins

—492—Forfeiture of counterfeit paraphernalia

—493—Bonds and obligations of certain lending agencies

—508—Forging United States Transportation Documents

—509—Unlawful Possession of Government transportation plates

—510—Forging Treasury Check endorsements

—657—Misapplication of funds from a Credit Institution

—709—False advertising or misuse of names of indicate Federal agency

—871—Threats against the President
—879—Threats against former Presidents
—912—Impersonation of Officer of the United States
—981—Civil forfeitures
—982—Criminal forfeitures
—1001—False statements
—1006—False statements to credit entries
—1007—Forged/Counterfeit statements to influence the FDIC
—1011—False statements to Federal Land Bank
—1013—Use of forged securities or bonds to defraud Federal Land Bank
—1014—False Statement to influence Farm Credit Administration
—1028—Identity Theft
—1029—credit card fraud
—1030—Computer fraud
—1344—Bank Fraud
—1752—Entering the temporary offices of the President
—1907—Disclosure of private information by a farm credit examiner
—1909—Conflicts of interest for National Bank Examiner
—1956—Money Laundering
—1957—Engaging in Monetary Transactions from specified Unlawful Activities

Mr. HATCH. When you look at these, you cannot conclude anything but this should stick with the Judiciary Committee. I don't have any ax to grind. Everyone knows that. The fact is, this is the right thing to do or I would not be standing here trying to do it. We have had a great relationship with the Secret Service and have done a great deal of work together over my 28 years on the Senate Judiciary Committee. I know this is right, and we have to do this.

I yield the floor.

Mr. LEAHY. Mr. President, I totally agree with the Senior Senator from Utah in this battle. Senator HATCH and I have worked very closely on this issue. This is an amendment cosponsored principally by Senator HATCH and myself and Senators SESSIONS, SPECTER, and BIDEN. It is not a partisan amendment by any means. It is not ideological. It just makes good sense.

In the resolution before the Senate we look at the new committee, the homeland committee and governmental affairs committee, but we have four exceptions for good reasons. Section 101, we take the Coast Guard out of that. We take the Transportation Security Administration, we take the Federal law enforcement training sector, and we take the revenue functions of the Customs Service. But we have to make one other exception, and that exception is the U.S. Secret Service.

The Secret Service operates under Title 18 of the United States Code, that title of the United States Code of criminal law. Every one of these yellow tabs in the criminal code is one more area under criminal law, criminal code, where the Secret Service operates. The distinguished Senator from Utah said it is not just the protection service by any means, even though that is what we see in the news. They enforce many of the criminal laws, many of the laws related to the counterfeiting of U.S. currency and other financial instruments. They carry out criminal investigations. Criminal law enforcement function is the cornerstone of what the Secret Service does.

I first got involved with the Secret Service when I was a State's attorney of Chittenden County in Vermont. That was over 38 years ago. We had a counterfeiting case we were prosecuting under State law. For the expertise, for help in the investigation, we called in the Secret Service. The Secret Service was involved immediately. Even though it was a State case, a State prosecutor, the Vermont State police, the Burlington City Police, the expertise came at a moment's notice from the U.S. Secret Service. They stayed throughout that case. They made sure we had the expertise. They made sure they gave us all their knowledge of how one of these cases would be tried. Incidentally, we won that case.

Years later, when I was a new Member of the Senate, I was walking down the hall and I see the Secretary of State coming down the hall, people from the State Department, and also a couple of Secret Service agents. There was the Secret Service agent, David Lee—I remember his name—standing right there doing the dual things they do. His primary role had been in counterfeiting cases. We talked briefly about the number of counterfeiting cases he went to. I told him how much it meant to my little State of Vermont, which could not handle counterfeiting cases. A lot of crimes had been committed, and the Secret Service came in.

Now, they enforce criminal law. They have full Federal arrest authority, full authority to carry any needed firearms, full authority to use deadly force. We should continue our oversight, and the Judiciary Committee should continue its role. Their dual criminal law enforcement of financial institution investigations and protective operations is inseparable from the proper jurisdictional oversight of the Judiciary Committee. Again, I point to the Federal criminal code rules.

Now, the Coast Guard has been made exempt. It, like the Secret Service, is a distinct entity. Both should be exempted, not just the Coast Guard. The Secret Service has even more reason to be exempt. The success of the Secret Service mission depends on the criminal laws of the United States.

An example of that is that all the criminal fraud law enforcement investigations which the Secret Service handles are within Title 18. Where do they handle it? Within the Department of Justice through the Attorney General and the U.S. Attorney—under, obviously, the jurisdiction of the Judiciary Committee.

I will give another example. The Secret Service is authorized at the request of any State or law enforcement agency or at the request of the National Center for Missing and Exploited Children to provide forensic and investigative assistance in support of investigations involving missing or exploited children.

Let me tell you right now, if you have a missing child, we want everybody involved. All the local authorities will tell you that, especially if they are anywhere near a State line. They want everybody. Again, it comes under our committee.

So I agree, as I said, with the Senator from Utah. This is not a partisan issue. It is not a liberal issue. It is not a conservative issue. It is just good, plain sense.

Mr. President, I would hope my colleagues would be willing to accept the amendment on behalf of myself, Mr. HATCH, Mr. SESSIONS, Mr. SPECTER, Mr. BIDEN, and others.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise, with a lot of respect for the Senator from Utah and the Senator from Vermont, to oppose this amendment. I do so because it continues the stripping away of jurisdiction from the newly designated committee on homeland security over more and more of what constitutes the Homeland Security Department.

The recommendation of the 9/11 Commission to improve congressional oversight of homeland security and to allow the leadership of the Homeland Security Department to spend more time protecting our homeland and less time running from committee to committee here in Congress was to create one committee on homeland security with jurisdiction over all aspects of the Homeland Security Department.

The Homeland Security Department includes 175,807 employees. Now, employees are not the only measure of jurisdiction, but let's start with that number and then say that the bill brought before us by the working group immediately took out 45,000 from the Coast Guard, now under the Homeland Security Department, and 51,000 from the Transportation Security Administration. Add to that an amendment offered by my friends from the Judiciary Committee today which took back a good part of Citizenship and Immigration Services, Immigration and Customs Service Enforcement, which will be shared in some part with Homeland Security and Customs & Border Protection, and you are at a point where jurisdiction over well over half—heading toward almost all—of the Department of Homeland Security employees is no longer under the committee we are establishing to oversee the Department of Homeland Security.

I will repeat what I said earlier about the Transportation Security Agency authority. Our committee recommended the creation of a Department of Homeland Security after September 11. Why are we here? We are here because we were attacked on September 11, and we looked back and said: We were not ready. We were not organized to defend our people. So we proposed the creation of the Homeland Security Department.

Almost every agency we wanted to bring together in that Department protested: We want to be on our own turf. We want our own ground. But we pushed forward because there was a larger national interest. We prevailed, and we brought all these agencies together—one department. And it is working. We brought them together for the synergy of them working together to protect our national security in an age of terrorists who hate us more than they love their own lives and have shown that over and over again.

So here comes another amendment to take the Secret Service, which is in the Department of Homeland Security, away from the oversight and jurisdiction of what we are calling the Homeland Security Department. We are beginning to make the homeland security committee look like a house without rooms in it or not as many rooms as are supposed to be there, or like a shell, when you pick it up and there is not much under it even though it says ''homeland security'' on the top. That is a shell game, and this adds only to that trend.

Now, look, there are a lot of committees that could claim some relationship to different subparts of the Department of Homeland Security.

Mr. LEAHY. Will the Senator yield on that point?

The fact is, they are a distinct entity within homeland security. We have carved out that distinct entity for the Secret Service because of their law enforcement role. The distinguished Senator from Connecticut had no problem with carving out the Coast Guard, and the Coast Guard——

Mr. LIEBERMAN. There is a problem.

Mr. LEAHY. But it has been done. It has been accepted.

Mr. LIEBERMAN. Not done by me.

Mr. LEAHY. It was not objected to by you, and it was accepted.

Mr. LIEBERMAN. It was indeed, and we are still working on an amendment to try to see if we can right that wrong. I say to the Senator from Vermont, with all respect, I understand your question. The point is, if we were doing this right, everything in the Homeland Security Department would be overseen by the homeland security committee. That is what the 9/11 Commission called for.

Mr. LEAHY. If I might respond to that, if we were doing this right, we would not have brought out something put together behind closed doors. I am not accusing the Senator from Connecticut of doing that, but we suddenly have this thing plopped on our desks as people are leaving for the long-promised recess, and we are told: Here, we just have to put this all together right now. It is not the way to do it. We have not had hearings. We have not done anything like that. I think had we had those hearings, had we discussed it, you would have found a vast majority of Americans would assume the Secret Service carries out their law enforcement functions.

Mr. LIEBERMAN. Mr. President, if I may, here is the basic point. The Secret Service is now part of homeland security. The Homeland Security Department should be overseen by the homeland security committee. I was not behind those closed doors, if they existed. My understanding is the working group leadership spoke to the ranking members on each of the committees. I may be wrong. I did not do that. That is what I heard.

But let me explain. The Senator from Vermont and the Senator from Utah have cited context between the Judiciary Committee and the Secret Service. As I say, there are so many committees that can cite context in one way or another with different components of the Homeland Security Department. But let me tell you why the Secret Service was put into the Homeland Security Department.

Obviously, the Secret Service is best known for its mission in protecting the Nation's highest elected leaders as well as visiting heads of state. It is entirely appropriate that the department responsible for safeguarding the security of this Nation includes an agency which is responsible for protecting its top leaders who, tragically, in this age may be targets of terrorism.

Since 1998, when President Clinton issued Presidential Decision Directive 62, the Secret Service has assumed responsibility for planning, coordinating, and implementing security operations at all national special security events. And what is the great fear at such events? Terrorism. These national events, like the Olympics or the political party conventions, are important to our country and, unfortunately, enticing targets to terrorists if they are not defended. It is the Secret Service that is responsible for planning, coordinating, and implementing those security operations—another obvious reason why it should be in the Homeland Security Department.

What has being there allowed the Secret Service to do? To draw on the expertise and resources of the different agencies within the Department of Homeland Security to support the Secret Service's protective missions as well, of course, as to share the Service's own expertise and experience with the other agencies in the Department to help them do their job better.

Some of the unique responsibilities of the Secret Service are particularly relevant to terrorism. The Secret Service has responsibility for identity theft in various forms and methods. This is one of the terrorists' primary tools, assuming identities not their own to break through the defenses our country sets up. The ability to identify and prevent the proliferation of false identifications is critically important to the Department's mission of identifying terrorists and stopping them before they strike us, and that is the Secret Service's responsibility.

The Secret Service also has responsibility for the protection of important national buildings, including the White House, the Vice President's residence, foreign missions, and other important buildings in the Nation's Capital which, tragically, sadly, in our age, are also prime targets for terrorists. Those are the reasons why the Secret Service has been placed in the Department of Homeland Security.

But again, I come back to the main point. Are we going to do what we say we are going to do or are we going to false advertise? We say we are going to respond to the 9/11 Commission's recommendations for a committee on homeland security. I have said before and I will say it again, the Governmental Affairs Committee has had some experience in homeland security so we are a natural place to put it. But I haven't sought it.

What I seek is the willingness to reorganize ourselves to the same extent that we have been willing to reorganize the executive branch, by creating the Department of Homeland Security and now a national intelligence director. With all respect to my friends on Judiciary, this is just another step to stopping us from achieving that mission, from meeting the challenge that the 9/11 Commission has set before us—and the request of the families of 9/11—to organize ourselves in a way that we can perform the kind of oversight that will mean we are doing everything humanly possible to prevent anything such as September 11 from happening again.

I hope we will draw the line on what is sucking out the insides of what we are calling a committee on homeland security.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the issue before us is really very straightforward. Do we want to reorganize the Senate to consolidate jurisdiction over the Department of Homeland Security within one committee or don't we? What we should not do is to pretend we are consolidating jurisdiction in one committee, as recommended by the 9/11 Commission, and as strongly endorsed by the administration and Secretary Ridge. If we are going to consolidate authority, then let's do it. If we are going to try to address the problem of 25 different Senate committees and subcommittees having a claim on the new Department, requiring testimony from officials in the Department, if we want to continue on that route, then let us not pretend we are undergoing significant reform.

Moreover, the Secret Service has responsibilities ranging from investigations of Presidential threats to protection at major events that go to the heart of the Department of Homeland Security's mission. The Secret Service is a vital part of the mission of securing the homeland. That is why it was moved into the Department of Homeland Security, and that is why if we are going to mirror the Department, it

should be under the jurisdiction of whatever committee is given responsibility for homeland security.

There are functions of the Secret Service that clearly fit with the core mission of the Department of Homeland Security. Indeed, at a hearing shortly before passage of the legislation setting up the new Department of Homeland Security, the Director of the Secret Service testified, explaining why it was important to include the Secret Service in the new Department. He stated:

> Our core philosophy mirrors that of the new Department of Homeland Security. Like our agency, the new department will be prepared to respond to incidents and infiltration. Our common goal is to anticipate and prepare through robust threat assessments and analyses of intelligence information that is made available to us.

He also stated:

> Beyond our protective responsibilities, the Secret Service is a major contributor to other aspects of our homeland security.

He concluded his testimony by stating:

> It is clear the Department of Homeland Security will be built on the pillars of prevention and protection. These are the very words found throughout our strategic plan. They define the mission and the culture of the United States Secret Service.

I know that the Secret Service enforces certain criminal laws, and it has a good relationship with the Judiciary Committee. However, the fact is, it is part of the Department of Homeland Security. If we are going to have a committee responsible for the Department of Homeland Security, we should do that. We should not exclude key agencies. Otherwise, we are defeating the whole purpose of creating new jurisdiction and trying to consolidate oversight and responsibility for the Department of Homeland Security.

I yield the floor.

Mr. LEAHY. I wonder if the distinguished Senator from Maine would yield for a question?

Ms. COLLINS. I have yielded the floor.

Mr. LEAHY. I ask the distinguished Senator from Maine, we have the Secret Service in Homeland Security, but carved out is a separate entity, partly because of their criminal jurisdiction and the fact that their oversight is in the Judiciary Committee. I would ask if by the same logic that because they are there, they must suddenly come under this new committee, do we also bring the Attorney General's office under this new committee for oversight because they prosecute the cases brought by the Secret Service? Do we bring the U.S. attorneys? Maybe the Attorney General and the U.S. attorney should be brought into this new homeland security committee for confirmation, for oversight, or budget and everything else because, after all, they have criminal jurisdiction and the Secret Service goes to them.

Or do we have a bifurcated thing where the Secret Service criminal jurisdiction, which does come under the Department of Justice and the U.S. attorneys for prosecution, suddenly say: Well, we can watch what they are doing in the Judiciary Committee, but maybe we shouldn't be watching because maybe it should be somewhere else where there is none of the 56 years of experience watching over it?

It seems to me what we are doing is trying to set up an organizational chart for the sake of organizational charts. I might say, maybe this is one of the problems with putting this thing together behind closed doors, without the input of the people most directly involved, without any hearings. And suddenly as the airplanes are revving up and the smell of jet fuel is in the air, we are saying: Quick, we have to do it, forget the 56 years, forget what has worked. Forget the fact that it is working. Forget the fact that it works extremely well. Forget all those criminal cases that they handle. We have an idea to fill out some new chart and, therefore, go forward with it. Forget the proud tradition of the Secret Service. Forget all the experience, all the things they have done. Forget the prosecutors they have to go to. But, by golly, we are going to have a nice new chart.

There is more I could say but I shan't. I think maybe we ought to vote and see where we stand.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the Senator from Vermont raised a rhetorical question, or at least I think it was a rhetorical question. He said, Should we put the Office of the Attorney General under the jurisdiction of the Governmental Affairs Committee? Of course, the answer to that is obviously no, because the Office of the Attorney General is not part of the Department of Homeland Security.

The issue before us is really straightforward and simple. Do we want to follow the recommendations of the 9/11 Commission and Secretary Ridge and the rest of the administration and have a single authorizing committee in the House and the Senate with responsibility for the Department of Homeland Security, not responsibility for 38 percent of the Department of Homeland Security, not responsibility for 8 percent of the employees of the Department of Homeland Security? No, there isn't a recommendation to have agencies that are not part of the Department added to the jurisdiction.

The idea is to have a single authorizing committee in the House and the Senate to mirror the agencies that are in the Department of Homeland Security, to consolidate jurisdiction between the House and Senate, which is spread over 88 committees and subcommittees; so that the officials of the Department don't have to answer to so many congressional overseers that they are prevented from devoting as much attention as they need to to do their duties. That is what this debate is about.

Mr. LEAHY. Mr. President, the Senator from Maine, in asking the question actually gives my answer, because if the issue is simply where are they sitting, that determines jurisdiction. The Secret Service, for years and years, would have been under the jurisdiction of the Finance Committee because they are in the Treasury Department. They have been in the Treasury Department forever. But the jurisdiction has been under the Judiciary Committee because of their unique law enforcement aspects.

Now, the Senator from Maine says, quite properly, we should not put the Attorney General under this committee, even though these various groups, various entities for criminal prosecution have to go to the U.S. attorney but because the Attorney General is under the Department of Homeland Security.

By the same token, when the Secret Service was in Treasury, everybody knew, because of the criminal jurisdiction and involvement, they would be under the jurisdiction of a committee that deals all the time with criminal law, with the courts, and with title 18. This is title 18 in my hand, the Federal Criminal Code and Rules. Taking up the whole middle part of this is Secret Service jurisdiction.

Do we want to make them better? Do we want proper oversight? Do we want to say, by golly, look at this, we came out with this closed door item and put it out here and immediately the Senate has saved the world—no hearings, nothing? Here it is.

I am far more interested in having the Secret Service be the best it can be. I am far more interested in making sure we are giving them the proper criminal codes they need. I am far more interested in making sure, when they are investigating crime, they can do their best.

I think what Senator HATCH and I are trying to save the Senate from doing is making a very serious mistake with the Secret Service, just to fill out an organizational chart.

I see the distinguished senior Senator from Utah in the Chamber. I will yield in a moment.

But I point out, in talking about the number of places Secretary Ridge may have to appear, he has only come to the Judiciary Committee once in each of the last 2 years. It is not like he is coming often.

But the point is, the Secret Service has 56 years of experience of making sure it works right. We are going to throw that overboard because we got this brand-new color-coded organizational chart for the Senate. My goodness, ladies and gentlemen, you can rest easy tonight, there will be no more terrorism because the Senate has a new organizational chart. Whoop-de-do.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I don't think there is anybody on this floor who respects the chairlady of the appropriate committee and the ranking

member more than I do. I think the world of both of them. I think they deserve a commendation for what they have done. I just cannot pay enough tribute to them. I know they are sincere.

I want everybody here to know that I don't have an ax to grind. I have a reputation for trying to do what is right. I am very sincere about this. It is not a question of trying to retain jurisdiction for retention's sake. This is really important. I believe we should have a committee on homeland security. I believe it should have jurisdiction over much of the area that applies to terrorism. But I also sincerely believe—and I think the case is overwhelming—that most of what the Secret Service does is pursuant to the Criminal Code.

The Judiciary Committee is specifically and especially geared to handle oversight of those problems. You don't have to completely develop a whole new system of oversight. It has worked marvelously well for 56 years.

At the end of the day, the Secret Service is a criminal investigative agency. Sure, they may have some peripheral and even very important interests in terrorism, but their interests go way beyond that. Almost everything they do comes because of what the Criminal Code tells them to do.

The Secret Service's criminal authority is much broader than homeland security and counterterrorism. Let me review some of the longstanding criminal laws. I will just review some of them. These are criminal statutes and they are important, and the Secret Service works pursuant to these statutes.

It has jurisdiction to investigate acceptance of loan or gratuity by financial institution examiners; punishment for section 213, the prior section I mentioned; section 471, counterfeiting U.S. obligations; section 472, uttering counterfeit securities; section 473, dealing in counterfeiting obligations of securities; section 474, possession of device to counterfeit obligations; section 476, theft of tools used in counterfeiting obligations; section 477, selling of tools for counterfeiting obligations; section 478, counterfeiting of foreign obligations; section 479, uttering counterfeit foreign obligations; section 480, possessing counterfeit foreign obligations. This is all pursuant to title 18 USC. Section 481, possession of electronic images for counterfeiting foreign obligations; section 482, forgery or counterfeiting bank notes; section 483, uttering counterfeit foreign bank notes; section 484, fraudulently combining multiple U.S. instruments; section 485, counterfeiting U.S. coins; section 486, unauthorized passing of U.S. coins; section 487, making or possessing counterfeit dyes for coins; section 488, making or possessing counterfeit dyes for foreign coins; section 489, making or possessing a likeness of U.S. or foreign coins.

I will not read the rest. But it goes right down the Criminal Code where they spend almost all their time. If you ask virtually anybody in the Secret Service, they believe the jurisdiction ought to be kept with the Judiciary Committee.

I do not think there is any question. I know the head of the Secret Service does. There is no question they have overlapping jurisdiction in some areas where they can help with terrorism, but that is a modest amount of what they do.

Most all of what they do involves technical Criminal Code laws, and that is judiciary, and the Judiciary Committee is especially equipped to handle those type of activities.

The Judiciary Committee has a long history of balancing civil liberties with law enforcement obligations. The Secret Service carries out a host of law enforcement activities.

Let's face it, the Judiciary Committee is uniquely qualified and uniquely structured to vigorously oversee and monitor this balance. My office received a letter from organizations from the ACLU to the American Conservative Union expressing civil liberties concerns with this reorganization.

Look, I understand my two colleagues and their desire to try to bring everything together, but if you use this as an excuse to do that—in fact, one agency or another might have something to do with terrorism, but that is not its major obligation—my gosh, you might as well take over the whole Government.

I think this works well. If it ''ain't'' broke, why are we trying to fix it? I believe very sincerely that my two esteemed colleagues, as much as I love and respect them, are wrong on this. I can live with anything the Senate decides to do, but I think it would be tragic if the Secret Service is moved over to this Department and this committee that is not particularly the committee that should have jurisdiction over it and over the work that the Secret Service does.

I do not want to keep the Senate any longer. All I can say is, I would feel badly if this amendment is not agreed to by the Senate. It should be agreed to by the Senate. I am prepared to vote on it.

Mr. LEAHY. Mr. President, earlier we discussed Judiciary Committee jurisdiction.

I ask unanimous consent that this letter be printed in the RECORD.

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

OCTOBER 7, 2004

Hon. BILL FRIST,
Capitol Building,
Washington, DC.
Hon. TOM DASCHLE,
Capitol Building,
Washington, DC.
Hon. MITCH MCCONNELL,
Capitol Building,
Washington, DC.
Hon. HARRY REID,
Capitol Building,
Washington, DC.

DEAR SENATORS: We write to raise serious concerns about a provision of S. Res. 445, the McConnell-Reid Senate Intelligence and Homeland Security Oversight Reform Proposal, that would create a new Homeland Security and Governmental Affairs Committee.

While we commend the Senate for taking strong actions to revamp congressional oversight of the Executive Branch's intelligence and homeland security functions, we strongly oppose any action to remove from the Judiciary Committee its jurisdiction over criminal law, law enforcement, domestic intelligence activities, domestic surveillance authorities, the Federal Bureau of Investigation, the Department of Justice, and investigative guidelines issued by the Attorney General. As organizations with longstanding expertise and experience in these areas, we believe it is essential at this critical time in our Nation's history that the Judiciary Committee retain its jurisdiction over these issues and ensure continuity of congressional oversight. Its members and staff have developed years of experience in these complex legal issues, which have serious implications not only for safety and security but also for civil liberties and civil rights. In particular, the Judiciary Committee's deep substantive expertise and historical role in civil liberties issues is increasingly important as government powers expand to fight terrorism.

We urge you to clarify that jurisdiction over these law enforcement and domestic intelligence issues, including oversight of the FBI and Justice Department, remain with the Senate Judiciary Committee.

Sincerely,

American Booksellers Foundation for Free Expression.
American Civil Liberties Union.
American Conservative Union.
American Immigration Lawyers Association.
American Library Association.
Bill of Rights Defense Committee.
Center for American Progress.
Center for Democracy and Technology.
Center for National Security Studies.
Citizens for Health.
Cyber Privacy Project.
Free Congress Foundation.
Friends Committee on National Legislation (Quaker).
Human Rights Watch.
National Association of Criminal Defense Lawyers.
National Coalition of Mental Health Professionals and Consumers, Inc.
Peoople for the American Way.
Private Citizen, Inc.
The Rutherford Institute.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, let me sum up. This amendment poses the question, Are we really going to do what the 9/11 Commission asked us to do, which is to create a committee to oversee the Department of Homeland Security? That is what it is all about.

We reorganized the Federal Government executive branch to better protect our homeland security. The Commission says we have to reorganize our

oversight to be able to protect our homeland security. That is what the proposal of the Commission is all about.

We are getting to a point, as we begin to take all these pieces out, where it is a sham, as I have said before. What we are calling a homeland security committee is not really. It is as if you had a cat, and you put a little necklace around its neck with a sign that said, ''I am a horse,'' and expected people to think the cat was a horse.

We are at a point now where we are calling this committee the homeland security committee, and it is not.

Let me go to the numbers in closing. There are 175,000 employees in the Department. The McConnell-Reid proposal takes out the Coast Guard and TSA. That is 97,000 of those 175,000 employees gone. Earlier today, my friends from the Judiciary Committee took back Immigration, Customs enforcement, Customs, and border protection, another almost 19,000 employees gone from what is supposed to be the oversight committee of homeland security.

It was said earlier that what is left is a lot in our committee—three of the four directorates. OK, I know the number of employees does not say everything, but it does say a lot. Three directorates left in the oversight responsibility of the committee we are calling the homeland security committee, three directorates from DHS: emergency preparedness, 4,800 employees; intelligence analysis and infrastructure protection, 700 employees; science and technology, about 200 employees. We have about 5,700 employees left in the three directorates that come under the new committee on homeland security from the Homeland Security Department. That is 5,700 out of a total of 175,000 in the Department.

Let me give this stunning statistic, Mr. President. Are you ready? The Secret Service itself has 6,381 employees. That is about 500 more employees than in the three directorates that are left clearly within the jurisdiction of the committee being called the homeland security committee.

As I have said, if you want to give the responsibility for oversight of homeland security to another committee, do it. If you want to create a new committee on homeland security, do it. But if you are going to call it a committee on homeland security, then give it jurisdiction over homeland security.

A lot of the reality of the promise has already been taken away. I hope my colleagues will draw a line here and say that the Secret Service, which is part of the Department of Homeland Security for very good reasons that I enumerated earlier, should remain under the jurisdiction for oversight of what we will call the Department of Homeland Security.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, have the yeas and nays been ordered on the Hatch amendment?

The PRESIDING OFFICER. They have not.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 4037. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Georgia (Mr. CHAMBLISS), the Senator from New Mexico (Mr. DOMENICI), and the Senator from New Hampshire (Mr. GREGG) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

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

The result was announced—yeas 54, nays 41, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—54

Allard	Crapo	Leahy
Allen	DeWine	Lott
Baucus	Dodd	Mikulski
Bennett	Dorgan	Miller
Biden	Durbin	Murkowski
Bingaman	Feingold	Reed
Boxer	Feinstein	Roberts
Brownback	Grassley	Sarbanes
Bunning	Hagel	Schumer
Byrd	Harkin	Sessions
Campbell	Hatch	Shelby
Cantwell	Hutchison	Smith
Clinton	Inouye	Specter
Cochran	Jeffords	Stabenow
Conrad	Johnson	Stevens
Cornyn	Kennedy	Thomas
Corzine	Kohl	Warner
Craig	Kyl	Wyden

NAYS—41

Akaka	Enzi	McConnell
Alexander	Fitzgerald	Murray
Bayh	Frist	Nelson (FL)
Bond	Graham (FL)	Nelson (NE)
Breaux	Graham (SC)	Nickles
Burns	Hollings	Pryor
Carper	Inhofe	Reid
Chafee	Landrieu	Rockefeller
Coleman	Lautenberg	Santorum
Collins	Levin	Snowe
Daschle	Lieberman	Sununu
Dayton	Lincoln	Talent
Dole	Lugar	Voinovich
Ensign	McCain	

NOT VOTING—5

Chambliss	Edwards	Kerry
Domenici	Gregg	

The amendment (No. 4037) was agreed to.

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

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

The motion to lay on the table was agreed to.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. Mr. President, Senator ROBERTS has a couple of amendments that he believes have been cleared with everyone interested in them.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Thank you, Mr. President. The two leaders have indicated they want to press forward on this resolution tonight. We still have a number of amendments. They are completing in the House, as we speak, the FSC conference report, the conference dealing with the drought aid and the hurricane assistance, and we have to deal with those in the next few days, so we need to finish this bill tonight if at all possible. The two leaders have instructed their two loyal assistants to move forward on this resolution, and that is what we are going to do. So everyone who has amendments should bring them forward. If there is a time when no one is offering amendments, we will move to third reading on the bill.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I have two amendments to offer. I wish to offer them in sequence, taking 2 minutes at most for each one. I propose to only give a very brief description of each amendment.

AMENDMENT NO. 4019 TO AMENDMENT NO. 3981

Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 4019.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS] proposes an amendment numbered 4019 to amendment No. 3981.

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

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

The amendment is as follows:

(Purpose: To clarify staff provisions)

In section 201, strike subsection (g) insert the following:

(g) STAFF.—Section 15 of S. Res. 400 is amended to read as follows:

''SEC. 15. (a) In addition to other committee staff selected by the select Committee, 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. Designated personal representatives shall have the same access to Committee staff, information, records, and databases as select Committee staff, as determined by the Chairman and Vice Chairman.

''(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee security clearance requirements for employment by the select Committee.''.

Mr. ROBERTS. Mr. President, this amendment simply clarifies language in the McConnell-Reid amendment regarding the staffing of the Intelligence Committee.

The amendment ensures that the professional staff of the Intelligence Committee and the personal staff now designated by Members to serve on the committee will be provided similar access to committee resources and information as determined by the chairman and vice chairman.

I urge my colleagues to support this amendment. I thank Senator KYL for his assistance. It provides modest but important clarity to the proposals of Senator MCCONNELL and Senator REID.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Kansas.

The amendment (No. 4019) was agreed to.

Mr. MCCONNELL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4018 TO AMENDMENT NO. 3981

Mr. ROBERTS. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 4018.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS] proposes an amendment numbered 4018 to amendment No. 3981.

Mr. ROBERTS. Mr. President, I thank the clerk and ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To clarify the nominee referral provisions)

In section 201, strike subsection (h) and insert the following:

(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 reporting the nominations of civilian persons nominated by the President to fill all positions within the intelligence community requiring the advice and consent of the Senate.

''(b) Other committees with jurisdiction over the nominees' executive branch department may hold hearings and interviews with such persons, but only the select Committee shall report such nominations.''.

AMENDMENT NO. 4018, AS MODIFIED

Mr. ROBERTS. Mr. President, this amendment makes explicit what is already implicit in the McConnell-Reid substitute amendment; namely, that the Intelligence Committee will have explicit jurisdiction for the consideration and reporting of nominees for civilian intelligence community positions.

I urge my colleagues to support the amendment and hope the managers will agree to incorporate the modification.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

In section 201, strike subsection (h) and insert the following:

(h) NOMINEES.—S. Res. 400 is amended by adding at the end the following:

''SEC. 17. (a) The select Committee shall have jurisdiction reviewing, holding hearings, and reporting the nominations of civilian persons nominated by the President to fill all positions within the intelligence community requiring the advice and consent of the Senate.

''(b) Other committees with jurisdiction over the nominees' executive branch department may hold hearings and interviews with such persons, but only the select Committee shall report such nominations.''.

The PRESIDING OFFICER. The question is on agreeing to the pending amendment, as modified.

The amendment (No. 4018), as modified, was agreed to.

Mr. MCCONNELL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. MCCONNELL. Mr. President, I also understand that we are close to an agreement between the interested parties on the Intelligence Committee and the Armed Services Committee on the important sequential referral issue that has been under discussion all day long with the principals of those two committees. We are hoping to be able to deal with that amendment shortly.

If anyone else has an amendment they want to offer, now is the time. The majority leader and the minority leader have indicated we are going to press into the evening and finish this proposal. If you have an amendment, we urge you to come over and offer it.

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

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

Mr. MCCONNELL. Mr. President, I am told by Senator ROCKEFELLER that the sequential referral issue that has been under discussion all day has now been worked out, and he is prepared to offer it.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

AMENDMENT NO. 4030, AS MODIFIED, TO AMENDMENT NO. 3981

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendment No. 4030 at the desk and send a modification to the desk and ask that it be considered.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendment is set aside. The clerk will report the amendment, as modified.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER] proposes an amendment numbered 4030, as modified, to amendment No. 3981.

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

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

The amendment, as modified, is as follows:

(Purpose: To clarify the jurisdiction of the select Committee on Intelligence)

At the end of section 201, insert the following:

(i) JURISDICTION.—Section 3(b) of S. Res. 400 is amended to read as follows:

''(b)(1) Any proposed legislation reported by the select Committee except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such standing committee; and any proposed legislation reported by any committee, other than the select Committee, which contains any matter within the jurisdiction of the select Committee shall, at the request of the chairman of the select Committee, be referred to the select Committee for its consideration of such matter and be reported to the Senate by the select Committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such committee.

''(2) In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed in this subsection, such Committee shall be automatically discharged from further consideration of such proposed legislation on the 10th day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise, or the Majority Leader or Minority Leader request, prior to that date, an additional five days on behalf of the Committee to which the proposed legislation was sequentially referred. At the end of that additional five day period, if the Committee fails to report the proposed legislation within that five day period, the Committee shall be automatically discharged from further consideration of such proposed legislation unless the Senate provides otherwise.

''(3) In computing any 10 or 5-day period under this subsection there shall be excluded from such computation any days on which the Senate is not the session.

''(4) The reporting and referral processes outlined in this subsection shall be conducted in strict accordance with the Standing Rules of the Senate. In accordance with such rules, committees to which legislation is referred are not permitted to make changes or alterations to the text of the referred bill and its annexes, but may propose changes or alterations to the same in the form of amendments.''.

Mr. ROCKEFELLER. Mr. President, strengthening the two congressional Intelligence Committees was a fundamental part of the 9/11 Commission recommendations for improving congressional oversight. This is more of that. They made many recommendations, most of which were included in whole or in part in our resolution.

One area where the Commission did not make a specific recommendation but which is very important was the question of shared jurisdiction between the Intelligence Committee and other committees, specifically the Armed Services Committee. Under the current structure, other committees have the automatic right to receive sequential referral of any legislation reported by the Intelligence Committee if it touches on their jurisdiction. And the Intelligence Committee enjoys a reciprocal right of referral. In practice, this authority has been exercised hardly at all—very rarely, infrequently—at least by the Intelligence Committee, but it has become a bit of an annual routine for the Armed Services Committee to seek sequential referral of the intelligence authorization bill. This practice is based upon legitimate interests on the part of the Armed Services Committee. But the system has worked to the detriment of the Intelligence Committee and effective oversight. I will try to explain why.

Every year the intelligence authorization bill is referred to the Armed Services Committee for a period of not more than 30 days of legislative session. The Armed Services Committee almost always holds the bill for a full 30 days which can, in fact, work out to 2 calendar months, when you really carry that math out. This allows them to review the bill, which is important and proper, but it puts the Intelligence Committee far behind in the annual legislative process. By which I mean by the time the bill is reported, after a sequential referral by the Armed Services Committee, acted on by the Senate, and negotiated with the House, the annual appropriations bill often is already enacted into law.

For example, this year our authorization bill has not been dealt with. The appropriations bill has been passed in the Senate. This is an awkward way to do business. So we too often have been unable to provide the appropriators with the benefit of the work of the intelligence oversight committees. Timely passage of the intelligence authorization bill would become even more critical with the creation of a new appropriations subcommittee on intelligence.

In order for this new system to work, the Intelligence Committee has to be integral to the whole process. That is the whole point. We have to make changes in the way the sequential referral authority works. So Senator EVAN BAYH offered an amendment to completely strike the language that provides for automatic sequential referral, and that is certainly one way to approach it. It has some downsides.

The Armed Services Committee and other committees have legitimate interests that need to be protected. Doing away with the provision also would remove the Intelligence Committee's ability to request the referral of legislation reported by other committees when that legislation relates to intelligence matters.

Finally, completely removing the referral authority would have the inevitable result—and this is sort of the soul of this institution—of alienating the Intelligence and Armed Services Committees. This is something we cannot afford and must not do. The committees have to work together constantly on a wide range of issues.

To achieve what Senator BAYH and myself and others want, all of us seeking more effective intelligence oversight, we have worked out a compromise, I am very happy to report. The amendment I have offered significantly reduces the amount of time that another committee has available to review legislation reported by the Intelligence Committee and vice versa. That time goes from 30 days of legislative session down to 10.

But hold on. The amendment also makes clear that the clock does not begin until the committee receiving our bill has all the relevant classified annexes available for review which could be thousands of pages.

According to our compromise, an additional 5 days of sequential referral can be added if requested by the majority or the minority leaders. That struck people as wise and useful. So when there is a legitimate need to have more scrutiny by the Armed Services Committee, they would make that request, and it would, of course, be granted.

This is made easier under the new structure because the chairman and the ranking member of the Armed Services Committee are now ex officio members of the new Intelligence Committee. We welcome their participation. I don't think it will do anything but strengthen our committee more. In fact, I think we will end up with five members of the Armed Services Committee on our Intelligence Committee, and that is good.

So I thank Senator BAYH for bringing this issue to the attention of the Senate. I thank Senators LEVIN and WARNER for their willingness and insistence on finding a middle ground. I really mean I thank them. I thank both the majority and minority leaders who were instrumental in reaching this agreement because we were back and forth all day long.

Finally, I thank, of course, my chairman, Senator ROBERTS, for his help in crafting this compromise. I urge my colleagues to support the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. The amendment has been modified?

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. REID. I have spoken to the comanager of this bill. We have no objection. We appreciate very much the time and effort of so many involved to get us to this point.

I urge that the amendment be accepted.

The PRESIDING OFFICER. Does any Senator seek recognition on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 4030), as modified, was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I have tried to be silent tonight. If anyone wants to come and offer an amendment, I will sit down.

People have made statements asking: What is this committee going to have; you have taken everything from them. I am going to read a few of the most important things they have to do. This committee should not be concerned only with the number of employees. They should be concerned with responsibilities.

The first directorate, the Directorate for Information Analysis and Infrastructure Protection: the Under Secretary of Homeland Security for Information Analysis and Infrastructure Protection. In general: There shall be in the Department a Directorate for Information Analysis and Infrastructure Protection.

Responsibilities: The Under Secretary shall assist the Secretary in discharging this responsibility. The Assistant Secretary for Information Analysis is under the control of this committee.

The Assistant Secretary for Information Analysis: There shall be in the Department an Assistant Secretary for Information Analysis who shall be appointed by the President.

The Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection shall assist the Under Secretary for Information Analysis and Infrastructure Protection in discharging the responsibilities of the Under Secretary.

The Secretary shall ensure that the responsibilities of the Department regarding information analysis and infrastructure protection are carried out through the Under Secretary for Information Analysis and Infrastructure Protection.

Responsibilities of the Under Secretary: To access, receive, and analyze

law enforcement information, intelligence information, and other information from agencies of the Federal Government, State and local government agencies, including law enforcement agencies, and private sector entities, and to integrate such information in order to—A, identify and assess the nature and scope of terrorist threats to the homeland; B, detect and identify threats of terrorism against the United States; C, understand such threats in light of actual and potential vulnerabilities to the homeland.

That sounds to me like it is more than nothing. This is the policy of our country over which they have jurisdiction.

No. 2, to carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States, including an assessment of the probability of success of such attacks and the feasibility and potential efficacy of various countermeasures to such attacks.

No. 3, to integrate relevant information, analyses, and vulnerability assessments, whether such information, analyses, or assessments are provided or produced by the Department or others, in order to identify priorities for protective and support measures by the Department, other agencies of the Federal Government, State and local government agencies and authorities, the private sector, and other entities.

No. 4. To ensure, pursuant to section 202, the timely and efficient access by the Department to all information necessary to discharge the responsibilities under this section, including obtaining such information from other agencies of the Federal Government.

No. 5. To develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States, including power production, generation, and distribution systems, information technology and telecommunications systems (including satellites), electronic financial and property record storage and transmission systems, emergency preparedness communications systems, and the physical and technological assets that support such systems.

No. 6. To recommend measures necessary to protect the key resources and critical infrastructure of the United States in coordination with other agencies of the Federal Government and in cooperation with State and local government agencies and authorities, the private sector, and other entities.

No. 7. To administer the Homeland Security Advisory System, including—

A. exercising primary responsibility for public advisories related to threats to homeland security; and

B. in coordination with other agencies of the Federal Government, providing specific warning information, and advice about appropriate protective measures and countermeasures, to State and local government agencies and authorities, the private sector, other entities, and the public.

No. 8. To review, analyze, and make recommendations for improvements in the policies and procedures governing the sharing of law enforcement information, intelligence information, intelligence-related information, and other information relating to homeland security within the Federal Government and between the Federal Government and State and local government agencies and authorities.

No. 9. To disseminate, as appropriate, information analyzed by the Department within the Department, to other agencies of the Federal Government with responsibilities relating to homeland security, and to agencies of State and local governments and private sector entities with such responsibilities in order to assist in the deterrence, prevention, preemption of, or response to, terrorist attacks against the United States.

No. 10. To consult with the Director of Central Intelligence and other appropriate intelligence, law enforcement, or other elements of the Federal Government to establish collection priorities and strategies for information, including law enforcement-related information, relating to threats of terrorism against the United States through such means as the representation of the Department in discussions regarding requirements and priorities in the collection of such information.

No. 11. To consult with State and local governments and private sector entities to ensure appropriate exchanges of information, including law enforcement-related information, relating to the threats of terrorism against the United States.

No. 12. To ensure that—

A. any material received pursuant to this Act is protected from unauthorized disclosure and handled and used only for the performance of official duties; and

B. any intelligence information under this Act is shared, retained, and disseminated consistent with the authority of the Director of Central Intelligence to protect intelligence sources and methods under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures and, as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information.

No. 13. To request additional information from other agencies of the Federal Government, State and local government agencies, and the private sector relating to threats of terrorism in the United States, or relating to other areas of responsibility assigned by the Secretary, including the entry into cooperative agreements through the Secretary to obtain such information.

No. 14. To establish and utilize, in conjunction with the chief information officer of the Department, a secure communications and information technology infrastructure, including data-mining and other advanced analytical tools, in order to access, receive, and analyze data and information in furtherance of the responsibilities under this section, and to disseminate information acquired and analyzed by the Department, as appropriate.

No. 15. To ensure, in conjunction with the chief information officer of the Department, that any information databases and analytical tools developed or utilized by the Department—

A. are compatible with one another and with relevant information databases of other agencies of the Federal Government; and

B. treat information in such databases in a manner that complies with applicable Federal law on privacy.

No. 16. To coordinate training and other support to the elements and personnel of the Department, other agencies of the Federal Government, and State and local governments that provide information to the Department, or are consumers of information provided by the Department, in order to facilitate the identification and sharing of information revealed in their ordinary duties and the optimal utilization of information received from the Department.

No. 17. To coordinate with elements of the intelligence community and with Federal, State, and local law enforcement agencies, and the private sector, as appropriate.

No. 18. To provide intelligence and information analysis and support to other elements of the Department.

No. 19. To perform such other duties relating to such responsibilities as the Secretary may provide.

Mr. President, this is a big-time focus on the administration of this new committee. This is only part of it. For someone to come to the floor and say they have not given us anything, I have read some of the most important aspects of setting the policy of this country as it relates to defeating terrorism. They may not have the right number of employees, but their responsibilities for setting the policy of this country are in that committee. Anyone who thinks not, let them see what we have done. This is only the first directorate. There are others. I have not completed reading what is in this directorate.

Here are the agencies covered: The Department of State, the CIA, the FBI, the National Security Agency, the National Imagery and Mapping Agency, and the Defense Intelligence Agency.

I have only read a few things of the first directorate. If they had nothing else to do during the legislative year than deal with what I have completed reading, it would be a massive undertaking. In addition to that, you see, we have not taken any of the responsibilities away from the Governmental Affairs Committee. They had huge responsibilities before we gave them this. For people to come on this floor and whine and cry about they don't have anything to do, it is not in keeping with what we have done with this committee.

I will go to one other directorate. I have only read a few pages from this directorate. I have read three pages. I have about 15 or 20 more here. I don't feel that I want to spend my time reading that, other than to say they have tremendous responsibilities.

Under the Office of Science and Technology, they have another big job. This is to ''carry out programs that, through the provision of equipment, training, and technical assistance, improve the safety and effectiveness of law enforcement technology and improve access by Federal, State, and local law enforcement agencies.''

That is another huge responsibility they have been given.

In carrying out its mission, the Office shall have the following duties:

No. 1. To provide recommendations and advice to the Attorney General.

No. 2. To establish and maintain advisory groups (which shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.)) to assess the law enforcement technology needs of Federal, State, and local law enforcement agencies.

No. 3. To establish and maintain performance standards in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 14–113) for, and

test and evaluate law enforcement technologies that may be used by Federal, State, and local law enforcement agencies.

No. 4. To establish and maintain a program to certify, validate, and mark or otherwise recognize law enforcement technology products that conform to standards established and maintained by the Office in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113). The program may, at the discretion of the Office, allow for supplier's declaration of conformity with such standards.

No. 5. To work with other entities within the Department of Justice, other Federal agencies, and the executive office of the President to establish a coordinated Federal approach on issues related to law enforcement technology.

No. 6. To carry out research, development, testing, evaluation, and cost-benefit analyses in fields that would improve the safety, effectiveness, and efficiency of law enforcement technologies used by Federal, State, and local law enforcement agencies, including, but not limited to—

A. weapons capable of preventing use by unauthorized persons, including personalized guns;

B. protective apparel;

C. bullet-resistant and explosion-resistant glass;

D. monitoring systems and alarm systems capable of providing precise location information;

E. wire and wireless interoperable communication technologies;

F. tools and techniques that facilitate investigative and forensic work, including computer forensics;

G. equipment for particular use in counterterrorism, including devices and technologies to disable terrorist devices;

H. guides to assist State and local law enforcement agencies;

I. DNA identification technologies; and

J. tools and techniques that facilitate investigations of computer crime.

No. 7. To administer a program of research, development, testing, and demonstration to improve the interoperability of voice and data public safety communications.

No. 8. To serve on the Technical Support Working Group of the Department of Defense, and on other relevant interagency panels as requested.

No. 9. To develop, and disseminate to State and local law enforcement agencies, technical assistance and training materials for law enforcement personnel, including prosecutors.

No. 10. To operate the regional National Law Enforcement and Corrections Technology Centers and, to the extent necessary, establish additional centers through a competitive process.

No. 11. To administer a program of acquisition, research, development, and dissemination of advanced investigative analysis and forensic tools to assist State and local law enforcement agencies in combating cybercrime.

No. 12. To support research fellowships in support of its mission.

No. 13. To serve as a clearinghouse for information on law enforcement technologies.

No. 14. To represent the United States and State and local law enforcement agencies, as requested, in international activities concerning law enforcement technology.

No. 15. To enter into contracts and cooperative agreements and provide grants, which may require in-kind or cash matches from the recipient, as necessary to carry out its mission.

No. 16. To carry out other duties assigned by the Attorney General to accomplish the mission of the Office.

Mr. President, that is a pretty heavy load. I would say if they think they have more time than this, then they have a lot of time. This is what we believe we have given them, partially. And for anyone to come here and say that these three directorates, plus the fourth—this doesn't give them anything to do, it may not be the number of employees, but there is a large number of employees in the TSA.

They have so much. Committees are there to set policy. That is the whole purpose of it, and I have laid out policy directions that they have on which it would take forever for this body to hold hearings.

It is very unfair to Senator MCCONNELL and me and the task force generally to say we did not give them anything. We gave them so much you need a semitruck and trailer to haul the responsibilities alone. I have read only part of them.

Senator MCCONNELL will be on the floor shortly. If there are no other amendments, we will go to final passage. Everybody should know it is 8:30 at night, and we waited all day. We want to be patient. As I indicated, we are going to do our very best to finish this legislation as soon as we can.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3986 TO AMENDMENT NO. 3981

Mr. MCCONNELL. Mr. President, there is an amendment at the desk by Senator BYRD, No. 3986. I ask that it be considered. It has been cleared on both sides.

The PRESIDING OFFICER. Without objection, the pending amendments are laid aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. BYRD, proposes an amendment numbered 3986 to amendment No. 3981.

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

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

The amendment is as follows:

AMENDMENT NO. 3986

At the appropriate place in Sec. 402(b) after the word ''matters,'' insert the following:

'', as determined by the Senate Committee on Appropriations''

Mr. HARKIN. I didn't hear the request.

The PRESIDING OFFICER. There was a request to dispense with further reading of the amendment.

Mr. HARKIN. What amendment?

Mr. MCCONNELL. An amendment by Senator BYRD relating to the resolution we are working.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3986) was agreed to.

Mr. MCCONNELL. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 4038 TO AMENDMENT NO. 3981

Mr. MCCONNELL. Mr. President, there is an unnumbered amendment at the desk by Senator SHELBY regarding the National Flood Insurance Act.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for Mr. SHELBY and Mr. SARBANES, proposes an amendment numbered 4038 to Amendment No. 3981.

Mr. MCCONNELL. 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 retain jurisdiction over the National Flood Insurance Act of 1968, with the Committee on Banking, Housing, and Urban Affairs)

At the appropriate place, insert the following: ''*Provided*, That the jurisdiction provided under section 101(b)(1) shall not include the National Flood Insurance Act of 1968, or functions of the Federal Emergency Management Agency related thereto.''.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCONNELL. I am aware of no opposition to the Shelby amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4038) was agreed to.

Mr. MCCONNELL. I move to reconsider the vote.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, the distinguished Senator from Delaware has an amendment to offer. He has indicated

he would be willing to enter into a time agreement which, as far as I am concerned, is fine. He has indicated he would take—

Mr. BIDEN. Mr. President, unless someone else wishes to speak on this, 15 minutes. I think I can do it in 10, but let's say 15 minutes to protect myself.

Mr. REID. And whoever wishes to speak against him have 15 minutes, and Senator BIDEN have 5 minutes to close if somebody speaks following that.

Would that be appropriate?

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Could we be informed as to the topic?

Mr. REID. The topic of it is Senator BIDEN and Senator LUGAR wish to add the chairman and ranking member of the Foreign Relations Committee as ex officio members of the Intelligence Committee, having no voting rights or the ability to help establish a quorum.

Ms. COLLINS. I thank the Senator for the explanation.

Mr. REID. Mr. President, I ask unanimous consent that Senator BIDEN have 15 minutes, that someone opposing his amendment have 15 minutes, and Senator BIDEN have 5 minutes to close the debate prior to a vote on the amendment, and that no amendments to the amendment be in order prior to a vote on the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Delaware.

AMENDMENT NO. 4021 TO AMENDMENT NO. 3981

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

The PRESIDING OFFICER. Without objection, the pending amendments are laid aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN], for himself and Mr. LUGAR, proposes an amendment numbered 4021 to amendment No. 3981.

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

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

The amendment is as follows:

On page 5, after line 3, insert the following: ''(C) The Chairman and Ranking Member of the Committee on Foreign Relations (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.''.

Mr. BIDEN. Mr. President, this is very straightforward. Right now, the chairman and ranking member of the Armed Services Committee are ex officio members of the Intelligence Committee, with no voting rights, no requirement that they be there to make a quorum. Quite frankly, they are there to be able to listen when they seek to do that.

Senator LUGAR and I are proposing the same exact status be made available for the chairman and ranking member of the Foreign Relations Committee. I know the argument will be, why don't we make everybody, every chairman, every ranking member, ex officio members? But the Foreign Relations Committee does need access to this information.

I know it will come as a shock, but because of the necessary requirement of focusing on certain subject matters, which hopefully we gain some expertise on, the Foreign Relations Committee and its chairman and ranking member, hopefully, have some insights occasionally which other Members may not have because they do not spend the time on that issue. Just as in the Armed Services Committee, the ranking member and the chairman may have access to information that is not intelligence information but is information that would shed light upon judgments being made by the Intelligence Committee as a consequence of information made available by the CIA and other intelligence operations. Because, as we all know, intelligence operations can have major impacts for good or for ill on American foreign policy.

I am necessarily, as we all are, restrained from giving contemporary examples of that, but I have been here a long time and go back to the period of the Cold War. I sat on the Intelligence Committee at the time, but I was not a ranking member. I was on the Intelligence Committee for 10 years, I think as long as anybody who served in this body. There may be somebody who served longer than me on that committee. But one of the things I learned is occasionally the Intelligence Committee would come up with initiatives made available under our special rules, which are necessary, special rules that are applicable only to the Intelligence Committee, and access and brief only the Intelligence Committee, and many members on the committee would not be aware that there were totally different operations going on on a diplomatic front or on an arms control front or on a matter relating to national security that were not explicitly—explicitly—intelligence matters.

Let me give you a few examples without giving, obviously, the details, but generic examples. Intelligence collection and analysis are essential to the verification of compliance with arms control and nonproliferation agreements. A few years ago, we on the Foreign Relations Committee heard that a particular intelligence system that is important to that function—that is, collecting intelligence for compliance on nonproliferation treaties and arms control—we heard that function was in danger of being lost.

We took the initiative. We raised it with the Intelligence Committee because we had heard this. We let them know what we had heard to make sure the executive branch retained this particular system that we believed, in the Foreign Relations Committee, was essential to a matter relating to nonproliferation, something that most of the members on the Intelligence Committee, understandably, serving on many committees other than Foreign Relations or Armed Services, did not see the particular relevance of. So when briefed by the Intelligence Committee, it seemed all right. It didn't seem like this particular system was critical for a foreign policy initiative that was underway and a treaty that existed. And by the way, we only heard about it from someone in the executive branch who had made it known to a member of the Foreign Relations Committee.

Intelligence is also needed to give warning of new dangers and opportunities around the world. That may require different capabilities from those of us who serve on the Armed Services Committee or who served in the Armed Services. The Armed Services Committee rightly worries about intelligence support for military operations. Why is that unrelated to major diplomatic operations? That can have as much consequence on American security as tactical military operations.

The Foreign Relations Committee has a concern to ensure that there is a balance, that U.S. intelligence resources are not devoted primarily or overwhelmingly to tactical targets. My friend, the chairman of the committee, may disagree with me, but if I translate that, we only have so many assets that can be brought to bear. If I can make an analogy to the FBI, there are only 11,600 FBI agents, I think maybe 11,800. By the way, I might note, before 9/11 there were only 11,300. So we haven't done much there.

But let's assume we say what is going on right now. There is a decision being made that those agents should focus on counterterror. That is a legitimate issue. But what about the Mafia? What about organized crime units that deal in drugs that are not involved in terror? It is a legitimate issue to debate as to where the resources should be placed. Of that 11,800, you have about 4,000 people to be made available. You only have so many satellites. You only have so many agents. You only have so many resources. And, understandably, the Armed Services Committee wants to make sure those resources are focused on those tactical issues that are critically important.

I am not suggesting they should not. But there should be a voice there that is fully informed on the foreign policy side and has access that other members of the Foreign Relations Committee do not have because, as we all know, there are certain things that are made available to the Foreign Relations Committee, under our rules, only to the ranking member and only to the chairman and not the whole membership. And so absent having the fact that we have a member who may be brighter than and more informed than the chairman or the ranking member, they don't have the same access. They don't have the same access to all the diplomatic initiatives that are underway.

So if it makes sense to have Armed Services have tactical input here, it seems to me that this false separation of our foreign policy and our defense policy is one of the reasons we got ourselves in trouble to begin with. What are we doing now? We are agreeing to change the rules. We are about to change the rules, I hope, when we get into reorganizing this body. And we are going to say no longer is a member of the Foreign Relations Committee not able to serve on Armed Services, and no longer is a member of Armed Services not able to serve on the Foreign Relations Committee. Why? We are going around making sure that there are not stovepipes in the Intelligence Committee. We finally figured out there should not be stovepipes in terms of information and access and expertise as it relates to strategic doctrine, foreign policy, and tactical military operations. It is necessary.

I know of one matter on which we were kept in the dark for some months, then briefed earlier this year. And we have gotten no information since. We go back, the chairman and I, and say: We want more information.

They say: We already told the Intelligence Committee.

Then the Intelligence Committee tells us, which is literally true: We can come and read whatever it is that is there.

We all know how this place works. If you are not there in the middle of a hearing, if you are not there in that closed session, if you are not able to probe what is being said and have a perspective that may be different than the members of the committee, you are not likely to get the information.

That is especially true because if we gained information as ex officio members of the Intelligence Committee, we would be bound by the same nondisclosure rules that apply to other members of the Intelligence Committee. I found in my 10 years on the Intelligence Committee—I think that is longer served time than anybody who presently sits on the Intelligence Committee, or as long; I could be wrong about that—I found, as one of my friends said early on when I got put on that committee originally: I don't want to go on because it is like Pac-Man. They will tell you information that you otherwise could learn, but once they have told you, you can't disclose it because if you do, even though it appears in the New York Times, you have violated the law.

One of the things that is useful, I find that people are much more open with me as a junior member of the Intelligence Committee rather than a 31-year member of the Foreign Relations Committee. So we would be bound by the same rules. The Foreign Relations Committee also has a major concern for the safety and security of overseas embassies. We have shared that concern in this regard with the Intelligence Committee, which doesn't want to see intelligence personnel or information put at risk by ineffective security in our embassies. We will be able to pursue that shared interest more effectively if our chairman and ranking member have ready access to the information on this security and security around the world.

And lastly, because I am getting pretty close here, the idea of being able to completely separate the functioning of our State Department and the functioning of the intelligence community in little neat boxes does not comport with reality. That is not how it works.

Other than the present chairman of the committee maybe not wanting the Government expense of adding two more chairs at the table, I quite frankly don't understand what the problem is.

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

The PRESIDING OFFICER. Who seeks time in opposition?

The Senator from Kansas.

Mr. ROBERTS. Mr. President, Senator BIDEN, in his usual flare, has offered an amendment to add the chairman and ranking member of the Senate Foreign Relations Committee as ex officio members of the Intelligence Committee. Under S. Res. 400, the organizing resolution for the Senate Intelligence Committee, eight members are already crossovers from other committees: two from the Judiciary Committee, two from Armed Services, two from Appropriations, and two from foreign Relations. This is on purpose, because we believe these four committees should have crossover representation on the committee as it now stands. That is under S. Res. 400.

With all due respect, I think the members of the Foreign Relations Committee—Senator HAGEL, Senator ROCKEFELLER—do an excellent job in representing the Foreign Relations Committee on the Intelligence Committee. These crossover members do perform an invaluable service for the Intelligence Committee.

First, they ensure that the insights and perspectives of the other Senate committees are considered in the oversight of the intelligence activities of the United States. And second, they do already provide the Armed Services Committee and the Judiciary Committee and the Appropriations Committee and, yes, the esteemed members of the Foreign Relations Committee, with a view of the Intelligence Committee on issues that cross jurisdictional boundaries.

Now, under the McConnell-Reid reform proposal, the Intelligence Committee would grow by two ex-officio members already. The chairman and ranking member of the Armed Services Committee, the majority and minority leaders, already serve as ex-officio members of the committee. So following reform, the Intelligence Committee will be composed of eight crossover members. If Senator BIDEN's amendment is successful, there will be six nonvoting ex-officio members.

Now, any chairman or any ranking member who has crossover jurisdiction with any other committee, under this logic, should be an ex-officio member of the committee. After all, we need to keep an eye on one another. I have every trust in thee and me, but I wonder about thee. This is like Bob Barker: Come on down, be an ex-officio member of the Intelligence Committee. This is empowerment? This is further dissolution in terms of the responsibilities and cohesion and pertinence in regard to the Intelligence Committee.

Well, does the Intelligence Committee need that much oversight? Do the guaranteed crossover memberships not really protect sufficiently the equities of the Armed Services and Foreign Relations Committees?

As chairman of the Intelligence Committee, I said on the Senate floor earlier today that I often have concerns with the actions of the Armed Services Committee, Foreign Relations Committee, Appropriations Committee, and the Judiciary Committee—not necessarily in that order.

Given this logic, as such, given the proliferation of ex-officio memberships, perhaps the chairman and vice chairman of the Intelligence Committee should have ex-officio membership on other committees with jurisdiction that overlap the intelligence issues. What is good for the goose is good for the gander. I will leave Members to decide who is the goose and who is the gander. I focus on four primary committees: Armed Services, Foreign Relations, Appropriations, and Judiciary. I was going to have a second-degree amendment to say, why can't Senator ROCKEFELLER and I be ex-officio on these committees if they want to be ex-officio on our committee? I am not sure exactly what they would do other than monitor. We can certainly find something for them to do as they follow the work of the Intelligence Committee. I could go on. We could have ex-officio status for Senator ROCKEFELLER and myself for the new Homeland Security and Governmental Affairs, Banking, Finance, and Agriculture Committees. They all have cross-jurisdictional interests that touch on intelligence issues.

With only limited exceptions, all Senators have access to the information and activity of the Intelligence Committee. As chairman, I and the distinguished vice chairman, Senator ROCKEFELLER, have invited all Senators to come down and take a look at the classified portions of the Iraq review or any other Intelligence Committee product or holding. You are welcome. Just ask. Come on in.

The committee assists in the arrangement of classified briefings for all Senators by our intelligence agencies. Ex-officio membership is an unnecessary requirement and maintains the status of the Intelligence Committee as a weak child of the Senate.

Let's not have any further diminution of the Intelligence Committee. I

urge colleagues to oppose the Biden amendment.

I yield the floor.

Mr. BIDEN. Mr. President, you know, one of the problems of being around here a while is that you get in this body and you take things in a personal context. This has nothing to do with overseeing the Intelligence Committee. This is about expanding the capability of the Intelligence Committee.

Let me give my friend an example. I think he totally misses the point. He views this as an assault on the committee, a weakening. We are looking at them. I wonder if the Senator is aware that on the Foreign Relations Committee, there are numerous occasions when the ranking member and chairman are made aware by the Secretary of State and/or the President himself of a diplomatic initiative that they have no idea is about to be undertaken. I wonder if he knows that. It is not about the collection of intelligence, it is about a diplomatic initiative.

Let me make something up. Assume we were having great difficulty with Canada and they are our enemy. The President and Secretary of State call the chairman and ranking member of the Foreign Relations Committee down to get our judgment on whether, if we made the following entree diplomatically to a particular group in Canada—say, Quebec—we might be able to move the ball, and, at the same time, the Intelligence Committee is hearing information that is meat and potatoes, critically important, that there is an initiative underway in the Intelligence Committee to eavesdrop upon the undertakings of the very people who are about to make this initiative. It might be a useful thing, not an assault on the chairman or a diminution of his authority but another access and avenue of, hopefully, an informed person with a different perspective on something that is not banking, or it is not agriculture; it is serious stuff.

We tend, when we think about intelligence, to think only in terms of covert operations and the military. The fact is, that is part of our problem. This false separation of the conduct of American foreign policy and the policy of our strategic doctrine and our tactical doctrine is part of our problem. So this is not about sitting down and babysitting, or whatever the phrase used by my friend was; this is about being collaborative and letting them maybe know a perspective they didn't know.

Lastly, we all have access to all kinds of information. The problem is, unless we are essentially tasked with the responsibility and obligation, there is so much we have to do, we don't get to do it. I know what the chairman is worried about: this guy sitting next to me. I hired him in the Intelligence Committee 20 years ago. He sat there for 10 years. Now he works for me on the Foreign Relations Committee. There is a worry—not about my particular colleague on my left—but we will have staff there that will do what they do in every committee if they attend a hearing: Mr. Chairman, this is about to happen, and it is a small thing and it totally conflicts with what you have been told by the Secretary of State and it may be useful.

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

Mr. BIDEN. Do I have any time beyond that?

The PRESIDING OFFICER. Five minutes to close.

Mr. BIDEN. The bottom line is, I wish we would get together in this place and stop viewing everything as sort of an assault on somebody else's jurisdiction. This is not about that. I got off of the Intelligence Committee. I was on the Intelligence Committee, the Budget Committee, the Foreign Relations Committee, and the Judiciary Committee. I concluded that I could not do all four of those, so I got off. I gave up the chairmanship of the Budget Committee because I didn't think I could do that and my job on the Foreign Relations Committee and the Judiciary Committee.

The strength of this institution lies in our willingness to recognize the contribution that each of us can make, the perspective we bring to the table, and, occasionally, just maybe a degree of expertise that maybe another colleague doesn't have. I clearly do not have the expertise of my colleague on the Intelligence Committee on intelligence matters now. He is fully, contemporaneously, totally informed. I don't have the competence on matters relating to the Banking Committee and the international banking system as the chairman and ranking member do because that is their obligation. I don't have the competence my friend from Alaska has on the Appropriations Committee and how all these pieces fit together, but I respectfully suggest that I might be able to contribute.

Whoever succeeds me—the Senator from Connecticut, I think, is next in line to be chairman or ranking member of the Foreign Relations—I respectfully suggest he has a perspective that might be useful.

Why do we view this in terms of competition? If you hang around this place long enough, you kind of go through a couple phases, one of which is you end up sometimes not recognizing the potential strength that lies here.

Senator HAGEL and Senator ROCKEFELLER are brilliant members of the Foreign Relations Committee. Senator ROCKEFELLER, because he is the co-chairman, has not been able to attend one-fifth of our hearings, and he should not be at our hearings. He should be doing the work of the Intelligence Committee because that is his primary responsibility. Senator HAGEL is the same way. They are both incredibly well-informed people. They both serve on the committee, but they do not have the full access Senator LUGAR has to every diplomatic initiative that Senator LUGAR may be aware of or the particular concerns or the sensitivity of a particular initiative and at a particular time.

I conclude by saying, I go back to my days on the Intelligence Committee. I happened to be aware, only because Senator Pell made me aware, of an initiative that was underway in a particular Eastern European country. At the time, Mr. Casey and Ugell were running operations there. Only because I was made aware by the chairman of the committee of what he had been briefed on and was allowed to communicate was I able to say in a hearing and I think—I don't know this for a fact. I know I asked for two hearings, as a member of the Intelligence Committee of the entire Senate. I demanded there be a secret hearing, that we close the doors, only Senators, no staff. It does not often happen because you only have one of two choices when you are informed about what you think is a dangerous initiative that is underway in the intelligence community. You go forward and you blow it and you suffer the consequences, you have broken the law, or under the laws, you can ask for a secret meeting of the Senate.

There was an operation that was proposed. This is years ago in the early days of the Reagan administration, relating to the very country in which there was a serious diplomatic initiative being made, in a sense covertly, not by the intelligence community, but by the State Department and the White House.

When I made the Congress aware of that, it was concluded that maybe it was not a good operation, and I signed on that piece of paper. You still have to sign off: I oppose this action. Whether it is because I did that or not, I cannot say, but the action was jettisoned. It was ill-conceived and totally at odds with the initiative the Reagan administration had going over in another piece of it. I do not know if that was a positive contribution or not, but I can tell you it was a different perspective.

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

Mr. BIDEN. I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I believe I have approximately 9 minutes remaining.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERTS. Mr. President, let me say to the Senator from Delaware, whom I admire for his expertise on foreign policy, I think all of us have an obligation to learn from, to ask, to seek guidance, to seek expertise from other Members, and I hope it is in that spirit that we are able to do this.

As Chairman of the Emerging Threats Capabilities Subcommittee on Armed Services, I work very closely with Senator LUGAR on the Counterthreat Reduction Program. I do not think I can do the job without talking to Senator LUGAR. Senator

Nunn and Senator LUGAR put that together, the Nunn-Lugar program. I talk with Senator LUGAR a lot in regard to his perspectives on foreign policy.

I have not taken the opportunity that I probably should have to talk with the Senator from Delaware at great length—we talk about some things but certainly not enough. I welcome the Senator to come to the Intelligence Committee in regard to any desire he might have to go over or to review any of the intelligence material that pertains to foreign policy. All of that does, as a matter of fact. It was the State Department that pretty much got it right in the WMD review in regard to possible WMD in Iraq, and we know that and we respect that. We made a special effort to invite the State Department in, and we will be happy to visit with the Senator from Delaware about that.

I yield the remaining time I have to a member of the Foreign Relations Committee who is always telling me about the need to tie in the relationship with regard to foreign relations and intelligence. He is the distinguished vice chairman of the Intelligence Committee. We work together in a bipartisan way. We have gone through pretty tough times. We achieved a 17-to-0 vote in regard to the WMD inquiry.

We are not trying to deny information to anybody. We want to share it. We want to learn, especially from people such as Senator BIDEN.

I yield my remaining time to Senator ROCKEFELLER.

Mr. ROCKEFELLER. Mr. President, I thank the distinguished chairman, the Senator from Kansas. I say to the Chair, I was downstairs and I had a wonderful opportunity to spend some time talking with Senator BYRD. We do not have that much opportunity to talk with each other—all of us—and I enjoyed it. Then I began to listen to the conversation. I began to think, I don't know of any committee in the Congress which is more specifically and more logically set up with respect to representation from other committees.

We have the Foreign Relations Committee. We have the Judiciary Committee. We have the Appropriations Committee. We have the Armed Services Committee. We have general members. We are actually going to grow somewhat smaller probably as a result of this intelligence reform. So everybody is represented.

One of the things I have also noticed is that there are a number of Senators—unfortunately not the majority of them, but a number of them—who will come in early in the morning, and they will get with my staff or Senator ROBERTS' staff and they will say: I want to read stuff that I can only read inside these closed facilities. It may be a National Intelligence Estimate. It may be parts of a report. But we operate openly within a very discreet and necessarily secreted space.

It does not occur to me that Foreign Relations is denied access. Everybody, by definition of being a Senator, belongs to the Intelligence Committee by way of information. It would be perfectly honest to say sometimes taking the 3 or 4 hours, as a number of Senators do, they come in and read and sometimes those are much more productive than even some of the hearings that we might have where everybody gets 5-minute questioning rounds, and Senators will take that.

Is it true we have a special relationship with the Armed Services Committee? Yes, it is true because a great deal of the Armed Services budget interacts and relates to what is going on in intelligence. This evening, we passed a very carefully crafted compromise between sequential referral because the relationship between Armed Services and Intelligence is necessarily complex and can have tension or less tension, and we want to try and keep it having less tension.

We have a very small space. Our hearing room is the smallest hearing room I have ever been in, in either the State legislature or the Senate. It seems to me the particular committees that have jurisdiction are represented. They are represented under S. Res. 400. It is very formal, it is very exacting, and just as Senator LUGAR—I am so distressed to see Senator LUGAR leave the committee because he was so good at it, but that was the 8-year limit, which is now hopefully going to disappear.

There is representation, I say very honestly to my friend from Delaware. There is representation. The Senator is always welcome. The Senator has as much right and access—equal and not one-quarter of 1 percent less—to what goes on in terms of the intelligence that is available to us, Chairman ROBERTS or myself and other members of our committee—now 17, soon to be 15—have.

I would just hope that that particular relationship of armed services would be understood. The chairman is on the Armed Services Committee and that is a conflict. It tears at him because he is chairman of one and very senior on the other, but we work it out. We simply work it out because we stay with it.

Again, I say that being on Intelligence is sort of like 100 percent of your time, and I think the quickest way to achieve that is to come in and do the reading. I am thinking of a lot of Senators, whose names are going through my head as I speak, who do that. They come in at 7 in the morning. My staff and the chairman's staff are there. They accommodate them. They say: What do you want to read? And they make it available. They sit down and read and they walk away and they have gotten an enormous amount of information.

So I think the system works pretty well.

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

Mr. ROCKEFELLER. I think the committees are accommodating, and I would hope that the Senator would be understanding of that.

Mr. BIDEN. Will the Senator yield for a question? I will be very brief.

Mr. ROCKEFELLER. Yes.

Mr. BIDEN. I used to have a friend who used to say: You have to know how to know.

The Senator has been on the Intelligence Committee long enough to know that unless one is there and they know what has been said, reading the report is not particularly relevant half the time. My question is this: What is the problem? The committee does not have enough seats? The committee does not have enough chairs if we walk in? What is the deal? What is the concern? That we would release the information more than anyone else on the committee might?

I mean, I am a little confused. Like from that line in the movie: What is the story, Richie? What is the problem? What is the downside? Do we breathe too much of the oxygen in the room? Are we going to take up more time? I do not quite get it.

I understand what the Senator says about how we are covering it. What I do not understand is, no one has said to me what is the downside of Senator LUGAR being able to, when he feels like it, show up, sit there and ask questions just like the Senator asks questions because he has a perspective. I am a little curious about that.

I yield the floor.

Mr. ROCKEFELLER. I would be happy to do my best to respond.

The PRESIDING OFFICER. All time has expired.

Mr. BIDEN. I ask unanimous consent that the chairman have 2 minutes to respond.

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

Mr. ROCKEFELLER. I say to the distinguished ranking member of the Foreign Relations Committee, that, in fact, to get into the room space is a problem. We do not have a single place to put a single person except in the back of the room. Now, that embarrasses me to say that, but it is a fact.

Secondly, I differ with the ranking member when he says that reading does not count that much. Reading and knowing the material, whether it is WMD or whether it is predictions, or whatever it is, is the greatest part of it.

The hearings are tremendously important and they are the democratic part of it so everybody has a chance to ask questions, but I know of nothing which precludes the ranking member being able to do that. For example, to staff, it is a matter of just saying, I want to know the answers.

The Senator has the same privileges on Intelligence that this Senator does, I would say through the Chair.

Mr. BIDEN. I do not believe that is accurate.

The PRESIDING OFFICER. All time has expired.

The Senator from Kentucky.

Mr. MCCONNELL. Before going to the vote, I will say that I am aware of only two, possibly three, amendments remaining. We are still hoping to push forward. I know Senator CRAIG is here, and I believe he is prepared to offer an amendment. It is still our hope that we can press through to final passage tonight.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 4021.

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Colorado (Mr. CAMPBELL), the Senator from Georgia (Mr. CHAMBLISS), the Senator from New Mexico (Mr. DOMENICI), the Senator from New Hampshire (Mr. GREGG), and the Senator from Mississippi (Mr. LOTT) are necessarily absent.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

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

The result was announced—yeas 36, nays 54, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—36

Akaka	Corzine	Kennedy
Alexander	Daschle	Kohl
Biden	Dodd	Landrieu
Bingaman	Dorgan	Leahy
Boxer	Durbin	Lincoln
Breaux	Feingold	Lugar
Cantwell	Feinstein	Nelson (FL)
Carper	Hagel	Nelson (NE)
Chafee	Harkin	Pryor
Clinton	Inouye	Reed
Coleman	Jeffords	Sarbanes
Conrad	Johnson	Stabenow

NAYS—54

Allard	Ensign	Nickles
Allen	Enzi	Reid
Baucus	Fitzgerald	Roberts
Bayh	Frist	Rockefeller
Bennett	Graham (SC)	Santorum
Bond	Grassley	Schumer
Brownback	Hatch	Sessions
Bunning	Hutchison	Shelby
Burns	Inhofe	Smith
Byrd	Kyl	Snowe
Cochran	Lautenberg	Specter
Collins	Levin	Stevens
Cornyn	McCain	Sununu
Craig	McConnell	Talent
Crapo	Mikulski	Thomas
Dayton	Miller	Voinovich
DeWine	Murkowski	Warner
Dole	Murray	Wyden

NOT VOTING—10

Campbell	Graham (FL)	Lieberman
Chambliss	Gregg	Lott
Domenici	Hollings	
Edwards	Kerry	

The amendment (No. 4021) was rejected.

Mr. FRIST. Mr. President, there will be no more rollcall votes tonight. We will continue to be here for a while. The plan will be to have a cloture vote on this bill tomorrow morning. We will have to start fairly early tomorrow morning. That vote should occur around 9:15. We will come in at 9 and do a little bit of business and have the first rollcall vote tomorrow around 9 o'clock.

We do appreciate everyone's patience and especially appreciate the bill's managers, Senators MCCONNELL and REID. This has been a very long day. I know people are exhausted. We have a lot more work to do. We will continue for a while. Again, no more rollcall votes tonight.

Mr. DASCHLE. Our two managers have done a wonderful job in getting us to this point. It is very important now to know what amendments are left. If they can be submitted tonight, we will work on a finite list and try to get that finite list locked in tonight or first thing tomorrow to work through what amendments remain.

Our two managers are to be congratulated for a job well done today. We will try to finish tomorrow.

Mr. FRIST. For planning purposes, because people are asking how long we will be around, we are really having to take this an hour at a time. The plans remain, as the Democratic leader and I have said all week, we will complete this bill. We are going to deal with FSC/ETI, the jobs manufacturing bill, and we will complete Homeland Security appropriations before we leave.

We have been fairly clear about the schedule, and everyone has worked very hard, but it means we will stay here until we finish. So we will be here tonight, tomorrow, Saturday, Sunday, or whenever we complete our work. I don't know how long that will take. Everyone knows what the bills are. We have again and again asked for people to focus on the bills. Members have done a very good job. People are very tired.

Rather than break and spend all next week or even the week after that, we have decided to go straight through. We know what the business is. The objectives are as I said. And we will again—it is late tonight—we will start early tomorrow morning, and we will complete business before we leave.

No more rollcall votes tonight.

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

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

AMENDMENT NO. 4040 TO AMENDMENT NO. 3981

Mr. BINGAMAN. On behalf of Senator DOMENICI and myself, I send an amendment to the desk. I understand it has been agreed to by both sides.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for Mr. DOMENICI, for himself and Mr. BINGAMAN, proposes an amendment numbered 4040 to amendment No. 3981.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that further reading be dispensed with.

The amendment is as follows:

(Purpose: To transfer jurisdiction over organization and management of United States nuclear export policy to the Committee on Energy and Natural Resources)

Section 101(b) is amended by—

(1) striking paragraph (10); and

(2) adding at the end the following:

''Matters relating to organization and management of United States nuclear export policy (except programs in the Department of Homeland Security) shall be referred to the Committee on Energy and Natural Resources.''.

Mr. BINGAMAN. I urge my colleagues to support this amendment.

Mr. CRAIG. We support the amendment. It is an excellent, necessary amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 4040) was agreed to.

Mr. BINGAMAN. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

VITIATION OF VOTE

Mr. REID. Mr. President, I am sure that everyone in good faith offered the amendment, but the action that was taken by the Senate has to be rescinded. The managers of the bill were not aware of what was going on. Anyone interested in this had no knowledge of what was going on. It is simply not the right thing to do.

I ask unanimous consent that the action taken by the Senate on amendment No. 4040 be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. BINGAMAN. Mr. President, I certainly have no objection. I thought this had been agreed to by both managers.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, both managers of the bill were engaged in conversation here. There was a misunderstanding about whether the Domenici amendment had been approved. Senator REID correctly asked that the vote be vitiated.

The PRESIDING OFFICER (Mr. BENNETT). Is there objection to the request?

Without objection, it is so ordered.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I understand there is no quorum call in progress.

The PRESIDING OFFICER. The Senator is correct.

OVERTIME PAY

Mr. HARKIN. Mr. President, America is stuck in a jobless recovery. This jobless recovery is not an accident. It is in large measure the result of failed economic policies, policies that the Bush administration stubbornly clings to. Despite the loss of millions of private sector jobs over the last 3 and a half years, this administration has embraced offshore outsourcing. It has been against extending unemployment insurance for the long-term unemployed. It is adamant against raising the minimum wage. And it has been determined to eliminate time-and-a-half overtime pay for millions of American workers.

It is time, I believe, for us to chart a new course. It is time for Washington to listen to ordinary working Americans. They are telling us loudly and clearly that their No. 1 issue is economic security. They are telling us that they fear losing their jobs, their health care, and their retirement.

Now they also fear losing their right to time-and-a-half compensation for overtime. They fear, with good reason, that under the Department of Labor's new rules, they will be obliged to work a 50- or 60-hour week with zero additional compensation. For millions of working Americans this is unacceptable, and it is the last straw.

Accordingly, we have repeatedly offered an amendment to stop the Bush administration's new rules to eliminate overtime pay protections for millions of American workers. That amendment was voted on numerous times in the Senate and passed both by strong bipartisan majorities. It also has the overwhelming support of the American public. Yet despite this clear expression of the will of Congress and the public, my overtime amendment was stripped earlier in the year from the Omnibus appropriations bill in conference and again this week in the conference on the FSC–ETI bill.

But my overtime amendment will be back, and it will be back by popular demand. It amazes me, wherever I travel in the United States, people come up to me to talk about this overtime issue. They know what the administration is doing. They are angry. They want action to stop these new overtime rules.

Frankly, at this point, the administration has zero credibility on this issue. The Department of Labor claims that it simply wants to give employers a clearer guide as to who is eligible for overtime pay. But ordinary Americans are not buying this happy talk. They know the administration has put into effect a radical rewrite of the Nation's overtime rules. They know these new rules strip millions of workers from the right to fair compensation.

The American people are right. Plain and simple, the new overtime rules are a frontal attack on the 40-hour workweek, proposed initially by the administration without a single public hearing.

The new rules could effectively end overtime pay in dozens of occupations, including nurses, police officers, clerical workers, air traffic controllers, social workers, even journalists. Indeed, the new criteria for excluding employees from overtime are deliberately vague and elastic, so as to stretch across vast swaths of the workforce.

Listen to Mary Schlichte, a nurse in Cedar Rapids, IA. Here is what she said:

> Many nurses just like me work long hours in a field with very stressful working conditions and little compensation. . . . Our patients rely on us, and our families depend on us. We need overtime pay so we can stay in the profession we love and still make ends meet.

Ms. Schlichte told me about her nurse colleagues in Cedar Rapids who also rely on overtime pay. One nurse is married to a struggling farmer, and she relies on overtime pay to cover their insurance premiums. They already fear losing their farm, she says, and now they fear losing their health care, too.

Dixie Harms is a longtime trainer of nurses in Des Moines. Ms. Harms told me:

> If overtime is changed for hospital nurses, we will see a mass exodus of registered nurses from the hospital setting because they will get fed up and refuse to ''volunteer'' so many hours doing what they love doing.

Three years ago, after the terrible September 11 attacks, many here in Washington spoke eloquently about the heroism of our firefighters, police officers, first responders, and public safety workers. Ever since, America's first responders have worked long hours to protect us from terrorist threats. But the administration even wanted to deny these workers time-and-a-half compensation for those longer hours. This is wrong.

Since passage of the Fair Labor Standards Act of 1938, overtime rights and the 40-hour workweek have been sacrosanct, respected by Presidents of both parties. But alas, it is not sacred to this administration. For 65 years, the 40-hour workweek has allowed workers to spend time with their families instead of toiling past dark and on weekends. At a time when family dinner is becoming an oxymoron, this standard is more important than ever.

These radical revisions are antiworker and antifamily. And given the fact that we are stuck in a jobless recovery, the timing of this attack on overtime could not be worse. It is yet another instance of this administration's economic malpractice. Bear in mind that time-and-a-half pay accounts for some 25 percent of the total income of Americans who work overtime. With average U.S. incomes declining, the proposed changes would slash the paychecks of millions of white-collar workers.

Moreover, the new rules are all but guaranteed to hurt job creation in the United States. Isn't this just basic logic? If employers can more easily deny overtime pay, they will push their current employees to work longer hours without compensation. With millions of Americans currently out of work, why would we give employers yet another disincentive to hire new workers?

It is bad enough to deny 6 million workers their overtime rights, but what is striking is the mean-spiritedness of the Department of Labor. The Department offered employers what amounts to a cheat sheet. It offered employers helpful tips on how to avoid paying overtime to the lowest paid workers, the same workers who are supposedly helped by the new overtime rules.

For example, the Department suggested cutting a worker's hourly wage so that any new overtime payments will not result in a net gain to the employee. It also recommended raising a worker's salary slightly to meet the threshold at which eligibility for time-and-a-half pay ends. This is just disgraceful. But it gets worse. The administration's scheme specifically targeted veterans, categorizing many as professionals even if they do not hold a professional degree or receive the same salary as degreed professionals.

Think about it: The administration opted to deny overtime pay to first responders, police officers, and firefighters who put their lives on the line protecting us here at home. It also aimed to take away overtime from veterans who put their lives on the line overseas. This may seem outrageous to most Americans, but some major employers are very pleased.

Here is a portion of the Boeing Corporation's comments on the Department's rules:

> Many of [Boeing's] most skilled technical workers received a significant portion of their knowledge and training outside the university classroom, typically any branch of the military service . . . Boeing thus supports the department's focus on the knowledge used by the employee performing her job rather than the source of the knowledge or skill . . .

The National Association of Manufacturers made similar comments. Let me quote:

> NAM applauds the department for including this alternative means of establishing that an employee has the knowledge required for the exemption to apply. This addition is entirely consistent with the realities of the current workplace and the purpose of the Fair Labor Standards Act. For example, many people who come out of the military have significant knowledge based on work experience but have not had ''a prolonged course of specialized intellectual instruction.''

Understandably, veterans were deeply disturbed by the administration's

proposed new rules. For example, Vietnam Veterans of America wrote to the Secretary of Labor and said:

> [Veterans] who have received military training equivalent to a specialized degree could now be classified as a professional employee and lose their right to overtime. This will be true even if the veterans in question do not earn the higher pay afforded to those with an advanced degree or with supervisory/management positions.

The organization further complained that this legitimizes the already extensive problems of discrimination against veterans.

And this is from the national president of the Vietnam Veterans of America, Thomas Corey:

> Therefore, we would like to make you aware that the proposed modification of the rules would give employers the ability to prohibit veterans from receiving overtime pay based on the training they received in the military . . . The proposed rule changes will make these veterans and their families unfairly economically vulnerable in comparison with their non-veteran peers. We hope you will agree that the men and women who have served our Nation so well in military service should not be penalized for having served.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. VOINOVICH. 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. VOINOVICH. Mr. President, I rise to express my sadness with the actions of the Senate these last 2 days and express why I will oppose the resolution to reorganize the Senate. I will vote against the resolution because it was supposed to improve the manner in which this Chamber overseas the intelligence and homeland security issues. As of now, it will do no such thing. In fact, it is a step backward because we have claimed to have taken action when in reality little has changed.

Make no mistake, the status quo rules the day and underscores the observation that the Senate has failed to change the way it conducts oversight of intelligence and homeland security issues as recommended by the 9/11 Commission.

First, the 9/11 Commission recommended we establish a single committee, each House of Congress, combining authorizing and appropriating authorities. However, the Senate overwhelmingly rejected the amendment offered by the Senator from Arizona, which I supported, that would have given the Select Committee on Intelligence appropriating power that would substantially reform the manner in which this body conducts oversight of intelligence. The actions of the Senate fly in the face of the 9/11 Commission recommendations.

Without this power, I anticipate that the problems that have been described by Senator MCCAIN and Senator ROBERTS during this debate will continue. In many instances, the executive branch agencies will pay their authorizing committees lip service and go behind their backs to the Appropriations Committee to get what they want. All you have to do is talk to members of the Intelligence Committee and you will understand why it is so important that they have the appropriations power.

If we are going to be asking people to serve on a Select Intelligence Committee and we don't give them the appropriations, then why serve on the committee, because it will be more of the same that we have had around here for the last several years?

I have seen it time and again in my first term. We do a poor job of oversight because authorizing committees lack the power of the purse. The defeat of the McCain amendment will only continue to make oversight of intelligence more difficult than necessary.

Second, the Senate took up this resolution to fulfill the recommendation of the 9/11 Commission that there should be a single authorizing committee in each House of Congress for the Department of Homeland Security, just as we have for the Department of Defense, Department of State, and Department of Justice.

Again, what we did flies in the face of the recommendation. We have seen amendment after amendment offered and accepted by this body, which guts the authorizing jurisdiction of the committee on homeland security and governmental affairs. Instead of having a single authorizing committee, the Department of Homeland Security will have at least four. Many of my colleagues took the floor and insisted the exceptions they were carving out of the jurisdiction of the homeland security committee had nothing to do with turf. Baloney. It had everything to do with turf.

At a time when our national security is in jeopardy, the American people should be upset and concerned with what we have seen on the floor of the Senate when we should be concerned about our homeland security. All of us in the Senate understand that we are in jeopardy from what we are doing in our respective offices to make sure our people are being taken care of here.

As a result of the turn of events, it is a farce to rename the Committee on Governmental Affairs the committee on homeland security and governmental affairs. It is no such thing. It has jurisdiction over a small percentage of the employees of the Department and less than 40 percent of the budget.

Let me repeat that we didn't even give the proposed homeland security committee the jurisdiction over either the majority of the budget or the personnel of the Department.

When we return in November—maybe in January—I will seek to offer an amendment to restore the name of the Committee on Governmental Affairs. If we are not going to create a homeland security committee, let's not pretend that we are. Let's not pretend. Things have not really changed at all, in my opinion. I hope that what the Senate has done is reported across America, so that our constituents can see what we have done and tell us what a lousy job we did. Then maybe we can come back during the lameduck session in November and pass a reorganizing resolution that actually makes a difference and is guided solely by what is in the best interest of our country and not the best interest of each individual Senator.

A few years ago, the Committee on Governmental Affairs held a hearing at which the Comptroller General testified on the preparedness of the executive branch to meet the 21st century challenges facing America. I am reminded of that hearing and I ask, Is the Senate prepared to meet the challenges of the 21st century? Are we capable of making the changes necessary to meet both the great dangers and wonderful opportunities we have before us? These last few days would indicate that we are not.

Shame on the Senate, Mr. President. I yield the floor.

Ms. MIKULSKI. Mr. President, I support the proposed reform to strengthen our oversight of the intelligence community.

We just passed sweeping, historic legislation to reform America's entire intelligence community. It was a very good bill that will greatly strengthen our ability to develop good intelligence and fight terrorism.

The National Intelligence Reform Act fulfills what I consider the priorities for intelligence reform, including many reforms I have been fighting for: A strong National Intelligence Director to lead and manage the intelligence community. A National Counter Terrorism Center so we have unity of effort to combat terrorism. Information sharing so analysts can connect the dots. An Inspector General for the entire intelligence community. Strong alternative analysis or red-teaming. An ombudsman so our intelligence professionals can speak truth to power. And protection for civil liberties and privacy.

But reform of our intelligence community is only half the job. We must also reform our oversight of the intelligence community. As the 9/11 Commissioners said, reforming intelligence without reforming oversight is like one hand clapping.

The 9/11 Commission report says that, ''Of all our recommendations, strengthening congressional oversight may be among the most difficult and important.'' Our leaders gave this ''most difficult and important'' task to two of our most esteemed colleagues: Senator REID and Senator MCCONNELL. I thank them for their leadership. And thank the entire bipartisan working group. I thank them for their creativity, cooperation and consideration

to develop the substance of the proposal now before the Senate.

I support all three key recommendations of the bipartisan working group: to create an appropriations subcommittee for Intelligence; to strengthen the Select Committee on Intelligence; and to create a Homeland Security Committee. Let me talk about each of these recommendations.

The bipartisan working group proposal, and the rule we are now considering, will create an appropriations subcommittee for Intelligence. I believe this is one of the most important reforms we can make to strengthen Congressional oversight of the intelligence budget. That's why I wrote to Senator MCCONNELL and Senator REID urging them to do this.

Some of my colleagues point out that the 9/11 Commission recommended creating a combined authorization and appropriations committee for intelligence. But that was just one option mentioned in the 9/11 Commission Report.

The 9/11 Commission Report also included two provisions supporting an Intelligence Appropriations subcommittee:

The 9/11 Commission, on page 410 of its report, criticized the intelligence appropriations process, noting that ''the final budget review is handled in the Defense Subcommittee of the Appropriations Committees. Those committees have no subcommittees just for intelligence, and only a few members and staff review the requests.''

The 9/11 Commission included the following recommendation on page 416 of its report: ''Congress should pass a separate appropriations act for intelligence. . . .''

Governor Tom Kean, Chairman of the 9/11 Commission, supports creating an Intelligence Appropriations subcommittee. In the September 7, 2004 Intelligence Committee hearing, I asked him directly what he thought of my idea of an Intelligence Appropriations subcommittee. Chairman Kean said, ''I think that would be very much in my mind within the spirit of our recommendations.''

Creating an Intelligence Appropriations subcommittee is the best way to strengthen oversight of the intelligence budget. Appropriations subcommittees conduct rigorous oversight of the agencies they fund. Senator BOND and I certainly do for the agencies funded by our VA/HUD bill. An Intelligence subcommittee will make the Appropriations Committee's oversight stronger: intelligence will have the attention of a full subcommittee, and that subcommittee will have sufficient staff for real oversight of intelligence funding. I hope my colleagues will join me in strong support of the proposal to create an Intelligence Appropriations subcommittee.

The working group also recommends strengthening the existing Select Committee on Intelligence. I am proud to serve on the Intelligence Committee. I take that responsibility very seriously. Senator DASCHLE appointed me to the Committee in 2001, before the September 11th attacks. I have always used my role to push for reform and modernization so that we have the best possible intelligence for our decision-makers and our troops.

The bipartisan working group proposal maintains many of the good things about the way the Intelligence Committee is organized: Including members of the Armed Services, Appropriations, Foreign Relations and Judiciary Committees. Ensuring the majority has only a 1-vote advantage. Having subpoena authority. Having a core nonpartisan professional staff.

The rule would also strengthen the committee: Elevating it to an ''A'' Committee. Creating at least one subcommittee to strengthen oversight. Giving the committee a stronger role in reviewing civilian intelligence nominees. Creating designated staff positions for each member of the committee.

So I really think this resolution will help the Intelligence Committee to be more effective.

The third reform proposed by the bipartisan working group is to create a Homeland Security Committee. We know that our colleagues on the Government Affairs Committee did a good job with the creation of the Department of Homeland Security, so it's only logical that the current Governmental Affairs Committee would take on responsibility for homeland security. I believe it's important to make sure that other functions within the jurisdiction of Governmental Affairs do not lose out in this reform. I am thinking in particular of the Committee's work on government management and the Federal workforce, to ensure that we support our federal employees who serve the American people in so many ways.

Having an authorizing committee for homeland security should be a real help in the unfinished business of making the Department of Homeland Security an effective agency, to work with our States, counties, cities and towns, as well as other Federal agencies, to protect the American people.

The three reforms proposed by the McConnell-Reid working group, and codified as changes to the Senate Rules in this resolution, meet the challenge of the 9/11 Commission and our obligation to the American people to strengthen congressional oversight. That's why I intend to support the Resolution, and urge my colleagues to support it as well.

Mr. BAUCUS. Mr. President, I am very pleased that the Senate agreed, by unanimous consent, to an amendment that Senator GRASSLEY and I offered to S. Res. 445, the Senate intelligence reform resolution. Our amendment will preserve the jurisdiction of the Finance Committee over the commercial operations of what has historically been known as the United States Customs Service.

The United States Customs Service is one of the oldest agencies in the U.S. Government. It was created in 1789 to collect tariffs which, at that time, were the principal source of revenue funding the Federal Government.

Until 1816, the Senate had no standing committees. Senators established ad-hoc committees to consider specific bills. In his 1815 message to Congress, President Madison recommended a series of controversial economic measures, including tariff revisions and the creation of a second national bank. The Senate responded by creating the Select Committee on Finance and Uniform National Currency.

In his 1816 message, President Madison recommended a further series of economic measures. This time, the Senate responded by creating the Committee on Finance as a standing committee on December 10, 1816. Under the leadership of Chairman George Campbell, Democrat of Tennessee, the committee's very first task was to consider the Tariff Act of 1816. Other original members of the Finance Committee included Senators Chace of Vermont, Bibb of Georgia, King of New York, and Mason of New Hampshire.

Over the ensuing 188 years, the Finance Committee's jurisdiction has come to include not just tariff legislation, but all legislation related to international trade. Up until 1930, trade policy had been set primarily through Congressional establishment of tariffs, under the jurisdiction of the Finance Committee. When, however, the Smoot-Hawley Tariff of 1930 became associated with the Depression, Congress shifted its approach. As the new Roosevelt administration considered proposals to reduce tariffs, Secretary of State Cordell Hull suggested that, instead of reducing tariffs unilaterally, Congress authorize the President to negotiate reciprocal reductions.

When, in 1934, President Roosevelt endorsed this approach and sent it to Congress, the bill was referred to the Finance Committee. The bill was enacted into law as the Trade Act of 1934, establishing the basic model for trade policy ever since. As a result, the committee acquired jurisdiction not only over tariffs, but over a broad range of issues implicated by U.S. trade policy.

Throughout those 188 years, the Finance Committee has retained jurisdiction over the Customs Service. And, like that of the Committee, the mission of Customs has expanded to cover a range of trade issues.

Today, Customs continues to serve a revenue collection function. This year, it will collect nearly $25 billion in import duties, making it the second largest source of government revenue after the income tax.

In today's globalized world, however, Customs has also come to serve a vital role in facilitating trade and, through trade, the nation's economic well-being. For example, in fiscal year 2004, Customs will process approximately 28

million entry summaries, covering imports worth $1.36 trillion. That is more than 56,000 separate merchandise entries every day.

In fiscal year 2003, Customs made 6,500 seizures of goods, worth nearly $1 billion, that were imported in violation of the intellectual property rights of U.S. businesses and individuals.

Customs enforces the U.S. trade remedy laws, collecting $1.5 billion in antidumping and countervailing duties in fiscal year 2004.

In addition, Customs enforces country-of-origin labeling rules, blocks trade in endangered species and conflict diamonds, collects trade data widely relied upon in the government and private sector, fights child pornography, and issues hundreds of classification and valuation rulings every year. Thousands of American businesses and jobs depend on Customs to process imported inputs efficiently, so they can reduce production costs through just-in-time inventory systems.

Over time, Customs has also come to have a national security mission. Customs agents are often the first line of defense at the border. For example, it was a Customs agent who apprehended the so-called ''millennium bomber'' crossing the border from Canada into Washington State in December 1999.

Until recently, Customs was housed within the Department of the Treasury. Treasury was well-suited to oversee both the revenue collection and commercial facilitation functions of Customs, and to ensure that those functions were carried out in a manner calculated to advance the economic growth and well-being of the United States.

After September 11, 2001, however, things changed. We learned that day how important it is to ensure the strongest possible coordination among the many Federal Agencies charged with our domestic security.

In the Homeland Security Act of 2002, Congress moved the Customs Service from the umbrella of the Treasury Department into the new Department of Homeland Security.

The Customs Service, as such, no longer exists as a single entity. Rather, its many functions were divided among two parts of the Border and Transportation Security Directorate of the Department of Homeland Security—Customs and Border Protection and Immigration and Customs Enforcement.

When Congress created the Department of Homeland Security, there was widespread concern in the business community that moving Customs from Treasury—an agency whose principal mission is the health of the U.S. economy to a new agency principally concerned with national security would lead to a shift in Customs' focus away from trade facilitation—with adverse consequences for those businesses and for the economy as a whole.

For some agencies, this problem was solved by splitting the agency apart and moving to DHS only the people directly working on security issues. For example, this is what happened at APHIS. That solution did not work for Customs, because many Customs employees perform both commercial and security functions as part of their jobs.

Instead, Congress made Customs serve two masters. The employees of Customs were physically moved into the Department of Homeland Security. But the commercial functions of Customs remain under the policy control of the Treasury Department. Section 412 of the Homeland Security Act of 2002 expressly provides that ''authority related to Customs revenue functions'' that was previously vested in the Secretary of the Treasury ''shall not be transferred'' to the Secretary of Homeland Security.

There was some flexibility built into the law. That way, over time, the Secretary of Treasury could delegate some responsibilities to the Secretary of Homeland Security if experience demonstrated that a particular Customs function was more closely related to security than to trade facilitation.

As a practical matter, the result has been shared authority over Customs by Treasury and Homeland Security. Similarly, in the Senate, the result has been shared oversight by the Finance Committee and the Committee on Government Affairs. One committee focuses on homeland security issues and the other on commercial issues.

In response to the recommendations of the 9/11 Commission, the Senate is now engaged in a debate over how to reorganize our committee structure to provide stronger, more coherent oversight over issues related to homeland security.

In my view, the recommendations of the 9/11 Commission do not justify any changes in committee oversight jurisdiction of Customs. The Commission has recommended centralizing oversight over homeland security issues in one committee in each House. The clear purpose of that recommendation is to centralize oversight over homeland security functions, not over other functions that happen to be performed by individuals employed by the Department of Homeland Security.

The Grassley-Baucus amendment to S. Res. 445 ensures that the Finance Committee will retain the jurisdiction over the commercial facilitation functions of the Customs Service that the committee has held for nearly 200 years.

Everyone understands that in the post-9/11 world, the United States must vigilantly protect our borders. But while we do so, we must ensure that we do not overburden commerce with other Nations. We must strike a delicate balance between protecting the Nation's borders and promoting the nation's economic health. If we lose that balance, American businesses will suffer. So will our ports, because shippers will find it faster and less expensive to send their cargo through Canadian or Mexican ports.

I believe that granting jurisdiction over the business facilitation functions of the Customs Service to the Committee on Homeland Security and Government Affairs would inevitably lead to commercial considerations being discounted heavily in the name of security. That would hurt the U.S. economy in the long run.

On the other hand, retaining jurisdiction over the revenue and commercial functions of Customs in the Finance Committee in no way detracts from the ability of the new Homeland Security and Government Affairs Committee to oversee those functions of Customs that pertain to border security. Separating oversight of these two functions will guarantee that commercial concerns receive a full and fair airing in any debate involving both commerce and security.

So what are the functions over which the Finance Committee would retain jurisdiction under this amendment? Clearly, all the ''revenue functions'' defined in section 415 of the Homeland Security Act are included. These are generally functions that have virtually no security aspects to them—such as collecting tariffs, regulating country of origin labeling, or enforcing antidumping duty orders.

The amendment also preserves Finance Committee jurisdiction over ''any commercial function'' of CBP or ICE, ''including matters related to trade facilitation and trade regulation.''

For example, the Finance Committee would retain jurisdiction over all commercial aspects of the implementation of Customs' new computer system, the Automated Commercial Environment or ACE. ACE was conceived many years ago long before 9/11—as a way to create a paperless environment that reduces paperwork and delays for goods clearing Customs and enhances the efficiency of American businesses that depend on those goods.

ACE has security applications. It can be used to flag entries with suspicious documentation. And the Homeland Security and Government Affairs Committee can certainly look into those issues. But it is not, and never has been, primarily a security-focused project.

A second example is the issue of container security. Customs is engaged in a program of public-private cooperation with shippers to try to balance security concerns with incoming cargo containers and the economic concerns of shippers. Under this amendment, the Finance Committee would retain jurisdiction over the trade facilitation aspects of Customs' inspection and clearance of cargo containers.

Trade is critical to the health of the America economy. Exports alone accounted for 25 percent of U.S. economic growth between 1990 and 2000. Exports support an estimated 12 million jobs. Imports allow businesses and consumers more choice of goods and inputs and foster America's competitiveness in the global economy.

For these reasons, Congress has a responsibility to ensure that Customs continues to serve the needs of the business and trade community. That can only be achieved by safeguarding a balance between Customs' trade facilitation and homeland security functions. The Grassley-Baucus amendment promotes that balance.

AMENDMENT NO. 3995, WITHDRAWN

Mr. REID. Mr. President, earlier today there was a long deliberation and finally adoption of an amendment that had been earlier filed by Senator BAYH. It is my understanding that another amendment superseded that. That amendment is pending. It is No. 3995.

Mr. President, I ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment is withdrawn.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that, other than conforming and technical managers amendments, the only remaining first-degree amendments be the following, which are filed at the desk: COLLINS, NICKLES, HUTCHISON, FRIST, BINGAMAN-DOMENICI, and ROCKEFELLER.

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

Mr. MCCONNELL. Mr. President, I further ask unanimous consent that it be in order to file timely second-degree amendments up until 9:15 tomorrow morning.

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

Mr. REID. Mr. President, the unanimous consent agreement that was adopted by the Senate a few minutes ago, we want to make sure the RECORD is clear that when we talk about COLLINS, NICKLES, HUTCHISON, FRIST, BINGAMAN, and ROCKEFELLER, we are talking about one amendment per member, and I want the RECORD to reflect that.

The PRESIDING OFFICER. The RECORD will so reflect.

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

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

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

JUSTICE THROUGH DNA TECHNOLOGY

Mr. HATCH. Mr. President, I would like to discuss H.R. 5107, the Justice for All Act that was just passed by the House, by an overwhelming bipartisan vote of 393 to 14. The bill is the result of the hard work and dedication of many on both sides of the aisle.

In particular, I would like to commend Chairman of the House Judiciary Committee SENSENBRENNER and Ranking Democrat, Representative DELAHUNT for their outstanding leadership in shepherding this groundbreaking crime bill that will allow us to further unleash the evidentiary power of DNA. It will provide law enforcement the ability to find and punish the guilty and give use the comfort of certainty in criminal prosecutions. Moreover, the House attached Senator KYL'S and Senator FEINSTEIN'S critical Crime Victims Act that ensures victims' rights are protected in criminal prosecutions. That is very important.

This House passed bill is the result of months of intense negotiations and addresses the concerns raised regarding title III of the former DNA bill, including the major concerns, I believe, of Senators KYL, SESSIONS, and CORNYN.

And let me say, the overwhelming support for this bill in the House could not have been achieved without the hard work and dedication of the Department of Justice. I would like to specifically thank Attorney General Ashcroft, Assistant Attorney General William Moschella, and Deputy Assistant Attorney General Sean McLaughlin for bringing the parties together to create a truly bipartisan bill that meets the interests of all parties. Without their constructive input we would have never been able to get to where we are. I personally want to thank them for their support.

But our work is not done. I call upon the Senate to act expeditiously to pass this anticrime bill so we can present it to the President for his signature.

So we all know, there has been a tremendous amount of work done in the 22-page memorandum by Mr. Moschella and the Justice Department. I think we have made a monumental effort to address every one of those concerns. We haven't been able to address every case exactly the way the Justice Department requested, but there has been a good-faith effort on the part of the distinguished Senator from Vermont and Congressman DELAHUNT to be able to bring this Justice for All Act through to completion.

When it passed 393 to 14 yesterday in the House, I think that sent a message to everybody that not only would we get this DNA bill, but we would also get the victims' rights bill for which Senators KYL and FEINSTEIN have worked so long and hard.

Rather than take the time of my distinguished friend from Arizona and any further time from the bill on the floor, I want to compliment the Justice Department.

I hope we can get the last few things resolved so that this bill can pass, and that means working it out with a few of our colleagues in the Senate. I believe when they look at this bill and read it, they will realize almost every one of those concerns have been addressed in good faith. Senator LEAHY and I have worked hand in hand trying to make sure those matters were addressed.

Mr. President, I hope we can get this bill up and out so we can do what should be done for 400,000 rape kits—some of which are 20 years old—to help not only to discover those who are guilty but to put those who are on the streets, who have raped women, in jail where they belong. This bill will do exactly that. It is a very important piece of legislation.

Having said that, however, I want to make it clear that this administration has done a great deal. Thus far, it has committed to doing this, and it is the first administration that has done it. We have known about these rape kits for years. This is the final touch in the bill to help protect women in this country. It will be very important for us to pass it today. I hope we can get it done.

We are working very diligently to try to satisfy the concerns of all of our colleagues. Thus far, we are down to just one major concern, and hopefully when they read the bill they will realize we have addressed that as well and will agree to satisfy this matter.

I thank my colleague from Arizona and my colleague from Kentucky.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, a year ago this month, I stood with a bipartisan group of Senators and Representatives to announce the introduction of the Advancing Justice Through DNA Technology Act of 2003. This is landmark legislation. It provides law enforcement with the training and equipment required to effectively and accurately fight crime in the 21st century. It enacts the President's DNA initiative, as the Chair probably knows, authorizing more than $1 billion over the next 5 years to eliminate the backlog crisis in the Nation's crime labs and fund other DNA-related programs. It also includes the Innocence Protection Act, a death penalty reform effort I launched more than 4 years ago.

We introduced our bill on October 1, 2003. One month later, the House passed it with overwhelming support, 357 to 57. Among those supporting the bill were the chairman of the House Judiciary Committee, Congressman JAMES SENSENBRENNER, and virtually the entire Republican leadership, including Majority Leader DELAY. Clearly there was a broad consensus for action. The House vote marked a major breakthrough in finding solutions to these serious flaws in our criminal justice system.

Unfortunately, while the other body acted, we did not. Despite Chairman HATCH's sponsorship of the bill and strong support of it, the Senate Judiciary Committee did not begin work on

the bill until September, almost a year after the House had passed it. At that point we were slowed by resistance from some Republican members of the panel, but after many hours we succeeded in working through the 20-plus amendments that were offered. All of them were rejected. Then the bill was approved by a strong bipartisan majority.

That was 3 weeks ago. Since then, this critical legislation has been blocked by the same Senators who tried blocking it in committee, and unfortunately they have been buttressed by opposition from President Bush and Attorney General John Ashcroft.

Undeterred by the fact that the Senate has not moved on this very important legislation, the House acted again. Yesterday it voted on the Justice For All Act of 2004, H.R. 5107. This is a criminal justice package that bundles the Senate DNA bill with another bill, already passed in the Senate, that would increase protection for victims of Federal crimes. Yesterday's House margin, 393 to 14, was even larger than it was a year ago. In these times you rarely see such bipartisan support—393 to 14. I believe it sends a loud message to us here in this body of: What are we waiting for? Let's pass this bill.

I want to take a moment to commend the Republican chairman of the House Judiciary Committee, JIM SENSENBRENNER, who spearheaded this effort in the House. The chairman deserves high praise for his leadership. We could never have come as far as we have without his steadfast commitment, and the hard work of his impressive staff.

I also thank my long-term colleagues in this effort, Representative BILL DELAHUNT from Massachusetts—I was honored to serve overlapping time as prosecutors, me in Vermont, Mr. DELAHUNT in Massachusetts—and Representative RAY LAHOOD, Republican of Illinois. They worked tirelessly over many years to pass the Innocence Protection Act. They deserve much of the credit for building the strong bipartisan support for the bill in the House.

The House has spoken, not once but twice. I believe Senate action is long overdue. It should not be threatened by a few holdouts in the Senate, even if they are emboldened by continuing help from the Department of Justice. I remind everybody, none of us here works for the administration—I don't care whether it is a Republican administration or a Democratic administration. We are elected as individual Senators, independent of the executive branch or the judicial branch.

The Bush administration's role in the effort to kill this bill is significant and it is a matter of public record. On April 28 of this year we received a 22-page letter from Assistant Attorney General William Moschella, presenting ''the views of the Department of Justice and the administration'' regarding the bill the House of Representatives had earlier passed by a vote of 357 to 67. They expressed the Administration's strong opposition to virtually every aspect of the bill.

I have rarely seen a letter—in fact, I cannot remember a time I have seen a letter from an executive branch agency so hostile to a bipartisan legislative effort that had already passed one House of Congress. I was shocked the Department would write such a scathing letter about a bill that had been carefully negotiated by Chairman SENSENBRENNER and Chairman HATCH, working very closely together. In light of the support of the congressional leadership, I thought the President would have supported the bill and worked to make the capital punishment system more fair. Instead, his Administration chose to stonewall the reforms and defend the injustices in current law.

The new House bill contains additional concessions to the Department of Justice and to the handful of Republican opponents in the Senate. But despite these concessions, despite the urgent need for reform, the Bush administration has obstinately refused to support the bill or even to withdraw its formal opposition to the bill. In particular, the Department has pressed its unreasonable demand for an arbitrary 3-year time limit on obtaining a DNA test after conviction.

If the White House kills this bill that has passed so overwhelmingly in the House, it will be a travesty. It has, after all, been supported by key members of the Republican leadership in both the House and the Senate; it has passed by an overwhelming margin in the House. To put this off another year may seem fine to the President and the Attorney General, but another year is a long time if you are a crime victim and you are hoping they may find the person who committed the crime, or if you are wrongly accused and you are waiting on death row for the chance to prove your innocence. Another year will pile more untested rape kits on to the thousands already piled up in labs across the country.

This bill is a rare example of bipartisan cooperation for a good cause, and instead of helping, the White House has actively hindered. They have been unwilling to lead. They have been unwilling to follow. Now, when all it would take is for them to get out of the way, they are even unwilling to stand aside.

I think it is time for them to understand what is happening here, and to become part of the solution instead of part of the problem. An overwhelming bipartisan coalition in both the House and the Senate supports this bill because it will mean more fair and effective criminal justice in this country.

If Congress fails to enact this much-needed law this year, I do not lay the blame on leadership in the House or the Senate, because the leadership in both parties has supported it, just as Senator HATCH and Chairman SENSENBRENNER have. If the Congress fails to enact this law this year, then I lay the responsibility directly at the feet of President Bush and Attorney General Ashcroft. They deserve to be held accountable, and will be if their stubborn opposition to the bill causes it to die. The leaders of their own party support it, as the leaders of my party do. They ought to stand aside.

For all those victims' groups, all those church groups, all the others who have supported this bill—as you know, if it doesn't go forward, it is not the fault of Congress. You should look down toward the other end of Pennsylvania Avenue.

Mr. President, I ask unanimous consent to print a longer statement in the RECORD.

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

JUSTICE FOR ALL ACT OF 2004

October 7, 2004

A year ago this month, I stood with a bipartisan group of Senators and Representatives to announce the introduction of the Advancing Justice Through DNA Technology Act of 2003. This landmark legislation provides law enforcement with the training and equipment required to effectively, and accurately, fight crime in the 21st Century. It enacts the President's DNA Initiative, which authorizes more than $1 billion over the next five years to eliminate the backlog crisis in the Nation's crime labs, and to fund other DNA-related programs. It also includes the Innocence Protection Act, a death penalty reform effort I launched more than four years ago.

DNA is the miracle forensic tool of our lifetimes. It has the power to convict the guilty and to exonerate the innocent. And as DNA testing has become more and more available, it also has opened a window on the flaws of the death penalty process.

Hearing after hearing before the House and Senate Judiciary Committees has shown beyond any doubt that the death penalty system is broken. These mistakes in our system of justice carry a high personal and social price. They undermine the public's confidence in our judicial system, they produce unbearable anguish for innocent people and their families and for the victims of these crimes, and they compromise public safety because for every wrongly convicted person, there is a real criminal who may still be roaming the streets. Indeed, in dozens of cases in which DNA testing has exonerated a wrongfully convicted person, the same test has identified the real perpetrator.

Our bill would put this powerful tool into greater use in our police departments and our courtrooms. It also takes a modest step toward addressing one of the most frequent causes of wrongful convictions in capital cases—the lack of adequate legal counsel.

BROAD BIPARTISAN SUPPORT IN CONGRESS AND AROUND COUNTRY

We introduced our bill on October 1, 2003. One month later, the House passed it with overwhelming support—357 to 57. Among those supporting the bill were the Chairman of the House Judiciary Committee, Congressman James Sensenbrenner, and virtually the entire Republican leadership, including Majority Leader DeLay. Clearly there was a broad consensus for action. The House vote was a major breakthrough in finding solutions to the serious flaws in our justice system.

Sadly, the House acted, but the Senate did not. Despite Chairman Hatch's sponsorship of the bill, the Senate Judiciary Committee did not begin work on the bill until September, almost a year later. At that point,

we were slowed by resistance from three Republican members of the panel. After many hours, we succeeded in working through the 20-plus amendments that were offered—all of which were rejected—and the bill was approved by a strong bipartisan majority.

It speaks volumes about the opposition to this bill that one of the amendments offered in Committee sought to strike the Innocence Protection Act in its entirety. Our opponents want law enforcement to use DNA aggressively to fight crime, and so do I. But they do not want to let those who are wrongly convicted use DNA to prove their innocence. That is wrong. DNA can convict the guilty, but it can also exonerate the innocent. It should be available for both purposes.

That is why victims groups support the whole package of reforms in this bill. They do not want the wrong guy locked up while the real rapist or murderer is out committing other crimes. Throughout the Committee's consideration of this bill, there were two fixtures in the room—Kirk Bloodsworth and Debbie Smith. Kirk was exonerated by DNA testing. In Debbie's case, DNA testing led to the arrest and conviction of her attacker. Both support the whole bill.

The Committee reported the bill to the full Senate three weeks ago. Since then, this critical legislation has been blocked by the same three Republican Senators who held up the bill in Committee, buttressed by opposition from President Bush and Attorney General John Ashcroft.

This week, the House has acted again. It voted yesterday on the Justice For All Act of 2004, H.R. 5107, a criminal justice package that bundles the Advancing Justice Through DNA Technology Act with another bill, already passed in the Senate, which will increase protections for victims of Federal crimes. Wednesday's House margin—393 to 14—was even larger than the vote a year ago, and sends a loud and clear message to the Senate: ''Pass this bill!''

I want to take a moment to commend the Republican Chairman of the House Judiciary Committee, Jim Sensenbrenner, who has spearheaded this effort in the House. Chairman Sensenbrenner deserves high praise for his leadership. We could never have come as far as we have without his steadfast commitment and the hard work of his impressive staff.

I also want to thank my longtime colleagues in this endeavor, Representative Bill Delahunt of Massachusetts and Representative Ray LaHood of Illinois. They have worked tirelessly over many years to pass the Innocence Protection Act, and deserve much of the credit for building the strong support for the bill in the House.

The House has now spoken not once, but twice. Senate action is long overdue. Sadly, Senate passage in the waning days of this congressional session continues to be threatened by a few holdout Republicans, emboldened by continuing opposition from Department of Justice.

INACTION HAS REAL CONSEQUENCES

While Congress has failed to act, much has happened in the real world. Over the last year, five more wrongfully convicted individuals were cleared of the crimes that sent them to death row, bringing to 116 the number of death row exonerations since the reinstatement of capital punishment. Also in the past year, another 10 wrongfully convicted individuals were exonerated by DNA testing in non-capital cases. That brings to 151 the number of post-conviction DNA exonerations in this country in little over a decade.

What else has happened in the real world? Just last week, Houston's top police official called for a moratorium on executions of inmates who were convicted based on evidence that was handled or analyzed by the Houston Police Department's crime lab. In a floor statement in March 2003, I described the widespread problems at that lab, which included poorly trained technicians, shoddy recordkeeping, and holes in the ceiling that allowed rain to possibly contaminate samples. It turns out that the situation is even worse than previously imagined.

In May, the Republican Governor of Texas pardoned Josiah Sutton, who spent 4½ years in prison for a crime that he did not commit. He was only a teenager when he was convicted and sentenced to 25 years for rape, based largely on a bogus DNA match by the Houston police lab. More recently, Houston's district attorney admitted that chemical testing used to convict another man was inaccurate. That was after six forensic experts concluded that the lab's analysis of DNA evidence in the case was ''scientifically unsound.''

The situation in Houston is appalling but it is not without precedent. There have been similar problems in various State crime labs, as well as in the once-distinguished FBI lab. Crime labs across the country are suffering the consequences of years of increased demand and decreased funding.

One consequence is sloppy lab work. Another consequence is massive backlogs. In December 2003, the Department of Justice estimated that there were more than 500,000 criminal cases with biological evidence awaiting DNA testing. This estimate included 52,000 homicide cases and 169,000 rape cases. Ten months later, the situation has only gotten worse. While the Senate has been idle on this bill, rape kits and other crime scene evidence has been sitting on shelves, untested for lack of funding. This bill would authorize the funding that our labs so desperately need.

BUSH ADMINISTRATION'S REPEATED ATTEMPTS TO SABOTAGE BIPARTISAN INITIATIVE

The Bush Administration's role in the effort to kill this bill is a matter of public record. On April 28 of this year, we received a 22–page letter from Assistant Attorney General William Moschella presenting ''the views of the Department of Justice and the Administration'' regarding the bill that the House of Representatives had earlier passed by a vote of 357 to 67. The letter expressed the Administration's strong opposition to virtually every aspect of the bill.

I have rarely seen a letter from an Executive branch agency so hostile to a bipartisan legislative effort that had already passed one house of Congress. I was shocked that the Department would write such a scathing letter about a bill that had been carefully negotiated by Chairman Sensenbrenner and Chairman Hatch. In light of the support of the Republican congressional leadership, I expected that the President would support this bill and work to make the capital punishment system more fair and effective. Instead, he chose to stonewall reform and defend the injustices in current law.

The Justice Department's criticisms of the bill are all unfounded. Let me respond to just a few of the key claims in the Department's April 28 letter.

The Department claimed that the post-conviction DNA testing provisions in the bill would invite abusive prisoner litigation. In fact, the bill includes numerous checks against frivolous litigation, including the following: An applicant seeking a test must assert his ''actual innocence'' under penalty of perjury; The applicant must not have waived the right to DNA testing, or knowingly failed to request DNA testing in a prior post-conviction motion; A chain of custody must be established; The proposed DNA testing must be reasonable in scope; The applicant must identify a theory of innocence not inconsistent with any affirmative defense presented at trial; Testing may be ordered only if it could produce ''new material evidence'' and raise a reasonable probability that the applicant did not commit the offense; And the bill establishes serious sanctions, including new criminal charges, if DNA testing produces inculpatory results.

The Department argued that the bill should bar post-conviction DNA testing unless DNA technology was ''unavailable'' at the time of the defendant's trial. But witnesses at House and Senate hearings on the bill reported numerous examples of defendants failing to request DNA testing despite its availability at the time of trial because the defense lawyers were incompetent or unfamiliar with the technology, the defendant was mentally ill or retarded, or the defense was simply unaware of the evidence, perhaps due to government misconduct.

The Department complained that the bill would allow prisoners who pleaded guilty to obtain a DNA test. But witnesses at the hearings told Congress of the startling fact that innocent defendants sometimes do plead guilty, due to bad lawyers, mental retardation, or government intimidation. David Vasquez in Virginia, Frank Townsend in Florida, and Chris Ochoa in Texas are just three examples of this disturbing phenomenon.

The Department claimed that the evidence retention requirements in the bill were unduly burdensome. In fact, we took every precaution to make sure that these requirements would not pose an undue burden to law enforcement. Only biological evidence must be preserved. Evidence need not be preserved if the court denies a request for testing, the defendant waives testing, or 180 days pass after the defendant receives notice that the government intends to destroy the evidence. If evidence would be impractical to retain, the government need only take reasonable measures to preserve a portion of the evidence. Finally, the failure to retain evidence does not provide grounds for habeas corpus relief.

The Department claimed that the counsel provisions in the bill amounted to a Federal regulatory system for capital defense. That characterization is grossly unfair. The Capital Representation Improvement Grants authorized in the bill are strictly voluntary. States are under no obligation to participate. At House and Senate hearings on the bill, witnesses enumerated numerous studies over 20 years that document the failure of many States to provide competent counsel in capital cases. In light of these long-standing flaws, it is entirely appropriate for the Federal government to offer financial assistance to those States that seek it.

The Department claimed that the agencies responsible for appointing capital defense lawyers would have limitless resources. This criticism is unsupported and contrary to the experience in states like North Carolina and New York that have established independent defense entities which operate within a budget.

If the White House kills this bill it will be a travesty. Putting this off another year may seem fine to the President or the Attorney General, but another year is a long time if you are a crime victim or if you are wrongly accused, waiting on death row for the chance to prove your innocence. Another year will pile more untested rape kits on to the thousands already piled up in labs across the country.

This bill is a rare example of bipartisan cooperation for a good cause, and instead of helping, the White House has actively hindered. They have been unwilling to lead.

They have been unwilling to follow. Now, when all it would take is for them to get out of the way, they're even unwilling to stand aside. The time has come for the President to understand what is happening here, and to become part of the solution instead of part of the problem.

BUSH ADMINISTRATION IGNORES EFFORTS TO COMPROMISE

This bill is the product of years of work and many months of intense negotiations. It reflects a lot of compromises by all the principal sponsors. None of us is entirely happy with everything in the bill. There are plenty of things that I would do differently. There are plenty of things that Senator Hatch and other cosponsors would do differently. Nobody got everything they wanted.

But that is why the bill has such broad bipartisan appeal. That is what the legislative process is all about—finding the middle ground that a broad majority can support. That is why 393 members of the House support this bill, and why a substantial majority of the Senate would vote for it if our opponents would allow it to come to a vote.

The new House bill reflects a number of additional concessions to the Department of Justice and to our Republican opponents in the Senate. Let me briefly describe just a few of the changes that were made.

First, to address concerns raised in Committee by Senator Sessions and others, the Debbie Smith DNA Backlog Grant Program now authorizes the use of grant funds to address non-DNA forensic science backlogs, but only if the State has no significant DNA backlog or lab improvement needs relating to DNA processing.

Second, the bill no longer prevents States from uploading arrestee information into their own DNA databases, although they must expunge such information if the charges are dropped or result in an acquittal.

Third, the standard for getting post-conviction DNA testing has been streamlined by striking unnecessary language that required courts to assume exculpatory test results. Obviously a court considering such an application cannot know for sure what the test results would reveal and must consider the application in a light most favorable to the applicant in light of all the evidence.

Fourth, the bill no longer permits Federal inmates to obtain DNA testing of evidence relating to a State offense, except when that offense may have resulted in a Federal death sentence.

Fifth, it is now presumed that a motion for post-conviction DNA testing is timely if filed within five years of enactment of the bill, or three years after the applicant was convicted, whichever is later. Thereafter, it is presumed that a motion is untimely, except upon good cause shown. The Department has complained that the ''good cause'' exception is so broad you could drive a truck through it, and its continued opposition turns in large part on the inclusion of this language. But while I agree that the language is broad, it is intentionally so; I would not agree to a presumption of untimeliness that could not be rebutted in most cases. At the same time, this provision should allow courts to deal summarily with the Department's hypothetical bogeyman—the guilty prisoner who ''games the system'' by waiting until the witnesses against him are dead and retrial is no longer possible, and only then seeking DNA testing.

Sixth, modifications were made to the standard for obtaining a new trial based on an exculpatory DNA test result; instead of establishing by ''a preponderance of the evidence'' that a new trial would result in an acquittal, applicants must now establish this by ''compelling evidence.'' The point of this change, which I proposed, is to require courts to focus on the quality of the evidence supporting an applicant's new trial motion rather than trying to calculate the odds of a different verdict.

Finally, the bill now specifies that 75 percent of funds awarded under the new capital representation improvement grant program must be aimed at improving trial counsel, unless the Attorney General waives this requirement. This change was included to assuage concerns that this program will somehow resurrect the post-conviction resource centers that Congress de-funded in the mid-1990s.

With few exceptions, these most recent changes to the bill were made at the behest of the Department of Justice, after weeks of negotiations aimed at securing the Department's endorsement of the bill. Yet despite the changes, and despite the urgent need for reform, the Bush Administration has obstinately refused to support the bill or even to withdraw its formal opposition to the bill. As Chairman Sensenbrenner has said, we ''bent over backwards'' to try to satisfy the Department's concerns, but ''no matter how much we bent, nothing could satisfy them.'' In particular, the Department pressed its unreasonable demand for an arbitrary three-year time limit on obtaining a DNA test after conviction.

Let us be clear what this means. A DNA test is not a get-out-of-jail-free card; it does not even guarantee someone a new trial. All this is about is providing access to evidence in the government possession for purposes of forensic testing. Judge Michael Luttig, one of the most conservative jurists in the country, has written that this is nothing less than a constitutional right. Senator Specter took the same position in the last Congress. A large majority of the States that have passed post-conviction DNA testing laws have rejected time limits, recognizing, as I do, that there should never be a time limit on innocence.

The reforms proposed in the Justice for All Act will mean more fair and effective criminal justice in this country. The few remaining opponents of the bill still wave around the April 28 letter from the Department of Justice. If Congress fails to enact this needed law this year I lay responsibility directly at the feet of President Bush and Attorney General Ashcroft. They deserve to be held accountable if their stubborn opposition to the bill causes it to die.

NATIONAL INTELLIGENCE REFORM BILL

Mr. SARBANES. Mr. President, I rise today to express my pleasure that yesterday the Senate incorporated an important amendment I authored with my colleagues, Senators BINGAMAN and HARKIN, into the National Intelligence Reform Act of 2004. Our amendment strengthens Congress's role in protecting our civil liberties as we move forward with the reform of our intelligence structure. The randomness of the terrorist acts of September 11, and the relative ease with which they were perpetrated, exposed serious gaps and deficiencies in our intelligence and security systems. In the aftermath of those attacks, we established the 9/11 Commission, which through its seminal report and recommendations has helped to clearly identify critical problem areas and recommend solutions to remedy them. And now, through this National Intelligence Reform Act, we are working to implement these recommendations in a way that strengthens the intelligence infrastructure and increases synergy and coordination within our intelligence community.

But in the aftermath of September 11—in our vigilance to protect against future attacks and to comprehensively overhaul our intelligence system—we run the risk of enacting procedures that could diminish or overrun our civil liberties. The Commission recognized this risk and in one of its most important recommendations has wisely suggested the establishment of a civil liberties oversight board within the executive branch. In the spirit of that recommendation the authors of the underlying bill have provided for such a board whose purpose it is to continuously review the impact on civil liberties of intelligence gathering initiatives and operations devised under the new National Intelligence Program, NIP. To that end, the board will be charged with reviewing new proposals under the NIP, advising on the civil rights implications of those proposals, and determining whether proposals will expand powers at the expense of our civil liberties.

The question arises, however, as to what the board can do with a finding that a violation has occurred. Under the bill as currently drafted the Board is not authorized to intervene or put any stopgaps in place through the legislative or regulatory process. I recognize that the intelligence community must have the ability to implement its proposals and operations with a level of flexibility and expedience. But, I also recognize that the board must have the ability to check initiatives that infringe on our most sacred constitutional rights. Our amendment strikes a balance between these two goals by making Congress aware of specific instances in which the board has significant concerns about a given proposal's adverse effect on civil liberties. Specifically, this amendment requires that the board include, within its biannual reports, a detailed accounting of each time the board finds that: No. 1, a proposal to create a new means of gathering intelligence will unnecessarily infringe on civil liberties; and No. 2, that finding is not adequately addressed by those implementing or creating the means.

By receiving this information, Congress will be able to keep pace with the implementation of national intelligence reform as well as provide guidance on ways to refine and calibrate new intelligence gathering initiatives so that we balance security interests with constitutional rights. In short, the amendment provides Congress the information it needs to accomplish a critical part of its oversight function, ensuring that while we work to keep our country safe we also safeguard the constitutional freedoms upon which it was founded. Again, I thank the managers for including this important

amendment in the underlying legislation.

PUBLIC DIPLOMACY

Mr. BAYH. Mr. President. I commend the Senator from New York for her work on the section of the McCain-Lieberman-Bayh-Specter amendment to the 9/11 legislation that addresses education in the Muslim world. The provision commits the United States to taking a comprehensive approach to universal basic education in Muslim countries and requires our government to develop a cooperative plan to achieve this visionary goal. The 9/11 Commission understood that expanding education that emphasizes moderation, tolerance and the skills needed to compete in the global economy in these countries will create an alternative to hate and will show that the United States is committed to expanding opportunity in countries where we are often competing with our enemies for hearts and minds. It is only through a long-term public diplomacy strategy that we will win the war on terrorism, and modern education is a foundation of that effort. I would like to thank Senator CLINTON for her assistance in drafting the education provisions in this bill We could not have achieved such a comprehensive approach to education without her involvement, and we appreciate her efforts.

Mrs. CLINTON. I would like to thank Senator BAYH, along with Senators MCCAIN, LIEBERMAN and SPECTER, for stepping forward to ensure that the 9/11 Commission's recommendations on education become a key part of our Nation's anti-terrorism strategy. As you know, I have introduced legislation to promote universal basic education in all of the world's developing countries by 2015. I am pleased that the Senators forging this bipartisan bill have accepted many of these recommendations, including creating, for the first time, a strategy to promote universal basic education in the Middle East and other significantly Muslim countries. The bill also encourages countries to come forward with strong national education plans for quality universal basic education and directs our efforts at providing support for such crucial systemic reform. The provisions included in this 9/11 bill represent an important step toward the goal of universal basic education. I want to thank all the leaders on this amendment for working with me on this issue, and I appreciate their leadership on this bill.

PRIVACY AND CIVIL LIBERTIES

Mr. LEAHY. Mr. President, yesterday, we passed an important bill granting enormous additional authority and tools to the government to fight terrorism. We authorized the creation of a vast information sharing network that will allow officials throughout the U.S. government to search databases containing extensive data about American citizens. We also gave broad authority to implement new technologies, standardize identification documents and enhance border security. These are great powers that, as the Commission noted, will have substantial implications for privacy and civil liberties.

This bill was also notable because it balanced this grant of power with the creation of a Privacy and Civil Liberties Oversight Board. I thank Senator LIEBERMAN for including this Board as part of the National Intelligence Reform Act, and for working with Senator DURBIN, me and others to make sure the Board had the necessary authority, mandate and tools to ensure that civil liberties and privacy are safeguarded as we enhance our antiterrorism policies and tools.

Mr. LIEBERMAN. I have been pleased to work with Senator DURBIN, Senator LEAHY and others in creating a Privacy and Civil Liberties Board that is in keeping with the Commission's recommendation. The Commission recommended that we create an entity that could ''look across the government at the actions we are taking to protect ourselves to ensure that liberty concerns are appropriately considered.'' Senator COLLINS and I appreciated the contributions of members of the Judiciary Committee. Their longstanding expertise in these issues was very helpful to us in shaping the key provisions of the Board.

Mr. LEAHY. We all recognized that we were giving this Board substantial responsibility. Given the enormous powers we were granting the government, we needed a Board capable of counter-balancing these powers. But we also know that this does not end our duty.

Mr. LIEBERMAN. I agree. Accountability for this Board is essential. As the 9–11 Commission stated, ''strengthening congressional oversight may be among the most difficult and important'' of our recommendations. We cannot assign the Board such significant responsibilities without regularly reviewing its progress to ensure that its mandates are being met. We have an obligation to exercise vigorous oversight of its actions.

Mr. LEAHY. The Judiciary Committee and the Governmental Affairs Committee have a shared history of working together to preserve privacy and civil liberties, and to promote open and accountable government. Our committee members have developed substantial expertise and experience in these areas, and we have a duty to continue to oversee these concerns. I thank the distinguished Ranking Member of the Governmental Affairs Committee for working with us to ensure that the Board's work on privacy and civil liberties matters be under the jurisdiction of both these committees so that we can continue to provide effective oversight.

Mr. LIEBERMAN. I agree that joint jurisdiction over the Board's work on privacy and civil liberties matters is the most effective and appropriate way to take advantage of our shared expertise and experience. I thank the Ranking Member of the Judiciary Committee for his commitment and dedication to fighting for the rights and liberties that make this country worth preserving. As the Commission stated, ''[w]e must find ways of reconciling security with liberty, since the success of one helps protect the other.''

Mr. KYL. Mr. President, I ask unanimous consent that two letters, which I sent to 9/11 Commission member Slade Gorton, be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, May 13, 2004.

Hon. SLADE GORTON,
Member, National Commission on Terrorist Attacks Upon the United States, Washington, DC.

DEAR SLADE: Thank you for sending me the two 9/11 Commission staff statements in response to my April 23 letter to you about the visa-processing policies of the State Department. As you and the other Commissioners prepare to write your final report, I offer what I hope will be taken as constructive criticism of the statements.

What the Commission staff did not note is the most important point of all: if the law had been followed, at least 15 of the 19 9/11 terrorists would not have been in the country on September 11. The visa applications of the hijackers were so flawed that no reasonable person could have believed that they met the standards for entry imposed by the law for all visa applicants. Making matters worse, no matter how deficient the paper applications, most of the Saudi applicants were granted visas without an oral interview, clearly contrary to both the spirit and intent of the law, which makes clear that applicants for nonimmigrant visas are considered ineligible for a visa until they prove their own eligibility. In other words, our law creates a presumption against granting the visa by putting the burden of proof on the applicant.

Under Section 214(b) of the Immigration and Nationality Act an alien applying to enter the U.S. shall be ''presume[d] to be an immigrant until he establishes to the satisfaction of the consular officer, at the time of application for admission, . . . that he is entitled to a nonimmigrant status.'' In other words, the law is intentionally designed to force applicants to prove eligibility for a nonimmigrant visa. For Saudi nationals, however, visas were all but guaranteed to be issued—directly in conflict with the spirit and intent of the law.

All 15 of the Saudi's applications contained inaccuracies or omissions that should have prevented them from obtaining visas; and, despite initial indications by the State Department that almost all of the Saudi applicants had been interviewed, only two of the 15 Saudi applicants were interviewed by State.

The errors in the applications weren't trivial mistakes, such as punctuation or spelling. Visas were granted to young, single Saudi males who omitted fundamental information such as: means of financial support (and it appears none of the 15 hijackers whose applications survived provided supporting documentation), home address, and destination or address while in the U.S. The October 28, 2002 National Review article by Joel Mowbray, ''Visas for Terrorists: They were ill-prepared. They were laughable. They were approved,'' provides the details about these mistakes.

In his article, Mowbray writes that, ''For almost all of the applications, the terrorists

filled out the 'Present Occupation' field with 'Student.' Salem al Hamzi boldly wrote 'unemployed,' while Khalid al Mihdhar described himself as a 'businessman.' Only on three forms was the area marked 'Name and Address of Present Employer or School' even filled out. In answering the question, 'Who will furnish financial support,' most of them listed 'Myself,' while the rest cited family—despite a complete failure in most applications to demonstrate the requisite financial means.'' Mowbray goes on to write, ''Unclear destination in the United States. On the visa form, the applicant must identify the address where he will be in the United States . . . But, only one of the 15 applicants lists an actual address, with the rest stating locations . . . such as 'California,' 'New York,' 'Hotel.' Not one of these woefully lacking answers warranted so much as a correction by a consular officer, let alone an outright denial.''

Allowing for such incomplete attention to the visa applicants was not uncommon practice in the State Department, particularly in Saudi Arabia. The GAO's October 2002 report, ''Border Security: Visa Process Should be Strengthened as Antiterrorism Tool,'' said, ''At some posts we visited, [consular officers] faced pressures to issue visas.'' In its report the GAO concluded, ''A lack of clear guidance . . . resulted in wide discrepancies among posts in the level of scrutiny of visa applications and in factors used to refuse visas to questionable applicants.'' In fact, the State Department's written guidelines and resulting practices, as outlined in the GAO report, allowed for widespread discretionary adherence among consular officers in adhering to the burden of proof requirements included in Section 214(b). As stated in the GAO report, the State Department's ''Consular Best Practices Handbook'' gave consular managers and staff the discretion to:

''waive the personal appearance and interviews for certain nonimmigrant visa applicants, and give the authority to use third parties, such as travel agencies, to help persons complete application. The written guidance did not specify what documentation, if any, consular managers or officers needed [to provide] support about their decisions to waive personal appearances or interviews.''

This is exemplified by then-Assistant Secretary for Consular Affairs Mary Ryan's cables and other written notices to embassies telling them that eliminating the visa process wherever possible was ''a very worthy goal,'' and the State Department's design and implementation, under her watch, of ''Visa Express,'' which formalized lax, expedited visa policies for the first and only time for an entire nation, Saudi Arabia.

Mary Ryan believed in the importance of interviews, but not for purposes of screening out those who shouldn't be receiving visas. She wrote in a 2001 cable, ''When it comes to judging credibility, there is simply no substitute for a personal interview.'' Sounds good, but Ryan's emphasis was on admitting more people. She went on to write, ''Consular officers should avoid keeping out 'qualified aliens'' who appeared weak on paper but could have overcome [that appearance] with a strong showing of credibility.'' Mary Ryan explains further that the intent of Consular Affair's policy is to ''permit a waiver of the interview when it is clear that the alien is eligible for the visa and an interview would be an unnecessary inconvenience.'' (Emphasis added)

Rather than criticize State's policies, 9/11 Commission staff statements excuse the actions of the State Department, stating the Department followed its own policies. The Commission report remarks, ''To our knowledge, State consular officers followed their standard operating procedures in every case.'' But that begs the question of whether that policy was (a) allowed by the law, and (b) sensible under the circumstances. The State Department should not be judged on whether or not its policies were followed, but on whether its policies followed the law, and whether the 9/11 terrorists, who did not qualify for visas under the law, should have been granted visas to enter the United States. The Commission staff's second report essentially adopts the State Department's assertion that better watchlisting by intelligence agencies would have been the best prevention measure. But this obscures the larger point—if the State Department had followed immigration law, 9/11 would not have happened. The terrorists would have had to find another way to get into the country.

In addition to its silence about Consular Affairs' dereliction of duty with respect to complying with immigration law, that the Commission members did not comment on why the Consular Affairs office of the State Department, the lead agency before 9/11 on terrorism matters, believed that it needed to be ''informed . . . that Saudi citizens could pose security risks,'' is very troubling.

Either blatant disregard, or ignorance of the facts surrounding Saudi Arabia (even though it was the Department's responsibility to know the issues) allowed for the creation of the now-defunct Visa Express program specifically for Saudi Arabia. The formal exemption of Saudis from the interview process and the acceptance of nearly all Saudi applications through travel agents (with a financial interest in the applicants' approval) gave non-governmental agents the de facto ability to shape U.S. immigration policy. Three of the hijackers, in late summer, entered the country through this program.

The Commission staff, however, practically defends the Saudi Visa Express program in its comments by stating that it ''was established in part to keep crowds of people from congregating outside the posts, which was a security risk to the posts . . .'' The Commission report goes on to say that it ''found no evidence that the Visa Express program had any effect on the interview or approval rates for Saudi applicants . . . or reduced scrutiny . . . '' Maybe not, but it certainly took everything bad about visa processing policy and rolled it into a formal program for Saudi Arabia, home to many Islamic militants and to 15 of the 19 terrorists. Secretary Lehman and Mr. Ben-Veniste, your Commission members, pointed out during their exchange with Mary Ryan on January 23, that it was common knowledge that Saudi Arabia was home to many radical Islamists and some al Qaeda operatives specifically, and by inference that a program formalizing weak visa processing policies was wrong.

Mary Ryan's lack of common knowledge about the hostility of many Saudi citizens toward the U.S., and, at the least, the Saudi government's complacency about such fanaticism, caused much concern for Lehman and Ben-Veniste. That these exchanges, or at least their implications, did not warrant even a mention from the Commission staff is disturbing.

On January 23, Ben-Veniste asked Mary Ryan the following, '' Here, in the summer of '01 and somewhat before, you have recognized that a crowd control at the embassy or at the consular office, offices in Saudi Arabia posed a problem because of the potential harm to individuals from those who meant the United Sates and its interests harm. If we take that just one step further, would you agree that the individuals in the Kingdom of Saudi Arabia who might pose such a threat to cause harm to individuals at or about the embassy would be Saudis rather than foreigners?''

''[O]nce you acknowledge that there is certainly a number of Saudis who might be in a position to do us harm through violence against individuals at or near our consular offices, it doesn't take a whole lot to go to the next step, even without specific information from our intelligence agencies, that such individuals who mean us harm might in fact wish to come to the United Sates. So the notion, would you not agree, of Saudis not posing a particular threat being taken out of that threat matrix really doesn't stand up even on the basis of cursory information that you had available?''

''Saudis mean us harm in Saudi Arabia because they might blow up the embassy or harm individuals in the vicinity of the embassy but the Saudis who might seek entrance to the United States were not considered a problem?''

In her response, Ryan continues to refuse to acknowledge that for a number of reasons, the visas of Saudi citizens should not have automatically been approved. She said, ''You know, in the absence of information that someone is a threat to the nation, we are dependent on the information that we have in our system developed by intelligence and law enforcement agencies about people who mean us harm.''

In her next interchange, with Secretary Lehman, Ryan's response is similar. Secretary Lehman asked, ''In some of the interviewing of some of your officials that were doing the actual consular functions in Saudi Arabia at the time, they said in so many words, gosh, if we only knew. If someone had told us that Saudi Arabia was a threat. We thought that they were our friends and all we were looking for were people who were trying to immigrate and we weren't looking for terrorists. Well, hello. I mean, did anybody read the newspapers? I mean there were books. The literature was rife, you know, books like ''Among the Believers'' that catalogued this tremendous proselytizing of hatred and of fundamentalism around the world, sourced in Saudi Arabia, with many Saudi Arabian institutions and clerics the source of it. . . . So, I don't think the record supports your view.''

Ryan responded, ''Before September 11, and I think even after September 11th, until now, I think that this government, our government, does regard Saudi Arabia as an ally. In the current issue of Foreign Affairs, the deputy secretary says that we have every confidence in the crown prince of Saudi Arabia to carry out the reforms that he is trying to carry out. I mean, that doesn't sound like we regard Saudi Arabia as a state sponsor of terrorism. It was never so identified before September 11, it was never so identified after September 11.'' But the obvious fault in Ryan's logic is that even if one considers the Saudi government an ally, that does not mean that its nationals pose no security threat to the United States.

The State Department has repeatedly claimed that its visa policies in Saudi Arabia were reasonable since it lacked specific intelligence to determine that it should have acted otherwise. This claim, however, is dubious at best, considering that pre-9/11, the State Department was considered the lead agency on counterterrorism. While it is often said that pre–9/11 actions can be excused because terrorism was not deemed a primary concern, the fact is that the top agency for counterterrorism before 9/11, the State Department, knew, or should have known, the risks in deliberately reversing the presumption in the immigration law in order to make it as easy as possible for people to obtain visas in a country with known terrorist elements. Even long after State learned that 15 of the 19 terrorists were Saudi nationals—

and that their visas applications were clearly not sufficient under the law—the Department adamantly refused to tighten visa procedures and only began interviewing all nonimmigrant applicants between the ages of 12 and 70, including Saudi citizens, in July of 2002—a full ten months after the terrorist attacks.

Although Saudi Arabia was and is considered a U.S. ally, it was the responsibility of the Consular Affairs assistant secretary to know, even before 9/11, the Saudi-terrorism connection and how it might have been present among individuals trying to get into the U.S. The Commission report should have made this connection, but it did not. It found no real fault of Consular Affairs in this regard.

As I mentioned at the outset, I hope you will use my findings to advance constructively the final report of the 9/11 Commission. I believe that if you are going to provide an accurate picture to the American public about what caused the tragic events of September 11, you must place greater emphasis on our government's approach to visa processing and its compliance with immigration law in this regard, and on processing in Saudi Arabia in particular. As important as it is to examine the intelligence failures before 9/11, it is no less important to discuss how simple enforcement of the law would have prevented at least 15 of the 19 9/11 terrorists from being in the United States on that tragic day.

Sincerely,

JON KYL,
U.S. Senator.

U.S. SENATE,
Washington, DC, April 23, 2004.

The Hon. SLADE GORTON,
Member National Commission on Terrorist Attacks Upon the United States, Washington, DC.

DEAR SLADE: I write to convey how important I believe it is that the 9/11 Commission focus on the State Department's, and to a lesser degree, Immigration and Naturalization Service's, contribution to the dysfunction of our government before September 11.

It is clear to me that the State Department's Office of Consular Affairs, headed then by Mary Ryan, was utterly ineffective in making sure U.S. security interests were protected. Having read Ms. Ryan's January 24, 2004 testimony before the Commission and her responses to its questions, I have concluded, that, even today, she does not understand that, if U.S. laws related to the processing and approving of visa applications had been followed, September 11 could have been prevented.

Section 214(b) of the Immigration and Naturalization Act presumes that an alien who apples for a temporary visa actually intends to stay here permanently ''until [the alien] establishes to the satisfaction of the consular officer'' that he only intends to come here temporarily. The State Department should not deem an applicant as having established his intent until all processes related to the visa are complete and until a face-to-face interview has been conducted. Before September 11, consular officers were allowed to regularly approve temporary visa applications even when applications were incomplete and no face-to-face interviews were conducted.

On January 24, in response to a question from Commissioner Gorelick about ''how and in what circumstances the hijackers got into this country,'' Mary Ryan declared that consular officials ''adjudicated the visas correctly.'' This is simply false. At a minimum, the applications of the hijackers were incomplete. All 19 had omissions and inconsistencies on their visa applications that should have raised concerns about why they wanted visas (see Mowbray article enclosed). Additionally, personal interviews should, in my view, have been required of all intending immigrants in order for the State Department to have been in compliance with 214(b). Consular Affairs, contrary to its initial statements about this matter, failed to personally interview 13 of the 15 terrorists who were from Saudi Arabia.

Since these processes were not successfully completed, the visas, by law, should have been denied.

In October 2002, Senator Feinstein and I, as ranking member and chairman of the Judiciary Subcommittee on Terrorism, wrote to Secretary of State Powell to impress upon him that the manifest weaknesses of our nation's visa system contributed, and will continue to contribute, to the risk of terrorism against the United States and its citizens. I enclose for your review our letter, a list of 20 additional questions we submitted to Secretary Powell about visa processing, and the State Department's answers. As you will see from its answers, the Department refuses to acknowledge that, if it had exercised its obligations under the law, and refused visas to the terrorists, September 11 might have been prevented.

Enclosed as well is a copy of the additional views Senator Roberts and I appended to the December 2002 Intelligence Committees' Joint Inquiry Staff Report. In our statement, we make clear that these deficiencies, and an evident unwillingness to make existing State Department security mechanisms work properly, contributed to the tragedy.

I also urge you to review the exchange Ms. Ryan had with Commissioners Ben-Veniste and Lehman wherein she shows a lack of comprehension that special treatment of Saudis seeking U.S. visas simply should not have occurred, given the prevalence in Saudi Arabia of Wahhabism, a virulently anti-American strain of Islam. I enclose, in addition, articles by investigative reporter Joel Mowbray that provide details about State Department activities, and particularly about the issuance of visas to Saudi citizens. The State Department's presumption that most Saudis were eligible for visas was inexcusable and, I believe, definitively contributed to the terrorist attacks on our nation.

Bottom line: 9-11 could have been prevented if State Department officials had done their job. What are we doing to ensure they do so in the future?

Sincerely,

JON KYL,
U.S. Senator.

AMERICAN MUSIC MONTH

Mr. ALEXANDER. A few years ago, a New York Times story reported that ''Lamar Alexander grew up in a lower, middle class family in the mountains of East Tennessee.'' The article so offended my mother I found her reading Thessalonians to help deal with what she regarded as a ''slur on our family.''

''We never thought about ourselves that way,'' she told me. ''You had a library card from the day you were three and a music lesson from the day you were four. You had everything you needed that was important.''

I was 4 years old in Maryville, TN, a town of about 10,000 then, when my mother took me to Maryville College to learn how to play the piano. One of the college professors loaned us a battered upright piano which sat in our living room for several years. Every day before school, I would bang away on Czerny, Bach, Beethoven and Mozart—and throw in a little Jerry Lee Lewis when I thought no one was around to correct me.

I participated in annual piano contests sponsored by the National Federation of Music Clubs. I played in the Maryville High School band and played piano at revival meetings while my father—who had a beautiful tenor voice—led the singing.

After working during the day as a law clerk in New Orleans for Judge John Minor Wisdom I played trombone, tuba and washboard in the band at Your Father's Moustache on Bourbon Street to earn a little extra money.

When I walked across the State in a winning campaign for Governor I took four students from the University of Tennessee marching band with me. We performed as Alexander's Washboard Band dozens of times from the back of a flatbed truck.

As Governor, I could think of only one way to unify our State that was made up of so many different climates, political beliefs and people, and that was our music. From the Carter family in Bristol, to Music City in Nashville, to the blues and gospel of Beale Street in Memphis. Tennessee can be said to be the home of American music.

As Education Secretary in the first Bush administration I was asked to be the Republican speaker at the annual Gridiron Dinner, a press gathering where public careers are made or broken. When I found that Texas Governor Ann Richards was the Democrat speaker I decided that was not a contest I was likely to win. So instead of speaking, I wrote some lyrics to country music songs and sang and played the piano.

Music has been throughout my life a source of inspiration and joy. I suspect that is true for most Americans. It is a rare American who does not have some story about how music has made our lives richer and more interesting, how it has changed our moods, brought out the best in our character and even sometimes helped us earn a living.

So I am proud to join with the Senator from Illinois and co-sponsor this important resolution declaring American Music Month. Our music is an integral part of the American character, and we should celebrate it.

NO CHILD LEFT BEHIND

Mr. ENZI. Mr. President, I would like to congratulate the educators, administrators, parents, and children of my home State of Wyoming. Since the implementation of No Child Left Behind in 2001, our students have increased their test scores, proving that our schools are taking the adequate steps needed to ensure academic proficiency for all students, including those who are disadvantaged. The basis of No Child Left Behind is simple. It says that every 4th grader should be able to read, and do mathematics at a 4th

grade level; every 8th grader at an 8th grade level, and every 11th grader at an 11th grade level. But making it work calls for the hard work and dedication of all individuals involved with education—from the parents to the teachers, to the legislators and administrators. By putting the children first, our schools are making the progress needed for students to perform at their intended level, which will help them excel later in life.

The 2004 results of the WyCAS, our State's assessment, show that 47 percent of fourth graders in Wyoming tested as advanced or proficient in reading, 40 percent in writing, and 39 percent in mathematics. While there is still room for improvement, all three are increases from last year's scores of 44, 37, and 37 percent respectively. In addition, 57 percent of the 8th grade students tested as advanced or proficient in writing, almost a 10-percent increase from the previous year, when they scored 48 percent.

A few schools that made tremendous growth this year should be especially proud of themselves. Moorcroft Junior High now has 81 percent of their students proficient in writing as compared to only 38 percent last year. Sundance Junior High also produced exceptional results in math, with 74 percent of their students performing at proficient or advanced level, compared to 39 percent last year.

Improvements have not only been made from last year to this year but over time as well. The 11th graders, who took the WyCAS as 8th graders in 2001, improved their mathematics scores from 32 percent being advanced or proficient to 44 percent. In reading, the results were similar. They jumped from 39 percent as 8th graders to 50 percent as 11th graders.

The results are a good indication that our students are learning and our teachers are working hard to leave no child behind. I am pleased with Wyoming's dedication to education, and I look forward to learning the results of other indicators that No Child Left Behind uses to assure schools are making adequate yearly progress. I encourage Wyoming schools to keep up the good work and continue to put the children first.

SPEECH TO THE UNITED NATIONS BY TASSOS PAPADOPOULOS, PRESIDENT OF CYPRUS

Ms. SNOWE. Mr. President, I rise today to speak about the importance of continuing every effort to help achieve a workable and lasting peace for the people of Cyprus.

I would like to read some of the comments recently delivered by Cypriot President Tassos Papadopoulos in his recent address to the United Nations General Assembly.

As President Papadopolous told members of the General Assembly:

> Surely the aspiration of humanity revolves around achieving the full respect of human rights, democracy, and the rule of law. The collective vision and effort required to fulfill this massive endeavor demands the contribution of all, to the extent of their capabilities.

The President further stated:

> We are committed and dedicated to a bizonal, bicommunal federal solution that would bring about the reunification of our homeland which would be workable, viable and make a reality the gradual rapprochement of the communities in Cyprus, the social and economic reunification and which will not institute the division of the communities and institutions.

Cyprus' European Union accession marks a great milestone and the beginning of a new era for the people of Cyprus.

Cyprus and the United States are bound together by common democratic traditions, values, ideas and interests. We have a history of working together effectively to fight threats to global security. We in the United States must continue to push for a peace plan that will be acceptable to the people of Cyprus.

I am firmly convinced that the people of Cyprus want peace. The road to peace will only come through a plan that is fair and that is workable. I join with the leadership of the Greek American national organizations in their commendable efforts to move the peace process ahead in a positive and constructive way.

I ask unanimous consent to print the RECORD, the recent address by the President of Cyprus, Mr. Tassos Papadopoulos to the General Assembly of the United Nations.

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

ADDRESS BY THE PRESIDENT OF THE REPUBLIC OF CYPRUS, MR. TASSOS PAPADOPOULOS, AT THE GENERAL ASSEMBLY OF THE UNITED NATIONS, SEPTEMBER 23, 2004

Mr. President, I wish to start by conveying to you my most sincere congratulations on your election as President of this session of the General Assembly and wish you every success in steering the work of this august body. I would also like to extend our thanks and appreciation to the President of the 58th Session of the General Assembly, especially for his inspired efforts to promote so vigorously the agenda of United Nations reform and the revitalisation of the General Assembly.

As this is the last Session of the General Assembly ahead of the 2005 Major Event, we must proceed to evaluate the prospect of attaining the ambitious targets we set at the turn of the Millennium. Determining a hierarchy in our priorities and identifying and pursuing specific targets, has been a major step in fostering the values, principles, and objectives embodied in the Millennium Declaration. The Major Event, however, will be the first real assessment of our progress towards the implementation of the Declaration and of the outcome of major world Conferences, and of initiatives such as the one launched by the Presidents of Brazil, France, Chile and the Prime Minister of Spain to eradicate poverty and hunger, as well as the initiative of the Presidents of Finland and Tanzania on the social dimension of globalisation.

Specifically with regard to the Millennium Development Goals, we believe that the ability to make development on the ground an issue of global concern as a result of these pledges, will measure the ability of the United Nations to induce significant change and advances where they are most needed. At the same time, the achievement of these objectives, which form an essential part of the Millennium Declaration, will judge to a great extent the efficacy of the United Nations in pursuing successfully a global and comprehensive agenda, which pertains to the prosperity of the population of a significant number of its member states.

The Republic of Cyprus supports the strengthening of the United Nations system through the reform process underway, and looks forward to the Report of the High-Level Panel and the recommendations of the Secretary-General. We attach particular importance to the revitalisation of the General Assembly and to the reform of the Security Council, so that, its structure will reflect contemporary political realities and a more balanced geographical representation. In the spirit of these two principles and with the aim of reinforcing the legitimacy and efficacy of the Council, Cyprus is supportive of increasing both permanent and non-permanent membership. In this respect, we believe that the joint French and German position on the enlargement of the Council could provide a basis for achieving the above mentioned objectives.

We share the assessment of the Secretary-General in his Report that our endeavour of consolidating effective multilateralism in a flexible and versatile United Nations, is the best way to address the complete spectrum of global crises and ensure that there exist preventive mechanisms to avert each one. Such consolidation also applies to security deficits and particularly terrorism the underlying causes of which, we have been unable to eliminate despite our concerted efforts. We consider that the conclusion of a United Nations comprehensive convention against terrorism is important in order to facilitate the elimination of the threat posed by terrorism, in the framework of international legality.

Addressing other deficiencies in the international system, particularly the ones which give rise to crisis situations and humanitarian disasters, should also be considered a matter of both urgency and priority. Darfur is one such crisis, which, following many others like it, keeps Africa at the heart of our concerns. It manifests why we should not only focus the majority of our humanitarian resources and peace-keeping efforts to it but why we should make every possible effort to make sustainable development a global reality. We welcome also the expanding co-operation between the United Nations and regional Organisations, which we consider to be the most effective method of addressing such issues. Of course, we attach particular significance to the collaboration between the United Nations and the European Union in managing crisis situations.

The Middle East is another region which remains volatile despite growing global concern and in spite of many attempts to restore the Peace Process in the Israeli-Palestinian conflict. So long as violence remains a vivid reality in the region it will not be possible to create those conditions under which peace building can be accomplished. We deem necessary a more active involvement of the Quartet in the efforts to implement the road map and intercept the cycle of violence. More emphasis should also be given to the task of improving living conditions in order to normalise people's lives to the greatest possible extent. Our support remains focused on the end of the occupation and on a just and viable settlement, based on UN Resolutions and for the realisation of the aspirations of the Palestinian people for the

establishment of an independent state, living side by side with Israel, in conditions of sustainable peace and security.

Surely the aspiration of humanity revolves around achieving the full respect of human rights, democracy, and the rule of law. The collective vision and effort required to fulfil this massive endeavour demands the contribution of all, to the extent of their capabilities. Cyprus is prepared to play its part from its vantage point in the European Union whilst drawing upon its traditional participation in Fora dedicated to promoting agendas pertaining to these values. This affiliation has been a source of support for us since Cyprus' independence, and its impact not only makes us grateful but has also endowed us with sensitivities that will continue to be an integral part of our approach.

I would like to emphasise how proud we are that Cyprus is now a full member of the European Union. The European Union has outlined an extensive set of priorities for this Session of the General Assembly. As the statement delivered by the Dutch Presidency has delineated these priorities, I will not elaborate on them any further.

This year marks 30 years since the occupation of 37% of Cyprus' territory as a result of the invasion of the island by Turkish troops. It also marks 30 years of relentless efforts by the Greek Cypriots to achieve a just and peaceful settlement, with the support of the international community, to which I would like here to express our deep appreciation.

The Greek Cypriot side has repeatedly demonstrated in the past thirty years, its readiness to move forward by making many painful sacrifices and concessions, while the Turkish Cypriot leadership always lacked the necessary political will. The quest and eagerness of Greek Cypriots for a solution never meant, however, that they would accept any settlement proposed to them nor that they would be ready to embark on an adventure, in all probability condemned to failing, with irreversible consequences.

The latest effort by the UN Secretary-General to solve the Cyprus problem resulted in a Plan, which, by some was described as a historic opportunity to solve one of the longest standing international problems. I will only briefly outline why, despite the hard work invested in the process by all involved, the end product of this effort was judged to be inadequate and fell short of minimum expectations from a settlement for Greek Cypriots.

Firstly, the Annan Plan was not the product of negotiation nor did it constitute an agreed solution between the parties. Secondly, the Plan did not place the necessary emphasis on achieving a one State solution with a central government able to guarantee the single sovereign character of Cyprus. Thirdly, it failed to address the serious concerns of the Greek Cypriot Community regarding their security and effective implementation of the Plan.

In rejecting the Plan as a settlement for the Cyprus problem the Greek Cypriots did not reject the solution or the reunification of their country. They have rejected this particular Plan as not effectively achieving this objective. We remain committed to a solution which will ensure the reunification of the country, its economy, and its people.

We are committed to reaching a solution on the basis of a bizonal, bicommunal federation. However, there are a number of essential parameters the Greek Cypriot Community insist this solution to be founded on. The withdrawal of troops and settlers and the respect of human rights for all Cypriots, the underlying structures for a functioning economy, the functionality and workability of the new state of affairs, the just resolution of land and property issues in accordance with the decisions of the European Court of Human Rights, and the respect of the right of return of refugees. To this end, we welcome the recent Pinheiro Progress Report on property restitution in the context of the return of refugees and internally displaced persons.

Simultaneously, it pains me to bring to your attention, Mr. President, that certain provisions of the Annan Plan have encouraged an unprecedented unlawful exploitation of occupied properties in northern Cyprus, something alluded to even in statements by officials of the occupying power itself.

The most paramount feature of any settlement is the ability to install a sense of security to the people. The mistakes of the past must not be repeated. Cyprus must in its future course, proceed without any grey areas with regard to its sovereignty or its relation to third states. If the people feel that their needs have not formed the basis of any solution reached or that the characteristics of this solution have been dictated by the interests of third parties, then this solution will unsurprisingly be bypassed. Indeed, the spirit and practice of effective multilateralism not only encompasses, but also derives from, the comprehension and consideration of local realities and particulars, on which it must then proceed to formulate proposals.

This should not be interpreted by third parties as a lack of will to solve the Cyprus problem. Instead, it must be unequivocally understood that the people who will have to live with this solution are in the best position to judge what is suitable for them, that it is imperative for the people to be called upon to ratify any plans that are drawn to this effect, and that their verdict must be respected.

In the framework of the European Union, and with the aim of promoting reunification and reconciliation, my Government, despite the obstacles placed by the current status quo, is consistently pursuing policies aiming to enhance the economic development of the Turkish Cypriots. While not intended to serve as a substitute for a solution, such policies are in our view the most effective way to foster the maximum economic integration of the two Communities, and increase contact between them, so as to ensure the viability of a future solution.

Responding to the expanding possibilities on the ground, we have intensified our efforts to ameliorate the situation and seek ways to benefit citizens. In this context, my Government has recently proposed the withdrawal of military forces from sensitive areas and refraining from military exercises, the opening of eight additional crossing points across the cease fire line and the facilitation of the movement of persons, goods and services across the Green Line, as well as the extension of the so far unilateral demining process initiated by my Government.

We have also declared our readiness to make special arrangements whereby Turkish Cypriots will utilise Larnaca Port for the export of their goods. Furthermore, subject to the area of Varosha being returned under the control of the Government of Cyprus and to its legitimate inhabitants, we could accommodate the lawful operation of the port of Famagusta.

The Cyprus problem is not always perceived in its correct parameters. The fact remains that this problem is the result of a military invasion and continued occupation of part of the territory of a sovereign state. This fact should not be conveniently overlooked in people's perception, by concentrating on peripheral parameters. Any initiative to solve the problem must have at its core, this most basic and fundamental fact and be based on the premise that international legality must be served and the occupation lifted.

Unfortunately, the fundamentals of the situation on the ground remain unchanged for the past 30 years since the Turkish invasion in Cyprus. This situation is one comprising of severe violations of the most fundamental human rights. The yet unresolved issues of the missing persons, an issue of a purely humanitarian nature, as well as that of the enclaved of the Karpass peninsula, are in themselves an indication of Cyprus' enduring suffering. This should not only point towards the specifics of the solution to be pursued but must also guide our actions with regard to managing the current status quo. For instance, the United Nations Force in Cyprus (UNFICYP), assigned with the task to manage the status quo inflicted 30 years ago, should remain specific to the situation on the ground.

The accession of Cyprus to the European Union, in conjunction with the lack of an agreement on the settlement of the Cyprus problem, in spite of our efforts and our preference for a settlement prior to accession, signifies the end of an era and the beginning of a new one. I firmly believe that the new context defined by the accession of my country to the EU and by the expressed will of Turkey to advance on the European path offers a unique opportunity and could have a catalytic effect in reaching a settlement in Cyprus. Our vocation is to be partners and not enemies.

Hence, in this new era, we plea to Turkey, to join us in turning the page and seeking ways to mutually discover, mutually beneficial solutions to the various aspects that compose the Cyprus problem. The mere realisation that peace and stability in our region serve the interests of both our countries is ample evidence to prove that what unites us is stronger than what divides us.

CBO COST ESTIMATE—S. 2773

Mr. INHOFE. Mr. President, I ask unanimous consent that a cost estimate prepared by the Congressional Budget Office to accompany Senate Report 108–314, the committee report to S. 2773, the Water Resources Development Act of 2004, be printed in the RECORD. The estimate was not available when the report was filed by the Committee on Environment and Public Works on August 25, 2004.

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

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

CONGRESSIONAL BUDGET OFFICE

S. 2773, Water Resources Development Act of 2004, as reported by the Senate Committee on Environment and Public Works on August 25, 2004.

Summary

S. 2773 would authorize the Army Corps of Engineers (Corps) to conduct water resource studies and undertake specified projects and programs for flood control, inland navigation, shoreline protection, and environmental restoration. The bill would authorize the agency to conduct studies on water resource needs and feasibility studies for specified projects and to convey ownership of certain Federal properties. Finally, the bill would extend, terminate, or modify existing

authorizations for various water projects and would authorize new programs to develop water resources and protect the environment.

Assuming appropriation of the necessary amounts, including adjustments for increases in anticipated inflation, CBO estimates that implementing S. 2773 would cost about $2.9 billion over the 2005–2009 period and an additional $4 billion over the 10 years after 2009. (Some construction costs and operations and maintenance would continue or occur after this period.)

S. 2773 also would allow for the spending of certain receipts from hydroelectricity sales associated with Army Corps of Engineers projects for facility planning, operation, maintenance, and upgrades, without further appropriation. Most of the receipts would come from electricity sold by the government's power marketing administrations (PMAs), including the Bonneville Power Administration (BPA). This provision also would direct the PMAs to reduce the maintenance component of the electricity rate charged to customers. The bill would convey parcels of land to various nonFederal entities and would forgive the obligation of some local government agencies to pay certain project costs. Finally, the bill would allow the Corps to collect and spend fees related to training courses and permit processing. CBO estimates that enacting those provisions would increase direct spending by $803 million in 2005, $5.3 billion over the 2005–2009 period, and $10.8 billion over the 2005–2014 period. Enacting the bill would not affect revenues.

S. 2773 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Federal participation in water resources projects and programs authorized by this bill would benefit state, local, and tribal governments, and any costs to those governments to comply with the conditions of this Federal assistance would be incurred voluntarily.

Estimated Cost to the Federal Government

The estimated budgetary impact of S. 2773 is shown in the following table. The costs of this legislation fall within budget functions 300 (natural resources and the environment) and 270 (energy).

TABLE 1. ESTIMATED BUDGETARY IMPACT OF S. 2773 OVER THE 2005–2009 PERIOD

By Fiscal Year, in Millions of Dollars

	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	599	623	619	593	604
Estimated Outlays	419	609	614	595	595
CHANGES IN DIRECT SPENDING					
Estimated Budget Authority	1,065	1,071	1,134	1,198	1,311
Estimated Outlays	803	981	1,109	1,170	1,274

Basis of Estimate

For this estimate, CBO assumes that S. 2773 will be enacted near the beginning of fiscal year 2005 and that the necessary amounts will be appropriated for each fiscal year.

Spending Subject to Appropriation

S. 2773 would authorize new projects related to environmental restoration, shoreline protection, and navigation. This bill also would modify many existing Corps projects and programs by increasing the amounts authorized to be appropriated to construct or maintain them or by increasing the Federal share of project costs. Assuming appropriation of the necessary funds, CBO estimates that implementing this bill would cost $2.8 billion over the 2005–2009 period and an additional $4 billion over the 10 years after 2009. For ongoing construction costs of previously authorized projects, the Corps received a 2004 appropriation of $1.6 billion.

For new water projects specified in the bill, the Corps provided CBO with estimates of annual budget authority needed to meet design and construction schedules. CBO adjusted those estimates to reflect the impact of anticipated inflation during the time between project authorization and appropriation of construction costs. Estimated outlays are based on historical spending rates for Corps projects.

Significant New Authorizations. S. 2773 would authorize the Army Corps of Engineers to conduct water resource studies and undertake specified projects and programs for flood control, inland navigation, shoreline protection, and environmental restoration. For example, the bill includes authorizations for enhanced navigation improvements on the Upper Mississippi River at an estimated Federal cost of $1.7 billion and an ecosystem restoration project, also on the Upper Mississippi River, at an estimated Federal cost of $1.46 billion. Another large project authorized by this bill is the Indian River Lagoon project in the Florida Everglades at an estimated Federal cost of $604 million. Construction of those projects would likely take more than 15 years.

Fish and Wildlife Mitigation. Section 1011 would amend the Water Resources Act of 1986 to establish a standard for fish and wildlife habitat mitigation on certain Corps projects. S. 2773 would require the Corps to develop a mitigation plan that restores the same number of acres of habitat that would fully replace the hydrologic and ecological functions that are lost because of construction of a Corps project. For this estimate, CBO assumes that this provision would apply to potential projects that are being studied but have not yet been submitted to the Congress for authorization. CBO estimates this provision would have no significant cost. However, it is possible that the Administration could interpret this provision to be applicable to authorized projects that have not yet begun or completed construction. Under that interpretation, this provision would increase future construction costs significantly.

Deauthorizations. S. 2773 would withdraw the authority for the Corps to build over 55 projects authorized in previous legislation. Based on information from the Corps, however, CBO does not expect that the agency would begin most of those projects over the next 5 years. Some do not have a local sponsor to pay nonFederal costs, others do not pass certain tests for economic viability, and still others do not pass certain tests for environmental protection. Consequently, CBO estimates that canceling the authority to build those projects would provide no significant savings over the next several years.

Direct Spending

Based on information from affected agencies, CBO estimates that enacting S. 2773 would increase direct spending by about $800 million in 2005 and $10.8 billion over the 2005–2014 period. Table 2 presents the direct spending components of the bill. Most of the direct spending under the bill would stem from provisions to allow for the spending of certain receipts associated with Corps projects for facility planning, operation, maintenance, and upgrades without further appropriation.

Improvement of Water Management at Corps of Engineers Reservoirs. Section 1006 of the bill would designate that all receipts associated with Corps projects be spent, without further appropriation, on operations, maintenance, and upgrades at its facilities. The Federal power marketing administrations (including the Bonneville Power Administration) collect receipts from the sale of hydroelectric power at Corps dams. The Corps also collects fees associated with other activities at its projects. Overall, the bill would make available for spending, on average, about $1 billion per year of those receipts. Because those receipts would otherwise be deposited in the Treasury, CBO estimates that enacting section 1006 would increase direct spending by $595 million in 2005 and $9.7 billion over the 2005–2014 period.

The bill specifies how the funds would be spent. Most of the funds, 80 percent, would be spent within the same Corps district from which they are collected. The remaining 20 percent would be available agencywide for any Corps project.

Spending of Receipts Collected by the Bonneville Power Administration. The bill would make receipts collected by BPA from the sale of hydroelectric power at Corps dams available for spending by the Corps. Unlike hydroelectricity receipts collected by the other PMAs, all receipts collected by BPA go into a revolving fund and are spent for operating its electricity system and repaying previous appropriations and Treasury borrowing. Because a portion of BPA's generating revenues from Corps dams are used to keep its system functioning, CBO assumes that only those receipts that would be used to repay previous appropriations and Treasury borrowing, that is, BPA's intergovernmental payments, would be available for spending by the Corps.

Under current law, CBO estimates that BPA's intergovernmental payments will be, on average, about $730 million per year over the 2005–2014 period. Under S. 2773, we assume that such payments would continue to made but would be spent without further appropriation for operations and maintenance at Corps facilities. BPA's Treasury payments fluctuate from year to year based on how much cash is available at the end of each fiscal year (changing water conditions and electricity prices can swing BPA's annual revenues significantly) and the maturities and interest rates of Treasury bonds issued on BPA's behalf. CBO estimates that spending of BPA receipts by the Corps would total $457 million in 2005 and $7.1 billion over the 2005–2014 period.

Spending of Receipts Collected by the Other Power Marketing Administrations. Receipts collected by the Southwestern, Southeastern, and Western Power Administrations from the sale of hydroelectric power at Corps dams are currently deposited in the Treasury. Under this bill, those funds would be spent by the Corps, without further appropriation, for operations and maintenance at its facilities. CBO estimates that spending of PMA receipts by the Corps would total $117 million in 2005 and $2.4 billion over the 2005–2014 period.

TABLE 2. CHANGES IN DIRECT SPENDING UNDER S. 2773

By Fiscal Year, in Millions of Dollars

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
CHANGES IN DIRECT SPENDING										
Improvement of Water Management at Corps Reservoirs										
Estimated Budget Authority	849	889	959	1,028	1,129	909	1,093	1,100	1,107	1,114
Estimated Outlays	595	792	934	1,000	1,092	965	1,060	1,080	1,104	1,111
Loss of Power Marketing Administration Receipts										
Estimated Budget Authority	173	176	180	184	189	192	0	0	0	0
Estimated Outlays	173	176	180	184	189	192	0	0	0	0
Recreation Fees										
Estimated Budget Authority	34	6	−5	−7	−7	−7	−7	−7	−7	−7
Estimated Outlays	27	13	−5	−7	−7	−7	−7	−7	−7	−7
Land Conveyances and Other Direct Spending										
Estimated Budget Authority	8	*	*	−7	*	*	*	*	*	*
Estimated Outlays	8	*	*	−7	*	*	*	*	*	*
Total Changes										
Estimated Budget Authority	1,065	1,071	1,134	1,198	1,311	1,094	1,086	1,093	1,100	1,107
Estimated Outlays	803	981	1,109	1,170	1,274	1,150	1,053	1,073	1,097	1,104

NOTE: * = less than $500,000.

Spending of Receipts Collected by the Corps. S. 2773 also would allow the Corps to spend any proceeds that it collects in grazing fees, shoreline management permit fees, and municipal and industrial water supply fees. The Corps could spend such funds for operations and maintenance at its facilities. CBO estimates that spending of such receipts would total $21 million in 2005 and $288 million over the 2005–2014 period.

Impact on Future Corps Appropriations. By making about $1 billion a year available for operations and maintenance at Corps facilities without further appropriation, the bill could lead to future reductions in the amounts appropriated for such purposes. In fiscal year 2004, the Corps received an appropriation of almost $2 billion for operations and maintenance costs. Enacting this bill could result in a reduction in future appropriations if the Congress chose to maintain total Corps spending at a level similar to the amount appropriated in 2004. For this estimate, however, CBO assumes that Corps appropriations would remain at current levels and that new spending authorized by the bill would be in addition to what is annually made available.

Reduction in the Maintenance Component of Electricity Rates. CBO assumes that section 1006 of S. 2773 would result in an overall reduction in electricity receipts collected by the PMAs. Under current law, electricity sales rates charged by the PMAs are set to recover the cost of generating electricity, including operations and maintenance expenses associated with hydroelectricity generation at Corps projects. Over the 2005–2010 period, the bill would lower the portion of electricity rates charged to PMA customers for Corps-related expenses to 0.22 cents per kilowatt-hour. (BPA rates are explicitly exempted by that provision.)

The PMAs currently charge their electricity customers for Corps-related expenses more than the 0.22 cents per kilowatt-hour that would be mandated by the bill. Such rates range from as much as 1.2 cents per kilowatt-hour to 0.4 cents per kilowatt-hour for the various Corps projects associated with the Western Area Power Administration. CBO estimates that this provision would reduce electricity receipts collected by the PMAs by an average of about $180 million a year, over the 2005–2010 period.

Spending of Recreation Fees. Section 1004 would direct the Corps to establish a new system of recreation fees, including charges for admission to Corps recreationsites and for the use of recreation facilities, visitor centers, equipment, and services. Under the bill, the new fees (which would be based on the value of the admission or service purchased) would replace charges authorized under the more-restrictive fee authority contained in the Land and Water Conservation Fund Act (LWCFA), which currently governs the Corps' recreation fee program. The bill also would authorize the agency to provide recreational services through contractors by leasing Federal land or establishing other concession-like arrangements with non-Federal entities. Finally, section 1004 would allow the Corps to retain and spend without further appropriation all recreation user and admission fees it collects under the LWCFA. CBO estimates that enacting this provision would have a net cost of $27 million in 2005 and $21 million over the 2005–2009 period. We estimate the provision would result in a net reduction in direct spending of $14 million over the next 10 years.

CBO estimates that, once the fee authority that would be provided by this section has been fully implemented, Corps offsetting receipts would increase by $7 million a year from the current annual level of about $34 million. (We estimate that the increase would begin in fiscal year 2006 and would initially amount to $4 million to $5 million a year because of delays in determining the market value of similar local recreation opportunities and establishing appropriate fee schedules.) We estimate that the contracting and leasing provisions of this section would have no effect on the budget because such authorities already exist.

CBO further estimates that the authority that would be provided by the bill to spend without appropriation any offsetting receipts earned under the LWCFA would increase direct spending by $27 million in fiscal year 2005 and by $17 million in 2006. After the Corps implements the new fee program mandated by the bill (in mid–2006), no additional receipts would be earned under the LWCFA, and the authority to spend such amounts would no longer be in effect. Because the bill would not specifically authorize the appropriation of, or spending of, any fees collected under the new program, CBO assumes that those recreation receipts would be deposited into the general fund of the Treasury.

Various Land Conveyances. S. 2773 would authorize the Corps to convey certain land in Alabama, Pennsylvania, Georgia, and Missouri. CBO estimates that those conveyances would have no significant impact on the Federal budget.

The bill also would convey at fair market value 13 acres of land and the structures on the land, including a loading dock with mooring facilities, in Alabama. In addition, S. 2773 would convey at fair market value 650 acres at the Richard B. Russell Lake in South Carolina to the state. Based on information from the Corps, CBO estimates that the Federal Government would receive about $7 million in 2008 from this sale.

Arcadia Lake, Oklahoma. Section 5303 would eliminate the obligation of the city of Edmond, Oklahoma, to pay outstanding interest due on its water storage contract with the Corps. CBO estimates that this provision would result in a loss of receipts of about $8 million in 2005.

Waurika Lake Project. Section 5304 would eliminate the obligation of the Waurika Project Master Conservancy District in Oklahoma to pay its outstanding debt related to the construction of a water conveyance project. Due to an accounting error, the Corps inadvertently undercharged the district for costs associated with a land purchase related to the water project in the early 1980's. Under terms of the construction contract, the district is required to pay all costs associated with building the project, including the full cost of the land purchases. CBO estimates that enacting this section would cost less than $200,000 a year over the 2005–2014 period.

Funding to Process Permits. Section 5401 would extend the Corps' current authority for two more years to accept and spend funds contributed by private firms to expedite the evaluation of permit applications submitted to the Corps. CBO estimates that the Corps would accept and spend less than $500,000 during each year of this extension and that the net budgetary impact of this provision would be negligible.

Training Funds. Section 1003 would allow the Corps to collect and spend fees collected from the private sector for training courses. CBO estimates that the Corps would accept and spend less than $500,000 annually and that the net budgetary impact would be negligible.

Intergovernmental and Private-Sector Impact

S. 2773 contains no intergovernmental or private-sector mandates as defined in UMRA. Federal participation in water resources projects and programs authorized by this bill would benefit state, local, and tribal governments, and any costs to those governments to comply with the conditions of this Federal assistance would be incurred voluntarily.

Previous CBO Estimate

On September 3, 2003, CBO transmitted a cost estimate for H.R. 2557, the Water Resources Development Act of 2003, as ordered reported by the House Committee on Transportation and Infrastructure on July 23, 2003. CBO estimated that enacting H.R. 2557 would increase direct spending by $32 million over the 2004–2013 period. In addition, assuming appropriation of the necessary amounts, CBO estimated that implementing H.R. 2557 would cost about $2.6 billion over the 2004–2008 period. The differences in the cost estimates stem from different levels of authorized funding.

Estimate Prepared By: Federal Costs: Julie Middleton, Lisa Cash Driskill, Deb Reis, and

Mike Waters; Impact on State, Local, and Tribal Governments: Marjorie Miller; Impact on the Private Sector: Karen Raupp.

Estimate Approved By: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

Mr. INHOFE. I would also like to take this opportunity to note for the record that I believe there are several unrealistic sections of the CBO score that appear to be based on several unconventional interpretations of the Committee reported bill.

CBO estimates that the recreation fee program will result in $27 million in estimated outlays for 2005 and $13 million in estimated outlays for 2006, at which point CBO assumes that the outlays become a $7 million annual revenue. The recreation user fee program established in the bill, creates a program to directly fund the operation and maintenance needs associated with recreation at Corps reservoirs. The committee reported bill amends section 225 of WRDA 1999. That particular section of WRDA 99 provides the Secretary of the Army a temporary authority under the Land and Water Conservation Fund, to withhold a limited portion of recreation user fees and provides authority to spend those revenues on the operation and maintenance of recreation facilities at Corps reservoirs. The committee bill further amended this authority to allow the Corps to withhold 100 percent of the recreation fees, on a permanent basis and directed the Corps to establish a progrm to facilitate the efficient collection of revenues. The CBO interpretation of this section assumes that the Corps will withhold the recreation fees it currently collects and spend them directly on O&M. However, when the Corps implements the program for fees CBO assumes that the agaency's authority for withholding such fees disappears, and the agency will blithely turn them over to the General Treasury leaving their O&M budget in shambles. Such an outcome is in direct contravention of the obvious purpose of the entire section. And while such an interpretation of the section is possible, I have yet to encounter a situation where an agency turned funds over to the Treasury when they were authorized to withhold and spend them directly.

Section 1006 authorizes the Corps to deposit revenues collected in conjunction with operations at Corps reservoirs. With respect to the generation of hydro-power, the Corps does not currently collect any fees from the Power Marketing Administrations, PMAs. In the case of PMA revenue, the PMAs send a portion of their revenue to the Treasury. In order to provide direct funding for the Corps, the committee bill provides for a 0.22 cent charge per kilowatt of electricity produced. Bonneville Power Administration is specifically exempt from the 0.22 cent per kilowat hour fee. Despite this exemption, CBO assumes that Bonneville Power will ignore it's other authorizing statutes and turn over more than $800 million a year to the Corps. I would point out that the 0.22 cent per kilowatt fee, was the committee's best estimate at the size of a fee that would be required to directly fund $150 million for O&M, which was the amount recommended in the president's budget. Excluding Bonneville Power Administration, CBO estimated that the 0.22 cent per kilowatt hour would result in $173 million in direct O&M outlays. I believe that CBO erroneous included Bonneville Power Administration in the estimate of direct spending. Bonneville Power Administration receipts, if collected by the Corps, would total $7.1 billion over a 10-year period.

While CBO erroneously overestimates, the direct spending associated with O&M at Corps reservoirs, it completely underestimates the direct spending that will likely be required should the Fish and Wildlife mitigation provision become enacted. Section 1011 establishes a new standard for fish and wildlife mitigation for Corps of Engineers projects. Because the standard specifically amends WRDA 1986 with changing the dates specified in WRDA 86 with respect to the applicability of the standard to completed and on going projects, a strict reading of the new standard makes it applicable to all projects authorized after November 17, 1986. Moreover, the standard sets a very high bar by requiring the Corps to ''acquire and restore the same number of acres of habitat'' to fully replace the hydrologic and ecological functions of ''each acre of habitat adversely affected.'' While on its face such a requirement may seem innocuous, there is no deminimus level for the determination of an adverse effect. Strictly speaking, even relatively minor changes to land use or hydrology would trigger the requirement for the Corps to acquire an equal number of acres as those that are modified, and restore all of those acres. The liability that this imposes on the Corps for mitigation of projects to this standard for everything since 1986 is likely substantial. Given that most non-Federal sponsors are local and State governments, this potentially represents a significant unfunded mandate as well.

NATIONAL RUNAWAY PREVENTION MONTH

Mr. HATCH. Mr. President, I rise today to commend the Senate for passing S. Res. 430, a resolution designating November 2004 as National Runaway Prevention Month. National Runaway Prevention Month is a public education initiative to increase awareness of issues facing runaways. This resolution will sensitize the public about solutions to the runaway dilemma and educate them on the role they play in preventing youth from running away.

Runaway and ''throwaway'' episodes among our Nation's youth are a widespread problem, with one out of every seven children and youth in the United States running away or being turned out of their home before the age of 18. A recent study by the Department of Justice's Office of Juvenile Justice and Delinquency Prevention estimates that nearly 1.7 million youth experienced a runaway or throwaway episode in a single year. The primary causal factors of running away or being turned out are severe family conflict, abuse and neglect, and parental abuse of alcohol and drugs.

All of the conditions that lead young people to leave or be turned out of their homes are preventable. However, we need to make interventions available to strengthen families and support youth in high-risk situations. Successful interventions are grounded in partnerships among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations, and businesses.

Preventing young people from running away and supporting youth in high-risk situations are a family, community, and national responsibility. Please join us in increasing public attention to the challenges that youth are facing today and in encouraging all Americans to play a role in supporting the millions of young people who have run away from their home environments or who are at-risk of doing so each year.

NATIONAL SEVERE STORMS LABORATORY 40TH ANNIVERSARY

Mr. INHOFE. Mr. President, in Oklahoma, we know the importance of predicting and tracking severe weather. Each spring, during tornado season, people in Oklahoma brace themselves for dangerous storms. However, instead of hiding in the dark, like they used to do, today, they can depend on a stellar source for up-to-date, real-time information. The National Severe Storms Labs NSSL has played a vital role in providing research for predicting and tracking this harmful weather. In light of this, I rise today to recognize the 40th anniversary of the vital office of the NSSL within the Department of Commerce/National Oceanic and Atmoheric Administration, in Norman, Oklahoma.

The National Severe Storms Laboratory was established in 1964 and leads the way in investigations of all aspects of severe and hazardous weather. NSSL is a vital part of NOAA Research and the only federally supported laboratory focused on severe weather. The lab's scientists and staff constantly explore new ways to improve understanding of the causes of severe weather and ways to use weather information to assist National Weather Service, NWS, forecasters, as well as Federal, uiversity and private sector partners.

These scientists are working on ways to improve short-term weather forecasting computer models for the National Weather Service's basic tornado research to understand how tornadoes form, as well as real-time delivery of

radar data to the meteorological community and interested partners. Research at NSSL has led to greater knowledge and improved forecasts of tornadoes, flash floods, damaging winds, hail, lightning, heavy snow, ice and freezing rain.

Early on, NSSL researchers recognized the potential of Doppler radar to improve the detection and warning of severe weather. NSSL built the first real-time displays of Doppler velocity data, which led to discoveries of tornado-related radar ''signatures.'' The successful demonstration that Doppler radar could help forecasters provide much improved severe thunderstorm and tornado warnings led to the deployment of the Next Generation Weather Radar, NEXRAD, WSR–88D, network of Doppler radars throughout the United States. This important contribution to the Nation was recognized by a Department of Commerce gold medal award, and was the only NOAA research laboratory so recognized.

NSSL continues to be a pioneer in the development of weather radar. The lab is working with the NWS to deploy dual polarization, a planned upgrade to the current NEXRAD Doppler radar hardware that provides more information about precipitation in clouds to better distinguish between rain, ice, hail and mixtures. Such information will help forecasters provide better forecasts and warnings for flash floods, the number one severe weather threat to human life.

In addition, NSSL researchers are adapting state-of-the-art radar technology currently deployed on Navy ships for use in tracking severe weather. Phased array radar reduces the scan or data collection time from 5 or 6 minutes to less than 1 minute, potentially extending the lead time for tornado warnings beyond the current average of 12 minutes. When combined with other technology being developed at NSSL, warning lead times may be extended even farther.

Recently, NSSL collaborated with the University of Oklahoma, Texas Tech, and Texas A&M University to build two new 5–cm mobile Doppler radars. These SMART-Radars—Shared Mobile Atmospheric Research and Teaching Radars—are capable of scanning and penetrating an entire tornadic storm or hurricane, providing critical data needed to understand the mysteries of how tornadoes form and for eventually improving severe storm forecasts and warnings.

During the past few years, scientists from NSSL completed several field experiments to study severe and hazardous weather. In 2003 and 2004, researchers launched weather balloons loaded with instruments into thunderstorms during the Thunderstorm Electrification and Lightning Experiment, or TELEX. The lightning observations they made will be used to improve forecasts and warnings of hazardous weather. In 2002, NSSL hosted the International H2O Project or IHOP, one of the largest weather-related studies ever conducted in the U.S.

NSSL has a research partnership with the Cooperative Institute for Mesoscale Meteorological Studies, a cooperative institute between the National Oceanic and Atmospheric Administration and the University of Oklahoma. Additionally, NSSL conducts collaborative research with other NOAH laboratories including the Forecast Systems Laboratory, the Environmental Technologies Laboratory, and the Great Lakes Environmental Research Laboratory, as well as the U.S. Navy, Air Force, Army, Department of Transportation, Federal Aviation Administration, Texas A&M, Texas Tech University, Lockheed Martin, Basic Commerce and Industries, Weather Decision Technologies, WeatherNews International, Inc., WeatherData, Inc., and Salt River Project.

I congratulate the National Severe Storms Laboratory in Norman, OK, on their first 40 years. Based on their performance since 1964, I believe we can expect many more years of pioneering scientific research from this outstanding institution, their academic, government and private sector partners, and their many scientists and technicians.

LOSING GROUND

Mr. LEVIN. Mr. President, it has been nearly a month since Republican congressional leadership and the President allowed the assault weapons ban to expire. This lack of action made it potentially easier for criminals and terrorists to acquire 19 previously banned assault weapons that could be used to harm innocent Americans. Adding insult to injury, the House of Representatives last week passed legislation that would make families in the Nation's capital even more susceptible to gun crime.

The misnamed District of Columbia Personal Protection Act, which passed the House last week, would repeal a local law in Washington, DC that bans the sale and possession of unregistered firearms, requires firearm registration, imposes commonsense safe storage requirements, and bans semiautomatic weapons in the District. Should this bill become law, tourists and especially those who live and work in our Nation's capital will face a considerably greater threat of gun violence.

According to the Brady Campaign To Prevent Gun Violence, this bill would roll back gun laws in D.C. to a point that it would be legal to possess a loaded assault rifle on city streets without a permit. Over the strong objections of local leaders, the Republican-controlled House made the unwise decision to take up and pass this legislation even as we face the increased threat of terrorism. Hopefully the Senate will not make the same mistake.

Unfortunately, instead of making progress on the issue of gun safety, we seem to be retreating. Instead of strengthening laws that would help prevent future gun crimes and terrorist attacks, they are being weakened giving potential criminals and terrorists easier access to weapons that have no place on our streets. I will continue to work toward reversing this course and toward passing sensible gun safety legislation that will make our communities more, instead of less, safe.

ANABOLIC STEROID CONTROL ACT

Mr. MCCAIN. Mr. President, I am pleased that the Senate has passed S. 2195, the Anabolic Steroid Control Act, and I commend my colleagues Senators HATCH and BIDEN for their commitment to this important legislation.

While S. 2195 is a positive first step toward protecting the public health, our work is not complete. We must continue to explore ways to improve the Dietary Supplements Health and Education Act, DSHEA, which has provided safe harbor for substances like those made illegal by S. 2195. We must make it more difficult for dietary supplement manufacturers to place harmful substances into the stream of commerce, and require that such manufacturers report to the Food and Drug Administration, FDA, adverse health events suffered by consumers when using their products. We must also demand that best practices for the manufacture of dietary supplements be developed by the FDA and followed by the supplement industry to ensure the efficacy and safety of these products.

RWANDA AND SUDAN: SIMPLY RECOGNIZING GENOCIDE IS NOT ENOUGH

Mr. DURBIN. Mr. President, this summer and fall, a lot of us have been drawing comparisons between Sudan today and Rwanda a decade ago. The October 4, 2004 edition of the New York Times contains a piece furthering this argument by one who is uniquely qualified to do so: retired General Roméo Dallaire, who was the commander of the United Nations forces in Rwanda during the genocide.

Ten years ago, General Dallaire pleaded for more troops to stem the rising tide of murders that were sweeping across Rwanda. Instead of sending reinforcements, the United Nations cut his peacekeeping force from 3,000 to 500, leaving Dallaire and his troops to witness the mass killings that they did not have a prayer of stopping. In the aftermath of this decision, 800,000 people died in 100 days.

Ten years ago, the African Union promised battalions to stop the killing but lacked the equipment and logistical support to come to the assistance of Dallaire and the people of Rwanda. Those forces never arrived in any numbers.

Today, genocide is again taking place, this time in Sudan. Secretary General Kofi Annan has recognized it. President Bush has recognized it. But

again the world is essentially standing by.

Last month, the Senate passed an amendment to the Foreign Operations appropriations bill which provided $75 million to support an expanded African Union mission in Darfur, Sudan. This bill is now in conference. It is vitally important that it pass with this measure and additional assistance for Sudan relief efforts intact.

President Clinton has said that failure to act in Rwanda constitutes his greatest regret as president. That is not a failure that we can bear to repeat. It is not enough for the international community to recognize genocide. This time, we actually have to stop it.

I ask unanimous consent that General Dallaire's op-ed from the New York Times be printed in the RECORD.

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

[From the New York Times, Oct. 4, 2004]

LOOKING AT DARFUR, SEEING RWANDA

(By Romeo Dallaire)

MONTREAL.—Each day the world is confronted by new reports of atrocities in the Darfur region of Sudan. President Bush, in his address to the United Nations General Assembly last month, referred to the situation as ''genocide,'' and he and Secretary General Kofi Annan pledged support for sanctions against the Sudanese government and a Security Council resolution to expand the African Union force on the ground there. But I am afraid that moral condemnation, trade penalties and military efforts by African countries are simply not going to be enough to stop the killing—not nearly enough.

I know, because I've seen it all happen before. A decade ago, I was the Canadian general in command of the United Nations forces in Rwanda when that civil war began and quickly turned into genocide. The conflict was often portrayed as nothing more than an age-old feud between African tribes, a situation that the Western world could do little to stop. All that was left to do was wait to pick up the pieces when the killing stopped and to provide support to rebuild the country.

Although the early stages of the Darfur situation received more news coverage than the Rwanda genocide did, at some level the Western governments are still approaching it with the same lack of priority. In the end, it receives the same intuitive reaction: ''What's in it for us? Is it in our 'national' interest?''

Sudan, an underdeveloped, orphan nation, with no links to colonial masters of its past, is essentially being left to its own devices. The Islamic Janjaweed militias of Darfur, with the complicit approval of the government, are bent on ridding the region of its residents, primarily black Africans—killing, raping and driving refugees into camps along the border with Chad.

The United Nations, emasculated by the self-interested maneuverings of the five permanent members of the Security Council, fails to intervene. Its only concrete step, the Security Council resolution passed in July, all but plagiarized the resolutions on Rwanda 10 years earlier. When I read phrases like ''reaffirming its commitment to the sovereignty, unity, territorial integrity and independence of Sudan'' and ''expressing its determination to do everything possible to halt a humanitarian catastrophe, including by taking further action if required,'' I can't help but think of the stifling directives that were imposed on the United Nations' department of peacekeeping operations in 1994 and then passed down to me in the field.

I recall all too well the West's indifference to the horrors that unfolded in Rwanda beginning in April 1994. Early warnings had gone unheeded, intervention was ruled out and even as the bodies piled up on the streets of Kigali and across the countryside, world leaders quibbled over the definition of what was really happening. The only international forces they sent during those first days and weeks of the massacres were paratroopers to evacuate the foreigners. Before long, we were burning the bodies with diesel fuel to ward off disease, and the smell that would cling to your skin like an oil.

Several African countries promised me battalions of troops and hundreds of observers to help come to grips with the relentless carnage. But they had neither the equipment nor the logistical support to sustain themselves, and no way to fly in the vehicles and ammunition needed to conduct sustained operations.

Today, to be sure, the international community is caught in the vicissitudes of complex political problems—particularly the fragile cease-fire between the Islamic government and the largely Christian population in southern Sudan. Powerful nations like the United States and Britain have lost much of their credibility because of the quagmire of Iraq. And infighting at the United Nations has bogged down an American proposed second resolution that probably wouldn't do much more than the one passed in July.

So in the end we get nothing more than pledges to support the international monitoring team of a few hundred observers from the African Union (on Friday, Sudan agreed that this force could expand to 3,500 soldiers). Nigeria and other countries are willing to send a larger intervention force, but they can't do so effectively without the kind of logistical and transportation support Western countries could provide.

Sudan is a huge country with a harsh terrain and a population unlikely to welcome outside intervention. Still, I believe that a mixture of mobile African Union troops supported by NATO soldiers equipped with helicopters, remotely piloted vehicles, night-vision devices and long-range special forces could protect Darfur's displaced people in their camps and remaining villages, and eliminate or incarcerate the Janjaweed.

If NATO is unable to act adequately, manpower could perhaps come individually from the so-called middle nations—countries like Germany and Canada that have more political leeway and often more credibility in the developing world than the Security Council members.

In April, on the 10th anniversary of the start of his country's genocide, President Paul Kagame told his people and the world that if any country ever suffered genocide, Rwanda would willingly come to its aid. He chastised the international community for its callous response to the killing spree of 1994, during which 800,000 people were slaughtered and three million lost their homes and villages. And sure enough, Rwanda sent a small contingent to Darfur. President Kagame kept his word. Having called what is happening in Darfur genocide and having vowed to stop it, it is time for the West to keep its word as well.

MAKING THE MOST OF FOREIGN ASSISTANCE: FAMILY PLANNING AND DEVELOPMENT

Mr. DURBIN. Mr. President, today I would like to talk about a critical subject, the need to support family planning as part of our international development agenda.

Family planning saves lives. It is a basic health service, especially in parts of the world such as Malawi where 1 in 7 mothers die in childbirth or Mozambique where 137 infants die per 1,000 live births and where life expectancy is just 37 years.

This is a health issue and it is a development issue because the two are virtually always related.

Ten years ago, members of the United Nations met in Cairo to draft a 20-year action plan to alleviate poverty through women's empowerment and universal access to reproductive healthcare.

Recently, a new report by UNFPA has come out, ''The Cairo Consensus at Ten: Population, Reproductive Health, and the Global Effort to End Poverty.'' This report assesses how far we have come and how far we have to go and argues that we have to mobilize political will and international assistance if we are going to build on previous gains.

This report revealed that, a decade after the Cairo meeting, more than 350 million couples still lack access to a full range of family planning services. It found that almost 530,000 women die each year from complications of pregnancy and childbirth, mostly from preventable causes. It also found that 2 out of every 5 people on the planet still struggle to survive on less than $2 a day, and many of them earn less than half that tiny amount.

The report concluded:

> Policy makers have been slow to address the inequitable distribution of health information and services that helps keep people poor . . . Developing countries that have reduced fertility and mortality by investing in health and education have higher productivity, more savings and more productive investment, resulting in faster economic growth. Enabling people to have fewer children, if they want to, helps to stimulate development and reduce poverty, both in individual households and in societies. Smaller families have more to invest in children's education and health. Rapid population growth contributes to environmental stress, uncontrolled urbanization and rural and urban poverty.

However, United States funding for UNFPA, which Congress has repeatedly passed, has not been distributed because the administration has refused to do so. Releasing the funds for UNFPA, which the administration has cancelled for the last 3 years, is a great way to help countries alter this template of maternal and child mortality, poverty, and under development.

This issue isn't about coercive abortion in China. UNFPA has a program to end coercive abortion in China. It is not about abortion at all. The UNFPA does not provide any support for abortion.

This is about providing health services for desperately poor women and their families.

The administration's own investigative team looked into UNFPA and

found no evidence of wrongdoing and urged immediate and unconditional release of these funds.

Study after study has shown that development is fundamentally about women: dollars go further and programs mean more when they reach women. Increasing women's access to education, health care, and human rights brings enhanced child health, improved food production, lower population growth rates, and higher incomes—in short, better quality of life for women and their families.

Reproductive health is an important component of this agenda, especially when we look at maternal and child mortality rates. That is why it is so important that we support the UNFPA and in the process advance our other foreign assistance goals.

NUCLEAR ENERGY FOR A BALANCED ENERGY PORTFOLIO

Ms. LANDRIEU. Mr. President, I rise to endorse S. Con. Res. 141 offered by Senator DOMENICI recognizing the essential role that nuclear power plays in our society.

The U.S. Senate must recognize the important role that nuclear energy plays in our Nation's economy, our Nation's energy independence and security, and our Nation's environmental goals. And, we need to acknowledge that like nearly every other source of energy, nuclear power needs our help to continue playing its important role in our Nation's energy policy.

Nuclear energy currently generates electricity for one in every five homes and businesses today. It is important not only in Louisiana, where two nuclear plants produce nearly 17 percent of my State's electricity, but also in States such as Connecticut, Illinois, New Hampshire, New Jersey, South Carolina and Vermont where nuclear generates more electricity than any other source. Nationwide, 103 reactors provide 20 percent of our electricity—the largest source of U.S. emission-free power provided 24–7.

Nuclear energy is also vitally important for our environment and our Nation's clean air goals. Nuclear power is the Nation's largest clean air source of electricity, generating three-fourths of all emission-free electricity. For future generations of Americans, whose reliance on electricity will increase and who rightfully want a cleaner environment and the health benefits that cleaner air will provide nuclear energy will be an essential partner.

Just this past Sunday, the Washington Post highlighted the problems that the Shenandoah National Forest now faces with pollution. Think how much worse our Nation's air pollution would be if nuclear energy did not generate one fifth of our electricity.

According to the Department of Energy the demand for electricity is expected to grow by 40 percent by 2020. In order to continue producing at least one-third of our total electricity generation from emission-free sources, we must build 50,000 megawatts of new nuclear energy production. If we do that, we are just preserving our current levels of emission-free generation, not improving them.

And, we need to recognize that nuclear power, by providing a stable, dependable source of electricity, is vital to our Nation's energy security and independence. Nuclear power is essentially an American invention. We generate nearly a fourth of the world's total nuclear power and we can do so with domestic energy sources. Hydrogen holds the promise of helping us lessen our dependence on imported oil and nuclear power is one of the most promising ways that we can produce hydrogen economically and efficiently.

There is a nuclear power renaissance in the making. Three of the Nation's leading nuclear power operators have already applied for an early site permit to build a new nuclear plant next door to an existing nuclear plant they operate, testing the Nuclear Regulatory Commission's new licensing process for the first time. Also, just a few months ago, nine nuclear operating companies and the two major U.S. power reactor manufacturers formed the NuStart Energy consortium to apply for a construction and operating license, COL, to test the regulatory process for actually building and operating the next generation of nuclear power plants.

These are positive signs that the U.S. nuclear power industry is alive and ready to build and operate the next generation of nuclear power—still without emitting any air pollutants, increasing our energy independence, and using the safest designs ever.

Today 29 new plants are being built around the world in 16 counties—most using a design that originated here in America—but not one of them is in the U.S. That must change.

I urge my colleagues to support this critical resolution which will further promote a vital source of energy while helping to pave the way towards improving our Nation's energy security.

ART THERAPISTS VITAL TO THE CARE OF VETERANS

Mr GRAHAM of Florida. Mr. President, today I bring attention to the impressive work that art therapists do with our Nation's veterans and the significant accomplishments they have made in this field. Art therapists provide effective treatment and health maintenance intervention for veterans, focusing on all of their life challenges, such as mental, physical, and cognitive impairments. Intense emotion and memory, often difficult to convey in words, often are more easily expressed in images with the guidance of a trained clinician.

Art therapists are master's level mental health practitioners trained in psychology, psychotherapy, and the interface with the arts modality. The American Art Therapy Association establishes national academic standards of education and clinical practice. After September 11, art therapists assisted both survivors and the bereaved, drawing out their traumatic experiences and dealing pictorially with the horror as they moved through the various stages of grief. Similarly, art therapy is used with veterans who struggle with Post Traumatic Stress Disorder (PTSD).

Research has demonstrated that traumatic memory is not stored in a fashion that can be expressed only through words. Instead, it is retained as visual, auditory, olfactory, and other sense mechanisms. Images may return as flashbacks or nightmares that the veteran is unable to integrate as memory. As a result, these impressions remain a toxic force, causing intense fear and leading the veteran to try to shut off all memory and emotion and possibly leading to depression, the inability to properly function day to day, and estrangement from family. The traumatic experiences that a veteran is unable to discuss or confront, however, can instead surface through artwork. The process of creating the artwork and externalizing intense issues help the veteran to regain control, integrate horrors into manageable memory, and allow feelings to be experienced again.

For example, a former Marine who served in Vietnam and struggled for years with feelings of inadequacy and fear in crowds benefitted considerably from art therapy. He has said that it enabled him to address problems he otherwise did not have access to, thereby helping him to ''mourn the pain. . . overcome . . . and feel comfortable within'' himself. Another serviceman drew out his dreams as a way of placing combat experiences into the past and therefore to function more effectively in the present. Such life-enhancing and cost-efficient intervention is not only viable as a treatment option, but may be preventive by forestalling full-blown PTSD. Given the number of veterans gradually returning from the current war in Iraq, art therapy has the potential to assist them as a form of rehabilitation. The American Art Therapy Association is currently investigating possible sites and funding sources for conducting outcome studies on the efficacy of art therapy with veterans.

I would also like to mention with pride that more than 100 registered art therapists live and work in my home State of Florida. These therapists practice all across the State, from my hometown of Miami all the way up to the Panhandle. I am so pleased that almost every veteran—or anyone else—residing in Florida has access to the benefits art therapy can offer.

As ranking member of the Committee on Veterans' Affairs, I support the use of art therapy programs in the Department of Veterans Affairs health care facilities, and I recognize the contribution of art therapists to the effective reintegration, enhanced coping,

and quality of life for our veterans. During this crucial time in the history of our Nation, I encourage my colleagues in Congress to do the same.

SUPPORTING DEMOCRACY IN BELARUS

Mr. CAMPBELL. Mr. President, I welcome the unanimous passage of the Belarus Democracy Act, BDA, by the United States Senate last night following similar action by the House of Representatives earlier this week. As co-chairman of the Helsinki Commission, I am particularly pleased at timely adoption of this important legislation. I thank Chairman LUGAR and Senator BIDEN for their assistance in facilitating consideration of this bill by the full Senate.

Repression and stagnation have been the hallmarks of the regime of Aleksandr Lukashenka, the leader of Belarus who increasingly tightened the noose around those who express independent views. A series of fundamentally flawed elections have left Belarus without legitimate executive and parliamentary leadership. Against this backdrop, preparations are underway for parliamentary elections and a referendum later this month. The elections take place in an environment in which the regime has intensified its repression of the remaining independent media and vilification of the opposition and their supporters. Lukashenka is also seeking to manipulate the situation to extend his rule by eliminating constitutional term limits for president, possibly paving the way for him to become a ''president-for-life.''

As co-chairman of the Helsinki Commission, I have maintained a strong interest in Belarus and have tried to inform my Senate colleagues about the increasingly troubling developments in that strategically located country, whose 10 million people have suffered cruelty at the hands of czars, Nazis, Communists and now, Aleksandr Lukashenka. During my service on the Commission, I have met and come to know many of the courageous individuals, who often at personal risk have spoken out in support of democracy in the face of Europe's last dictatorship, including the spouses of opposition leaders and a journalist who disappeared in 1999 and 2000 because they dared speak to the truth.

Belarus, under Lukashenka, has the worst human rights record in Europe. His regime has increasingly violated basic human rights and freedoms. The goal of the Belarus Democracy Act is to help put an end to repression and human rights violations in Belarus and to promote Belarus' entry into a democratic Euro-Atlantic community of nations following years of self-imposed isolation.

The Belarus Democracy Act authorizes additional assistance for democracy-building activities such as support for NGOs, independent media, including radio broadcasting to Belarus, and international exchanges. It also encourages free and fair parliamentary elections, which have been notably absent in Belarus and which look to be highly problematic when they are held on October 17, judging by the pre-election environment and the regime's tight control over the electoral process.

The BDA includes sense of the Congress language that would prohibit U.S. Government financing, except for humanitarian reasons and U.S. executive directors of the international financial institutions would be encouraged to vote against financial assistance to the Government of Belarus except for loans and assistance for humanitarian needs. The bill also requires a report from the President concerning the sale of delivery of weapons or weapons-related technologies from Belarus to rogue states and on the personal wealth and assets of Lukashenka.

Nearly 2 years after the introduction of the Belarus Democracy Act the situation in that country has spiraled downward. Adoption and implementation of the Belarus Democracy Act will offer hope that the current period of political, economic and social stagnation will indeed end. It shows our concrete support for the courageous individuals, non-governmental organizations, independent media and independent trade unions struggling mightily against the machine of repression. And it shows our support for the people of Belarus, who deserve a chance for a brighter future.

DISPERSAL BARRIER

Mr. DEWINE. Mr. President, I want to thank Senator JEFFORDS from Vermont for his recognition of the situation we are facing in the Great Lakes with Asian carp. We are currently trying to keep this invasive species out of the Great Lakes ecosystem by constructing a dispersal barrier in the Chicago Sanitary and Ship Canal. It is very important that this barrier be completed soon before this destructive invasive species makes it way to the Lakes. I know that my colleague from Vermont has the same problem in Lake Champlain, and I plan to do everything I can in the next Congress to work with him to authorize and fund a dispersal barrier for Lake Champlain.

Mr. JEFFORDS. Invasive species are a problem in Lake Champlain in my home State of Vermont. The Lake Champlain ecosystem and regional economy have been seriously impacted already by invasive species, many of which dispersed to the lake from the Hudson River by way of the Champlain Canal. Eurasian Milfoil and Water chestnut have rendered much of southern Lake Champlain unusable for recreation and stripped value from waterfront properties. Hundreds of thousands of dollars each year are spent to control these plants. The sea lamprey has devastated our sport fishery, and large amounts of money are being spent on control, with only mixed results. These are just a few species. Once here it is nearly impossible to eliminate these invaders and even marginally controlling them is hugely expensive.

Other invasive species have not yet reached Lake Champlain but have spread widely throughout the Hudson and/or Great lakes drainages. We know they are coming and must act now to keep them out. These include fish like the Asian carp, Eurasian ruff, round goby, alewife and tench. Any one of these could change the Lake Champlain ecosystem in catastrophic ways, and each is moving toward the basin. Invertebrate species such as the spiny waterflea and fish hook flea, as well as aquatic plants are also of concern.

Because of the success of the dispersal barrier in the Chicago Sanitary and Ship Canal, we are looking for a similar barrier for the Lake Champlain Canal to keep more invasive species out of Lake Champlain. A barrier will also protect the Hudson River drainage from invasive species that may arrive first from the north, like a particularly damaging fish, the tench.

We must move quickly to complete design, and to construct a dispersal barrier in the Lake Champlain Canal. Time is of essence.

Mr. VOINOVICH. I thank the Senator from Vermont and recognize that his State is facing similar problems and I pledge to work with him and the Environment and Public Works Committee to advance authorization for a Lake Champlain Canal dispersal barrier through both the Water Resources Development Act and the National Aquatic Invasive Species Act in the next Congress.

Mr. LEVIN. I would like to join my colleagues in supporting the need for the Chicago Sanitary and Ship Canal dispersal barrier and pledge to work with my Great Lakes colleagues and Senator JEFFORDS to address the invasive species problems in Lake Champlain through the authorization of a dispersal barrier. I also am pleased to join my colleagues in our pledge to move the National Aquatic Invasive Species Act forward in the next Congress.

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 January 25, 2001 in Washington, D.C., police arrested a 17-year-old in a gay bashing incident in the Dupont Circle area after the youth and another young man followed two men leaving a

gay bar while shouting ant-gay epithets at them. After attacking the victims, the youths fled when passerby said they had called the police.

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.

HONORING FAVORITE TEACHERS

Mr. DAYTON. Mr. President, nearly 4,000 Minnesotans honored their favorite teacher at my Minnesota State Fair booth this summer. I would like to honor these teachers further by submitting their names to the CONGRESSIONAL RECORD as follows:

Lanesboro Elementary—Helen Simen; LaPorte High School—Joyce Stillwater; Las Virgenes Unified School—Larry Sandirs; Laura MacArthur Elementary School—Larry Yadlowski; Le Center Elementary School—Mary Spartz; Le Center Secondary School—Erik Buckman; Le Maison D'Enfant—Cecile Gaultier, Sandrine Perigaud; Learning Center for Children (Minneapolis)—Barbara Novy; LeCenter Elementary—Elizabeth Traxler; LeCenter High School—Tony Boyer, LeRoy Edlund, Robyn Menk; Lehman Center—Heather Turngren; LeRoy High School—Barb Payne; Leroy-Ostrander High School—Norm Hansen; LeSueur Elementary—Patti Doshan, Tom Quiram, Rachel Sorenson; L'Etoile du Nord French Immersion—Laura Handley, Madam Keil, Maureen Peltier, Mary Rddad, Peggy Russel, Ms. Stevens, Tammy Trouchu; Lewiston-Altura—Julie Schneider; Liberty High Charter School—Gary Knox; Lily Lake Elementary—Laine Belter, Sally Davis, Mrs. Kocian, Mrs. Lein, Ricky Michels, Joan Teppen, Brad Utzman; Lincoln at Mann Elementary—Jane Barton, Stephanie Koenig; Lincoln Center Elementary—Gretchen Brandt, Mrs. Christenson; Lincoln Elementary (Anoka)—Mr. Dickens, Mr. Koenig, Karen Krantz, Baiying Wu; Lincoln Elementary (Elk River)—Cherly Howard, Mrs. Ostroot; Lincoln Elementary (Fairbault)—KeriJo Kielmeyer; Lincoln Elementary (Minneapolis)—Mr. Lundquist; Lincoln Elementary (White Bear Lake)—Teri Beckers, Ms. Gahm, Mr. Healy, Mary Ellen Mieure, Debbie Thiebalt; Lincoln H.I. Elementary (Hendricks)—Barbara Nelson; Lincoln High School (Esko)—Jen Hoffman; Lincoln High School (Lake City)—Becky Kearns; Lincoln High School (Thief River Falls)—Calvin Lindberg, Regina Olson; Lincoln K–8 Choice School (Rochester)—Linnea Archer, Elizabeth Koehler, Stephanie Koenig, Beth Napton; Lincoln Secondary School (Ivanhoe)—Mr. Nelson; Lindbergh Elementary—Mary Jo Schultz; Lino Lakes Elementary—Mary Jfortney; Linwood A+ Elementary School (St. Paul)—Kimberly Kroetsch; Linwood Elementary (Wyoming)—Mr. Knox, Heather Peterson, Jan Peterson, Mr. and Mrs. Urness; Litchfield High School—Gary Hein, Jo Carlson, Linda Heggedal-Hart, Keith Johnson, Greg Mathews; Little Canada Elementary—Jerene Mortensen, Barbara Schochenmaier; Little Falls High School—John Ahlin, Carolyn McGrath, Luverne Powers; Little Falls Public Schools—Anne Rebischke; Little Mountain Elementary—Lee Tracy; Living Hope Lutheran School—Nicole Dub; Lomarena Elementary (Laguna Hills, CA)—Sharon Hinds; Long Prairie Grey Eagle Elementary—Brach Czech, Mr. Gustafson, Darlene Mareck; Longfellow Elementary (Minneapolis)—Ms. Abrahamson, Jan Nethercut; Longfellow Humanities Magnet School (St. Paul)—Ms. Filipek-Johnson; Longfellow Middle School (LaCrosse, WI)—Laurie Strand; Loring-Nicollet Alternative High School—Marin Peplinski; Los Angeles, CA—Margaret Truppi; Lourdes High School—Mr. Rhabe; Lower East Side, NY, NY—Goldie Brown; Lucy Laney at Cleveland Park Elementary—Lisa Brown, John Cearnal, Janice Evans, Trina Mansfield, Ms. Schroeder, Opal Toy; Lutheran High School—Paul Schlif; Luverne High School—Esther Frakes, Jim Sanden; Lyle Elementary School—JoAnn Guthmiller; Lyndale Elementary—Gene Ruder; Mable Barron School, Stockton, CA—Sarah Fleutsch, Eddie Gehrke; Macalaster College—Mahnaz Kousha; Macalaster Plymouth United Church Preschool—Sue McMahan; Maddock Public Schools—Penny Leier, Madelia Elementary—Caryn Anderson; Madelia High School—Terry Arduser, Debra Nelson; Madison Elementary (Blaine)—Mr. Lungee, Jennifer Warner, Linda Anderson, Amy Neuswanger; Madison Elementary (St. Cloud)—Mr. Ellingson; Mahtomedi High School—Joy Ganyo, Shelly Mitchel; Mahtomedi Middle School—Mrs. Bigalk, Claudine Goodrich, Jennifer Och; Main Elementary (Kodiak, AK)—Diane Getten-Langfitt; Manhattan New School, NY, NY—Mindy Gerstenhaber; Mankato East High School—Bob Gospeter, James Manske, Sheri Robinson; Mankato West High School—Scott Urban, Gwen Walz, Tim Walz, Jack Bengston; Mann Elementary—Jan Dixon, Heather Long, Judy Ronnei; Maple Grove High School—Terry Caruso, Susan Hein, Larry Larson, Caroline Mullins, Jane Ruohoniemi, Jutta Schubert; Maple Grove Junior High—Doug Anderson, Amy Bradley, Mike Olson; Maple Lake East Middle School—Mark Jenzen, Dan Kraft; Maple River Central Elementary—Cathy Schroeder; Maple River High School—Susan Goecke, William O'Brian; Maplewood Middle School—Ms. Cartier, Mr. Petermen, Peter Evans, Faye Ormseth, Mrs. Willer; Maranatha Christian Academy—Tim Ford; Marcy Open Elementary—Mariann Bentz, David Bruns, Lynn M, Jay Scoggin, Nicky Sendar, Greg Krueger, Rhonda Geyette; Marine Elementary—Nancy Wisniewski; Marion W. Savage Elementary—Carl Berg, Lisa Christen, Barb Fiola; Martin County West High School—Sylvan Struck; Mary Queen of Peace—Mrs. Leider, Mrs. Nowak; Mason-Rice Elementary—Leslie Kahn Skornik; Maternity of Mary—Mrs. Babineau, Mrs. Fauskee, Gloria Ross; Math and Science Academy—Eric Kaluza, Paul Simone; Maxfield Magnet Elementary—Mrs. Fredrickson; Mayo High School—Steve Brehmer, Marilyn Thompson-Hoerl; McCluer North High School—Mary Pitilangas, Ellen Bowles; McCormick Middle School—Richard Gundlach; McGuire Junior High—Mr. Zeman; McKinley Elementary—Joe Hirte, Kathy Kolle, Gloria Steffenson; Meadow Lake Elementary—Tonya Larson, Matt Phelps; Meadowbrook Elementary—Jack Anderson, Karen Carlson, Angelette Kittrell, Steve Miller, Judy Skalicky, Sue Young, Lesley Hendrickson; Meadowvale Elementary—Darcy Doty, Amy Crocker; Meadowview Elementary—Erica Rach; Medford High School—Mr. Davis; Melrose High School—Dave Anderson; Menahga High School—Mr. Honga, Timothy Wurdock; Mendota Elementary—Deb Manthey, Julie Weisbecker; Mesabi East Elementary—Arnie Nellis, Denise Erchul; Metcalf Junior High School—Mark Challgren, John Jacobson, Steven Orth; Metro Deaf School—Lisa Ewan, Kevin Kovacs; Metro State University—Mary Kirk; Metropolitan Learning Alliance—Stephanie Wheelock; Middleton Elementary—Liz Bergdall, Heather Bestler, Ms. Wetschka; Milaca Elementary—Randy Johnson; Milaca High School—David Dillan, Randy Zimmer, Andrea Rusk; Minniapple Montessori—Maria Malm; Minneapolis—Michelle Cambrice, Mark Hymen, Chris Jaglo, Norma Johnson, Tom Muelhlbauer, Mrs. Solum, Mark Trumper, Barb Wasmoen, Nate Wayne, Ruben Wenzel; Minneapolis Community Technical College—Gregg Kubera; Minneapolis Educational Service Center—Dorothy Hoffman; Minneapolis Jewish Day School—Lori Bale, Patty Baskin, Andi Cohen, Mrs. Kaplan, Sue Norton, Julie Ziesman; Minneapolis Public School—Mary Jo Meagher, Cheryl Ryan; Minneapolis South High School—Margie Adamsick; Minnesota Business Academy—Mr. Tillman; Minnesota North Star Academy—Mandy Frederickson; Minnehaha Academy—Camella Whaley, Ms. Scholl, Mrs. Ameter, Mrs. Classen, Mr. Erickson, Carolyn Forsell, Deb Fondel, Mrs. George, Renee Hecker, Bob Noble, Naomi Peterson, Nancy Ringling, Mr. Scholl, Paulita Todhunter, Michelle Vitt; Minnesota State University, Moorhead—Sarah Smedman; Minnesota Transitions Charter School—Jennifer Struck; Minnesota Virtual Academy—Jen Ingalls; Minnesota Waldorf School—Mr. Angus, Mrs. Meany, Kirste Riehle; Minnetonka High School—Randy Nelson, Ernie Gulner, Doug Kennedy, Mrs. Pistner, Emily Rosengren, Amy Stafford, Ann Swanson, Judy Trombley; Minnetonka Middle School East—Mary Fenwick, Brian Getter, Rebbecah MacDougal, Rhonda Olson-Lundgren, Minnetonka Middle School West—Carina Grander, Joan Julien, Paul MacKinney, Tony Mosser, Matt Sell; Minnewashta Elementary—Melanie Casiday, Chris Haun, Kathy Larson; Mission Valley—Patricia Olsen; Mississippi Creative Arts Magnet School—Ms. Erno, Judy Sheldon, Judy Ewald, Karyn Wrenshall; Moline High School—Timothy Curry; Monroe Community (St. Paul)—Kath Olson, Anna Stanek; Monroe Elementary (Brooklyn Park)—Carol Allen, Joan Campe, Mrs. Hanson, Monica Magadan, Sue Steel, Carol Allen; Monroe Elementary (North Mankato)—Sandy Hatalstaed; Montevideo High School—Charlie Breest; Montevideo Middle School—Ralph Heidorn, Mark Johnson, John Mader; Montgomery-Lonsdale Elementary—Mrs. Anderson, Mrs. Wondra; Monticello District Offices—Jim Johnson; Monticello High School—Holly Herman; Monticello Middle School—Jennifer Uluen; Moorhead Junior High—Sharon Lucason; Mora High School—JoAnne Schuch; Moreland Elementary—Susan Birkoltz, Debbie Haefel, Maria Pasquerella; Morris Bye Elementary—Mrs. Holm, Nicole Huttner, Gerhardt Mahling, Aaron Olinyk, Ann Sangster, Barbara Nicholls, Besty Quist; Mosinee Middle School—Lynne Helbach; Mound Westonka High—Jim Kaeter; Mounds Park Academy—Maureen Conway, Mark Dallmann; Mounds View High School—Mavis Schwanz, Bonnie Bougie, Dan Butler, Greg Harman, Donna Johnson, Joe Keenan, Fred Kunze, John Madura, Kathy Miller, Bob Nelson, Gretchen Nesset, Philip Richardson, Ruthie Seidenkranz, Graham Wrigth, Ted Bennett, Richard Werner; Murdoch High School—Alice Peterson; Murdock Elementary—Donna Johnson; Murray County Central High School—Janet Opdahl; Murray County Central Secondary School—Dan Willadson; Murray Junior High—Billy Chan, Tim Chase, Mary Crowley, Mr. Hughes, John Krenik, Mr. Pearson; Museum Magnet—Lolita Cox, Mr. Jeffers, Flint Keller, Heather Seifert, Jennifer Keller; National American University—Tony Steblay; Nativity of Mary School—Pat Bohman, Diane Talley, Nativity of Our Lord

Elementary—Paula Bernabai, Jill Daley, Michelle Metzdorft, Vi Moser, Mrs. Scanlan; Mouqd-Westonka Secondary School—Mr. Kaeter; Mount Calvary Lutheran School—Karl Schmidt, James Spitzack; Mount Hope Redemption—Lutheran School—David Polzin; Mount Iron-Buhl High School—Ted Louma, Luke Weinens; Mount Olivet Nursery School—Sandra Keuhn; Mountain Lake High School—Jerry Cogue, Wade Nelson; Nellie Stone Johnson Elementary—Jonathan Berry; Neveln Elementary—Maryanne Heimsness, Linda Lind; New City Charter School—Mary Spoar; New Haven Community School—Elaine Arft; New Hope Elementary—Stephanie Hill, Paula Roberge; New London-Spicer High School—Lloyd Bakke; New Prague Intermediate Elementary—Margaret Kartek, Mark Shaughnessey, Mrs. Witt, Irma Langer; New Prague Middle School—Heidi Hagen; New Prague Senior High School—Pat O'Malley, Dan Puls, New Richland-Hartland-Ellendale-Genera Elementary—Sylvia Boettger; New Richmond Senior High School—Jim McCollum;

FIGHTING TERRORISM IN LATIN AMERICA

Mr. COLEMAN. Mr. President, as we contemplate reforms to better equip us to prevent and fight terrorism, I hope we will bear in mind the importance of the Western Hemisphere. As chairman of the Western Hemisphere Subcommittee, I am encouraged by the opportunities we have to work cooperatively with our regional neighbors on issues we all can benefit from. We have shared interests in promoting democracy, human rights, and the rule of law. We are stronger when we stand together as a hemisphere against terrorism, money laundering, and the trafficking of drugs, weapons, and people. Our greatest asset in the war on terror in Latin America and the Caribbean is the fact that we have so many willing partners throughout the region who share our values.

I recently came across an interesting study, written by Michael Johnson of the Council on Hemispheric Affairs, that discusses the threat of international terrorist groups in the Triborder region of Paraguay, Brazil and Argentina. I hope my colleagues will read this study and reflect upon the importance of addressing terrorism wherever it exists around the world.

I ask unanimous consent that study be printed in the RECORD.

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

U.S. FOREIGN POLICY IN SOUTH AMERICA'S TRIBORDER REGION

A REGION IN NEED OF SECURITY

Unstable institutions, rampant corruption and a struggling economy made Paraguay appear as an attractive venue for would-be terrorists to base their operations just a few years ago. However, with the newly formed Three Plus One Counterterrorism Dialogue consisting of Argentine, Paraguayan, Brazilian and an American intelligence-gathering team, terrorists seem to have decided to shy away from creating havoc in the region. Though no terrorist initiatives seem to have occurred in the tri-border region of Paraguay, Argentina and Brazil, experts from each of the countries feel that significant amounts of money laundering is taking place in the area—ending up funding terrorist acts in the Middle East. Current U.S. foreign policy in the area, therefore, will play an integral role in cleansing the area of terrorists as well as contain other illicit activities endemic to the region.

U.S. agencies have been monitoring clandestine activity in Paraguay for a number of years. However, only recently have they begun to increase their physical presence. According to various reports, the Drug Enforcement Agency (DEA) has more than doubled the size of its office in Asuncion. However, this does not automatically represent any change in the status quo. In the wake of terrorist strikes in the U.S., Paraguay's recent history of allegedly serving as a staging ground for militant Islamic groups such as Hezbollah and the Islamic Jihad certainly is drawing closer scrutiny.

On September 21, 2003, foreign ministers from the Organization of American States (OAS) nations met to discuss terrorism-related hemispheric security concerns. Portions of the talks dealt with the Southern Cone countries' long-standing belief that Paraguay has shown little concern in addressing the terrorist elements operating within its borders. Evidence shows that the U.S. has stepped up pressure on the tri-border countries to clean up the area and eliminate ''rogue elements.'' Hopefully, such an increase in the U.S. presence will yield all the returns that the Pentagon anticipates.

U.S. FOREIGN POLICY IN THE TRI-BORDER REGION

President Bush's call to sustain the war ''until every terrorist group of global reach has been found, stopped and defeated'' explains U.S. authorities' increase in the monitoring of developments in the tri-border area. For their part, tri-border countries have indicated that they intend to fully cooperate in helping the U.S. eliminate any terrorist threats in the region. Although Brazil and Argentina have increased their border security, Paraguay has perhaps assumed the strongest position in support of U.S. anti-terrorism efforts by asking the OAS to firmly support any U.S.-led retaliation.

Nevertheless, rhetoric and strong anti-terrorism stances by these nations fail to quell fears about the potential terrorist threat posed by illicit forces in the region. Paraguay's Foreign Minister, Jose Antonio Moreno, stated that 40 FBI agents arrived in Paraguay and were headed to Ciudad del Este, a ''transit point for shadowy groups.'' The inevitability of U.S. involvement in the area was reflected in statements made by the State Department and the former director of the FBI, Louis J. Freeh. The FBI's concern was rooted in a trip that Freeh took to South America in 1998 to assess security concerns. At the time, Freeh called for a multinational crackdown on crime, something he saw as an important step to establishing a hemispheric police alliance. He called the tri-border region ''a free zone for significant criminal activity, including people who are organized to commit acts of terrorism.'' Last April, the State Department warned that the governments of Paraguay, Brazil and Argentina are not capable of preventing Islamic terrorist actions originating from Paraguay's hub of militancy, Ciudad del Este.

The U.S. has offered its Special Forces to train and advise the Paraguayan military and national police in anti-terrorism and anti-drug tactics to combat the identified groups. U.S. Special Forces took a first step to making their presence felt in Paraguay earlier this year by participating with the country's military in a ''training exercise'' focused on combating drug traffickers. At the time, many thought that this maneuver closely resembled an anti-insurgency operation. Such an approach could signal a change in U.S. military policy in Paraguay, as further training could focus on anti-terrorism tactics.

9/11 CONNECTION

Ciudad del Este provides the kind of uncontrolled environment that can sustain criminal organizations—and terrorists. The 1992 Israeli Embassy bombing and the 1994 Argentine-Israeli Community Center bombing cast a spotlight on the baleful role being played by some elements of the Arab community in Ciudad del Este that it has since been unable to avoid. Because much of Paraguay's export business is underground, basically based on contrabanding, the situation leaves the Arab community suspect of helping to financially support Arab terrorist groups, although without clear proof is wanting. Although it may be unwise to assume that all black-market contrabandists are terrorists, police authorities believe that the amount of funds being generated by smuggling and money laundering that is being transferred within Paraguay to overseas banks is far more than any presumptive business activity in the country. It raises some suspicions in the minds of local police officials that some in the Arab community are supporting radical terrorism with the spoils of illegal trade.

Indeed, the U.S. State Department clearly advises that there are individuals and organizations operating in Ciudad de Este and along the tri-border area between Paraguay, Brazil, and Argentina, with ties to extremist groups. Brazilian Judge Walter Fanganiello Maierovitch, former National Drug Enforcement Secretary and now with the Giovanni Falconi Brazilian Criminal Sciences Institute, reports that Osama bin Laden is setting up an al-Qaeda unit near Ciudad del Este under the cover of the Arab community. The U.S. Government cannot confirm an al-Qaeda presence in the tri-border area. However, other radical Islamic extremists routinely rely upon illegal activities, such as drug and arms trafficking, to help fund terrorist activities throughout the world.

To achieve some control, 10 member countries of the OAS Inter-American Committee Against Terrorism (CICTE) participated in exercises in the tri-border area to highlight solidarity against extremist activities. The United States, Argentina, and experts from other countries are providing training to Paraguayan anti-terrorist police and military personnel. The objective is to ''maintain a presence in the area and to be able to raid homes of persons suspected of being involved in financing terrorism or of radicalized members of Islam residing in the tri-border area.''

THREE PLUS ONE COUNTERTERRORISM DIALOGUE

In 1998, Brazil, Argentina and Paraguay formed the Comando Tripartito—an operational body in which the three countries exchange information and perform work on the ground dealing with specific regional problems. This Tripartite Commission of the Triple Frontier served as a security mechanism, meeting several times a year in each of the member countries. However, due to the sensitive nature of the information exchanged, the data swapped between countries is not available to public scrutiny. In reality, the Comando Tripartito did little more than serve as a nominal organization, doing little to clamp down on money launderers and neutralize drug traffickers in the region.

Talks began to take on a more serious nature in the post 9/11 atmosphere, and the Southern Cone joined the bandwagon of anti-terrorist rhetoric. December of 2002 marked the first 3+1 Counterterrorism Dialogue between the tri-border countries and the U.S.

According to official State Department records, dialogue between the countries ''serves as a continuing forum for counterterrorism cooperation and prevention among all four countries.'' Argentine Embassy Political Counselor, José Luis Sútera, in an interview with COHA asserted, ''The 3 +1 Counterterrorism Dialogue, without question, is the chief board of exchanging information. The first meeting in Buenos Aires stemmed from American suspicions that Hezbollah and Hamas groups were harbored in the [tri-border region].'' The next meeting is scheduled to take place in Washington, DC on December 6, 2004.

''NO OPERATIONAL TERRORIST ORGANIZATIONS, NO AL-QAEDA PRESENCE''

In an interview with COHA, Dr. Jorge Brizuela, a high-ranking official in the Paraguayan Embassy in Washington, DC, stated, ''Terrorists have not been found in the zone. No information would indicate that terrorist activities exist in the zone—this has been reiterated on various occasions by the corresponding authorities and the necessary steps are being taken so money obtained in the tri-border region is not being sent to Arab countries.'' Though he agrees with Brizuela's assertion that ''al-Qaeda is not in Ciudad del Este,'' Argentina's Sútera recognized that ''suspicions still loom over Arabs who are sending money to terrorist groups in the Middle East.'' Such groups pose as charity organizations that seek to aid socially and economically stricken areas of Iran, while what they do is to donate the newly acquired funds to the terrorist cause of Hamas and Hezbollah.

The transcript of the 3+1 Counterterrorism Dialogue's December 3, 2003 meeting held in Asunción emphasized the delegation's stance that ''Although there continued to be reports in 2003 of an al-Qaeda presence in the tri-border area, these reports remained uncorroborated by intelligence and law-enforcement officials.'' Still, those assembled agreed that international terrorist funding and money laundering in the area remained an area of primary concern. Considering the priorities of money launderers and piracy crooks, the 3+1 understandably has organized a Financial Intelligence Organization under the umbrella of the Counterterrorism Dialogue. Last May in Buenos Aires, the four government delegations discussed the threats of banking activities that could lead to funding of terrorist organizations. Sútera has concluded that most of the terrorist-funding organizations had traveled to other parts of South America, though he declined to comment where he believed such groups had gone.

ARGENTINA'S COOPERATION

In separate interviews with COHA, Argentine officials like Sútera and Congressional Liaison, Mariano Enrico, both expressed the belief that Argentine authorities had initiated and bolstered Southern Cone efforts to clean up the tri-border region. According to a recent State Department document, ''Argentina continues to express strong support for the global war on terrorism and worked closely with the UN, the OAS, MERCOSUR and the U.S. to ensure full implementation of existing agreements.'' In particular, Argentine officials have shown their disposition to freeze assets of alleged terrorist-funding organizations/individuals.

Among the channels of communication connecting U.S. and Argentine officials is the line between the CIA and SIDE (Intelligence Sector of the Argentine State). Both SIDE and the CIA work in concert with Brazilian and Paraguayan secret service personnel. Another perhaps more crucial element in the war on terrorism in Latin America began as a result of an Argentine initiative; CICTE was organized in 1998 as a multination security plan for the region. Since then, Paraguay has cooperated openly with the Argentines. But, Brazil has had some reservations about instigating any anti-terrorism plans without proof of terrorism. However, since 9/11 the Brazilian sector of the CICTE team has offered full support for the organization as information among the three countries has passed with little inhibition.

PARAGUAY'S COOPERATION

Paraguay's role in the war on terrorism has never held a more important role than it does now. Though few terrorists per se have surfaced in the region, rumors of the possibility of some al-Qaeda connections to the region simply will not go away. While President Nicanor Duarte Frutos has determined that there is a domestic problem in Paraguay with fundraising that might support terrorist causes, many State Department officials have concluded that Paraguay's greatest impediment to the prosecution of suspected terrorists is the absence of an anti-terrorist law.

BRAZIL'S COOPERATION

President Luiz Inácio Lula has taken a greater initiative than perhaps has been the case of his predecessors in terms of combating terrorism, especially in the tri-border region. Foz do Iguaçu, Brazil's portion of the region, has received considerable scrutiny from the once aloof, but now rather concerned, Lula administration. The Brazilian president has ''vigorously condemned terrorism'' and calls such acts ''the insanity of perpetrators of terrorism.''

Though Lula's intentions merit praise, his country's shortage of resources and training have hindered its role in acting as a watchdog over the region. In an exclusive interview with COHA, Brazilian Embassy First Secretary of Political Section, Breno Costa, offered an explanation as to why Brazilian officials appear to act lethargically when it comes to terrorist concerns: ''At first it seemed like the U.S. was constantly alleging that the tri-border area harbored criminals and terrorists, yet they never specified where exactly in the region such evidence was forthcoming. So Brazil asked the U.S. for concrete evidence and, of course, not one piece of evidence. Just as the State Department reported last year, no terrorist cells are acting in the region.'' Costa went on to say that once evidence of money laundering was presented to the Brazilian government, officials in Foz do Iguaçu began to examine cash flow entering and leaving the city. Overall, Brazil has cooperated considerably with the other three countries involved in the counterterrorism dialogue, having signed all of the 12 UN conventions on terrorism and is a party to nine of them.

CONCLUSION

Clearly, the effort to prevent terrorism in Latin America has become a more salient issue since 9/11. With cooperation among the Southern Cone countries in conjunction with participation of the U.S., terrorist acts have a lower likelihood of occurring. Still, as the Afghanistan mountains provide a haven for terrorists in the Middle East, Ciudad del Este—if not properly monitored—could evolve as yet another hub for terrorism. Whereas the U.S. has supported and participated in the 3+1 Counterterrorism Dialogue, American leaders merit commendation.

TRIBUTE TO PAM BULINE

Mr. THOMAS. Mr. President, I rise today to recognize a key member of my team who I have worked alongside for almost 10 years now and most importantly, to mark a milestone of dedicated service to this body, the U.S. Senate.

On September 24, 2004, Pam Buline marked her 25th anniversary of working for the U.S. Senate. Twenty-five years all spent as a valuable aide to two Senators from the great State of Wyoming.

Pam began her career in the Senate back in 1979, working for former Senator Malcolm Wallop. In those days, Pam worked out of a little office in a town called Lander, WY. Upon my election to the U.S. Senate, Pam agreed to join my staff and continue her efforts to serve constituents in our State. I was extremely pleased to have a person with her degree of knowledge on so many important issues—she is invaluable.

Pam remains a crucial person on my staff. Her domain in Wyoming covers a wide array of issues, from land swaps, to American Indian issues, to snowmachines in Yellowstone and Grand Teton. I can always turn to Pam for good advice and a very thorough explanation of the issue at hand or as she says, ''the long and the short of it.'' Pam loves her job and the people she works with and I am extremely grateful that she is on my staff.

We are part of a team, my staff and I. Along with my wife, Susan, we all feel strongly bound to service for the people of Wyoming. Pam continues to be an invaluable member of that team. Her loyalty, while not rare in this great body, is special nonetheless.

As U.S. Senators, we all know how important it is to have staff around us that are trustworthy, and will do whatever it takes to make things work. I have been particularly fortunate to know Pam and work with her for the past 9 years. Wyoming and the U.S. Senate have been blessed by her service for the past 25 years. I know my colleagues, and her husband Jim, and son Robert, join me in saluting Pam. I look forward to working with her for many years to come.

NATIONAL MENTAL HEALTH WEEK

Mr. JOHNSON. Mr. President, I take this opportunity to note the importance of the week of October 3–9, 2004, which is National Mental Health Week. This annual event was created in the hopes that Americans would recognize and honor the challenge encountered by the mentally ill and their loved ones. This year, the theme of the National Mental Health Week is ''unity through disparities''.

Mental illnesses affect 22.1 percent of Americans over the age of 18. According to a National Institute of Mental Health 2001 survey, approximately 44.3 million Americans suffer from some form of mental illness. Conditions such as depression, bipolar disorder, schizophrenia, and obsessive compulsive disorder, together are ranked fourth of the ten leading causes of disabilities in

the United States. Such statistics clearly indicate that we cannot afford to ignore the needs of those living with a mental illness.

The impact of mental illnesses on the productivity of the United States is greatly underestimated. The Global Burden of Disease study, published by the National Institute of Mental Health, exposed that mental illness, including suicide, accounts for 15 percent of the burden of disease in established market economies. This study reveals that mental illness places a larger burden on the productivity of the United States than all cancers combined. Such findings reemphasize that more attention and resources need to be directed towards supporting the mentally ill.

Today millions of Americans living with some form of mental illness continue to be discriminated against on a daily basis by their insurance companies. Congress passed mental health parity legislation that went into effect January 1, 1998 to try and address this problem. This legislation was intended to require insurance companies that choose to provide coverage for mental health to offer the same lifetime cap as they do for physical illness. This legislation was meant to be a monumental first step in preventing discrimination against individuals with mental illness.

Since enactment of this legislation, insurance companies have not expanded their coverage, but instead have maintained just enough coverage to remain within the legal limits of the law. Today I call on my fellow Senators to support the Senator Paul Wellstone Mental Health Equitable Treatment Act of 2003, S. 486. Under this bill, full coverage equality with respect to health insurance coverage will be provided to those who are mentally ill. It is my hope that in the closing weeks before the close of the 108th Congress, that we can come together in a bipartisan manner and support S. 486, not only for those who suffer from mental illness and their families, but also to pay tribute to our colleague, the late Senator Paul Wellstone, who continuously fought for such parity during his service in the Senate.

ADDITONAL STATEMENTS

IN RECOGNITION OF CARL AND HESTER WHITE

• Mr. BUNNING. Mr. President, today I honor Carl and Hester White of Ludlowe, KY. On this day 60 years ago, they were married and they set out on the path of life together.

The commitment of 60 years of marriage is a truly magnificent accomplishment. This married couple has dedicated themselves to each other through thick and thin for the greater part of a century. This kind of faithfulness in marriage is no less than perseverance in the most important virtue of all, love of your fellow man.

Marriages are the bedrock of society and the foundation of responsible citizenship. I congratulate Carl and Hester on their sixtieth wedding anniversary. I hope they have many more wonderful years together. May God bless them.•

YOGI BHAJAN

• Mr. BINGAMAN. Mr. President, the death of one of New Mexico's most beloved and influential residents on Wednesday night has saddened all of us who knew him. Habhajan Sing Khalsa Yogiji was his full name, but his followers and friends worldwide knew him as Yogi Bhajan.

The spiritual teacher of hundreds of thousands of people, Yogi Bhajan was leader of the Sikhs in the Western Hemisphere. He chose New Mexico as one of several centers of business and residence in the United States, and it was at his home in Espanola that he died with family and friends near.

I have the privilege of Yogi Bhajan's friendship and support for more than 20 years. He was a dynamic, powerful person with a strong devotion to human rights, religious freedom, and good health. He was also a masterful businessman with a degree in economics who intimately understood the connection between food and health, and made health food a foundation for several hugely successful companies. ''Yogi Tea,'' for instance, is found in households around the world.

My thoughts and prayers are with his wife Bibiji and their children, his followers and his other friends. He was a teacher of all who came to know him. We have learned much from this man, and with his death we have lost a great and good friend.•

TULSA HISPANIC COMMISSION 25TH ANNIVERSARY

• Mr. INHOFE. Mr. President, the Greater Tulsa Area Hispanic Affairs Commission was established in 1979 by law by the city of Tulsa and Tulsa County. The commission was established due to the leadership and commitment of its founding members who include Mrs. Aurora Ramierez Helton, Mr. Jack Helton, Rev. Victor Orta, Dr. Luis Reinoso, Dr. Chris Romero, Mr. Joe Rodriguez and Mr. Carlos Vargas. The commission also was established thanks to the unconditional support of the then mayor of the city of Tulsa, James M. Inhofe, his chief of staff, Richard Soudriette, and the members of the Tulsa County Commission.

This year the Greater Tulsa Hispanic Affairs Commission celebrates its 25th anniversary. On this occasion it is important to recognize the accomplishments of the commission such as it was only the second commission of its type to be established in the U.S.A. The commission has helped countless people in the Hispanic community in Tulsa to find help in the areas of health, education and economic development. Also, the commission has played a fundamental role in promoting the values and cultural richness of the Hispanic community in Tulsa. The commission has organized numerous community festivals and cultural programs and has actively promoted teaching of Spanish, as well as English. Finally, the commission aided in the establishment of the sister city program between Tulsa, OK, and San Luis Potosi, Mexico, that to this day promotes friendship and understanding between the people of the United States of America and Mexico.

Today, I, JAMES M. INHOFE, United States Senator (R–OK) on behalf of my colleagues, do hereby congratulate the members of the Greater Tulsa Hispanic Affairs Commission on the occasion of their 25th anniversary. Also, I wish the commission well in its important work to promote greater understanding and appreciation of Hispanic heritage. Furthermore, I want to recognize the work of the commission to promote the cultural diversity of our Hispanic community, which plays such a vital part of the history of the city of Tulsa, the State of Oklahoma, and the United States of America.•

IN RECOGNITION OF CAPTAIN ROBERT C. WILKENS

• Mr. HOLLINGS. Mr. President, I would like to pay tribute to naval officer, and fellow South Carolinian, Captain Robert C. Wilkens. This fall, Captain Wilkens will retire from the United States Navy after 32 years of distinguished leadership, selfless service, and tireless commitment to our Navy and Nation.

Captain Wilkens served right here in the U.S. Capitol, as the Director of Pharmacy in the Office of the Attending Physician to Congress from 1981–1985. He then entered advanced training as a pharmacy resident at the Navy's flagship hospital, National Naval Medical Center, Bethesda, MD, 1986.

Wilkens continued with his career as the Pharmacy Clinical Coordinator and director of inpatient services at the Naval Hospital, Portsmouth, VA. Upon completion of that assignment in 1990, he became a Doctor of Pharmacy Candidate at the Medical College of Virginia in Richmond.

Captain Wilkens then served as the chairman of the Pharmacy Department at Naval Medical Center, San Diego, CA, from 1992–1999. By special request, he next served as the Specialty Leader and Consultant to the Navy Surgeon General for Pharmacy Policy at the Bureau of Medicine and Surgery in Washington, DC. Upon completion of that tour in 2001, Captain Wilkens returned to San Diego, and served once again as chairman of the Pharmacy Department at the Naval Medical Center.

I send best wishes on behalf of the United States Senate, for continued happiness and success to Captain Wilkens and his wife Linda as they begin the next chapter of their lives, with thanks from a grateful Nation for their loyal and dedicated service.•

WILLIAM S. RUPP

• Mr. TALENT. Mr. President, I rise today in honor of William S. Rupp of St. Peters, MO. I join his wife June, the rest of his family and his many friends in honoring and recognizing him on his 80th birthday, October 10, 2004.

A devoted husband, father of five and grandfather of 16, Bill's first 80 years have been rich and full. He has achieved a great deal and has contributed tremendously to his State and his country.

As a United States Marine in the Pacific Theater during World War II, Bill saw some of the fiercest fighting of the war. He served bravely for 3 years until he was honorably discharged in 1945.

Bill chose not to end his devotion to the military when he left the Pacific, and he has been a very active and highly effective veteran. He has served as chairman of the St. Peters Veterans Memorial Commission and helped design and coordinated the city's Veterans' Memorial site. He was also instrumental in the construction of St. Peters' Korean War Memorial. Bill is a member of Congressman TODD AKIN's Veteran Memorial Commission and Veterans of Foreign Wars Post 10838, where he has served as Commander, All-State Quartermaster, Safety Chair, Hospital Chair, Military Assistance Chair and Deputy Inspector.

In addition to veterans' affairs, Mr. Rupp has been involved in other important civic matters. While his children were in school, he served with distinction as president of the McBride High School Father's Club, president of the Rosary High School Parent Teacher Association and as a judge for the Amateur Athletic Union's 75th track meet. In addition, he is a past president of the Summerhill Association.

After his military service, Bill attended Washington University before becoming a marketing representative for Gateway Seed Company and a department manager for Famous-Barr Company. He attended St. Louis University High School and St. Roch's Catholic Grade School.

I am honored to congratulate Mr. Rupp on this special occasion. He has many accomplishments in his long life thus far, and I wish him many more years of happiness and success.•

COMMEMORATING THE INTEGRATION OF HOXIE SCHOOL DISTRICT

• Mrs. LINCOLN. Mr. President, it has been 50 years since the U.S. Supreme Court ruled in the 1954 landmark decision of Brown v. Board of Education that separate was not equal when it came to our children's education. That ruling changed the way that Americans are educated and opened up countless opportunities for all children, both black and white, to learn about and from one another.

Hoxie, AR, is a small town in the northeast corner of my state, with a population of just about 3,000 people. Prior to 1954, like many other schools in Arkansas and across the South, the Hoxie School District was segregated. To get an education, black children had to travel thirty minutes by bus to the neighboring town of Jonesboro where they attended Booker T. Washington School with other black students from around the region.

Following Brown, the Hoxie School Board unanimously voted to become one of the first schools in the South to begin integration. In the fall of 1955, Hoxie School Board members, faculty, students, and citizens stood together with 21 black children who enrolled and became the first black students to attend the Hoxie School system. This courageous step, in the face of opposition from around the state and across the Nation, helped open doors for future generations of students in Arkansas.

I recently had the honor of attending a reunion for the Hoxie Twenty-One, as they have come to be known in Arkansas. It was a wonderful event in which the community gathered to commemorate the integration of Hoxie School District. We paid tribute to the Hoxie Twenty-One and their families, as well as to the school officials and community leaders who paved the way for integration at Hoxie. The courage and resolve that the citizens of Hoxie showed in 1955 is an example of those who are willing to embrace the spirit of equality and to do what is right for every child in the community.

Today, Arkansas' children go to school in a different environment than that confronted by the Hoxie Twenty-One back in 1955. We certainly have more work to do to ensure that all of our children receive the best possible education, but I am pleased with the progress we have made over the last 50 years. It is my hope that America can continue to build on the foundation that Hoxie School District helped to create to ensure that all of our nation's children, no matter their race, are provided with the best educational opportunities available.•

RECOGNIZING THE McLEAN GIRLS LITTLE LEAGUE SOFTBALL TEAM

• Mr. ALLEN. Mr. President, I am very pleased today to recognize the 2004 McLean Girls Little League Softball team for their hard work and determination in representing both Virginia and the South in the 2004 Girls Little League World Series tournament.

These young athletes, under the strong coaching of Jamie Loving, devoted a tremendous amount of time and energy in their efforts to make it to the World Series tournament in Portland, Oregon. Throughout their season, they showed courage and fortitude in winning the State competition with a record of 5–1 and the regional competition with a perfect record of 5–0. The team then went on to compete in the World Series tournament against teams across the United States, Canada, the Philippines, Europe and Puerto Rico. This is a great accomplishment for these Virginia girls, especially since this is the first time in the history of the tournament that a team from Virginia has made it to the World Series.

I would like to congratulate each of the members of the McLean Girls Little League Softball team: Brooke Brown, Sarah Eidt, Michelle Tilson, Lauren Sanata, Megan Sullivan, Brittany McCray, Lauren Sutherland, Madeleine Giaquinto, Adrianne Engel, Jamie Bell, Kukana Ho'opi'i, Shannon Engel, Lauren McColgan, Rachel Ing and their coaches, Jamie Loving, Darrell Tilson and Kurt Brown.

As a former student-athlete, I understand the impact that athletics play in the development of an individual's character and life. Sports teach us important lessons of self-discipline, perseverance, teamwork, sportsmanship and self-confidence. The benefits of participating in athletics can prove valuable in the daily lives of student-athletes whether at school or at work in their communities. I wish all of the members of the team and their coaches continued success in the future. Keep Winning.•

TRIBUTE TO DR. LINDA CRNIC

• Mr. JEFFORDS. Mr. President, I rise to pay tribute to Dr. Linda Crnic, of Denver, CO, who passed away unexpectedly on September 10, 2004.

Dr. Crnic was a professor of pediatrics and psychiatry at the University of Colorado Health Sciences Center and director of the Colorado Mental Retardation and Developmental Disability Research Center. She was also an inspiration to thousands of families across the Nation for her internationally recognized research on Down syndrome and Fragile X.

Down syndrome and Fragile X are the two leading genetic disorders causing mental retardation. Fragile X is an inherited disorder caused by a defect in one gene on the X chromosome. It is also the most common known cause of Autism.

While I did not know Linda personally, many individuals have reached out to me in recent weeks with stories and tributes about the impact Linda made as a mother, as a colleague, as a friend, and through her research.

Dr. Crnic's research helped individuals with Down syndrome and Fragile X become increasingly integrated into society and live fuller and more active lives.

Through the efforts and outreach of professionals like Linda Crnic, all of us benefit as research about these disorders have also led to new medical insights and treatments.

According to those families, whose lives she touched so profoundly, one cannot begin to describe the high regard and affection in which Dr. Crnic

was held. She was a researcher to whom parents of children with Fragile X and Down syndrome could always go to with their concerns, regardless of whether or not their concerns were related to Dr. Crnic's area of research. She listened and responded. This loss, for the Fragile X and Down syndrome communities is incalculable.

I send my deepest condolences to Linda Crnic's family. I hope they are comforted with her memory and knowledge that their loss is shared by so many in her community and across this nation.

I ask that the following news story about the life of Linda Crnic from the Rocky Mountain News be printed in the RECORD.

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

[From the Rocky Mountain News, Sept. 22, 2004]

CRNIC, 56, CHAMPIONED DOWN SYNDROME CAUSES

(By Mark Wolf)

Linda Crnic addressed the National Down Syndrome Congress last month on The Dawn of a New Era in biomedical research, then spent the evening dancing with children with Down syndrome.

''She spent hours on the dance floor,'' said Lloyd Lewis, of Lafayette, father of a child with Down syndrome, who addressed the association from a parent's perspective. ''There was a particularly moving moment when a 50-year-old woman was confused at not being able to find her purse. Linda spent an hour looking under every table for it.''

Crnic, an internationally prominent Down syndrome researcher, died Sept. 11 from injuries suffered in a bicycle accident. She was 56.

She was a professor of pediatrics and psychiatry at the University of Colorado Health Sciences Center and, since 2001, director of the Colorado Mental Retardation and Developmental Disabilities Research Center.

''A topic like (Down syndrome and other developmental disabilities) is never something you can approach with one particular line of investigation,'' said Dr. Doug Jones, chairman of pediatrics at the Health Sciences Center. ''You have to look at genetics, what determines behavior, a whole range of things to understand how to help these children be as normal as possible.

''You have to have a psychologist, physician, geneticist. It requires a broad range of disciplines. Linda's great strength was that she saw how to do that, not just within the School of Medicine, but within the entire University of Colorado system and CSU, DU and ultimately across the country.''

Born in Fort Wayne, Ind., she moved to Naperville, IL., when she was 12. She earned a bachelor's degree from the University of Chicago and master's and doctoral degrees in experimental psychology from the University of Illinois at Chicago.

She joined the CU Medical School as a postdoctorate fellow in 1975 and became a full professor in 1994.

''She was just the kindest, most loving person that you would ever meet in your life,'' said Stan Wilks, her husband. ''She was actively involved and mentored a lot of people in their scientific careers.''

Their son, Michael, 13, plays cello, and his mother would sit with him while he practiced.

''She made that commitment to him,'' said her husband.

The family loved hiking and camping and had just purchased an A-frame chalet in Hartsell.

''We spent two of the last three weekends up there. We bought it as a little family getaway to have some real private times,'' Wilks said.

The weekend she died, Mrs. Crnic had traveled to Bend, Ore., for a reunion weekend with several women with whom she had attended leadership training. During a leisurely bike ride she fell and fractured her skull.

''The tragedy of that is that she was an expert bike rider and practiced safety. She would never go biking without a helmet, and here she was without a helmet,'' Wilks said.

She was in demand as a speaker to professional organizations nationally and internationally and was a strong advocate for increased support and research for Down syndrome families.

''She took the time and was genuinely interested in parents and kids. She stimulated in me the notion that parents could be very active and influential in funding research from various avenues: the National Institutes of Health, Congress and private benefactors,'' Lewis said.

Surviving in addition to her husband and son are sisters Jacqueline Susmark, of Lakewood, and Janine Bisbee, of Warren, N.J., and brother Brent Smith, of Salida.●

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 and withdrawals which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:30 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5185. An act to temporarily extend the program under the Higher Education Act of 1965.

H.R. 5212. An act making emergency supplemental appropriations for the fiscal year ending September 30, 2005, for additional disaster assistance relating to storm damage, and for other purposes.

The message also announced that the House has passed the following bills, without amendment.

S. 2415. An act to designate the facility of the United States Postal Service located at 4141 Postmark Drive, Anchorage, Alaska, as the ''Robert J. Opinsky Post Office Building''.

S. 2742. An act to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court.

The message further announced that the House has passed the following bills, with an amendment:

S. 129. An act to provide for reform relating to Federal employment, and for other purposes.

S. 1194. An act to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems.

The message also announced that the House agree to the amendment of the Senate to the bill (H.R. 2828) to authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.

ENROLLED BILLS SIGNED

The message further announced that Speaker has signed the following enrolled bills:

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.

H.R. 4850. An act making appropriations 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.

H.R. 4011. An act to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 2:14 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4232. An act to redesignate the facility of the United States Postal Service located at 4025 Feather Lakes Way in Kingwood, Texas, as the ''Congressman Jack Fields Post Office''.

H.R. 4302. An act to amend title 21, District of Columbia Official Code, to enact the provisions of the Mental Health Civil Commitment Act of 2002 which affect the Commission on Mental Health and require action by Congress in order to take effect.

H.R. 4306. An act to amend section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment.

H.R. 4453. An act to improve access to physicians in medically underserved areas.

H.R. 4518. An act to extend the statutory license for secondary transmissions by satellite carriers of transmissions by television broadcast stations under title 17, United States Code, and to amend the Communications Act of 1934 with respect to such transmissions, and for other purposes.

H.R. 4807. An act to designate the facility of the United States Postal Service located at 140 Sacramento Street in Rio Vista, California, as the ''Adam G. Kinser Post Office Building''.

H.R. 4829. An act to designate the facility of the United States Postal Service located at 103 East Kleberg in Kingsville, Texas, as the ''Irma Rangel Post Office Building''.

H.R. 4847. An act to designate the facility of the United States Postal Service located at 560 Bay Isles Road in Longboat Key, Florida, as the ''Lieutenant General James V. Edmundson Post Office Building''.

H.R. 4968. An act to designate the facility of the United States Postal Service located at 25 McHenry Street in Rosine, Kentucky, as the ''Bill Monroe Post Office''.

H.R. 5051. An act to designate the facility of the United States Postal Service located at 1001 Williams Street in Ignacio, Colorado, as the ''Leonard C. Burch Post Office Building''.

H.R. 5053. An act to designate the facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, as the ''Lieutenant John F. Finn Post Office''.

H.R. 5107. An act to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

H.R. 5131. An act to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

H.R. 5204. An act to amend section 340E of the Public Health Service Act (relating to children's hospitals) to modify provisions regarding the determination of the amount of payments for indirect expenses associated with operating approved graduate medical residency training programs.

The message also announced that the House has passed the following bills, without amendment:

S. 1721. An act to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes.

S. 1791. An act to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes.

S. 2178. An act to make technical corrections to laws relating to certain units of the National Park System and to National Park programs.

S. 2511. An act to direct the Secretary of the Interior to conduct a feasibility study of a Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, New Mexico, and for other purposes.

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. 464. Concurrent resolution honoring the 10 communities selected to receive the 2004 All-America City Award.

H. Con. Res. 500. Concurrent resolution honoring the goals and ideals of National Nurse Practitioners Week.

At 2:47 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5186. An act to reduce certain special allowance payments and provide additional teacher loan forgiveness on Federal student loans.

The message also announced that pursuant to the request of July 15, 2004, the House returned the act (S. 2589) to clarify the status of certain retirement plans and the organizations which maintain the plans to the Senate.

The message further announced that the House agree to the amendment of the Senate to the bill (H.R. 5122) to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4567) making appropriations for the Department of Homeland Security 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. ROGERS of Kentucky, Mr. YOUNG of Florida, Mr. WOLF, Mr. WAMP, Mr. LATHAM, Mrs. EMERSON, Ms. GRANGER, Mr. SWEENEY, Mr. SHERWOOD, Mr. SABO, Mr. PRICE of North Carolina, Mr. SERRANO, Ms. ROYBAL-ALLARD, Mr. BERRY, Mr. MOLLOHAN, and Mr. OBEY.

At 5:48 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3242. An act to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of Untied States-grown specialty crops, and for other purposes.

H.R. 4248. An act to amend title 38, United States Code, to increase the authorization of appropriations for the Secretary of Veterans Affairs to make grants to existing comprehensive service programs for homeless veterans, and for other purposes.

H.R. 4658. An act to amend the Servicemembers Civil Relief Act to make certain improvements and technical corrections to that Act, otherwise to improve legal protections provided to reserve component members called active duty, and for other purposes.

H.R. 4794. An act to amend the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 to extend the authorization of appropriations, and for other purposes.

H.R. 5163. An act to amend title 49, United States Code, to provide the Department of Transportation a more focused research organization with an emphasis on innovative technology, and for other purposes.

H.J. Res. 108. Joint resolution congratulating and commending the Veterans of Foreign Wars.

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. 131. Concurrent resolution expressing the sense of the Congress that student travel is a vital component of the educational process.

H. Con. Res. 195. Concurrent resolution expressing the sense of Congress that a minute of silence should be observed annually at 11:00 a.m. on Veterans Day, November 11, in honor of the veterans of all United States wars and to memorialize those members of the Armed Forces who gave their lives in the defense of the United States.

At 9:59 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4520) to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, services, and high-technology businesses and workers more competitive and productive both at home and abroad.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2938. A bill to grant a Federal charter to the National American Indian Veterans, Incorporated.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that today, October 7, 2004, she had presented to the President of the United States the following enrolled bills:

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. 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 State and the City of Craig, Alaska, and for other purposes.

S. 1814. An act to transfer Federal lands between the Secretary of Agriculture and the Secretary of the Interior.

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.

S. 2319. An act to authorize and facilitate hydroelectric power licensing of the Tapoco Project.

S. 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.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–516. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to Pennsylvania's Nutrition Education Program; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE RESOLUTION NO. 770

Whereas, poor nutrition is a serious problem within the Commonwealth of Pennsylvania due to a lack of understanding of the health impact of too much sugar, fat and salt in a persons diet;. and

Whereas, the problem of poor nutrition is particularly acute among low-income households which often lack the resources for a balanced and nutritious diet; and

Whereas, PA NEP has developed an effective program of bringing nutrition education to community food pantries and other community partners and has impacted the dietary practices of low-income households that access food there; and

Whereas, this commendable and important result has been achieved with the support of the United States Department of Agriculture over the past six years, including recognition that a portion of the food provided by the Commonwealth of Pennsylvania through the State Food Purchase Program qualifies as ''nutrition education'' when that food is used to reinforce and/or replicate a nutrition lesson; and

Whereas, The United States Department of Agriculture has informed the Pennsylvania Department of Public Welfare that it will no longer permit State Food Purchase Program food to qualify as ''nutrition education''; and

Whereas improvement, in the dietary practices of Pennsylvania residents is a matter of urgent public health; and

Whereas, the use of food provided by the State Food Purchase Program to reinforce and/or replicate nutrition lessons is a highly appropriate way to impact the dietary practices of low-income households and is fully consistent with legislative intent; and

Whereas, the decision of the United States Department of Agriculture to no longer consider the cost of food used in the manner as ''nutrition education'' will cause nutrition education in Pennsylvania's food distribution programs to largely cease: Therefore be it

Resolved, That the House of Representatives call upon the United States Department of Agriculture to recognize that food provided to low-income households through the State Food Purchased Program may be properly considered ''nutrition education'' when used to reinforce and/or replicate a nutrition lesson; and be it further

Resolved, That the United States Department of Agriculture reconsider its recent policy change and once again permit State Food Purchase Program food to qualify as ''nutrition education'' under Pennsylvania's Nutrition Education Program; and be it further

Resolved, That copies of this resolution be transmitted to the Secretary of the United States Department of Agriculture and to each member of Congress from Pennsylvania.

POM–517. A joint resolution adopted by the Senate of the Legislature of the State of California relative to food marketing and advertising directed to children; to the Committee on Agriculture, Nutrition, and Forestry.

SENATE JOINT RESOLUTION NO. 29

Whereas, California is in the midst of a growing epidemic of overweight children and childhood obesity due to poor diet and physical inactivity, putting growing numbers of California children at increased risk for type II diabetes, hypertension, heart disease, and cancer, along with psychosocial problems including low self-esteem, poor body image, and symptoms of depression; and

Whereas, a recent study showed that 26.5 percent of California youth in grades 5, 7, and 9 are overweight, with rates being even higher for African-American children (28.6 percent) and Latino children (33.7 percent); and

Whereas, in California, annual obesity-attributable medical expenditures were estimated at $7.7 billion in 2003, with approximately one-half of these expenditures financed by Medicare and Medi-Cal; and

Whereas, healthy eating and physical activity, including eating five or more servings of fruits and vegetables every day, are vital to preventing people from being overweight or suffering from heart disease, cancer, or diabetes, and ensuring children's health and well-being; and

Whereas, poor diet and physical inactivity are responsible for 400,000 deaths in the United States annually and may soon overtake tobacco as the leading cause of preventable death; and

Whereas, the growing epidemic of childhood obesity has brought renewed attention to the role that food and beverage advertising and marketing play in negatively influencing eating habits of youth; and

Whereas, the food, beverage, and restaurant industries recognize children as a major market force because of their spending power, purchasing influence, and anticipated brand loyalty as adult consumers, with children under 14 years of age purchasing $24 billion in products and influencing $190 billion in family purchases each year; and

Whereas, children are being exposed to increasing amounts of marketing and advertising, with $15 billion spent marketing to children in the United States in 2002, double the amount spent in 1992; and

Whereas, the food, beverage, and restaurant industries utilize multiple strategies to market their products to children, including television advertising, in-school marketing, the Internet, product placements, toys, books, and clothes with food-brand logos, contests, celebrity and cartoon spokespeople, and child targeted in-store and restaurant promotions; and

Whereas, children view an estimated 40,000 commercials each year, 50 percent of which advertise food products—most often products that are high in calories, fats, sugars, and salt, with almost no references to fruits or vegetables. Children watch an average of one food commercial every five minutes of television viewing time, and as many as three hours of food commercials each week. Latino and African-American children are exposed to more television food advertising than other children; and

Whereas, in-school marketing of food and beverages has become increasingly prevalent in recent years and includes: (1) product sales, including sales through vending machines, a la carte, snack bars, soft drink ''pouring-rights'' agreements through exclusive contracts, branded fast food, and fundraisers; (2) direct advertising, such as food and beverage ads in schools; and (3) indirect advertising, such as corporate-sponsored educational programs, sports team sponsorships, and incentive programs using contests and coupons; and

Whereas, the majority of the foods and beverages sold in school vending machines and school stores are calorically dense and low in nutrients, which promotes purchasing and consumption of these foods while children are away from their parents in a captive environment that is supposed to be dedicated to education; and

Whereas, studies show that food advertising and marketing result in more favorable attitudes, preferences, and behaviors among children towards the advertised products and that children's food preferences and food purchase requests for high sugar and high fat foods are influenced by television exposure to food advertising; and

Whereas, parents face increasing strain between their desire to feed their children well and the intense marketing of high calorie, low-nutrition food and beverages to their children; and

Whereas, in 2003, the World Health Organization concluded that the extensive marketing to children of fast food and high calorie, micronutrient-poor foods and beverages is a probable causal factor for the accelerating global trend in weight gain obesity; and

Whereas, children are particularly vulnerable to marketing of unhealthy foods and beverages because children under the age of 4 or 5 years cannot distinguish between television programming and advertisements, and children age 8 and under are unable to comprehend the persuasive intent and biased nature of advertising, making advertising to young children fundamentally unfair: Now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the Congress and the President of the United States to require the Federal Trade Commission to (1) develop and implement nutrition standards for foods and beverages that are acceptable to advertise or market to children, including foods and beverages that make a positive contribution to children's diets and health by being moderate in portion size, calories, saturated fat, trans fat, refined sugars, and sodium, and provide key nutrients and (2) prohibit advertising and marketing of foods and beverages that do not meet those standards through broadcast, print, Internet, or other marketing venues for which a significant portion of the audience is children; and be it further

Resolved, That the Legislature memorializes the Congress and the President of the United States to require the Federal Communications Commission to ensure that equal time is given during television programs that have a significant youth audience to encourage fruit and vegetable consumption and physical activity, and discourage consumption of low nutrient foods and beverages. These messages must be produced and delivered by individuals and organizations that have no financial interest in the message; and be it further

Resolved, That the Legislature memorializes the Congress and the President of the United States to fund new and existing media campaigns to promote healthy eating and physical activity, such as the Centers for Disease Control and Prevention's VERB campaign and the National 5 A Day program; and be it further

Resolved, That the Legislature memorializes the Centers for Disease Control and Prevention and the National Institutes of Health to fund research studies to further assess the effects of food and beverage advertising and marketing on the diets and health of children and adolescents; and be it further

Resolved, That the Legislature calls on food and beverage companies, restaurants, retail

stores, advertising agencies, sports and entertainment industries, and print, broadcast, and Web-based media operating in California to adhere to a voluntary code of practice, developed by experts, that would contain guidelines and standards for responsible food and beverage advertising and marketing aimed at children; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, the Majority Leader of the Senate, and each Senator and Representative from California in Congress.

POM–518. A concurrent resolution adopted by the Senate of the Legislature of the State of Hawaii relative to property in the Waikane Valley, Hawaii; to the Committee on Armed Services.

SENATE CONCURRENT RESOLUTION NO. 212

Whereas, Waikane Valley contains undeveloped land in the ahupuaa of Waikane on Oahu's windward side; and

Whereas, 33 years ago, the United States Marine Corps obtained 187 acres in Waikane Valley, commonly referred to as the ''Waikane Training Area,'' for military jungle and live ordnance training; and

Whereas, the United States Marine Corps has announced its intention to close the Waikane Training Area, but as recently as last year, the United States Marine Corps has sought to use Waikane Valley for more military jungle training; and

Whereas, ironically, Waikane Valley was abandoned as a training site by the United States Marine Corps because of safety concerns over the use of high explosive antitank and bazooka rounds used in the past and the insufficient data to determine the exact number of ammunition rounds fired in the valley; and

Whereas, the United States Marine Corps originally obtained the right to use the Waikane Training Area by a lease from the McCandless Estate and Waiahole Water Company in 1953 and subsequently by a lease from the same parties and the heirs of John Kamaka; and

Whereas, the Kamaka heirs acquired title to the Waikane Training Area by quitclaim deed in June of 1972 and terminated the lease with the United States Marine Corps in 1976; and

Whereas, between 1976 and 1993, the United States Marine Corps conducted several investigations and ordnance removal efforts on the property and concluded that the Waikane Training Area could never be certified as being clear of ordnance; and

Whereas, the United States Navy and Marine Corps acquired title to the Waikane Training Area in 1993 by condemnation as a means to address the problem of not being able to fulfill their lease obligations to return the property to the Kamaka heirs in an ordnance-free and safe condition; and

Whereas, land in Hawaii, and particularly agricultural and conservation land, is Hawaii's most precious and limited resource; and

Whereas, Waikane Valley has served historically as important agricultural area for the island of Oahu and contains precious archaeological and historic sites; and

Whereas, regardless of the 1993 condemnation, members of the Waikane community believe that the United States Marine Corps should live up to their commitment of cleaning up the land, and they have expressed their desire to have the Waikane Training Area restored to a condition that will permit them to return to the aina and engage in farming and other agricultural activities that would be appropriate based on the condition of the remediated property; and

Whereas, the federal government and military have previously demonstrated their will and capacity to honor their obligations to remediate and restore other equally or more severely contaminated installations upon closure under the Formerly Used Defense Site Program, Defense Environmental Restoration Program, Installation Restoration Program, other Department of Defense initiatives and programs, and with special appropriations from Congress; and

Whereas, the current official position of United States Department of Defense is that no ordnance-contaminated site can ever be certified as being clear of unexploded ordnance; and

Whereas, based on the inability to certify the Waikane Training Area as being clear of unexploded ordnance, the United States Navy and Marine Corps are considering permanent closure of the property to the general public by erecting a security fence around the area; and

Whereas, the permanent closure of the Waikane Training Area would be a devastating loss of precious agricultural, historical, cultural, and natural resources to Hawaii; and

Whereas, with sufficient funding from existing restoration programs or special appropriations from Congress, or both, the United States Navy and Marine Corps have the means to clean-up the Waikane Training Area to a condition that is reasonably safe for certain restricted uses, provided long-term monitoring and guidelines are established: Now, therefore, be it

Resolved by the Senate of the Twenty-Second Legislature of the State of Hawaii, Regular Session of 2004, the House of Representatives concurring, That the federal government is requested to conduct a thorough evaluation of the condition of the Waikane Training Area, particularly with regard to environmental and ordnance-related hazards that exist on the property; and be it further

Resolved, That the federal government is requested to plan for and conduct as thorough a clean-up of the Waikane Training Area as is technologically possible, including the remediation or removal of all environmental hazards and contamination and removal of all practice and live ordnance; and be it further

Resolved, That the federal government is requested to conduct a post-clean-up environmental assessment of the Waikane Training Area evaluating the potential risks to human health and safety, for the purpose of determining the types of uses and activities that could appropriately be conducted on the property with minimal risk to potential users and the community at large; and be it further

Resolved, That the federal government is requested to return the Waikane Training Area to the State of Hawaii upon completion of the clean-up; and be it further

Resolved, That the federal government is requested to appropriate sufficient funds to plan for, implement, and complete the rehabilitation and transfer of the Waikane Training Area; and be it further

Resolved, That the members of Hawaii's congressional delegation are requested to assist in seeking and obtaining the relief sought above; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to President of the United States, President of the United States Senate, Speaker of the United States House of Representatives, members of Hawaii's congressional delegation, the Commandant of the Marine Corps, and the Secretary of the Navy.

POM–519. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to passage of the defense appropriations bill; to the Committee on Armed Services.

HOUSE RESOLUTION NO. 114

Whereas, the security of our nation and people is the first and foremost obligation of the Federal Government; and

Whereas, the men and women of our armed forces serving in the Army, Navy, Air Force, Marine Corps, Coast Guard, Merchant Marine, National Guard and Reserves have shown great courage and self-sacrifice and deserve to be equipped with the best weapons and resources to protect our nation; and

Whereas, in past years politicians have delayed passing the defense appropriations bill until late in the budget year so that the defense appropriations bill was misused as a dumping ground for pork-barrel spending and as a political hostage to pork-barrel spending in other appropriations bills; and

Whereas, in the wake of the terrorist attacks on September 11, 2001, the President has asked that the Congress of the United States pass the defense appropriations bill before passing other spending bills; and

Whereas, Congress acted responsibly in Fiscal Years 2002 and 2003 when it passed the defense appropriations bill first, protecting the men and women of our armed forces from becoming political pawns for politicians' spending maneuvers: Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania commend Congress for making our nation's defense its first priority in Fiscal Years 2002 and 2003 and request Congressmen and Senators from Pennsylvania to continue this policy by passing defense appropriations legislation before all other spending bills in 2004 and in the future; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each House of Congress and to each Member of Congress from Pennsylvania.

POM–520. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the Congressional Medal of Honor; to the Committee on Armed Services.

Whereas, United States Army and Department of Defense officials are reviewing a recommendation to upgrade Major Winters' Distinguished Service Cross to the Congressional Medal of Honor; and

Whereas, Major Winters was originally nominated for the Medal of Honor by Colonel Robert F. Sink, commander of the 506th Regiment, for heroic actions on June 6, 1944, during the Allied invasion of Normandy, France, as 1st Lieutenant, Acting Commanding Officer of E Company, 2nd Battalion, 506th Parachute Infantry Regiment, 101st Airborne Division, VII Corps; and

Whereas, Major Winters' extraordinary planning, fighting and commanding on that day 60 years ago in Nazi-occupied Normandy during his regiment's first combat operation saved countless lives and expedited the Allied inland advance; and

Whereas, with his company outnumbered by German soldiers, Major Winters destroyed German guns at Brecourt Manor and secured causeways for troops coming off Utah Beach; and

Whereas, Major Winters' battle plan for a small-unit assault on German artillery has been taught at the United States Military Academy at West Point; and

Whereas, Major Winters accomplished a hazardous mission with valor, inspired his service colleagues through example and effectively organized his company into support and assault teams on the day of invasion in the campaign for European liberation during World War II: Therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania urge the Congress of the United States to award the Congressional Medal of Honor to Major Richard D. Winters without further delay; and be it further

Resolved, That a copy of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM–521. A joint resolution adopted by the Legislature of the State of California relative to the regulation of financial institutions; to the Committee on Banking, Housing, and Urban Affairs.

SENATE JOINT RESOLUTION NO. 20

Whereas, the Senate and Assembly Banking Committees of the California Legislature have held an informational hearing on the doctrine of federal preemption of state laws and the impact on California and its financial regulators; and

Whereas, the California Constitution provides that an administrative agency of the state has no authority to declare a state law unenforceable unless an appellate court determines that the statute is prohibited by federal laws or regulations; and

Whereas, there are two areas where tension exists between federal and state law in the fields of regulation of financial institutions, which are the areas relating to the jurisdiction over the operating subsidiaries of national banks and consumer protection; and

Whereas, operating subsidiaries of national banks engage in various financial services such as mortgages, insurance, and securities-brokerage services that are beyond the scope of the business of banking as originally conceived in the National Bank Act of 1864; and

Whereas, operating subsidiaries of national banks are creatures of state law, not federal law, and are incorporated under state law and in the past have applied for licenses from state regulatory authorities to operate within California; and

Whereas, in August of 2001, and in January of 2004, the Office of the Comptroller of the Currency (OCC) promulgated a regulation that effectively stated that the OCC was the exclusive regulator of national banks and their operating subsidiaries and this regulation placed the OCC on a collision course with California regulators of financial institutions; and

Whereas, the OCC has appeared as amicus curiae in several recent federal court cases opposing consumer protection legislation that has been passed by the California Legislature, on the basis that the legislation interfered with the power of national banks and their operating subsidiaries to engage in the business of banking; and

Whereas, there has been a clear, consistent, and premeditated effort by the federal government, specifically on the part of the OCC, to exercise jurisdiction in financial regulation matters that were previously the jurisdictional domain of the states, and the exercise of the jurisdiction has been assisted by a complacent United States Congress and deferential court system; and

Whereas, certain interpretations of law by the OCC and the Office of Thrift Supervision have prevented the application of state consumer protections to federally-chartered financial institutions, and frustrate the efforts of state regulators and legislators to extend these protections to all citizens; Now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California, recognizing that the authority to resolve these issues rests with the federal courts and the United States Congress, respectfully requests that the United States Congress disapprove the rule submitted by the Office of Comptroller of the Currency relating to bank activities and regulations published at 69 Federal Register 1895 (January 13, 2004), so the rule will have no force or effect, and if necessary, consider legislation that will prevent the unilateral expansion of jurisdiction over financial institutions by federal regulators without the specific endorsement of the elected representatives of the United States Congress; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to each Senator and Representative from California in the Congress of the United States, to the Office of the Comptroller of the Currency, and to the Office of Thrift Supervision.

POM–522. A resolution adopted by the General Assembly of the State of New Jersey relative to federal Section 8 funding; to the Committee on Baking, Housing, and Urban Affairs.

ASSEMBLY RESOLUTION NO. 185

Whereas, since established in 1974, the Section 8 housing assistance program has been an integral part of one of our nation's most important social goals, that of providing housing opportunities for low-income families, the elderly and the disabled; and

Whereas, today, the Section 8 housing voucher program is the principal federal housing assistance program for low-income household, helping 2 million families across the country to secure modest, decent housing in the private housing market; and

Whereas, the 2005 federal budget proposes to reduce Section 8 voucher funding by $1 billion below the 2004 level, and also proposes radical changes in the program's structure that would leave Section 8 vulnerable to further reductions in federal funding over time; and

Whereas, in 2005, the proposed cuts could reduce the number of families currently assisted nationwide by 250,000, and the funding currently projected by this Administration could eventually reduce the number of vouchers by 600,000 in 2009; and

Whereas, in New Jersey alone, the existing 64,160 Section 8 housing vouchers could be reduced by 7,780 in 2005, and by 18,660 in 2009; and

Whereas, given these circumstances, it is fitting and proper for this House to respectfully urge Congress and President George W. Bush not to reduce funding for the Section 8 program, as thousands of families in New Jersey and nationwide depend on Section 8 in order to secure affordable housing and avoid homelessness: Now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. This House urges Congress and President George W. Bush to fully fund the Section 8 housing voucher program, in recognition of the integral part this program plays in providing decent and affordable housing for thousands of our nation's low-income families, the elderly and the disabled.

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the United States, the President of the United States Senate, the Speaker Of the United States House of Representatives, the Majority and Minority Leaders of the United States Senate and House of Representatives, and every member of the New Jersey Congressional Delegation.

This Assembly resolution urges Congress and President George W. Bush to fully fund the Section 8 housing assistance program.

The proposed 2005 federal budget reduces funding for this program by $1 billion below 2004 levels. According to the Center on Budget and Policy Priorities and housing advocates across the country, this reduction could lead to a decrease of 250,000 vouchers from the current 2 million in use nationwide. Furthermore, the budget proposes a transformation of the Section 8 program from a so-called ''unit-based'' to a ''dollar-based'' funding system, which would leave the program vulnerable to further reductions in federal funding over the years. It is estimated that these changes could further reduce the number of vouchers nationwide by 30% in 2009, a reduction of 600,000 vouchers below 2004 levels.

In New Jersey alone, the 2005 cuts could reduce the current 64,160 vouchers by 7,780, and further reductions could lead to an 18,660 decrease in 2009.

POM–523. A concurrent resolution adopted by the Legislature of the State of Michigan relative to the dredging of canals around the city of Gibraltar; to the Committee on Commerce, Science, and Transportation.

SENATE CONCURRENT RESOLUTION NO. 41

Whereas, the city of Gibraltar in Wayne County is a unique community, with more than five miles of canals bisecting the city and its four islands of residences. These public transportation routes include access to public and private facilities, including boat ramps and marinas. Thousands of people use the canals each year; and

Whereas, with no dredging of the Gibraltar canals since the late 1950s, the use of the canals is today significantly threatened by the buildup of sediment throughout the system. Boating traffic is hampered by the buildup. The task of dealing with the Gibraltar canals is made more complex by the results of testing that has identified contamination in the sediment. This fact will greatly increase the costs of dredging and disposal of the sediment; and

Whereas, the costs of dredging the canals is far beyond the resources available within the community of Gibraltar, and the canals are available to and used by many more people than residents of Gibraltar. This work clearly needs to be completed. The Gibraltar canals are notable components of the Detroit River system, and maintaining the quality of the canals is work that is strongly related to the quality of this vital part of our water transportation network. It is essential that necessary resources be directed to this task: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That we memorialize the Congress of the United States to provide funding for the dredging of canals around the city of Gibraltar; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–524. A resolution adopted by the General Assembly of the State of New Jersey relative to competition in the cable television industry; to the Committee on Commerce, Science, and Transportation.

ASSEMBLY RESOLUTION NO. 156

Whereas, cable television is an important source of state and local news, public affairs programming, emergency information and other broadcast services critical to an informed and safe electorate; and

Whereas, the cable television industry has become highly concentrated in New Jersey with most areas having only one cable service provider and such concentration can be a barrier to entry for new programmers resulting in fewer choices of programming for New Jersey consumers; and

Whereas, the rates for cable service in New Jersey have increased by over 60 percent

since 1996 according to the New Jersey Board of Public Utilities and none of this increase is attributable to State legislation or regulation; and

Whereas, cable television companies are allowed to construct and maintain cables, conduits, poles, and other equipment upon, under or over highways and other public places and are permitted to use utility easements on private property; and

Whereas, there are significant societal benefits, especially the freedom of speech, in having multiple providers of programming services because a cable television provider controls much of the programming available to its subscribers; and

Whereas, competition in the cable television industry will encourage the availability of a wider array of ideas and information, better rates, and improved services for New Jersey consumers; and

Whereas, it is in the public interest to further competition in the cable television industry in New Jersey in order to promote the availability of diverse views and information, to ensure cable service providers expand their capacity and program offerings, to ensure cable service providers do not have undue market power or undue influence over the distribution of information and to protect the best interests of consumer: Now, therefore, be it

Resolved by the General Assembly of the State of New Jersey:

1. The General Assembly urges the President and Congress of the United States to allow the states to require that cable television companies shall not receive consent to operate in their municipalities or franchise territories, at issuance or renewal of that consent, until a cable television company has:

a. certified that there is another cable television company operating in the municipality; or

b. designated channels for commercial use as set forth in 47 U.S.C. s.532 and has leased two-thirds or more of the channels required to be set aside to persons unaffiliated with the cable television company; or

c. implemented an open video system in accordance with 47 U.S.C. s.573, where ''open video system'' means a facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming which is provided to multiple subscribers within a community and which has been certified by the Federal Communications Commission as being in compliance with Part 76 ''Multichannel Video and Cable Television Service'' of Title 47 of the Code of Federal Regulations.

2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested to by the Clerk thereof, shall be transmitted to the President of the United States, the presiding officers of the United States Senate and House of Representatives, and to each member of Congress elected from this State.

This Assembly resolution urges the President and Congress of the United States to allow the states to require that cable television companies shall not receive consent to operate in their municipalities or franchise territories at issuance or renewal of that consent until a cable television company has: certified that there is another cable television company operating in the municipality or territory; or designated channels for commercial use as set forth in 47 U.S.C. s.532 and has leased two-thirds or more of the channels required to be set aside to persons unaffiliated with the cable television company; or implemented an open video system in accordance with 47 U.S.C. s.573.

The leased commercial access provisions of 47 U.S.C. s.532 require a television cable company to designate channel capacity for commercial use by persons unaffiliated with the cable television company. Smaller companies must designate 10 percent of their channel capacity and larger companies must designate 15 percent of their channel capacity. Channels designated for public, educational, or governmental use may not satisfy the requirement for leased commercial access channels. If the designated channels are not leased, the television cable company may continue to use them for its own programming. Consumers do not receive a separate charge for the programming on leased commercial access channels. An example of leased commercial access channel use would be an ''informercial'' channel.

In an open access video system, as established in 47 U.S.C. s.573, the operator of an open video system is released from certain federal regulatory burdens in exchange for opening up one-third of its activated channel capacity to bidding by those who wish to contract for carriage of specific video programming on an open video system. Consumers would have the choice to receive and pay for this specific video programming.

The states' ability to regulate these aspects of the cable television industry will lead to greater competition and will encourage the availability of a wider array of ideas and information, better rates, and improved services for New Jersey consumers.

POM–525. A concurrent resolution adopted by the Legislature of the State of Hawaii relative to the Marshall Islands Nuclear Claims Tribunal; to the Committee on Energy and Natural Resources.

Whereas, fifty years ago on March 1, 1954, at 6:45 a.m., the United States of America tested the ''Bravo'' hydrogen bomb on Bikini Atoll in the Republic of the Marshall Islands, resulting in an explosion that is now acknowledged as by far the most destructive nuclear detonation ever; and

Whereas, scientists involved in the test known as ''Bravo'' have maintained that they expected a yield equivalent to five megatons; and

Whereas, the ''Bravo'' bomb actually yielded 15 megatons, or a thousand times more powerful than the Hiroshima bomb; and

Whereas, while U.S. servicemen on Rongerik Atoll were evacuated within hours of the blast, Marshallese residents of Utirik and Rongelap, all within the hazardous range of the explosion, were left on their contaminated islands for at least a day longer, resulting in their exposure to significant radiation; and

Whereas, the men, women, and children of these atolls were already suffering burns and loss of hair at the time of their removal from their homes; and

Whereas, 23 crewmembers of the Japanese fishing boat, Lucky Dragon, were also exposed to severe radiation from Bravo; and

Whereas, a total of 67 nuclear tests were conducted in Bikini and Enewetak between 1946 and 1958, exposing the people of the Marshall Islands to severe health problems and genetic anomalies during the tests and for generations to come; and

Whereas, if one were to calculate the net yield of all the tests conducted in the Marshall Islands, it would be equivalent to the detonation of 1.7 Hiroshima bombs every day for 12 years; and

Whereas, Enewetak Atoll served as ground zero for 43 tests including the first-ever hydrogen device, resulting in the loss of eight percent of their land, and even after a massive cleanup program by the United States, the Marshallese have no safe access to more than 57 percent of their land; and

Whereas, the people of Enewetak were exiled from their home for more than 33 years in spite of assurances from U.S. officials that they would be repatriated in three to five years after their original removal in 1946; and

Whereas, similar promises made to Bikini residents forced the surrender of their land supposedly for the ''betterment of mankind''; and

Whereas, on advice from the United States, the people of Bikini were repatriated in 1967 only to be evacuated seven years later when high levels of radionuclides were discovered in their bodies; and

Whereas, the people of Rongelap and Utirik were returned prematurely to their atolls and received additional exposure, causing many to believe that they were used to study the effects of radiation on human being as contemplated in the Atomic Energy Commission's now infamous Project 4.1; and

Whereas, recently declassified information contains strong indications that human experimentation using the people of the exposed atolls was indeed part of the nuclear testing program in the Marshall Islands; and

Whereas, in its Compact of Free Association (Compact), the United States of America accepts the responsibility for compensation owing to the citizens of the Marshall Islands . . . for loss or damage to property and person . . . resulting from the nuclear testing program which the Government of the United States conducted in the Northern Marshall Islands between June 30, 1946 and August 18, 1959'': and

Whereas, the pertinent provisions of the Compact were negotiated based on limited and misleading information provided by the United States Government to the Marshallese representatives, a fact exposed only recently in material declassified by the United States and acknowledged by their officials; and

Whereas, the funds provided under the Compact agreement are grossly inadequate to provide for health care and environmental monitoring, personal injury claims, or land and property damage; and

Whereas, the ''changed circumstances'' provision of section 177 of the Compact provides that if the agreement on nuclear matters is manifestly inadequate to meet the technological and financial requirements anticipated during the negotiations, or if new information emerges which renders those agreements insufficient for the purpose of concluding full and just compensation, the Congress of the United States would consider a request for proper compensation; and

Whereas, the Government of the Marshall Islands submitted such a petition on September 11, 2000; and

Whereas, just compensation and continued funding for promised medical and health programs for survivors of the atomic tests depend upon Congress' favorable consideration of this petition; and

Whereas, over the past 15 years Hawaii has provided medical, educational, and other supportive services to lawful nonimmigrants from the Republic of the Marshall Islands, without reimbursement from the United States: Now, therefore, be it

Resolved by the Senate of the Twenty-second Legislature of the State of Hawaii, Regular Session of 2004, the House of Representatives concurring, That the United States Congress is respectfully requested to take appropriate measures to provide for the compensation of awards including property damage claims, to the fullest extent, as determined by the Marshall Islands Nuclear Claims Tribunal, and to provide for the costs of cleaning up nuclear sites in the Marshall Islands; and be it further

Resolved, That the Legislature expresses deep regret for the nuclear testing legacy which the people of the Marshall Islands

have inherited, and hereby requests the Governor to declare March 1 as a Day of Remembrance for the survivors of the United States nuclear tests in the Marshall Islands; and be it further

Resolved, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, President of the United States Senate, Speaker of the United States House of Representatives, Governor of Hawaii, Speaker of the Marshall Islands Nitijela, and Mayor of Bikini Atoll.

POM–526. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to gasoline types; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 272

Whereas, while there are many factors that are contributing to the recent swift rise in pump prices for gasoline, a significant element is the number of gasoline types refineries must produce to meet environmental standards of various metropolitan regions across the country. Over the years, federal mandates to improve air quality in areas with problems have resulted in a complicated patchwork of fuel requirements. The Large number of fuels is also the result of the strategies individual states have developed to meet federal standards; and

Whereas, while the goals of cleaner air are important challenges that must be met, it seems inefficient on many levels for refineries to have to develop, produce, and deliver so many different types of gasoline. In the Midwest alone, at least seven types of fuel must be made. The impact of these requirements is to raise costs, delay production, disrupt distribution, and reduce the supply. These problems, as Michigan has learned all too well, become far more severe when any unforeseen events, such as a gasoline pipeline accident or a refinery fire, take place; and

Whereas, although the ultimate goal of a single gasoline type for the entire country at any given time may not be attainable because of the enormous variations in geographical and climatic conditions across America, requiring the country to sharply reduce the number of gasoline types can bring great benefits. In addition, using cleaner fuels may enhance air quality not only in ozone nonattainment areas, but everywhere: Now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to review the issue of the number of gasoline types refined across the country and to enact legislation that will sharply reduce the number of gasoline types required to meet local environmental standards; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–527. A joint resolution adopted by the General Assembly of the State of Rhode Island relative to the Medicare Prescription Drug, Improvement and Modernization Act of 2003; to the Committee on Finance.

JOINT RESOLUTION

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) will result in significant savings for only a minority of beneficiaries with extremely large drug bills and may cost some beneficiaries more in premiums, deductibles and co-pays than they will get back in benefits; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization At of 2003 (MMA) provides no substantive drug benefits until 2006 other than a discount card that will provide minimal discounts on prescription drugs for most beneficiaries; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) creates a ''doughnut hole'' by suspending coverage for drug costs between $2,250 and $5,100 a year; and

Whereas, the average beneficiary is projected to spend $3,155 on drugs when the program starts, placing many of them within this large gap in prescription drug coverage caused by the ''doughnut hole''; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) specifically prohibits the federal government from directly negotiating with drug manufacturers to obtain lower prices for covered drugs; and

Whereas, low-income Medicaid beneficiaries will lose protections and benefits they currently enjoy under Medicaid and will be subject to higher co-payments and lose any wrap-around coverage under Medicaid; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) requires non-Medicaid eligible low-income beneficiaries to be subject to a rigorous assets test; and

Whereas, while states are being relieved of their responsibility of offering drug coverage to 'dual eligibles,' they will be required to reimburse the federal government for a significant percent of the cost of drug benefits for these beneficiaries and states will also lose this group in their own negotiating pool for Medicaid drugs; and

Whereas, the deductible beneficiaries pay for drug coverage will be indexed to growth in aggregate Part D (prescription drug) expenditures; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) reduces home health reimbursement rates by an estimated $6.5 billion over 10 years and these lower reimbursement rates threaten beneficiaries' access to critical home health services: Now, therefore be it

Resolved, That this General Assembly of the State of Rhode Island and Providence Plantations hereby respectfully urges the United States Congress to amend the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) to address the serious gaps and issues raised in this resolution including: eliminating the prohibition on the federal government negotiating lower prices for drugs, narrowing the gap in the ''doughnut hole,'' liberalizing the restrictive asset test for persons with low incomes, changing the index for beneficiary contributions from drug price inflation to the consumer price index for beneficiary contributions from drug price inflation to the consumer price index, and restoring scheduled reductions in home care reimbursement; and be it further

Resolved, That the secretary of state be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the Honorable George W. Bush, President of the United States, the President of the Senate, and the Speaker of the House of Representatives of the Congress of the United States, and to each member of the Rhode Island Congressional Delegation

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POM 528. A resolution adopted by the House of Representatives of the General Assembly of the State of Rhode Island relative to the Medicare Prescription Drug, Improvement, and Modernization Act of 2003; to the Committee on Finance.

HOUSE RESOLUTION

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) will result in significant savings for only a minority of beneficiaries with extremely large drugs bills and may cost some beneficiaries more in premiums, deductibles and co-pays than they will get back in benefits; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) provides no substantive drug benefits until 2006 other than a discount card that will provide minimal discounts on prescription drugs for most beneficiaries; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) creates a ''doughnut hole'' by suspending coverage for drug costs between $2,250 and $5,100 a year; and

Whereas, the average beneficiary is projected to spend $3,155 on drugs when the program starts, placing many of them within this large gap in prescription drug coverage caused by the ''doughnut hole''; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) specifically prohibits the federal government from directly negotiating with drug manufacturers to obtain lower prices for covered drugs; and

Whereas, low-income Medicaid beneficiaries will lose protections and benefits they currently enjoy under Medicaid and will be subject to higher co-payments and lose any wrap-around coverage under Medicaid; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) requires non-Medicaid eligible low-income beneficiaries to be subject to a rigorous asset test; and

Whereas, while states are being relieved of their responsibility of offering drug coverage to ''dual eligibles,'' they will be required to reimburse the federal government for a significant percent of the cost of drug benefits for these beneficiaries and states will also lose this group in their own negotiating pool for Medicaid drugs; and

Whereas, the deductible beneficiaries pay for drug coverage will be indexed to growth in aggregate Part D (prescription drug) expenditures; and

Whereas, the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) reduces home health reimbursement rates by an estimated $6.5 billion over 10 years and these lower reimbursement rates threaten beneficiaries' access to critical home health services: Now, and therefore be it

Resolved, That this House of Representatives of the State of Rhode Island and Providence Plantations hereby respectfully urges the United States Congress to amend the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) to address the serious gaps and issues raised in this resolution including: eliminating the prohibition on the federal government negotiating lower prices for drugs, narrowing the gap in the ''doughnut hole'', liberalizing the restrictive asset test for persons with low incomes, changing the index for beneficiary contributions from drug price inflation to the consumer price index, and restoring scheduled reductions in home care reimbursement; and be it further

Resolved, That the Secretary of State be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the Honorable George W. Bush, President of the United States, the President of the Senate, and the Speaker of the House of Representatives of the Congress of the United States, and to each member of the Rhode Island Congressional Delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2550. A bill to amend the Federal Water Pollution Control Act and the Safe Drinking Water Act to improve water and wastewater infrastructure in the United States (Rept. No. 108–386).

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 518. A bill to increase the supply of pancreatic islet cells for research, to provide better coordination of Federal efforts and information on islet cell transplantation, and to collect the data necessary to move islet cell transplantation from an experimental procedure to a standard therapy (Rept. No. 108–387).

S. 2526. A bill to reauthorize the Children's Hospitals Graduate Medical Education Program (Rept. No. 108–388).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 2605. A bill to direct the Secretary of the Interior and the heads of other Federal agencies to carry out an agreement resolving major issues relating to the adjudication of water rights in the Snake River Basin, Idaho, and for other purposes (Rept. No. 108–389).

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 423. A bill to promote health care coverage parity for individuals participating in legal recreational activities or legal transportation activities (Rept. No. 108–390).

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 2940. An original bill to amend the Older Americans Act of 1965 to assist States in preventing, detecting, treating, intervening in, and responding to elder abuse, neglect, and exploitation, and for other purposes (Rept. No. 108–391).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 2391. To amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises.

By Mr. JOHNSON, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

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.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2302. A bill to improve access to physicians in medically underserved areas.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2668. A bill for the relief of Griselda Lopez Negrete.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Francis J. Harvey, of California, to be Secretary of the Army.

*Richard Greco, Jr., of New York, to be an Assistant Secretary of the Navy.

Air Force nominations beginning Brig. Gen. David A. Brubaker and ending Colonel Stephen M. Sischo, which nominations were received by the Senate and appeared in the Congressional Record on September 23, 2004.

Army nomination of Maj. Gen. Raymond T. Odierno.

Army nominations beginning Colonel Rodney O. Anderson and ending Colonel James C. Yarbrough, which nominations were received by the Senate and appeared in the Congressional Record on September 23, 2004.

Navy nomination of Capt. Edward T. Reidy III.

Navy nomination of Capt. Gregory A. Timberlake.

Navy nomination of Capt. Edward H. Deets III.

Navy nomination of Rear Adm. (1h) Andrew M. Singer.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

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

Air Force nominations beginning Lauren F. *Aase and ending Susan E. * Young, which nominations were received by the Senate and appeared in the Congressional Record on March 12, 2004.

Army nominations beginning Julia A. Adams and ending Janet L. Wilson, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2003.

Army nomination of Graeme J. Boyett.

Navy nominations beginning Blaine E. Mowrey and ending Victoria A. Yoder, which nominations were received by the Senate and appeared in the Congressional Record on September 23, 2004.

Navy nominations beginning Jerris L. Bennett and ending Jesse J. Zimbauer, which nominations were received by the Senate and appeared in the Congressional Record on September 23, 2004.

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs.

*Pamela Hughes Patenaude, of New Hampshire, to be an Assistant Secretary of Housing and Urban Development.

By Mr. HATCH for the Committee on the Judiciary.

Robert Cramer Balfe III, of Arkansas, to be United States Attorney for the Western District of Arkansas for the term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

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. DURBIN:

S. 2910. A bill to establish the Food Safety Administration to protect the public health by preventing food-borne illness, ensuring the safety of food intended for human consumption, improving research on contaminants leading to food-borne illness, and improving security of food from intentional contamination; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. GRAHAM of Florida:

S. 2911. A bill to amend title XVIII of the Social Security Act to make improvements in the medicare competitive acquisition programs for certain items and services; to the Committee on Finance.

By Mr. NELSON of Nebraska:

S. 2912. A bill to award grants for the support of full-service community schools, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD:

S. 2913. A bill to establish a demonstration project to train unemployed workers for employment as health care professionals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MIKULSKI:

S. 2914. A bill to amend the Internal Revenue Code of 1986 to provide incentives for alternative fuels and alternative fuel vehicles; to the Committee on Finance.

By Ms. SNOWE (for herself and Mr. BOND):

S. 2915. A bill to reauthorize programs under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) through September 30, 2005; to the Committee on Small Business and Entrepreneurship.

By Mr. CORNYN (for himself, Mr. SCHUMER, and Mr. SPECTER):

S. 2916. A bill to combat unlawful commercial sex activities by targeting demand, to protect children from being exploited by such activities, to prohibit the operation of sex tours, to assist State and local governments to enforce laws dealing with commercial sex activities, and for other purposes; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself and Mr. MCCAIN):

S. 2917. A bill to amend the National Aeronautics and Space Act of 1958 to establish a centennial challenge program and establish a National Aeronautics and Space Foundation; to the Committee on Commerce, Science, and Transportation.

By Mr. ALLEN:

S. 2918. A bill to amend the Internal Revenue Code of 1986 to provide that distributions from an individual retirement plan, a section 401(k) plan, or a section 403(b) contract shall not be includible in gross income to the extent used to pay long-term care insurance premiums; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. DASCHLE):

S. 2919. A bill to amend the Internal Revenue Code of 1986 to provide funding for Indian tribal prison facilities, and for other purposes; to the Committee on Finance.

By Mr. ENSIGN:

S. 2920. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for the travel expenses of a taxpayer's spouse who accompanies the taxpayer on business travel; to the Committee on Finance.

By Mr. CORNYN (for himself, Mr. BREAUX, Mrs. FEINSTEIN, Mrs. HUTCHISON, and Mr. SESSIONS):

S. 2921. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th aniversary of the establishment of the National Aeronautics and Space Administration and the Jet Propulsion Laboratory; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. CORNYN:

S. 2922. A bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Heart, Lung, and Blood

Institute with respect to research on pulmonary hypertension; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BIDEN (for himself, Mr. SPECTER, Mr. BINGAMAN, and Ms. LANDRIEU):

S. 2923. A bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes; to the Committee on the Judiciary.

By Mr. SANTORUM:

S. 2924. A bill to amend the Public Health Service Act to provide for clinical research support grants, clinical research infrastructure grants, and a demonstration program on partnerships in clinical research, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SANTORUM (for himself and Mrs. LINCOLN):

S. 2925. A bill to amend the Internal Revenue Code of 1986 to expand the tip credit to certain employers and to promote tax compliance; to the Committee on Finance.

By Mr. VOINOVICH (for himself and Mr. COLEMAN):

S. 2926. A bill to amend the internal Revenue Code of 1986 to allow taxpayers a credit against income tax for expenditures to remediate contaminated sites; to the Committee on Finance.

By Mr. SCHUMER (for himself, Mr. GRAHAM of South Carolina, Mr. DURBIN, Ms. STABENOW, and Mr. DODD):

S. 2927. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1988 to clarify the definition of manipulation with respect to currency, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SMITH (for himself and Mr. WYDEN):

S. 2928. A bill to clarify the status of certain employee benefit plans under the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 2929. A bill to amend title XVIII of the Social Security Act to extend the minimum medicare deadlines for filing claims to take into account delay in processing adjustments from secondary payor status to primary payor status; to the Committee on Finance.

By Ms. CANTWELL:

S. 2930. A bill to require the establishment of a Consumer Price Index for Elderly Consumers to compute cost-of-living increases for Social Security benefits under title II of the Social Security Act; to the Committee on Finance.

By Mr. CORNYN (for himself, Mr. MCCONNELL, and Mr. MCCAIN):

S. 2931. A bill to enable drivers to choose a more affordable form of auto insurance that also provides for more adequate and timely compensation for accident victims, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SMITH:

S. 2932. A bill to establish the Mark O. Hatfield-Elizabeth Furse Scholarship and Excellence in Tribal Governance Foundation, and for other purposes; to the Committee on Indian Affairs.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. JOHNSON, and Mr. WYDEN):

S. 2933. A bill to amend the Public Health Service Act to expand the clinical trials drug data bank; to the Committee on Health, Education, Labor, and Pensions.

By Ms. CANTWELL:

S. 2934. A bill to combat methamphetamine abuse in the United States; to the Committee on the Judiciary.

By Mr. ROCKEFELLER:

S. 2935. A bill to amend section 35 of the Internal Revenue Code of 1986 to improve the health coverage tax credit, and for other purposes; to the Committee on Finance.

By Mr. CAMPBELL:

S. 2936. A bill to restore land to the Enterprise Rancheria to rectify an inequitable taking of the land; to the Committee on Indian Affairs.

By Mr. DURBIN (for himself and Mr. REED):

S. 2937. A bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for himself, Mr. CAMPBELL, Mr. INOUYE, Mr. JOHNSON, Mr. BINGAMAN, and Ms. LANDRIEU):

S. 2938. A bill to grant a Federal charter to the National American Indian Veterans, Incorporated; read the first time.

By Mr. LUGAR (for himself, Mrs. BOXER, Mr. CHAFEE, Mr. FEINGOLD, and Mr. COLEMAN):

S. 2939. A bill to amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries, and for other purposes; to the Committee on Foreign Relations.

By Mr. GREGG:

S. 2940. An original bill to amend the Older Americans Act of 1965 to assist States in preventing, detecting, treating, intervening in, and responding to elder abuse, neglect, and exploitation, and for other purposes; from the Committee on Health, Education, Labor, and Pensions; placed on the calendar.

By Mr. CORNYN:

S. 2941. A bill to authorize the President to negotiate the creation of a North American Investment Fund to promote economic and infrastructure integration among Canada, Mexico, and the United States, and for other purposes; to the Committee on Foreign Relations.

By Mr. PRYOR (for himself, Mrs. LINCOLN, Mr. AKAKA, Mr. BAUCUS, Mr. BAYH, Mr. BINGAMAN, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM of Florida, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. MILLER, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SCHUMER, and Ms. STABENOW):

S. 2942. A bill to amend the Internal Revenue Code of 1986 to provide that combat pay be treated as earned income for purposes of the earned income credit; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG:

S. Res. 451. A resolution expressing the sense of the Senate that a postage stamp should be issued honoring Oskar Schindler; to the Committee on Governmental Affairs.

By Mr. CAMPBELL:

S. Res. 452. A resolution designating December 13, 2004, as ''National Day of the Horse'' and encouraging the people of the United States to be mindful of the contribution of horses to the economy, history, and character of the United States; to the Committee on the Judiciary.

By Mr. JEFFORDS (for himself, Mr. CHAFEE, Mr. SARBANES, Ms. SNOWE, Mr. LIEBERMAN, Mr. LEAHY, Mr. DAYTON, and Mr. LAUTENBERG):

S. Res. 453. A resolution expressing the sense of the Senate that the United States should prepare a comprehensive strategy for advancing and entering into international negotiations on a binding agreement that would swiftly reduce global mercury use and pollution to levels sufficient to protect public health and the environment; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 91

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 91, a bill to amend title 9, United States Code, to provide for greater fairness in the arbitration process relating to livestock and poultry contracts.

S. 453

At the request of Mrs. HUTCHISON, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 453, a bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services.

S. 1349

At the request of Mr. SMITH, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1349, a bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage bond financing, and for other purposes.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor 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. 2038

At the request of Mr. BAYH, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from New York (Mr. SCHUMER) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 2038, a bill to amend the Public Health Service Act to provide for influenza vaccine awareness campaign, ensure a sufficient influenza vaccine supply, and prepare for an influenza pandemic or epidemic, to amend the Internal Revenue Code of 1986 to encourage vaccine production capacity, and for other purposes.

S. 2158

At the request of Ms. COLLINS, the name of the Senator from Missouri

(Mr. TALENT) was added as a cosponsor of S. 2158, a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S. 2174

At the request of Mr. BUNNING, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2174, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 2422

At the request of Mr. SMITH, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2422, a bill to amend the Internal Revenue Code of 1986 to allow certain modifications to be made to qualified mortgages held by a REMIC or a grantor trust.

S. 2437

At the request of Mr. ENSIGN, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 2437, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 2565

At the request of Mr. CRAPO, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2565, a bill to amend the Agriculture Adjustment Act to convert the dairy forward pricing program into a permanent program of the Department of Agriculture.

S. 2602

At the request of Mr. DODD, the names of the Senator from Michigan (Ms. STABENOW), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from Florida (Mr. GRAHAM), the Senator from Oregon (Mr. WYDEN) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 2602, a bill to provide for a circulating quarter dollar coin program to honor the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, and for other purposes.

S. 2695

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 2695, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to expand the definition of firefighter to include apprentices and trainees, regardless of age or duty limitations.

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 2695, supra.

S. 2722

At the request of Mr. DURBIN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2722, a bill to maintain and expand the steel import licensing and monitoring program.

S. 2844

At the request of Mr. SANTORUM, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2844, a bill to designate Poland as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act.

S. 2869

At the request of Mr. TALENT, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 2869, a bill to respond to the illegal production, distribution, and use of methamphetamines in the United States, and for other purposes.

S. 2877

At the request of Mr. GREGG, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 2877, a bill to reduce the special allowance for loans from the proceeds of tax exempt issues, and to provide additional loan forgiveness for teachers who teach mathematics, science, or special education.

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from Louisiana (Ms. LANDRIEU), the Senator from Kansas (Mr. BROWNBACK), the Senator from New Hampshire (Mr. SUNUNU), the Senator from Rhode Island (Mr. REED), the Senator from Illinois (Mr. DURBIN) and the Senator from Alaska (Ms. MURKOWSKI) 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. 67

At the request of Mr. COCHRAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Con. Res. 67, a concurrent resolution expressing the need for enhanced public awareness of traumatic brain injury and supporting the designation of a National Brain Injury Awareness Month.

S. CON. RES. 122

At the request of Ms. SNOWE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. Con. Res. 122, a concurrent resolution expressing the sense of the Congress regarding the policy of the United States at the 56th Annual Meeting of the International Whaling Commission.

S. CON. RES. 136

At the request of Mr. CONRAD, the names of the Senator from Colorado (Mr. CAMPBELL), the Senator from Hawaii (Mr. AKAKA), the Senator from Texas (Mr. CORNYN) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 164

At the request of Mr. ENSIGN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. Res. 164, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. RES. 392

At the request of Mr. BINGAMAN, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. Res. 392, a resolution conveying the sympathy of the Senate to the families of the young women murdered in the State of Chihuahua, Mexico, and encouraging increased United States involvement in bringing an end to these crimes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN:

S. 2910. A bill to establish the Food Safety Administration to protect the public health by preventing food-borne illness, ensuring the safety of food intended for human consumption, improving research on contaminants leading to food-borne illness, and improving security of food from intentional contamination; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DURBIN. Mr. President, when Americans sit down at the dinner table, their confidence in the safety of the food they are eating is based in part on the knowledge that the Federal Government is working hard to ensure their food is not contaminate. Right now, our food is the safest in the world, but there are widening gaps in our food safety net due to emerging threats and the fact that food safety oversight has evolved over time to spread over several government agencies. This mismatched, piecemeal approach to food safety could spell disaster if we do not act quickly and decisively.

A single food safety agency with authority based on sound scientific principles would provide this country with the greatest hope of reducing foodborne illnesses and preparing for a bioterrorist attack on our food supply.

The Centers for Disease Control and Prevention (CDC) estimates that as many as 76 million people suffer from food poisoning each year. Of those individuals, approximately 325,000 will be hospitalized, and more than 5,000 will die. Factors such as emerging pathogens, an aging population at high risk for foodborne illnesses, an increasing volume of food imports, and people eating outside their homes more often underscore the need for us to take charge and shed the old bureaucratic shackles that have tied us to the overlapping and inefficient ad hoc food safety system of the past.

I rise today to introduce the Safe Food Act of 2004. This legislation would create a single, independent Federal

food safety agency to administer all aspects of Federal food safety inspections, enforcement, standards-setting and research in order to protect public health. The components of the agencies now charged with protecting the food supply, primarily housed at the Food and Drug Administration and the Agriculture Department, would be transferred to this new agency.

The new Food Safety Administrator would be responsible for the safety of the food supply and would carry out that charge by implementing the registration and recordkeeping requirements of the Bioterrorism Act of 2002; ensuring slaughterhouses and food processing plants have procedures in place to prevent and reduce food contamination; regularly inspecting domestic food facilities, with inspection frequency based on risk; and centralizing the authority to detain, seize, condemn and recall food that is adulterated or misbranded. The Administrator would be charged with requiring food producers to make it possible for their products to be traced in the event of a foodborne illness outbreak in order to minimize the health impact of such an event.

The Administrator would also have the power to examine the food safety practices of foreign countries and work with the states to enforce food safety laws, including the ability to seek various civil and criminal penalties for serious violations of the food safety laws. The Administrator would also actively oversee public education and research programs on foodborne illness.

In this era of limited budgets, it is our responsibility to streamline the Federal food safety system. The United States simply cannot afford to continue operating multiple redundant systems. This is not about more regulation, a super agency, or increased bureaucracy. It is about common sense and the more effective marshaling of our existing resources.

I urge my colleagues to join me in supporting this important piece of legislation.

By Mr. FEINGOLD:

S. 2913. A bill to establish a demonstration project to train unemployed workers for employment as health care professionals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, over the past year, I have come to this floor on a number of occasions to discuss the loss of manufacturing jobs in Wisconsin and around the country and ways in which I think that Congress should act to stem the flow of these jobs to foreign countries.

According to the Wisconsin Department of Workforce Development, Wisconsin has lost more than 80,000 manufacturing jobs since 2000. Nationally, according to the Bureau of Labor Statistics, the country has lost more than 2.8 million manufacturing jobs during that same time period. In addition to the loss of manufacturing jobs, I am deeply troubled by the Bush administration's contention that the outsourcing of American service sector and other jobs is good for the economy. I am concerned about the message that this policy sends to Wisconsinites and all Americans who are currently employed in these sectors.

There is something of a silver lining to the looming cloud of manufacturing and other jobs loss: the country's workforce development system.

In spite of stretched resources and long waiting lists for services, our workforce development boards are making a tremendous effort to retrain laid-off workers and other job seekers for new jobs. And this effort is clearly evident in Wisconsin, where my State's 11 workforce development boards are leading the way in finding innovative solutions to retraining workers for new careers on shoestring budgets.

I strongly support the work of these agencies, and have urged the administration and Senate appropriators to provide adequate funding for the job training programs authorized by the Workforce Investment Act. I regret that the administration's budget request for fiscal year 2005 does not provide adequate funding for WIA, and I will continue to work to ensure that the workforce development boards in my State and across our country receive the resources that they need to help job seekers get the training they need to be successful.

I am committed to finding resources to retrain those who have been laid off from the manufacturing and service sectors and who wish to find new jobs in high-demand fields such as health care.

As most of my colleagues know all too well, we are facing a significant shortage of health care workers. Congress has made some progress in addressing the nursing shortage, but we need to expand our efforts. Shortages of health professionals pose a real threat to the health of our communities by impacting access to timely, high-quality health care. Studies have shown that shortages of nurses in our hospitals and health facilities increase medical errors, which directly affects patient health.

As our population ages, and the baby-boomers need more health care, our need for all types of health professionals is only going to increase. This is particularly true for the field of long-term care. According to the Bureau of Labor Statistics, we are going to need an additional 1.2 million nursing aides, home health aides, and other health professionals in long-term care before the year 2010.

As our demand for health care workers grows, so does the number of jobs available within this sector. Currently, health services is the largest industry in the country, providing 12.9 million jobs in 2002. It is estimated that 16 percent of all new jobs created between 2002 and 2012 will be in health services. This accounts for 3.5 million new jobs—more than any other industry.

Workforce development agencies in my home State of Wisconsin are already working to support displaced workers in their communities by training them for health care jobs, since there is a real need for workers in these fields. These agencies are helping communities get and maintain access to high-quality health care by ensuring that there are enough health care workers to care for their communities.

As the executive director of one of the workforce development boards in my State put it, ''[t]here are simply not many good quality jobs to replace manufacturing jobs lost to rural communities. The medical professions, by offering a 'living wage' and good benefits, provide an excellent alternative to manufacturing for sustaining a higher, family-oriented standard of living.''

I believe we need to support our communities in these efforts by providing them with the resources they need to establish, sustain, or expand these important programs. For that reason, today I am introducing the Community-Based Health Care Retraining Act. This bill would amend the Workforce Investment Act to authorize a demonstration project to provide grants to community-based coalitions, led by local workforce development boards, to create programs to retrain unemployed workers who wish to obtain new jobs in the health care professions. My bill would authorize a total of $25 million for grants between $100,000 and $500,000, and, in the interest of fiscal responsibility, it ensures that these grants would be offset.

This bill will help provide communities with the resources they need to run retraining programs for the health professions. The funds could be used for a variety of purposes—from increasing the capacity of our schools and training facilities, to providing financial and social support for workers who are in retraining programs. This bill is flexible in what the grant funds could be used for, because I believe that communities know best about the resources they need to run an efficient program.

This bill represents a nexus in my efforts to support workers whose jobs have been shipped overseas and to ensure that all Americans have access to the high-quality health care that they deserve. By providing targeted assistance to train laid-off workers who wish to obtain new jobs in the health care sector, we can both help unemployed Americans and improve the availability and quality of health care that is available in our communities.

I am pleased that this bill is supported by a variety of organizations that are committed to providing high-quality job training and health care services, including: the National Association of Workforce Boards, the American Health Care Association, the Wisconsin Association of Job Training Executives, Northwest Wisconsin Concentrated Employment Program, the

Northwest Wisconsin Workforce Investment Board, and the Southwestern Wisconsin Workforce Development Board.

I ask unanimous consent that the full text of this bill, and the text of the letters of support from the above-mentioned groups, be printed in the RECORD at the conclusion of my remarks.

In order to ensure that our workers are able to compete in the new economy, we must ensure that they have the tools they need to be trained or retrained for high-demand jobs such as those in the health care field. My bill is a small step toward providing the resources necessary to achieve this goal. I will continue to work to strengthen the American manufacturing sector and to support those workers who have been displaced due to bad trade agreements and other policies that have led to the loss of American jobs.

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

S. 2913

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Community-Based Health Care Retraining Act''.

SEC. 2. HEALTH PROFESSIONS TRAINING DEMONSTRATION PROJECT.

Section 171 of the Workforce Investment Act of 1998 (29 U.S.C. 2916) is amended by adding at the end the following:

''(e) HEALTH PROFESSIONS TRAINING DEMONSTRATION PROJECT.—

''(1) DEFINITIONS.—In this subsection:

''(A) COVERED COMMUNITY.—The term 'covered community' means a community or region that—

''(i) has experienced a significant percentage decline in positions in the manufacturing or service sectors; and

''(ii)(I) is eligible for designation under section 332 of the Public Health Service Act (42 U.S.C. 254e) as a health professional shortage area;

''(II) is eligible to be served by a health center under section 330 or a grantee under section 330(h) (relating to homeless individuals) of the Public Health Service Act (42 U.S.C. 254b, 254b(h));

''(III) has a shortage of personal health services, as determined under criteria issued by the Secretary of Health and Human Services under section 1861(aa)(2) of the Social Security Act (relating to rural health clinics) (42 U.S.C. 1395x(aa)(2)); or

''(IV) is designated by a Governor (in consultation with the medical community) as a shortage area or medically underserved community.

''(B) COVERED WORKER.—The term 'covered worker' means an individual who—

''(i)(I) has been terminated or laid off, or who has received a notice of termination or layoff, from employment in a manufacturing or service sector;

''(II)(aa) is eligible for or has exhausted entitlement to unemployment compensation; or

''(bb) has been employed for a duration sufficient to demonstrate, to the appropriate entity at a one-stop center referred to in section 134(c), attachment to the workforce, but is not eligible for unemployment compensation due to insufficient earnings or having performed services for an employer that were not covered under a State unemployment compensation law; and

''(III) is unlikely to return to a previous industry or occupation; or

''(ii)(I) has been terminated or laid off, or has received a notice of termination or layoff, from employment in a manufacturing or service sector as a result of any permanent closure of, or any substantial layoff at, a plant, facility, or enterprise; or

''(II) is employed in a manufacturing or service sector at a facility at which the employer has made a general announcement that such facility will close within 180 days.

''(C) HEALTH CARE PROFESSIONAL.—The term 'health care professional'—

''(i) means an individual who is involved with—

''(I) the delivery of health care services, or related services, pertaining to—

''(aa) the identification, evaluation, and prevention of diseases, disorders, or injuries; or

''(bb) home-based or community-based long-term care;

''(II) the delivery of dietary and nutrition services; or

''(III) rehabilitation and health systems management; and

''(ii) includes nurses, home health aides, nursing assistants, physician assistants, dental hygienists, diagnostic medical sonographers, dietitians, medical technologists, occupational therapists, physical therapists, radiographers, respiratory therapists, emergency medical service technicians, and speech-language pathologists.

''(2) ESTABLISHMENT OF PROJECT.—In accordance with subsection (b), the Secretary shall establish and carry out a health professions training demonstration project.

''(3) GRANTS.—In carrying out the project, the Secretary, after consultation with the Secretary of Health and Human Services, shall make grants to eligible entities to enable the entities to carry out programs in covered communities to train covered workers for employment as health care professionals. The Secretary shall make each grant in an amount of not less than $100,000 and not more than $500,000.

''(4) ELIGIBLE ENTITIES.—Notwithstanding subsection (b)(2)(B), to be eligible to receive a grant under this subsection to carry out a program in a covered community, an entity shall be a partnership that is—

''(A) under the direction of a local workforce investment board established under section 117 that is serving the covered community; and

''(B) composed of members serving the covered community, such as—

''(i) a community college;

''(ii) a vocational or technical school;

''(iii) a health clinic or hospital;

''(iv) a home-based or community-based long-term care facility or program; or

''(v) a health care facility administered by the Secretary of Veterans Affairs.

''(5) APPLICATIONS.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including, at a minimum—

''(A) a proposal to use the grant funds to establish or expand a training program in order to train covered workers for employment as health care professionals or paraprofessionals;

''(B) information demonstrating the need for the training and support services to be provided through the program;

''(C) information describing the manner in which the entity will expend the grant funds, and the activities to be carried out with the funds; and

''(D) information demonstrating that the entity meets the requirements of paragraph (4).

''(6) SELECTION.—In making grants under paragraph (3), the Secretary, after consultation with the Secretary of Health and Human Services, shall select—

''(A) eligible entities submitting applications that meet such criteria as the Secretary of Labor determines to be appropriate; and

''(B) among such entities, the eligible entities serving the covered communities with the greatest need for the grants and the greatest potential to benefit from the grants.

''(7) USE OF FUNDS.—

''(A) IN GENERAL.—An entity that receives a grant under this subsection shall use the funds made available through the grant for training and support services that meet the needs described in the application submitted under paragraph (5), which may include—

''(i) increasing capacity at an educational institution or training center to train individuals for employment as health professionals, such as by—

''(I) expanding a facility, subject to subparagraph (B);

''(II) expanding course offerings;

''(III) hiring faculty;

''(IV) providing a student loan repayment program for the faculty;

''(V) establishing or expanding clinical education opportunities;

''(VI) purchasing equipment, such as computers, books, clinical supplies, or a patient simulator; or

''(VII) conducting recruitment; or

''(ii) providing support services for covered workers participating in the training, such as—

''(I) providing tuition assistance;

''(II) establishing or expanding distance education programs;

''(III) providing transportation assistance; or

''(IV) providing child care.

''(B) LIMITATION.—To be eligible to use the funds to expand a facility, the eligible entity shall demonstrate to the Secretary in an application submitted under paragraph (5) that the entity can increase the capacity described in subparagraph (A)(i) only by expanding the facility.

''(8) FUNDING.—Of the amounts appropriated to, and available at the discretion of, the Secretary or the Secretary of Health and Human Services for programmatic and administrative expenditures, a total of $25,000,000 shall be used to establish and carry out the demonstration project described in paragraph (2) in accordance with this subsection.''.

NATIONAL ASSOCIATION OF WORKFORCE BOARDS,
Washington, DC, September 28, 2004.

Hon. RUSSELL FEINGOLD,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINGOLD: This letter is in regards to your bill, the Community-Based Health Care Retraining Act, which seeks to establish a demonstration project to train unemployed workers for employment as health care professionals. The National Association of Workforce Boards (NAWB) would like to support your efforts in linking America's workforce investment boards with health care training. Our members can be a valuable resource in the transition of manufacturing workers to the numerous employment opportunities in the health care field.

NAWB is the national association that represents the interests of the 650 workforce investment boards across the country. These boards consist of over 15,000 private sector

business leaders, appointed by their Governors and local elected officials, who provide leadership and governance for the public workforce development system. In existence since 1979, NANWB has been a leader in the effort to create a public workforce system. that is responsive to businesses and job seekers alike.

As you know, meeting the ever-increasing needs of America's workers and employers is critical for prosperity in the United States. Developing an educated and skilled workforce to attract and retain business is a challenge facing all communities. The growing education and workforce skills mismatch between what the current American workforce offers and what employers need is particularly acute in high-skill industry sectors. However, these are the very industries that hold the most economic promise for our current workers and the emerging workforce, our nation's young people. The challenge posed for policy makers is aligning America's workforce with rapidly changing economic conditions and opportunities, while simultaneously maintaining competitiveness to minimize off-shoring.

Four of five U.S. manufacturers struggled to find candidates for skilled jobs, according to a 2003 survey by the National Association of Manufacturers. Ironically, this search for skilled workers occurred while many plants were going thorough layoffs. The United States has seen 3 million manufacturing jobs disappear.

Workers have permanently lost the jobs they once held at these factories. New opportunities must be made to allow a transition into new employment, especially for those who cannot recover their job if demand increases. But in order to do this, training dollars must be made available to those employees who cannot regain employment within the manufacturing industry.

Through your bill, employers in the health care industry that desperately need skilled workers can find the human capital they desire in those who have been permanently laid off from their manufacturing job. There has been an enormous increase in the number of nursing and direct care professional opportunities within the long-term care arena, particularly within home-based care. These opportunities are not only based on the number of employees needed. They require a high level of skill, knowledge and compassion to work in long-term care. Training dollars must be available to introduce educated employees to the health care industry.

Employers on the lay-off end of manufacturing employment and employers on the hiring end of health care industries need to tap all available employment and training resources. NAWB can assist both sides of the equation by connecting employers with their local workforce boards. Investing in training our workers is critical.

Our CEO, Ms. Stephanie Powers, is available to provide your staff with any information you may require (phone: (202) 775–0960 or email: powerss@nawb.org). Thank you for your interest in our organization and the members we represent. The National Association of Workforce Boards remains committed to working with Congress as we continue our mission to build a stronger, more competitive American workforce.

Sincerely,

J. MICHAEL ZELLEY,
President, The Disability Network, Flint, MI, and Co-Chair, Policy Committee, National Association of Workforce Boards.

JEFFREY HOWE,
Vice President, Manager, Indiana Commercial Banking, First Indiana Bank, N.A., Indianapolis, IN, and Chair, National Association of Workforce Boards.

AMERICAN HEALTH CARE ASSOCIATION,
Washington, DC, September 29, 2004.

Hon. RUSSELL D. FEINGOLD,
U.S. Senate,
Washington, DC.

DEAR SENATOR FEINGOLD: On behalf of the American Health Care Association, the nation's largest association of long term care providers, and the National Center for Assisted Living, I am writing you to offer our support for enactment of the ''Community-Based Health Care Retraining Act'' you are introducing.

Today, there is a critical shortage of health and long term care professionals and paraprofessionals and it is growing. In our nation's nursing facilities, there is a need for more than 90,000 nurses and certified nursing assistants right now to provide the hands-on care needed by the frail and elderly. The need for these direct care workers will grow dramatically in the future as the baby boom population moves into retirement. America's high standard for quality can only be maintained if there are enough front-line workers to provide the direct hands-on care that will be needed. This is not a job that can be handled off-shore.

Your legislation will help to address this shortage by providing the means for a growing number of displaced manufacturing and service sector workers to begin building new careers in the health and long term care sectors. It does so by utilizing federal dollars to redirect these displaced workers into health care careers. It provides for expanding the nation's training capacity and by increasing number of educators that are and will be needed to make this transition successful.

Senator Feingold, we commend you for the leadership you are providing with the introduction of this legislation and look forward to working with you to see this legislation passed and enacted at the earliest opportunity.

Sincerely,

HAL DAUB,
President & CEO.

WISCONSIN ASSOCIATION OF
JOB TRAINING EXECUTIVES,
August 10, 2004.

Senator RUSS FEINGOLD,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINGOLD: On behalf of the Wisconsin Association of Job Training Executives (WAJTE), I am writing to express our strong support for the proposed legislation designed to address two significant workforce issues—the loss of large numbers of manufacturing and service sector jobs and the critical shortage of health care professionals. As you know, both of these issues currently challenge the workforce development delivery systems in Wisconsin.

Our association members are the chief executives of each of Wisconsin's eleven Workforce Development Boards who have the responsibility for overseeing the health of the local economies in partnership with business, education, and local governments. The proposed legislation offers these specific strengths.

Ensures that eligible entities shall be a partnership under the direction of a local board.

Limits grant funds to training programs for health care professionals.

Allows for the use of grant funds for support services as well as training.

Allows for capacity expansion in educational institutions.

If WAJTE members can be of assistance to you as this legislation is introduced, please do not hesitate to contact us.

Sincerely,

FRANCISCO SANCHEZ,
Chairman.

CEP—WIB,
Ashland, WI, September 30, 2004.

Senator RUSS FEINGOLD,
Hart Senate Building, Washington, DC.

DEAR SENATOR FEINGOLD: On behalf of the Northwest Wisconsin Concentrated Employment Program, Inc. and the Northwest Wisconsin Workforce Investment Board, Inc., I want to express our enthusiastic support in the Community-Based Health Care Retraining Act in Wisconsin.

This initiative will help to strengthen the economy of our area. Some of our counties in Northwest Wisconsin are experiencing high labor shortages particularly in the health care industries. Further, our area wages are approximately 24% less than the State average, which adds to a poverty situation made worse by rural isolation. This Community-Based Health Care Retraining Act will address these serious economic issues and help to alleviate the severe shortage of health care workers.

This Act provides hope for the future economy and people of our State. Please contact me if we can be of any further assistance.

Sincerely yours,

FRED SCHNOOK,
Executive Director.

SOUTHWEST WISCONSIN
WORKFORCE DEVELOPMENT BOARD,
Dodgeville, WI, August 4, 2004.

Hon. RUSS FEINGOLD,
Hart Senate Office Building, Washington, DC.

DEAR SENATOR FEINGOLD: I would like to take this opportunity to comment on your proposed legislation regarding health-care retraining. I believe it is an excellent proposal that will address a serious need particularly within rural communities. Please allow me to elaborate on several points that support this legislation.

First, as executive director for a primarily rural workforce development area, I can tell you how difficult it is to replace manufacturing jobs. There simply are not many good quality jobs to replace manufacturing jobs lost to rural communities. The medical professions, by offering a ''living wage'' and good benefits, provide an excellent alternative to manufacturing for sustaining a higher, family-oriented standard of living. Health-care is also a regional scope, providing job opportunities for workers in surrounding communities. Furthermore, medical professions are not exportable and there is virtually no chance that health-care jobs will be shipped out-of-country or overseas.

Second, I am chairperson of a small, rural community hospital. For many years we have struggled to survive in a very competitive market surrounded by large, corporate medical organizations/hospitals in Janesville and Madison. I believe that our hospital has a unique role within our community—as a community-based facility we are closer to our patients and can provide personalized ''hometown'' care. One of our biggest problems is our ability to attract and retain qualified, experienced health-care workers. With the impending shortage caused by the retirement of ''baby boomers'' we will find ourselves in an even more difficult role as larger facilities offer higher salaries, better benefits, incentive and sign-on bonuses, etc. to attract and retain the workers they need. Rural hospitals will find themselves left out and unable to compete for the caregivers we need.

Third, there are several key organizations that lie at the core of any community that

are vital to the quality of life within that community. Schools are one example of this type of organizations. Hospitals, nursing homes and other types of medical facilities are other examples of key organizations that support a higher standard of life within a rural community.

And finally, I would like to thank the Senator for recognizing the vital role that Workforce Development Boards (WDBs) play in our areas. The WDBs are regional organizations providing oversight and coordination for economic and workforce development activities. Furthermore, there are few organizations today that are advocates for the ''worker''. I believe that WDBs are an example of such an organization. And, I believe it is critical to the success of a program that the WDBs serve as the coordinating agency for the delivery of this type of program.

For the reasons stated above, I strongly support your proposed Health-Care Retraining Bill. Thank you for the chance to offer my comments. I look forward to the opportunity to participate in, what I believe to be, a meaningful and critically important program particularly for the rural communities.

Sincerely,

ROBERT T. BORREMANS,
Executive Director.

By Ms. MIKULSKI:

S. 2914. A bill to amend the Internal Revenue Code of 1986 to provide incentives for alternative fuels and alternative fuel vehicles; to the Committee on Finance.

Ms. MIKULSKI. Mr. President, I rise today to introduce the ''Common Sense Automobile Affordability Act Of 2004''. My colleagues from Maryland introduced a similar bill in the House. I believe in energy conservation. I also believe in job conservation. We can improve the fuel efficiency of our cars without sticking a knife through the hearts of our Nation's auto workers. That is what I am going to keep standing up for in the U.S. Senate.

When I consider any energy proposal, I apply four criteria. First, the proposal must achieve real savings in oil consumption. Secondly, the proposal also must preserve U.S. jobs. Next, the proposal must be realizable and achievable. And, lastly, it must create incentives to help companies achieve these goals.

I agree with the goals of energy efficient vehicle tax breaks—fuel efficiency and energy conservation. I believe we need to reduce our dependence on foreign oil. The U.S. imports about twenty million barrels of oil a day, roughly 40 percent of that goes to fuel cars and light trucks. Half of our oil is imported and a quarter of our oil is imported from the Persian Gulf. Reducing our dependence on foreign oil would make us more flexible in the war against terror.

That's why I support the provisions of the energy bill that provide incentives for energy efficiency and fuel conservation. But, we need to be more fuel efficient in a way that doesn't cost American jobs.

Our current tax breaks for energy efficient vehicles provides more help for foreign car manufacturers than U.S. car manufacturers. Small cars receive more tax breaks, and small cars are often made by foreign auto companies.

Our current tax breaks penalize U.S. automakers, because current tax incentives are not geared toward the SUV's or light trucks that American consumers want and American companies make.

Our domestic automakers have been weakened by the current recession. And, we can't rely on foreign manufacturers to provide American jobs. The United Auto Workers (UAW) has seen its membership drop significantly from 1980 through 2000 from 1.4 million members in 1980 down to 670,000 today. That means that our auto workers are being left behind.

I have seen it in Baltimore. Over 1,000 workers were recently laid off at the GM plant, and the plant went through another shutdown after slow sales. This is not just happening in Maryland. GM shut down fourteen of its twenty-nine North American assembly plans for at least a week last year.

American workers are being laid off because, while automobile imports are rising, and our domestic auto share is falling, only 64 percent of cars bought in America are built in America. That's down from 73.9 percent in 1994.

We need common sense tax breaks that provide Americans with good jobs, reduce our dependence on foreign oil and help clean up the environment.

That's why I'm introducing legislation that would repeal the sunsets on existing clean vehicle tax breaks and replace the existing clean fuels tax breaks after 2006 with a comprehensive set of new tax credits of up to $4,000. These tax breaks could be used to buy energy efficient vehicles, including hybrid vehicles, fuel cell vehicles, diesel ''lean burn'' vehicles, and alternative fuel vehicles. There are also additional bonuses for increased fuel conservation and fuel efficiency. My bill includes incentives for all the major clean fuel technologies. There are larger credits for trucks and transit buses that are often American made.

I also support the Hydrogen Fuel Cell Act introduced by my colleague from North Dakota. This bill would provide research money for a hydrogen fuel cell vehicle tax research and development programs.

We can have both energy conservation and job conservation. That's what I'm fighting for. It will take innovative solutions, improved technology, and the setting of realistic, achievable goals. That's what my legislation encourages. With the right incentives to increase demand for cutting edge technologies, to increase U.S. manufacturing capacity of fuel efficient vehicles, and to provide good paying jobs for Americans.

I urge my colleagues to join me in supporting these goals and this bill.

I ask unanimous consent that the text of my bill be inserted in the RECORD.

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

S. 2914

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the ''Common Sense Automobile Efficiency Act of 2004''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. REPEAL OF PHASEOUTS FOR QUALIFIED ELECTRIC VEHICLE CREDIT AND DEDUCTION FOR CLEAN-FUEL VEHICLES.

(a) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—Subsection (b) of section 30 (relating to limitations) is amended by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—Paragraph (1) of section 179A(b) (relating to qualified clean-fuel vehicle property) is amended to read as follows:

''(1) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—The cost which may be taken into account under subsection (a)(1)(A) with respect to any motor vehicle shall not exceed—

''(A) in the case of a motor vehicle not described in subparagraph (B) or (C), $2,000,

''(B) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

''(C) $50,000 in the case of—

''(i) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

''(ii) any bus which has a seating capacity of at least 20 adults (not including the driver).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 3. ALTERNATIVE MOTOR VEHICLE CREDIT.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following:

''SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

''(2) the new advanced lean burn technology motor vehicle credit determined under subsection (c),

''(3) the new qualified hybrid motor vehicle credit determined under subsection (d), and

''(4) the new qualified alternative fuel motor vehicle credit determined under subsection (e).

''(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year shall be determined in accordance with the following table:

''In the case of a vehicle which has a gross vehicle weight rating of—	**The new qualified fuel cell motor vehicle credit is—**
Not more than 8,500 lbs	$4,000
More than 8,500 lbs but not more than 14,000 lbs.	$10,000

"In the case of a vehicle which has a gross vehicle weight rating of—	The new qualified fuel cell motor vehicle credit is—
More than 14,000 lbs but not more than 26,000 lbs.	$20,000
More than 26,000 lbs	$40,000.

''(2) INCREASE FOR FUEL EFFICIENCY.—

''(A) IN GENERAL.—The amount determined under paragraph (1) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by the additional credit amount.

''(B) ADDITIONAL CREDIT AMOUNT.—For purposes of subparagraph (A), the additional credit amount shall be determined in accordance with the following table:

"In the case of a vehicle which achieves a fuel economy (expressed as a percentage of the 2002 model year city fuel economy) of—	The additional credit amount is—
At least 150 percent but less than 175 percent.	$1,000
At least 175 percent but less than 200 percent.	$1,500
At least 200 percent but less than 225 percent.	$2,000
At least 225 percent but less than 250 percent.	$2,500
At least 250 percent but less than 275 percent.	$3,000
At least 275 percent but less than 300 percent.	$3,500
At least 300 percent	$4,000.

''(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

''(A) which is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

''(B) which, in the case of a passenger automobile or light truck, has received—

''(i) a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(ii) a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

''(D) which is acquired for use or lease by the taxpayer and not for resale, and

''(E) which is made by a manufacturer.

''(c) NEW ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new advanced lean burn technology motor vehicle credit determined under this subsection with respect to a new advanced lean burn technology motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) FUEL ECONOMY.—The credit amount determined under this paragraph shall be determined in accordance with the following table:

"In the case of a vehicle which achieves a fuel economy (expressed as a percentage of the 2002 model year city fuel economy) of—	The credit amount is—
At least 125 percent but less than 150 percent.	$400
At least 150 percent but less than 175 percent.	$800
At least 175 percent but less than 200 percent.	$1,200
At least 200 percent but less than 225 percent.	$1,600
At least 225 percent but less than 250 percent.	$2,000
At least 250 percent	$2,400.

''(B) CONSERVATION CREDIT.—The amount determined under subparagraph (A) with respect to a new advanced lean burn technology motor vehicle shall be increased by the conservation credit amount determined in accordance with the following table:

"In the case of a vehicle which achieves a lifetime fuel savings (expressed in gallons of gasoline) of—	The conservation credit amount is—
At least 1,200 but less than 1,800	$250
At least 1,800 but less than 2,400	$500
At least 2,400 but less than 3,000	$750
At least 3,000	$1,000.

''(3) NEW ADVANCED LEAN BURN TECHNOLOGY MOTOR VEHICLE.—For purposes of this subsection, the term 'new advanced lean burn technology motor vehicle' means a passenger automobile or a light truck—

''(A) with an internal combustion engine which—

''(i) is designed to operate primarily using more air than is necessary for complete combustion of the fuel,

''(ii) incorporates direct injection,

''(iii) achieves at least 125 percent of the 2002 model year city fuel economy, and

''(iv) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds—

''(I) in the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

''(II) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established,

''(B) the original use of which commences with the taxpayer,

''(C) which is acquired for use or lease by the taxpayer and not for resale, and

''(D) which is made by a manufacturer.

''(4) LIFETIME FUEL SAVINGS.—For purposes of this subsection, the term 'lifetime fuel savings' means, in the case of any new advanced lean burn technology motor vehicle, an amount equal to the excess (if any) of—

''(A) 120,000 divided by the 2002 model year city fuel economy for the vehicle inertia weight class, over

''(B) 120,000 divided by the city fuel economy for such vehicle.

''(d) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) CREDIT AMOUNT FOR PASSENGER AUTOMOBILES AND LIGHT TRUCKS.—In the case of a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which has a gross vehicle weight rating of not more than 8,500 pounds, the amount determined under this paragraph is the sum of the amounts determined under clauses (i) and (ii).

''(i) FUEL ECONOMY.—The amount determined under this clause is the amount which would be determined under subsection (c)(2)(A) if such vehicle were a vehicle referred to in such subsection.

''(ii) CONSERVATION CREDIT.—The amount determined under this clause is the amount which would be determined under subsection (c)(2)(B) if such vehicle were a vehicle referred to in such subsection.

''(B) CREDIT AMOUNT FOR OTHER MOTOR VEHICLES.—

''(i) IN GENERAL.—In the case of any new qualified hybrid motor vehicle to which subparagraph (A) does not apply, the amount determined under this paragraph is the amount equal to the applicable percentage of the qualified incremental hybrid cost of the vehicle as certified under clause (v).

''(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is—

''(I) 20 percent if the vehicle achieves an increase in city fuel economy relative to a comparable vehicle of at least 30 percent but less than 40 percent,

''(II) 30 percent if the vehicle achieves such an increase of at least 40 percent but less than 50 percent, and

''(III) 40 percent if the vehicle achieves such an increase of at least 50 percent.

''(iii) QUALIFIED INCREMENTAL HYBRID COST.—For purposes of this subparagraph, the qualified incremental hybrid cost of any vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a comparable vehicle, to the extent such amount does not exceed—

''(I) $10,000, if such vehicle has a gross vehicle weight rating of not more than 14,000 pounds,

''(II) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(III) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(iv) COMPARABLE VEHICLE.—For purposes of this subparagraph, the term 'comparable vehicle' means, with respect to any new qualified hybrid motor vehicle, any vehicle which is powered solely by a gasoline or diesel internal combustion engine and which is comparable in weight, size, and use to such vehicle.

''(v) CERTIFICATION.—A certification described in clause (i) shall be made by the manufacturer and shall be determined in accordance with guidance prescribed by the Secretary. Such guidance shall specify procedures and methods for calculating fuel economy savings and incremental hybrid costs.

''(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'new qualified hybrid motor vehicle' means a motor vehicle—

''(i) which draws propulsion energy from onboard sources of stored energy which are both—

''(I) an internal combustion or heat engine using consumable fuel, and

''(II) a rechargeable energy storage system,

''(ii) which, in the case of a vehicle to which paragraph (2)(A) applies, has received a certificate of conformity under the Clean

Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(I) in the case of a vehicle having a gross vehicle weight rating of 6,000 pounds or less, the Bin 5 Tier II emission standard established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle, and

''(II) in the case of a vehicle having a gross vehicle weight rating of more than 6,000 pounds but not more than 8,500 pounds, the Bin 8 Tier II emission standard which is so established,

''(iii) which has a maximum available power of at least—

''(I) 4 percent in the case of a vehicle to which paragraph (2)(A) applies,

''(II) 10 percent in the case of a vehicle which has a gross vehicle weight rating or more than 8,500 pounds and not than 14,000 pounds, and

''(III) 15 percent in the case of a vehicle in excess of 14,000 pounds,

''(iv) which, in the case of a vehicle to which paragraph (2)(B) applies, has an internal combustion or heat engine which has received a certificate of conformity under the Clean Air Act as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2004 through 2007 model year diesel heavy duty engines or ottocycle heavy duty engines, as applicable,

''(v) the original use of which commences with the taxpayer,

''(vi) which is acquired for use or lease by the taxpayer and not for resale, and

''(vii) which is made by a manufacturer.

Such term shall not include any vehicle which is not a passenger automobile or light truck if such vehicle has a gross vehicle weight rating of less than 8,500 pounds.

''(B) CONSUMABLE FUEL.—For purposes of subparagraph (A)(i)(I), the term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.

''(C) MAXIMUM AVAILABLE POWER.—

''(i) CERTAIN PASSENGER AUTOMOBILES AND LIGHT TRUCKS.—In the case of a vehicle to which paragraph (2)(A) applies, the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.

''(ii) OTHER MOTOR VEHICLES.—In the case of a vehicle to which paragraph (2)(B) applies, the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. For purposes of the preceding sentence, the term 'total traction power' means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.

''(e) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—

''(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the new qualified alternative fuel motor vehicle credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.

''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—

''(A) 40 percent, plus

''(B) 30 percent, if such vehicle—

''(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or

''(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).

For purposes of the preceding sentence, in the case of any new qualified alternative fuel motor vehicle which has a gross vehicle weight rating of more than 14,000 pounds, the most stringent standard available shall be such standard available for certification on the date of this act.

''(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—

''(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

''(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

''(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(4) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'new qualified alternative fuel motor vehicle' means any motor vehicle—

''(i) which is only capable of operating on an alternative fuel,

''(ii) the original use of which commences with the taxpayer,

''(iii) which is acquired by the taxpayer for use or lease, but not for resale, and

''(iv) which is made by a manufacturer.

''(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.

''(5) CREDIT FOR MIXED-FUEL VEHICLES.—

''(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—

''(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and

''(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.

''(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—

''(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,

''(ii) either—

''(I) has received a certificate of conformity under the Clean Air Act, or

''(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105–94 of title 40, Code of Federal Regulations, for that make and model year vehicle,

''(iii) the original use of which commences with the taxpayer,

''(iv) which is acquired by the taxpayer for use or lease, but not for resale, and

''(v) which is made by a manufacturer.

''(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.

''(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '90/10 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.

''(f) LIMITATION ON NUMBER OF NEW QUALIFIED HYBRID AND ADVANCED LEAN-BURN TECHNOLOGY VEHICLES ELIGIBLE FOR CREDIT.—

''(1) IN GENERAL.—In the case of a qualified vehicle sold during the phaseout period, only the applicable percentage of the credit otherwise allowable under subsection (c) or (d) shall be allowed.

''(2) PHASEOUT PERIOD.—For purposes of this subsection, the phaseout period is the period beginning with the second calendar quarter following the calendar quarter which includes the first date on which the number of qualified vehicles manufactured by the manufacturer of the vehicle referred to in paragraph (1) sold for use in the United States after the date of the enactment of this section is at least 80,000.

''(3) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage is—

''(A) 50 percent for the first 2 calendar quarters of the phaseout period,

''(B) 25 percent for the 3d and 4th calendar quarters of the phaseout period, and

''(C) 0 percent for each calendar quarter thereafter.

''(4) CONTROLLED GROUPS.—

''(A) IN GENERAL.—For purposes of this subsection, all persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single manufacturer.

''(B) INCLUSION OF FOREIGN CORPORATIONS.—For purposes of subparagraph (A), in applying subsections (a) and (b) of section 52 to this section, section 1563 shall be applied without regard to subsection (b)(2)(C) thereof.

''(5) QUALIFIED VEHICLE.—For purposes of this subsection, the term 'qualified vehicle' means any new qualified hybrid motor vehicle and any new advanced lean burn technology motor vehicle.

''(g) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under subpart A and sections 27 and 30 for the taxable year.

''(h) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).

''(2) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) 2002 MODEL YEAR CITY FUEL ECONOMY.—

''(A) IN GENERAL.—The 2002 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

''(i) In the case of a passenger automobile:

"If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	45.2 mpg
2,000 lbs	39.6 mpg
2,250 lbs	35.2 mpg
2,500 lbs	31.7 mpg
2,750 lbs	28.8 mpg
3,000 lbs	26.4 mpg
3,500 lbs	22.6 mpg
4,000 lbs	19.8 mpg
4,500 lbs	17.6 mpg
5,000 lbs	15.9 mpg
5,500 lbs	14.4 mpg
6,000 lbs	13.2 mpg
6,500 lbs	12.2 mpg
7,000 to 8,500 lbs	11.3 mpg.

''(ii) In the case of a light truck:

"If vehicle inertia weight class is:	**The 2002 model year city fuel economy is:**
1,500 or 1,750 lbs	39.4 mpg
2,000 lbs	35.2 mpg
2,250 lbs	31.8 mpg
2,500 lbs	29.0 mpg
2,750 lbs	26.8 mpg
3,000 lbs	24.9 mpg
3,500 lbs	21.8 mpg
4,000 lbs	19.4 mpg
4,500 lbs	17.6 mpg
5,000 lbs	16.1 mpg
5,500 lbs	14.8 mpg
6,000 lbs	13.7 mpg
6,500 lbs	12.8 mpg
7,000 to 8,500 lbs	12.1 mpg.

''(B) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (A), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(4) FUEL ECONOMY.—Fuel economy with respect to any vehicle shall be measured under rules similar to the rules under section 4064(c).

''(5) REDUCTION IN BASIS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this paragraph) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(6) NO DOUBLE BENEFIT.—The amount of any deduction or credit allowable under this chapter (other than the credits allowable under this section and section 30) shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.

''(7) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).

''(8) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

''(9) ELECTION NOT TO TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.

''(10) BUSINESS CARRYOVERS ALLOWED.—If the credit allowable under subsection (a) for a taxable year exceeds the limitation under subsection (g) for such taxable year, such excess (to the extent of the credit allowable with respect to property subject to the allowance for depreciation) shall be allowed as a credit carryback and carryforward under rules similar to the rules of section 39.

''(11) INTERACTION WITH MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(i) REGULATIONS.—

''(1) IN GENERAL.—The Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) DETERMINATION OF MOTOR VEHICLE ELIGIBILITY.—The Secretary, after coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

''(j) TERMINATION.—This section shall not apply to any property placed in service after—

''(1) in the case of a new qualified alternative fuel motor vehicle, December 31, 2006,

''(2) in the case of a new advanced lean burn technology motor vehicle or a new qualified hybrid motor vehicle, December 31, 2008, and

''(3) in the case of a new qualified fuel cell motor vehicle, December 31, 2012.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

''(5) NO DOUBLE BENEFIT.—No credit shall be allowed under this section for any motor vehicle for which a credit is also allowed under section 30B.''.

(2) Section 1016(a) is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following:

''(29) to the extent provided in section 30B(h)(5).''.

(3) Section 6501(m) is amended by inserting ''30B(h)(9),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following:

''Sec. 30B. Alternative motor vehicle credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

(d) STICKER INFORMATION REQUIRED AT RETAIL SALE.—

(1) IN GENERAL.—The Secretary of the Treasury shall issue regulations under which each qualified vehicle sold at retail shall display a notice—

(A) that such vehicle is a qualified vehicle, and

(B) that the buyer may not benefit from the credit allowed under section 30B of the Internal Revenue Code of 1986 if such buyer has insufficient tax liability.

(2) QUALIFIED VEHICLE.—For purposes of paragraph (1), the term ''qualified vehicle'' means a vehicle with respect to which a credit is allowed under section 30B of the Internal Revenue Code of 1986.

SEC. 4. SMALL ETHANOL PRODUCER CREDIT.

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by adding at the end the following new paragraph:

''(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

''(A) ELECTION TO ALLOCATE.—

''(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

''(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year, and

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income.

''(C) SPECIAL RULE.—If the amount of a credit which has been apportioned to any patron under this paragraph is decreased for any reason—

''(i) such amount shall not increase the tax imposed on such patron, and

''(ii) the tax imposed by this chapter on such organization shall be increased by such amount.

The increase under clause (ii) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.''.

(b) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking ''30,000,000'' each place it appears and inserting ''60,000,000''.

(c) CONFORMING AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

''(k) CROSS REFERENCE.—

''For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. 5. INCENTIVES FOR BIODIESEL.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

''SEC. 40A. BIODIESEL USED AS FUEL.

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the sum of—

''(1) the biodiesel mixture credit, plus

''(2) the biodiesel credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT AND BIODIESEL CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel used by the taxpayer in the production of a qualified biodiesel mixture.

''(B) QUALIFIED BIODIESEL MIXTURE.—The term 'qualified biodiesel mixture' means a mixture of biodiesel and a taxable fuel (within the meaning of section 4083(a)(1)) which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(C) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—Biodiesel used in the production of a qualified biodiesel mixture shall be taken into account—

''(i) only if the sale or use described in subparagraph (B) is in a trade or business of the taxpayer, and

''(ii) for the taxable year in which such sale or use occurs.

''(D) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(2) BIODIESEL CREDIT.—

''(A) IN GENERAL.—The biodiesel credit of any taxpayer for any taxable year is 50 cents for each gallon of biodiesel which is not in a mixture and which during the taxable year—

''(i) is used by the taxpayer as a fuel in a trade or business, or

''(ii) is sold by the taxpayer at retail to a person and placed in the fuel tank of such person's vehicle.

''(B) USER CREDIT NOT TO APPLY TO BIODIESEL SOLD AT RETAIL.—No credit shall be allowed under subparagraph (A)(i) with respect to any biodiesel which was sold in a retail sale described in subparagraph (A)(ii).

''(3) CREDIT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, paragraphs (1)(A) and (2)(A) shall be applied by substituting '$1.00' for '50 cents'.

''(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

''(c) COORDINATION WITH CREDIT AGAINST EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel shall be properly reduced to take into account any benefit provided with respect to such biodiesel solely by reason of the application of section 6426.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL.—The term 'biodiesel' means the monoalkyl esters of long chain fatty acids derived from plant or animal matter which meet—

''(A) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(B) the requirements of the American Society of Testing and Materials D6751.

''(2) AGRI-BIODIESEL.—The term 'agri-biodiesel' means biodiesel derived solely from virgin oils, including esters derived from virgin vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds, and from animal fats.

''(3) MIXTURE OR BIODIESEL NOT USED AS A FUEL, ETC.—

''(A) MIXTURES.—If—

''(i) any credit was determined under this section with respect to biodiesel used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates the biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(1)(A) and the number of gallons of such biodiesel in such mixture.

''(B) BIODIESEL.—If—

''(i) any credit was determined under this section with respect to the retail sale of any biodiesel, and

''(ii) any person mixes such biodiesel or uses such biodiesel other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the rate applicable under subsection (b)(2)(A) and the number of gallons of such biodiesel.

''(C) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) or (B) as if such tax were imposed by section 4081 and not by this chapter.

''(4) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any sale or use after December 31, 2005.''.

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following new paragraph:

''(18) the biodiesel fuels credit determined under section 40A(a).''.

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 87 is amended to read as follows:

''SEC. 87. ALCOHOL AND BIODIESEL FUELS CREDITS.

''Gross income includes—

''(1) the amount of the alcohol fuels credit determined with respect to the taxpayer for the taxable year under section 40(a), and

''(2) the biodiesel fuels credit determined with respect to the taxpayer for the taxable year under section 40A(a).''.

(B) The item relating to section 87 in the table of sections for part II of subchapter B of chapter 1 is amended by striking ''fuel credit'' and inserting ''and biodiesel fuels credits''.

(2) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting '', and'', and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40A(a).''.

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 40 the following new item:

''Sec. 40A. Biodiesel used as fuel.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel produced, and sold or used, after December 31, 2003, in taxable years ending after such date.

SEC. 6. ALCOHOL FUEL AND BIODIESEL MIXTURES EXCISE TAX CREDIT.

(a) IN GENERAL.—Subchapter B of chapter 65 (relating to rules of special application) is amended by inserting after section 6425 the following new section:

''SEC. 6426. CREDIT FOR ALCOHOL FUEL AND BIODIESEL MIXTURES.

''(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit against the tax imposed by section 4081 an amount equal to the sum of—

''(1) the alcohol fuel mixture credit, plus

''(2) the biodiesel mixture credit.

''(b) ALCOHOL FUEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the alcohol fuel mixture credit is the product of the applicable amount and the number of gallons of alcohol used by the taxpayer in producing any alcohol fuel mixture for sale or use in a trade or business of the taxpayer.

''(2) APPLICABLE AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 52 cents (51 cents in the case of any sale or use after 2004).

''(B) MIXTURES NOT CONTAINING ETHANOL.—In the case of an alcohol fuel mixture in which none of the alcohol consists of ethanol, the applicable amount is 60 cents.

''(3) ALCOHOL FUEL MIXTURE.—For purposes of this subsection, the term 'alcohol fuel mixture' means a mixture of alcohol and a taxable fuel which—

''(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

''(B) is used as a fuel by the taxpayer producing such mixture, or

''(C) is removed from the refinery by a person producing such mixture.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) ALCOHOL.—The term 'alcohol' includes methanol and ethanol but does not include—

''(i) alcohol produced from petroleum, natural gas, or coal (including peat), or

''(ii) alcohol with a proof of less than 190 (determined without regard to any added denaturants).

Such term also includes an alcohol gallon equivalent of ethyl tertiary butyl ether or other ethers produced from such alcohol.

''(B) TAXABLE FUEL.—The term 'taxable fuel' has the meaning given such term by section 4083(a)(1).

''(5) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2010.

''(c) BIODIESEL MIXTURE CREDIT.—

''(1) IN GENERAL.—For purposes of this section, the biodiesel mixture credit is the product of the applicable amount and the number of gallons of biodiesel used by the taxpayer in producing any biodiesel mixture for sale or use in a trade or business of the taxpayer.

''(2) APPLICABLE AMOUNT.—For purposes of this subsection—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable amount is 50 cents.

''(B) AMOUNT FOR AGRI-BIODIESEL.—In the case of any biodiesel which is agri-biodiesel, the applicable amount is $1.00.

''(3) BIODIESEL MIXTURE.—For purposes of this section, the term 'biodiesel mixture' means a mixture of biodiesel and a taxable fuel which—

''(A) is sold by the taxpayer producing such mixture to any person for use as a fuel,

''(B) is used as a fuel by the taxpayer producing such mixture, or

''(C) is removed from the refinery by a person producing such mixture.

''(4) CERTIFICATION FOR BIODIESEL.—No credit shall be allowed under this section unless the taxpayer obtains a certification (in such form and manner as prescribed by the Secretary) from the producer of the biodiesel which identifies the product produced and the percentage of biodiesel and agri-biodiesel in the product.

''(5) OTHER DEFINITIONS.—Any term used in this subsection which is also used in section 40A shall have the meaning given such term by section 40A.

''(6) TERMINATION.—This subsection shall not apply to any sale, use, or removal for any period after December 31, 2005.

''(d) MIXTURE NOT USED AS A FUEL, ETC.—

''(1) IMPOSITION OF TAX.—If—

''(A) any credit was determined under this section with respect to alcohol or biodiesel used in the production of any alcohol fuel mixture or biodiesel mixture, respectively, and

''(B) any person—

''(i) separates the alcohol or biodiesel from the mixture, or

''(ii) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the applicable amount and the number of gallons of such alcohol or biodiesel.

''(2) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under paragraph (1) as if such tax were imposed by section 4081 and not by this section.

''(e) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—Rules similar to the rules under section 40(c) shall apply for purposes of this section.''.

(b) REGISTRATION REQUIREMENT.—Section 4101(a) (relating to registration) is amended by inserting ''and every person producing biodiesel (as defined in section 40A(d)(1)) or alcohol (as defined in section 6426(b)(4)(A))'' after ''4091''.

(c) ADDITIONAL AMENDMENTS.—

(1) Section 40(c) is amended by striking ''or section 4091(c)'' and inserting ''section 4091(c), or section 6426''.

(2) Section 40(e)(1) is amended—

(A) by striking ''2007'' in subparagraph (A) and inserting ''2010'', and

(B) by striking ''2008'' in subparagraph (B) and inserting ''2011''.

(3) Section 40(h) is amended—

(A) by striking ''2007'' in paragraph (1) and inserting ''2010'', and

(B) by striking '', 2006, or 2007'' in the table contained in paragraph (2) and inserting ''through 2010''.

(4)(A) Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new section:

''SEC. 4104. INFORMATION REPORTING FOR PERSONS CLAIMING CERTAIN TAX BENEFITS.

''(a) IN GENERAL.—The Secretary shall require any person claiming tax benefits under the provisions of section 34, 40, 40A, 4041(b)(2), 4041(k), 4081(c), 6426, or 6427(f) to file a quarterly return (in such manner as the Secretary may prescribe) providing such information relating to such benefits and the coordination of such benefits as the Secretary may require to ensure the proper administration and use of such benefits.

''(b) ENFORCEMENT.—With respect to any person described in subsection (a) and subject to registration requirements under this title, rules similar to rules of section 4222(c) shall apply with respect to any requirement under this section.''.

(B) The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

''Sec. 4104. Information reporting for persons claiming certain tax benefits.''.

(5) Section 6427(i)(3) is amended—

(A) by adding at the end of subparagraph (A) the following new flush sentence:

''In the case of an electronic claim, this subparagraph shall be applied without regard to clause (i).'', and

(B) by striking ''20 days of the date of the filing of such claim'' in subparagraph (B) and inserting ''45 days of the date of the filing of such claim (20 days in the case of an electronic claim)''.

(6) Section 9503(b)(1) is amended by adding at the end the following new flush sentence:

''For purposes of this paragraph, taxes received under sections 4041 and 4081 shall be determined without reduction for credits under section 6426.''.

(d) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 is amended by inserting after the item relating to section 6425 the following new item:

''Sec. 6426. Credit for alcohol fuel and biodiesel mixtures.''.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to fuel sold, used, or removed after December 31, 2003.

(2) SUBSECTION (c)(4).—The amendments made by subsection (c)(4) shall take effect on January 1, 2004.

(3) SUBSECTION (c)(5).—The amendments made by subsection (c)(5) shall apply to claims filed after December 31, 2004.

(f) FORMAT FOR FILING.—The Secretary of the Treasury shall prescribe the electronic format for filing claims described in section 6427(i)(3)(B) of the Internal Revenue Code of 1986 (as amended by subsection (c)(5)(A)) not later than December 31, 2004.

SEC. 7. NONAPPLICATION OF EXPORT EXEMPTION TO DELIVERY OF FUEL TO MOTOR VEHICLES REMOVED FROM UNITED STATES.

(a) IN GENERAL.—Section 4221(d)(2) (defining export) is amended by adding at the end the following new sentence: ''Such term does not include the delivery of a taxable fuel (as defined in section 4083(a)(1)) into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4041(g) (relating to other exemptions) is amended by adding at the end the following new sentence: ''Paragraph (3) shall not apply to the sale for delivery of a liquid into a fuel tank of a motor vehicle which is shipped or driven out of the United States.''.

(2) Clause (iv) of section 4081(a)(1)(A) (relating to tax on removal, entry, or sale) is amended by inserting ''or at a duty-free sales enterprise (as defined in section 555(b)(8) of the Tariff Act of 1930)'' after ''section 4101''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or deliveries made after the date of the enactment of this Act.

By Mr. ALLEN:

S. 2918. A bill to amend the Internal Revenue Code of 1986 to provide that distributions from an individual retirement plan, a section 401(k) plan, or a section 403(b) contract shall not be includible in gross income to the extent used to pay long-term care insurance premiums; to the Committee on Finance.

Mr. ALLEN. Mr. President, I rise to bring the Senate's attention to a bill I introduced today, the Long-Term Care Act of 2004.

Baby boomers will begin to turn 65 years old in 2010 and by 2030, all 77 million baby boomers will have reached retirement age and the over 65 population will have doubled. The practicality of these conditions will require the Federal Government and most State governments to spend more money on health care. Presently, Federal and State governments are spending billions of dollars to ensure the health and well being of our fellow citizens.

In one sector of the health care arena where costs are dramatically rising is in the area of long-term care. In 2000, spending on long-term care was estimated at $123.1 billion and it is expected to triple to $346.1 billion by 2040. Currently, 70 percent of long-term care costs are spent on nursing home care. The average cost of nursing home care is $178 per day or $60,000 per year. That is a significant burden on Federal and State governments as well as the thousands of individuals who pay for that care out of pocket.

In addition, almost 75 percent of nursing home care is publicly funded. Medicaid spends about 58.7 percent on long-term care while Medicare spends 14.7 percent. According to the Council for Affordable Health Insurance, by the year 2030, Medicaid's nursing home expenditures are expected to reach $130 billion a year.

If more people purchased private long-term care insurance, we could reduce Medicaid's future institutional-care expenses by more than $40 billion each year, while giving those who are insured alternatives to nursing homes: including home care, adult day care, foster care and assisted living. Congress has taken steps to give individuals more power to pay for their health care services such as long-term care. One such outstanding measure was the creation of Health Savings Accounts (HSAs).

Last year, I was pleased to support the passage of the Medicare Modernization Act. This landmark legislation

created Health Savings Accounts, which are a new way that people can pay for unreimbursed medical expenses such as deductibles, co-payments, and services not covered by insurance like long-term care. Eligible individuals can establish and fund these accounts when they have a qualifying high deductible health plan and no other health plan, with some exceptions. The beauty of these plans is that they have tax advantages such as deductible contributions; tax-exempt withdrawals if the individual uses the money for medical expenses; and tax-exempt account earnings.

I am confident that with the creation of Health Savings Accounts, individuals and families will be encouraged to set money aside for their health care expenses and give individuals the means to pay for health care services of their own choosing, without being constrained by insurers or employers. Unfortunately, Health Savings Accounts are relatively new and most individuals will not have the built up funds in their HSA to pay for a number of costly health care expenses such as long-term care insurance and that is why we need to provide other options to help pay for this important investment.

Currently, thousands of Virginians and millions of Americans are saving in their retirement plans to have a comfortable life once they become seniors, be it IRA, 401(k), and 403(b) accounts. These savings plans help prepare individuals for their future retirement or any unforeseen circumstance that may arise. Indeed, over 43 million Americans own IRAs with total savings of $2.5 trillion, while more than 47 million Americans have 401(k) accounts with $1.8 trillion saved. In addition, 6.4 million Americans have 403(b) accounts, amounting to over $590 billion saved.

These are untapped funds that individuals should be allowed to use to help pay for their future health care needs. Current tax law and some retirement plans allow individuals, in extreme circumstances, to withdraw funds from their retirement accounts, but more often than not, a 10 percent excise tax applies for early withdrawal. In my opinion, that tax precludes the ability or desirability of individuals to provide for their and their families well-being and that is why I have introduced legislation to provide a new health care option to help address this unfortunate circumstance.

My legislation, the Long-Term Care Act of 2004 will allow individuals to use their IRAs, 401(k), and 403(b) plans to purchase long-term care insurance with pretax dollars at any age and without early withdrawal penalty. Under the Long-Term Care Act, the consumer has the option to purchase long-term care insurance at the most appropriate amounts for their own needs and their spouses.

Today, only six percent of Americans own a long-term care policy. One of the reasons behind this dismally low figure is that individuals wait too long to purchase long-term care insurance. In fact, purchasing long-term care insurance at age 65 is about twice expensive as purchasing it age 55. That is why we must encourage individuals to plan for their future health care needs and purchase long-term care insurance at an early age. By purchasing long-term care insurance at a younger age, individuals will be saving money in the long run and not depleting their life savings.

Our country is heading towards a demographic melt down on long-term care costs. It is simply unsustainable for individuals and the government to maintain the current rate of spending without further endangering the state of health care in the United States.

Preparing for future costs of health care is something that every American should be doing. Long-term care insurance is one way for Americans to plan for periods of extended disability without burdening their families, going bankrupt or relying on government assistance.

Every American should be preparing for future health care costs and it is important that we encourage people to take responsibility today for those costs, be it with the purchase of long-term care insurance or investment in a Health Savings Account. If Virginians and Americans fail to act, it will result in an increased and unsustainable financial burden on the Federal Government and taxpayers.

My legislation, the Long-Term Care Act of 2004, is a commonsense approach that will encourage individuals to plan for their future health care needs and help make long-term care insurance more affordable. While this may not be the solution for some people, it is another option for the millions of Virginians and Americans to help provide for their health and well-being or the health and well-being of loved ones. I look forward to the Senate's action on this legislation early on in the 109th Congress because it not only encourages Americans to plan for their future health needs but will also help sustain the viability of our Nation's health care system.

By Mr. BAUCUS (for himself and Mr. DASCHLE):

S. 2919. A bill to amend the Internal Revenue Code of 1986 to provide funding for Indian tribal prison facilities, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I rise today to talk about a crisis occurring today in Indian country—and offer a solution. This crisis is not something new. It has been decades in the making. For too long we have neglected to adequately address this issue. This crisis is the condition of Indian jails.

We held a hearing on the Finance Committee this fall to bring attention to the problem. We heard testimony from the Inspector General of the Interior Department, Mr. Earl Devaney. He issued a report that was absolutely shocking. Mr. Devaney said the conditions of Indian jails are comparable to conditions found in third-world countries. He said the jails are a natural disgrace.

There are over seventy Indian jails in America. Almost all of them suffer from the same problems. They are highly understaffed and overpopulated. There are extremely high rates of suicides and escapes. Officers are undertrained or not trained at all. Many of these jails don't even have locking doors. We are talking about jails used to detain criminals and they don't have locking doors. These conditions are unacceptable. They must be fixed. It is our duty to address this problem.

In my home State of Montana, we have eleven Indian jails. They are staffed with hardworking, good people. But they are not miracle workers. They cannot be faulted for the deplorable condition of their jails. Let me give you are example.

On one day in June of 2002, nine of the eleven Montana Indian jails were overpopulated. The Crow Indian jail was 429 percent overcapacity. At the Blackfeet Indian jail, every single detention officer was assaulted last year.

One major reason these jails are in such poor condition is they are terribly underfunded. Tribal officers don't have the money to address the problems. Their hands are tied. We can do something about this. We must provide adequate funding for Indian jails.

Today I offer a proposal to the Senate to give tribes the authority to issue tax credit bonds for the construction, maintenance, and operation of their detention facilities. These bonds give off tax credits rather than interest to their investors, allowing tribes with little resources to earn interest off the proceeds. The bonds will provide a steady stream of income to the Tribal governments.

The legislation will provide money that is so desperately needed to address the problems facing Indian jails. I urge my colleagues to support this legislation. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2919

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREDIT TO HOLDERS OF INDIAN TRIBAL PRISON FACILITY BONDS.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended by adding at the end the following new subpart:

"Subpart H—Nonrefundable Credit for Holders of Indian Tribal Prison Facility Bonds

''Sec. 54. Credit to holders of Indian tribal prison facility bonds.

"SEC. 54. CREDIT TO HOLDERS OF INDIAN TRIBAL PRISON FACILITY BONDS.

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds an Indian tribal prison

facility bond on a credit allowance date of such bond which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any Indian tribal prison facility bond is the amount equal to the product of—

''(A) the credit rate determined by the Secretary under paragraph (2) for the month in which such bond was issued, multiplied by

''(B) the face amount of the bond held by the taxpayer on the credit allowance date.

''(2) DETERMINATION.—During each calendar month, the Secretary shall determine a credit rate which shall apply to bonds issued during the following calendar month. The credit rate for any month is the percentage which the Secretary estimates will permit the issuance of Indian tribal prison facility bonds without discount and without interest cost to the issuer.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than this subpart and subpart C).

''(d) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(e) INDIAN TRIBAL PRISON FACILITY BOND.—For purposes of this part, the term 'Indian tribal prison facility bond' means any bond issued as part of an issue if—

''(1) 95 percent or more of the proceeds of such issue are to be invested in investment grade obligations and the proceeds from such investment are used for the construction, acquisition, rehabilitation, expansion, or operating expanses of a qualified Indian tribal prison facility,

''(2) the bond is issued by the Indian tribe within the jurisdiction of which such facility is located,

''(3) the bond is issued pursuant to a plan developed by the Indian tribe,

''(4) the issuer designates such bond for purposes of this section,

''(5) the term of each bond which is part of such issue does not exceed 10 years, and

''(6) no amount of proceeds of such issue (including proceeds from any investment under paragraph (1)) may be used to pay the costs of issuance to the extent such amount exceeds 2 percent of the sale proceeds of such issue.

''(f) QUALIFIED INDIAN TRIBAL PRISON FACILITY.—For purposes of this section, the term 'qualified Indian tribal prison facility' means any residential correctional or detention facility located on the qualified Indian land of the issuing Indian tribe substantially all of the inmates of which are adult or juvenile members of such Indian tribe.

''(g) LIMITATION ON AMOUNT OF BONDS DESIGNATED; ALLOCATION OF BONDS.—

''(1) NATIONAL LIMITATION.—There is an Indian tribal prison facility bond limitation for each calendar year. Such limitation is—

''(A) $200,000,000 for 2005,

''(B) $200,000,000 for 2006,

''(C) $200,000,000 for 2007, and

''(D) except as provided in paragraph (3), zero thereafter.

''(2) ALLOCATION OF BONDS.—

''(A) IN GENERAL.—The Secretary, after consultation with the Secretary of the Interior, shall allocate the Indian tribal prison facility bond limitation among those Indian tribes which submit a plan which contains a description of the proposed use of investment proceeds, assurances that such proceeds will be used only for such use, a proposed expenditure schedule, information relevant to the criteria described in subparagraph (B), and any other information determined appropriate by the Secretary.

''(B) APPROVAL CRITERIA.—In allocating the limitation among plan requests of Indian tribes under subparagraph (A), the Secretary shall consider—

''(i) the percentage of prison overcrowding in excess of the facility occupancy level as determined by the Bureau of Indian Affairs,

''(ii) the condition of existing facilities,

''(iii) the health and safety of both inmates and prison employees,

''(iv) the type of offenders incarcerated, and

''(v) other financial resources available to the Indian tribe.

''(3) CARRYOVER OF UNUSED ISSUANCE LIMITATION.—If for any calendar year the limitation amount imposed by paragraph (1) exceeds the amount of Indian tribal prison facility bonds issued during such year, such excess shall be carried forward to one or more succeeding calendar years as an addition to the limitation imposed by paragraph (1) and until used by issuance of such bonds.

''(h) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CREDIT ALLOWANCE DATE.—The term 'credit allowance date' means, with respect to any issue, the last day of the 1-year period beginning on the date of the issuance of such issue and the last day of each successive 1-year period thereafter.

''(2) BOND.—The term 'bond' includes any obligation.

''(3) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given such term by section 7871(c)(3)(E)(ii).

''(4) QUALIFIED INDIAN LANDS.—The term 'qualified Indian lands' has the meaning given such term by section 7871(c)(3)(E)(i).

''(5) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(6) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any Indian tribal prison facility bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(7) REPORTING.—Each Indian tribe with an allocation of Indian tribal prison facility bonds under an approved plan shall submit reports similar to the reports required under section 149(e).''.

(b) CONFORMING AMENDMENTS.—

(1) REPORTING.—Subsection (d) of section 6049 of the Internal Revenue Code of 1986 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(8) REPORTING OF CREDIT ON INDIAN TRIBAL PRISON FACILITY BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54(d) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54(h)(1)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(2) TREATMENT FOR ESTIMATED TAX PURPOSES.—

(A) INDIVIDUAL.—Section 6654 of such Code (relating to failure by individual to pay estimated income tax) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

''(m) SPECIAL RULE FOR HOLDERS OF INDIAN TRIBAL PRISON FACILITY BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding an Indian tribal prison facility bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(B) CORPORATE.—Subsection (g) of section 6655 of such Code (relating to failure by corporation to pay estimated income tax) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR HOLDERS OF INDIAN TRIBAL PRISON FACILITY BONDS.—For purposes of this section, the credit allowed by section 54 to a taxpayer by reason of holding an Indian tribal prison facility bond on a credit allowance date shall be treated as if it were a payment of estimated tax made by the taxpayer on such date.''.

(c) CLERICAL AMENDMENTS.—

(1) The table of subparts for part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Subpart H. Nonrefundable Credit for Holders of Indian Tribal Prison Facility Bonds.''.

(2) Section 6401(b)(1) of such Code is amended by striking ''and G'' and inserting ''G, and H''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after December 31, 2004.

Mr. DASCHLE. Mr. President, today I am pleased to join Senator MAX BAUCUS in introducing legislation that addresses the longstanding problem of dilapidated tribal detention facilities on Indian reservations. There is a tremendous need for replacement construction of Bureau of Indian Affairs (BIA) operated and funded facilities, and I am pleased that this legislation offers a creative and innovative bonding approach to address the construction backlog.

USA Today reported that Federal investigators have uncovered evidence of abuse, neglect and inhumane conditions in Native American prisons and jails. This troubling report suggests that the conditions in Indian detention facilities are not improving and, in fact, appear to be getting worse. It is my hope that this hearing will help shed additional light on these allegations, and lead to solutions to improve conditions in facilities across Indian country.

According to recent statistics from the Department of Justice report on Indian jails and prisons, there are 70 detention facilities in Indian country, supervising approximately 2,100 inmates. Many of these facilities are in

an appalling state of disrepair, and face problems that range from overcrowding and understaffing to sheer neglect and abuse.

According to the most recent statistics from the Department of Justice, over half of all detention facilities in Indian country were operating at 100-percent capacity in 2002, and nineteen were operating at 150-percent or higher capacity. Of those nineteen, three are located in my state of South Dakota: Pine Ridge's Medicine Root Detention Center, operating at 250-percent capacity; Crow Creek's Fort Thompson Jail, operating at 242-percent capacity; and the Pine Ridge Correctional Facility, which is operating at a staggering 400 percent of its capacity.

Inmates in South Dakota's BIA facilities are housed in dilapidated buildings and are forced to endure extraordinarily harsh conditions. Even though the Lower Brule tribal detention facility was condemned by the BIA in 1987, it was still being used to house inmates as recently as two years ago. Because the new facility is still under construction, Lower Brule prisoners are sent 13 miles away, across the Missouri River, to the Crow Creek facility in Fort Thompson. Because there aren't enough BIA officers to transport them back to Lower Brule, detainees released from Crow Creek are often forced to make the return trip to Lower Brule on foot. It is shocking that this is allowed to happen at all, but especially in South Dakota where harsh winters and sub-zero temperatures are routine. Moreover, the Fort Thompson facility is equally understaffed. One person serves as both police dispatcher and detention officer in a facility that houses up to 30 prisoners.

These conditions have a devastating impact on prisoners. Nationally, between July 1, 2001, and June 30, 2002, 282 inmates in tribal jails attempted suicide, up from 169 the previous year. In the last five years, the number of admissions rose 32 percent, and the annual number of attempted suicides more than doubled, from 133 to 282. On Crow Creek, which is located in one of the most impoverished counties in the U.S. and experiences inordinate suicide rates among its general population, several suicides have occurred in the local jail.

Even more troubling, inadequate detention facilities pose a serious threat to the surrounding communities. With a limited number of officers responsible for large inmate populations, the risk of prisoner violence—against both prison staff and, in the event of an escape, local citizens—is much greater. Moreover, the culture of neglect and abuse found in many of our Indian jails is indicative of broader trends within the communities. The Lower Brule jail doubles as a suicide-watch center for troubled teens, since there is nowhere else in the community to take them. Several Emergency Medical Technicians (EMTs) have either resigned, or are on the brink of resigning, due to the stress of the situation. Law enforcement officials are at a loss about how to address this disturbing pattern, and are overwhelmed by the feelings of hopelessness that accompany it.

Clearly, the impact that overcrowding, dilapidated conditions, and neglect are having on inmates in these facilities, as well as local communities, is reaching a critical mass—both in South Dakota and across the Nation—and we must act now to reverse the trend. While addressing the problems that exist in jails and prisons clearly isn't the whole answer, such an approach will meet a critical need in Indian country, and will represent an important step toward increasing public safety and reducing incidences of abuse and neglect.

We can start by increasing funding for BIA facilities. Unfortunately, this Administration has demonstrated a complete unwillingness to give Indian detention facilities the resources they need, and has actually reduced funding for jails and prisons in Indian country. It wasn't always so bad. Under the Clinton Administration, then-Attorney General Janet Reno created the Department of Justice—Department of Interior Indian Law Enforcement initiative with the objective of creating an effective way to address law enforcement, facilities, juvenile justice, and rehabilitation efforts in Indian country. Although funding for these programs, which increased under the Clinton administration and was consistent until the FY2002 appropriations cycle, was not enough to meet all of Indian country's needs, the initiative represented an unprecedented step toward addressing some of these problems.

Unfortunately, the current Administration, while budgeting hundreds of millions of dollars for Federal prison construction, has proposed eliminating the tribal facility program for the second year in a row. While Congress appropriated $35 million per year for construction of BIA detention facilities between 2000 and 2002, we appropriated only $2 million in FY2004. Now, with an even tighter budget to work with, the outlook for this year is especially bleak, and conditions at BIA facilities are likely to get even worse.

For too long, we have neglected our obligations to Native Americans. We are seeing the effects of that neglect in South Dakota. These are once again examples of the abrogration of the trust responsibility by the Federal Government to the tribes and its people.

We need to do a better job of funding Indian detention centers, and we need to do more to address public safety, tribal courts, and rehabilitation efforts. We cannot ask tribes to choose between funding crisis intervention and law enforcement. We cannot force tribes to make the choice between funding education and after school programs for their children, and repairing cracked walls and inoperable surveillance cameras in their jails.

While national rates are the lowest in years, crime on Indian lands continues to rise. Particularly disturbing is the violent nature of this crime; violence against women, juvenile and gang crime, and child abuse remain serious problems. The Bureau of Justice Statistics reports that American Indians experience the highest crime victimization rates in the nation—almost twice the national average.

The law enforcement, public safety, and tribal detention facility issues are of critical importance to Indian country and surrounding communities. If this were happening in any other part of the country, it would be met with public outrage and swift government action. However, in Indian country, it is met with silence and reduced funding. For the safety of our Indian people and the well-being of their communities, we must take action.

I am pleased that on September 21, 2004, the Senate Finance Committee held an oversight hearing on these issues, and that this legislation has emerged as a step in the right direction to address the construction backlog of much-needed facilities in rural, tribal communities.

I support this legislation which authorizes eligible Indian tribes to issue tax-exempt bonds to finance tribal prison facilities, ''tribal prison facility bonds''. I look forward to working with my colleagues to address these important issues and to advance this legislation.

By Mr. CORNYN:

S. 2922. A bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Heart, Lung, and Blood Institute with respect to research on pulmonary hypertension; to the Committee on Health, Education, Labor, and Pensions.

Mr. CORNYN. Mr. President, I rise today to introduce legislation designed to enhance Federal research on an emerging chronic disease in the U.S. known as pulmonary hypertension. PH is a serious and often fatal condition where the blood pressure in the lungs rises to dangerously high levels. In PH patients, the walls of the arteries that take blood from the right side of the heart to the lungs thicken and constrict. As a result, the right side of the heart has to pump harder to move blood into the lungs, causing it to enlarge and ultimately fail.

PH can occur without a known cause or be secondary to other conditions such as; collagen vascular diseases, i.e., scleroderma and lupus, blood clots, HIV, sickle cell, and liver disease. PH does not discriminate based on race, gender or age. Patients develop symptoms of shortness of breath, fatigue, chest pain, dizziness, and fainting. Unfortunately, these symptoms are frequently misdiagnosed, leaving patients

with the false impression that they have a minor pulmonary or cardiovascular condition. By the time many patients receive an accurate diagnosis, the disease has progressed to a late stage, making it impossible to receive a necessary heart or lung transplant.

With this legislation, I am proud to join the Pulmonary Hypertension Association in the fight against this deadly illness. PHA is the Nation's oldest and largest organization dedicated to finding a cure for PH and improving the quality of life for PH patients and their families. I would particularly like to recognize the contributions of four PHA members from my home State of Texas who have contributed so much to this worthy cause—Leo and Bobbie Fields, and Jack Stibbs and his daughter Emily. Their commitment to improving the quality of life for PH patients and pursuing a cure for this disease is truly inspiring. I would also like to recognize our colleague Congressman KEVIN BRADY for his leadership in introducing the ''PH Research Act'' in the other body.

A few years ago the scientifc community discovered the first gene associated with pulmonary hypertension. This was a landmark discovery in the battle to unravel the mystery surrounding this disease. The ''PH Research Act'' seeks to capitalize on this exciting advancement by establishing ''Centers of Excellence'' on pulmonary hypertension through the National Heart, Lung and Blood Institute at the National Institutes of Health. These Centers would focus on: 1. basic and clinical research into the cause, diagnosis, and treatment of PH: 2. the training of new investigators in PH research; 3. continuing education for health care professionals regarding PH with a focus on early diagnosis and 4. the dissemination of information regarding the disease to the general public.

This is an important bill that has the potential to help tens of thousands of Americans and their families, who are struggling with this devastating disease. I look forward to working with the Health, Education, Labor and Pensions Committee to advance the ''PH Research Act.''

By Mr. BIDEN (for himself, Mr. SPECTER, Mr. BINGAMAN, and Ms. LANDRIEU):

S. 2923. A bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes; to the Committee on the Judiciary.

Mr. BIDEN. Mr. President, Senator SPECTER and I introduce today the Enhanced Second Chance Act of 2004, which takes direct aim at reducing recidivism rates for our Nation's ex-offenders and improving the transition for these offenders from prison back into the community.

All too often we think about today, but not tomorrow. We look to short-term solutions for long- term problems. We need to have a change in thinking and approach. It's time we face the dire situation of prisoners reentering our communities with insufficient monitoring, little or no job skills, inadequate drug treatment, insufficient housing, lack of positive influences, a paucity of basic physical and mental health services, and deficient basic life skills.

The bill we introduce today is about providing a second chance for these ex-offenders, and the children and families that depend on them. It's about strengthening communities and ensuring safe neighborhoods.

Since my 1994 Crime Bill passed, we've had great success in cutting down on crime rates in this country. Under the Community Oriented Policing Services (COPS) program, we've funded over 114,000 officers all across the country. And our crime rate has plummeted. Murder is down 37.8 percent, rape 19.1 percent, and aggravated assaults 28 percent. The overall crime rate sharply declined by 28 percent.

But now, we are seeing some troubling indicators that crime is back on the rise. Murder was up 2.5 percent in 2001, 1 percent in 2002, and 1.3 percent in 2003. Forcible rape is up as is robbery. Car theft is up 10 percent over the last four years.

If we are going to ensure that these latest numbers are only a blip on the continued downward trend of crime rates, as opposed to the beginning of a comeback in crime, we simply have to make strong, concerted, and commonsense efforts now to help ex-prisoners successfully reenter and reintegrate into their communities.

There's a record number of people currently serving time in our country—over two million. This translates into 1 out of every 143 U.S. residents. In its latest statistics on the matter, the Bureau of Justice Statistics found that the Nation's overall prison population increased by over 40,000 from midyear 2002 to midyear 2003, the largest increase in 4 years.

Also vital to realize is that 95 percent of all these millions we lock up will eventually get out. That equals nearly 650,000 being released from Federal or State prisons to communities each year. In a State like Delaware, that's over 4,000 inmates per year. And here's the kicker—a staggering ⅔ of these released state prisoners are expected to be rearrested for a felony or serious misdemeanor within 3 years of release. Two out of every three! You're talking about hundreds of thousands of re-offending ex-offenders each year and hundreds of thousands of serious crimes being committed by people who have already served time in jail.

And, unfortunately, it's not too difficult to see why such a huge portion of our released prisoners recommit serious crimes. Up to 60 percent of former inmates are not employed; 15 to 27 percent of prisoners expect to go to homeless shelters upon release; and 57 percent of Federal and 70 percent of State inmates used drugs regularly before prison, with some estimates of involvement with drugs or alcohol around the time of the offense as high as 84 percent.

These huge numbers of released prisoners each year and the out-of-control recidivism rates are a recipe for disaster—leading to untold damage, hardship, and death for victims; ruined futures and lost potential for re-offenders; and a huge drain on society at large. One particularly vulnerable group is the children of these offenders. We simply cannot be resigned to allowing generation after generation entering and reentering our prisons. This pernicious cycle must come to an end.

My 1994 Crime Bill recognized these extraordinarily high rates of recidivism as a real problem. My bill, for example, created innovative drug treatment programs for State and Federal inmates to help them kick their habit.

But this is only one piece of the puzzle. I introduced a bill in 2000 that would have built on my 1994 Crime Bill—the ''Offender Reentry and Community Safety Act of 2000'', S. 2908. This bill would have created demonstration reentry programs for Federal, State, and local prisoners. These programs were designed to assist high-risk, high-need offenders who served their prison sentences, but who pose the greatest risk of reoffending upon release because they lack the education, job skills, stable family or living arrangements, and the health services they need to successfully reintegrate into society.

Senator SPECTER has also been a dedicated and tireless leader on crime and public safety issues throughout his career and has, for many years, seen the serious public safety ramifications of high recidivism rates. For example, my colleague from Pennsylvania has been the leader on the effort to ensure that offenders who are being released back into our communities have adequate education and work training to become productive members of our society. I couldn't be more pleased than to join efforts with Senator SPECTER on the Enhanced Second Chance Act of 2004.

While we have made some progress on offender reentry efforts since 1994, much more needs to be done. In the current session of Congress, I am pleased that colleagues of mine—from both sides of Capitol Hill and from both sides of the aisle—are also focusing their attention on this vital issue.

I am proud to have worked with Representatives ROB PORTMAN, DANNY DAVIS, and JOHN CONYERS, just to name a few, in the House or Representatives. In the Senate, a number of my colleagues, in addition to Senator SPECTER, have shown strong interest in offender reentry issues, including Senators BROWNBACK, DEWINE, LEAHY, KENNEDY, LANDRIEU, BINGAMAN, HATCH, GRASSLEY, and SANTORUM.

The Second Chance Act of 2004 was introduced in the House and Senate recently, and I was proud to have worked extensively on that bipartisan, bicameral process. The bill Senator SPECTER and I introduce today builds on those efforts. Like the Second Chance Act, the central component of our bill provides a competitive grant program to promote innovative programs to test out a variety of methods aimed at reducing recidivism rates. Efforts would be focused on post-release housing, education and job training, substance abuse and mental health services, and mentoring programs, just to name a few.

Because the scope of the problem is so large—with 650,000 prisoners being released from state and federal prisons each year—our bill provides more than three times as much funding than the House bill. While the House bill contains $40 million per year for the main grant program, our bill provides $130 million. This isn't being wasteful with our scarce federal resources, it's just an acknowledgment of the scope of the problem we're faced with.

A relatively modest investment in offender reentry efforts compares very well with the alternative, building more and more prisons for these ex-offenders to return to if they are unable to successfully reenter their communities and instead are rearrested and reconvicted of more crimes. We must remember that the average cost of incarcerating each prisoner exceeds $20,000 per year. In Delaware, this translates into over $200 per resident just to pay for jail and prison operating expenses.

In constant 2001 dollars, state prison costs in our country have increased from $11.7 billion per year in 1986 to $29.5 billion in 2001. And even with these kinds of resources being spent, by the end of 2002, 25 States and the Federal prison system reported operating at 100 percent or more of their highest capacity. My own home State of Delaware continues to see a prison system bulging at the seams. We have tried, but simply cannot build our way out of this problem. We need tough—but smart—strategies to stop the revolving door of prisoners being released from prison, only to re-offend and land right back behind bars. We simply can't be penny-wise but pound-foolish.

The Enhanced Second Chance Act of 2004 also requires that Federal departments with a role in offender reentry efforts coordinate and work together; to make sure there aren't duplicative efforts or funding gaps; and to coordinate reentry research. Our bill would raise the profile of this issue within the executive branch and secure the sustained and coordinated federal attention offender reentry efforts deserve.

We also need to examine existing Federal and state reentry barriers—laws, regulations, rules, and practices that make it more difficult for former inmates to successfully reintegrate back into their communities; laws that confine ex-offenders to society's margins, making it even more likely that they will recommit serious crimes and return to prison.

Turning over a new leaf and going from a life of crime to becoming a productive member of society is tough enough. We shouldn't have Federal and State laws on the books that make this even more challenging. That's not to say that we don't want to restrict former drug addicts from working in pharmacies, for example, or to bar sex offenders from working in day care centers. But many communities across the country currently exclude ex-prisoners from virtually every occupation requiring a state license, like chiropractic care, engineering, and real estate. Lifting these senselessly punitive bans would make it easier for ex-offenders to stay out of prison.

Our bill provides for a robust analysis of these Federal and State barriers with recommendations on what next steps we need to take. And these reviews are mandated to take place out in the open under public scrutiny.

The Enhanced Second Chance Act also spurs state-of-the-art research and study on offender reentry issues. We need to know who is most likely to recommit crimes when they are released, to better target our limited resources where they can do the most good. We need to study why some ex-offenders who seem to have the entire deck stacked against them are able to become successful and productive members of our society. We need to know what works and how we can replicate what works for others.

Our bill also provides a whole slew of common-sense proposals in the areas of job training, employment, education, post-release housing, civic rights, substance abuse, and prisoner mentoring—efforts and changes in law that we can do now. Some of these important provisions are included in the House bill, others are in addition to those efforts, but all are common-sense efforts in the art of the possible. Our goal is to do as much as possible right now.

Our Enhanced Second Chance Act is a next, natural step in our campaign against crime. Making a dent in recidivism rates is an enormous undertaking; one that requires action now and continued focus in the future. I commit to vigorously pushing this legislation as well as keeping an eye on what steps we need to take in the future. We need to realize that the problems facing ex-offenders are enormous and require sustained focus. The safety of our neighbors, our children, and our communities depends on it.

I'm proud today to introduce the Enhanced Second Chance Act with Senator SPECTER and ask our colleagues to join with us in this vital effort.

I ask unanimous consent to have the text of our bill printed in the RECORD.

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

S. 2923

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 ''Enhanced Second Chance Act of 2004: Community Safety Through Recidivism Prevention'' or the ''Enhanced Second Chance Act of 2004''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) In 2002, 2,000,000 people were incarcerated in Federal or State prisons or in local jails. Nearly 650,000 people are released from incarceration to communities nationwide each year.

(2) There are over 3,200 jails throughout the United States, the vast majority of which are operated by county governments. Each year, these jails will release in excess of 10,000,000 people back into the community.

(3) Nearly ⅔ of released State prisoners are expected to be rearrested for a felony or serious misdemeanor within 3 years after release.

(4) In recent years, a number of States and local governments have begun to establish improved systems for reintegrating former prisoners. Under such systems, corrections officials begin to plan for a prisoner's release while the prisoner is incarcerated and provide a transition to needed services in the community.

(5) Faith leaders and parishioners have a long history helping ex-offenders transform their lives. Through prison ministries and outreach in communities, churches and faith-based organizations have pioneered reentry services to prisoners and their families.

(6) Successful reentry protects those who might otherwise be crime victims. It also improves the likelihood that individuals released from prison or juvenile detention facilities can pay fines, fees, restitution, and family support.

(7) According to the Bureau of Justice Statistics, expenditures on corrections alone increased from $9,000,000,000 in 1982 to $44,000,000,000 in 1997. These figures do not include the cost of arrest and prosecution, nor do they take into account the cost to victims.

(8) Increased recidivism results in profound collateral consequences, including public health risks, homelessness, unemployment, and disenfranchisement.

(9) The high prevalence of infectious disease, substance abuse, and mental health disorders that has been found in incarcerated populations demands that a recovery model of treatment should be used for handling the more than ⅔ of all offenders with such needs.

(10) One of the most significant costs of prisoner reentry is the impact on children, the weakened ties among family members, and destabilized communities. The long-term generational effects of a social structure in which imprisonment is the norm and law-abiding role models are absent are difficult to measure but undoubtedly exist.

(11) According to the 2001 national data from the Bureau of Justice Statistics, 3,500,000 parents were supervised by the correctional system. Prior to incarceration, 64 percent of female prisoners and 44 percent of male prisoners in State facilities lived with their children.

(12) Between 1991 and 1999, the number of children with a parent in a Federal or State correctional facility increased by more than 100 percent, from approximately 900,000 to approximately 2,000,000. According to the Bureau of Prisons, there is evidence to suggest that inmates who are connected to their children and families are more likely to avoid negative incidents and have reduced sentences.

(13) Approximately 100,000 juveniles (ages 17 and under) leave juvenile correctional facilities, State prison, or Federal prison each year. Juveniles released from confinement still have their likely prime crime years ahead of them. Juveniles released from secure confinement have a recidivism rate ranging from 55 to 75 percent. The chances that young people will successfully transition into society improve with effective reentry and aftercare programs.

(14) Studies have shown that from 15 percent to 27 percent of prisoners expect to go to homeless shelters upon release from prison.

(15) The National Institute of Justice has found that after 1 year of release, up to 60 percent of former inmates are not employed.

(16) Fifty-seven percent of Federal and 70 percent of State inmates used drugs regularly before prison, with some estimates of involvement with drugs or alcohol around the time of the offense as high as 84 percent (BJS Trends in State Parole, 1990–2000).

(17) According to the Bureau of Justice Statistics, 60 to 83 percent of the Nation's correctional population have used drugs at some point in their lives. This is twice the estimated drug use of the total United States population of 40 percent.

(18) Family based treatment programs have proven results for serving the special population of female offenders and substance abusers with children. An evaluation by the Substance Abuse and Mental Health Services Administration of family based treatment for substance abusing mothers and children found that at 6 months post treatment, 60 percent of the mothers remain alcohol and drug free, and drug related offenses declined from 28 to 7 percent. Additionally, a 2003 evaluation of residential family based treatment programs revealed that 60 percent of mothers remained clean and sober 6 months after treatment, criminal arrests declined by 43 percent, and 88 percent of the children treated in the program with their mothers remain stabilized.

(19) A Bureau of Justice Statistics analysis indicated that only 33 percent of Federal and 36 percent of State inmates had participated in residential inpatient treatment programs for alcohol and drug abuse 12 months before their release. Further, over ⅓ of all jail inmates have some physical or mental disability and 25 percent of jail inmates have been treated at some time for a mental or emotional problem.

(20) According to the National Institute of Literacy, 70 percent of all prisoners function at the 2 lowest literacy levels.

(21) The Bureau of Justice Statistics has found that 27 percent of Federal inmates, 40 percent of State inmates, and 47 percent of local jail inmates have never completed high school or its equivalent. Furthermore, the Bureau of Justice Statistics has found that less educated inmates are more likely to be recidivists. Only 1 in 4 local jails offer basic adult education programs.

(22) In his 2004 State of the Union Address, President Bush correctly stated: ''We know from long experience that if former prisoners can't find work, or a home, or help, they are much more likely to commit more crimes and return to prison America is the land of the second chance, and when the gates of the prison open, the path ahead should lead to a better life.''.

(23) Participation in State correctional education programs lowers the likelihood of reincarceration by 29 percent, according to a recent United States Department of Education study. A Federal Bureau of Prisons study found a 33 percent drop in recidivism among Federal prisoners who participated in vocational and apprenticeship training.

SEC. 3. REAUTHORIZATION OF ADULT AND JUVENILE OFFENDER STATE AND LOCAL REENTRY DEMONSTRATION PROJECTS.

(a) ADULT OFFENDER DEMONSTRATION PROJECTS AUTHORIZED.—Section 2976(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w(b)) is amended by striking paragraphs (1) through (4) and inserting the following:

''(1) establishing or improving the system or systems under which—

''(A) the correctional agency of the State or local government develops and carries out plans to facilitate the reentry into the community of each offender in State or local custody;

''(B) the supervision and services provided to offenders in State or local custody are coordinated with the supervision and services provided to offenders after reentry into the community;

''(C) the efforts of various public and private entities to provide supervision and services to offenders after reentry into the community, and to family members of such offenders, are coordinated; and

''(D) offenders awaiting reentry into the community are provided with documents (such as identification papers, referrals to services, medical prescriptions, job training certificates, apprenticeship papers, and information on obtaining public assistance) useful in achieving a successful transition from prison;

''(2) carrying out programs and initiatives by units of local government to strengthen reentry services for individuals released from local jails;

''(3) enabling prison mentors of offenders to remain in contact with those offenders, including through the use of such technology as videoconferencing, during incarceration and after reentry into the community and encouraging the involvement of prison mentors in the reentry process;

''(4) providing structured post-release housing and transitional housing, including group homes for recovering substance abusers, through which offenders are provided supervision and services immediately following reentry into the community;

''(5) assisting offenders in securing permanent housing upon release or following a stay in transitional housing;

''(6) providing continuity of health services (including mental health services, substance abuse treatment and aftercare, and treatment for contagious diseases) to offenders in custody and after reentry into the community;

''(7) providing offenders with education, job training, English as a second language programs, work experience programs, self-respect and life skills training, and other skills useful in achieving a successful transition from prison;

''(8) facilitating collaboration among corrections and community corrections, technical schools, community colleges, and the workforce development and employment service sectors to—

''(A) promote, where appropriate, the employment of people released from prison and jail, through efforts such as educating employers about existing financial incentives and facilitate the creation of job opportunities, including transitional jobs, for this population that will benefit communities;

''(B) connect inmates to employment, including supportive employment and employment services, before their release to the community;

''(C) address barriers to employment, including licensing; and

''(D) identify labor market needs to ensure that education and training are appropriate;

''(9) assessing the literacy and educational needs of offenders in custody and identifying and providing services appropriate to meet those needs, including followup assessments and long-term services;

''(10) systems under which family members of offenders are involved in facilitating the successful reentry of those offenders into the community, including removing obstacles to the maintenance of family relationships while the offender is in custody, strengthening the family's capacity to function as a stable living situation during reentry where appropriate to the safety and well-being of any children involved, and involving family members in the planning and implementation of the reentry process;

''(11) programs under which victims are included, on a voluntary basis, in the reentry process;

''(12) programs that facilitate visitation and maintenance of family relationships with respect to offenders in custody by addressing obstacles such as travel, telephone costs, mail restrictions, and restrictive visitation policies;

''(13) identifying and addressing barriers to collaborating with child welfare agencies in the provision of services jointly to offenders in custody and to the children of such offenders;

''(14) implementing programs in correctional agencies to include the collection of information regarding any dependent children of an incarcerated person as part of intake procedures, including the number of children, age, and location or jurisdiction, and connect identified children with appropriate services;

''(15) addressing barriers to the visitation of children with an incarcerated parent, and maintenance of the parent-child relationship, such as the location of facilities in remote areas, telephone costs, mail restrictions, and visitation policies;

''(16) creating, developing, or enhancing prisoner and family assessments curricula, policies, procedures, or programs (including mentoring programs) to help prisoners with a history or identified risk of domestic violence, dating violence, sexual assault, or stalking reconnect with their families and communities, as appropriate (or when it is safe to do so), and become mutually respectful, nonabusive parents or partners, under which particular attention is paid to the safety of children affected and the confidentiality concerns of victims, and efforts are coordinated with existing victim service providers;

''(17) developing programs and activities that support parent-child relationships, as appropriate to the health and well-being of the child, such as—

''(A) using telephone conferencing to permit incarcerated parents to participate in parent-teacher conferences;

''(B) using videoconferencing to allow virtual visitation when incarcerated persons are more than 100 miles from their families;

''(C) the development of books on tape programs, through which incarcerated parents read a book into a tape to be sent to their children;

''(D) the establishment of family days, which provide for longer visitation hours or family activities; or

''(E) the creation of children's areas in visitation rooms with parent-child activities;

''(18) expanding family based treatment centers that offer family based comprehensive treatment services for parents and their children as a complete family unit;

''(19) conducting studies to determining who is returning to prison or jail and which of those returning prisoners represent the greatest risk to community safety;

''(20) developing or adopting procedures to ensure that dangerous felons are not released from prison prematurely;

''(21) developing and implementing procedures to assist relevant authorities in determining when release is appropriate and in the use of data to inform the release decision;

''(22) developing and implementing procedures to identify efficiently and effectively those violators of probation or parole who should be returned to prison;

''(23) utilizing validated assessment tools to assess the risk factors of returning inmates and prioritizing services based on risk;

''(24) conducting studies to determine who is returning to prison or jail and which of those returning prisoners represent the greatest risk to community safety;

''(25) facilitating and encouraging timely and complete payment of restitution and fines by ex-offenders to victims and the community;

''(26) establishing or expanding the use of reentry courts to—

''(A) monitor offenders returning to the community;

''(B) provide returning offenders with—

''(i) drug and alcohol testing and treatment; and

''(ii) mental and medical health assessment and services;

''(C) facilitate restorative justice practices and convene family or community impact panels, family impact educational classes, victim impact panels, or victim impact educational classes;

''(D) provide and coordinate the delivery of other community services to offenders, including—

''(i) housing assistance;

''(ii) education;

''(iii) employment training;

''(iv) children and family support;

''(v) conflict resolution skills training;

''(vi) family violence intervention programs; and

''(vii) other appropriate social services; and

''(E) establish and implement graduated sanctions and incentives; and

''(27) providing technology and other tools necessary to advance post release supervision.''.

(b) JUVENILE OFFENDER DEMONSTRATION PROJECTS AUTHORIZED.—Section 2976(c) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w(c)) is amended by striking ''may be expended for'' and all that follows through the period at the end and inserting ''may be expended for any activity referred to in subsection (b).''.

(c) APPLICATIONS; PRIORITIES; PERFORMANCE MEASUREMENTS.—Section 2976 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w) is amended—

(1) by redesignating subsection (h) as subsection (o); and

(2) by striking subsections (d) through (g) and inserting the following:

''(d) APPLICATIONS.—A State, unit of local government, territory, or Indian tribe desiring a grant under this section shall submit an application to the Attorney General that—

''(1) contains a reentry strategic plan, which describes the long-term strategy, and a detailed implementation schedule, including the jurisdiction's plans to pay for the program after the Federal funding is discontinued;

''(2) identifies the governmental agencies and community and faith-based organizations that will be coordinated by, and collaborate on, the applicant's prisoner reentry strategy and certifies their involvement; and

''(3) describes the methodology and outcome measures that will be used in evaluating the program.

''(e) PRIORITY CONSIDERATION.—The Attorney General shall give priority to grant applications that best—

''(1) focus initiatives on geographic areas with a substantiated high population of ex-offenders;

''(2) include partnerships with community-based organizations, including faith-based organizations;

''(3) provide consultations with crime victims and former incarcerated prisoners and their families;

''(4) review the process by which the State adjudicates violations of parole or supervised release and consider reforms to maximize the use of graduated, community-based sanctions for minor and technical violations of parole or supervised release;

''(5) establish prerelease planning procedures for prisoners to ensure that a prisoner's eligibility for Federal or State benefits (including Medicaid, Medicare, Social Security, and Veterans benefits) upon release is established prior to release, subject to any limitations in law, and to ensure that prisoners are provided with referrals to appropriate social and health services or are linked to appropriate community-based organizations;

''(6) target high-risk offenders for reentry programs through validated assessment tools; and

''(7) provide returning offenders with information on how they can restore their voting rights, and any other civil or civic rights denied to them due to their offender status, under the laws of the State where they are released.

''(f) REQUIREMENTS.—The Attorney General may make a grant to an applicant only if the application—

''(1) reflects explicit support of the chief executive officer of the State or unit of local government, territory, or Indian tribe applying for a grant under this section;

''(2) provides extensive discussion of the role of State corrections departments, community corrections agencies, juvenile justice systems, or local jail systems in ensuring successful reentry of ex-offenders into their communities;

''(3) provides extensive evidence of collaboration with State and local government agencies overseeing health, housing, child welfare, education, and employment services, and local law enforcement;

''(4) in the case of a State grantee, the State provides a plan for the analysis of existing State statutory, regulatory, rules-based, and practice-based hurdles to a prisoner's reintegration into the community; in case of a local grantee, the local grantee provides a plan for the analysis of existing local statutory, regulatory, rules-based, and practice-based hurdles to a prisoner's reintegration into the community; and in the case of a territorial grantee, the territory provides a plan for the analysis of existing territorial statutory, regulatory, rules-based, and practice-based hurdles to a prisoner's reintegration into the community that—

''(A) takes particular note of laws, regulations, rules, and practices that disqualify former prisoners from obtaining professional licenses or other requirements for certain types of employment, and that hinder full civic participation;

''(B) identifies those laws, regulations, rules, or practices that are not directly connected to the crime committed and the risk that the ex-offender presents to the community; and

''(C) affords members of the public an opportunity to participate in the process described in this subsection; and

''(5) includes the use of a State or local task force to carry out the activities funded under the grant.

''(g) USES OF GRANT FUNDS.—

''(1) FEDERAL SHARE.—The Federal share of a grant received under this section may not exceed 75 percent of the project funded under the grant, unless the Attorney General—

''(A) waives, in whole or in part, the requirement of this paragraph; and

''(B) publicly delineates the rationale for the waiver.

''(2) SUPPLEMENT NOT SUPPLANT.—Federal funds received under this section shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for the activities funded under this section.

''(h) REENTRY STRATEGIC PLAN.—

''(1) IN GENERAL.—As a condition of receiving financial assistance under this section, each applicant shall develop a comprehensive strategic reentry plan that contains measurable annual and 5- to 10-year performance outcomes. The plan shall have as a goal to reduce the rate of recidivism of incarcerated persons served with funds from this section within the State by 50 percent over a period of 10 years.

''(2) COORDINATION.—In developing reentry plans under this subsection, applicants shall coordinate with communities and stakeholders, including experts in the fields of public safety, corrections, housing, health, education, employment, and members of community and faith-based organizations that provide reentry services.

''(3) MEASUREMENTS OF PROGRESS.—Each reentry plan developed under this subsection shall measure the applicant's progress toward increasing public safety by reducing rates of recidivism and enabling released offenders to transition successfully back into their communities.

''(i) REENTRY TASK FORCE.—

''(1) IN GENERAL.—As a condition of receiving financial assistance under this section, each State or local government receiving a grant shall establish or empower a Reentry Task Force, or other relevant convening authority, to examine ways to pool existing resources and funding streams to promote lower recidivism rates for returning prisoners, and to minimize the harmful effects of incarceration on families and communities by collecting data and best practices in offender reentry from demonstration grantees and other agencies and organizations.

''(2) MEMBERSHIP.—The task force or other authority shall be comprised of relevant State or local leaders, agencies, service providers, community-based organizations, and stakeholders.

''(j) STRATEGIC PERFORMANCE OUTCOMES.—

''(1) IN GENERAL.—Each applicant shall identify specific performance outcomes related to the long-term goals of increasing public safety and reducing recidivism.

''(2) PERFORMANCE OUTCOMES.—The performance outcomes identified under paragraph (1) shall include, with respect to offenders released back into the community—

''(A) recommitment rates;

''(B) reduction in crime;

''(C) employment and education;

''(D) violations of conditions of supervised release;

''(E) child support;

''(F) housing;

''(G) drug and alcohol abuse; and

''(H) participation in mental health services.

''(3) OPTIONAL MEASURES.—States may also report on other activities that increase the success rates of offenders who transition from prison, such as programs that foster effective risk management and treatment programming, offender accountability, and community and victim participation.

''(4) COORDINATION.—Applicants should coordinate with communities and stakeholders about the selection of performance outcomes identified by the applicants and with the Department of Justice for assistance with data collection and measurement activities.

''(5) REPORT.—Each grantee shall submit an annual report to the Department of Justice that—

''(A) identifies the grantee's progress toward achieving its strategic performance outcomes; and

''(B) describes other activities conducted by the grantee to increase the success rates of the reentry population.

''(k) PERFORMANCE MEASUREMENT.—

''(1) IN GENERAL.—The Department of Justice, in consultation with the States, shall—

''(A) identify primary and secondary sources of information to support the measurement of the performance indicators identified under this section;

''(B) identify sources and methods of data collection in support of performance measurement required under this section;

''(C) provide to all grantees technical assistance and training on performance measures and data collection for purposes of this section; and

''(D) coordinate with the Substance Abuse and Mental Health Services Administration on strategic performance outcome measures and data collection for purposes of this section relating to substance abuse and mental health.

''(2) COORDINATION.—The Department of Justice shall coordinate with other Federal agencies to identify national sources of information to support State performance measurement.

''(l) FUTURE ELIGIBILITY.—To be eligible to receive a grant under this section for fiscal years after the first receipt of such a grant, a State shall submit to the Attorney General such information as is necessary to demonstrate that—

''(1) the State has adopted a reentry plan that reflects input from community-based and faith-based organizations;

''(2) the public has been afforded an opportunity to provide input in the development of the plan;

''(3) the State's reentry plan includes performance measures to assess the State's progress toward increasing public safety by reducing by 10 percent over the 2-year period the rate at which individuals released from prison who participate in the reentry system supported by Federal funds are recommitted to prison; and

''(4) the State will coordinate with the Department of Justice, community-based and faith-based organizations, and other experts regarding the selection and implementation of the performance measures described in subsection (k).

''(m) NATIONAL ADULT AND JUVENILE OFFENDER REENTRY RESOURCE CENTER.—

''(1) AUTHORITY.—The Attorney General may, using amounts made available to carry out this subsection, make a grant to an eligible organization to provide for the establishment of a National Adult and Juvenile Offender Reentry Resource Center.

''(2) ELIGIBLE ORGANIZATION.—An organization eligible for the grant under paragraph (1) is any national nonprofit organization approved by the Federal task force established under the Enhanced Second Chance Act of 2004 that represents, provides technical assistance and training to, and has special expertise and broad, national-level experience in offender reentry programs, training, and research.

''(3) USE OF FUNDS.—The organization receiving the grant shall establish a National Adult and Juvenile Offender Reentry Resource Center to—

''(A) provide education, training, and technical assistance for States, local governments, territories, Indian tribes, service providers, faith based organizations, and corrections institutions;

''(B) collect data and best practices in offender reentry from demonstration grantees and others agencies and organizations;

''(C) develop and disseminate evaluation tools, mechanisms, and measures to better assess and document coalition performance measures and outcomes;

''(D) disseminate knowledge to States and other relevant entities about best practices, policy standards, and research findings;

''(E) develop and implement procedures to assist relevant authorities in determining when release is appropriate and in the use of data to inform the release decision;

''(F) develop and implement procedures to identify efficiently and effectively those violators of probation or parole who should be returned to prison and those who should receive other penalties based on defined, graduated sanctions;

''(G) collaborate with the Federal task force established under the Enhanced Second Chance Act of 2004 and the Federal Resource Center for Children of Prisoners;

''(H) develop a national research agenda; and

''(I) bridge the gap between research and practice by translating knowledge from research into practical information.

''(4) Of amounts made available to carry out this section, not more than 4 percent shall be available to carry out this subsection.

''(n) ADMINISTRATION.—Of amounts made available to carry out this section, not more than 2 percent shall be available for administrative expenses in carrying out this section.''.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 2976 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w) is amended in subsection (o)(1), as redesignated by subsection (c), by striking ''and $16,000,000 for fiscal year 2005'' and inserting ''$130,000,000 for fiscal year 2005, and $130,000,000 for fiscal year 2006''.

SEC. 4. TASK FORCE ON FEDERAL PROGRAMS AND ACTIVITIES RELATING TO REENTRY OF OFFENDERS.

(a) TASK FORCE REQUIRED.—The Attorney General, in consultation with the Secretary of Housing and Urban Development, the Secretary of Labor, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Agriculture, the Secretary of Veterans Affairs, and the heads of such other elements of the Federal Government as the Attorney General considers appropriate, and in collaboration with stakeholders, service providers, community-based organizations, States, territories, Indian tribes, and local governments, shall establish an interagency task force on programs and activities relating to the reentry of offenders into the community.

(b) DUTIES.—The task force established under subsection (a) shall—

(1) identify such programs and activities that may be resulting in overlapping or duplication of services, the scope of such overlapping or duplication, and the relationship of such overlapping and duplication to public safety, public health, and effectiveness and efficiency;

(2) identify methods to improve collaboration and coordination of such programs and activities;

(3) identify areas of responsibility in which improved collaboration and coordination of such programs and activities would result in increased effectiveness or efficiency;

(4) develop innovative interagency or intergovernmental programs, activities, or procedures that would improve outcomes of reentering offenders and children of offenders;

(5) develop methods for increasing regular communication that would increase interagency program effectiveness;

(6) identify areas of research that can be coordinated across agencies with an emphasis on applying science-based practices to support treatment and intervention programs for reentering offenders;

(7) identify funding areas that should be coordinated across agencies and any gaps in funding; and

(8) in conjunction with the National Adult and Juvenile Offender Reentry Resource Center, identify successful programs currently operating and collect best practices in offender reentry from demonstration grantees and other agencies and organizations, determine the extent to which such programs and practices can be replicated, and make information on such programs and practices available to States, localities, community-based organizations, and others.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the task force established under subsection (a) shall submit a report, including recommendations, to Congress on barriers to reentry. The task force shall provide for public input in preparing the report. The report shall identify Federal and other barriers to successful reentry of offenders into the community and analyze the effects of such barriers on offenders and on children and other family members of offenders, including barriers to—

(1) parental incarceration as a consideration for purposes of family reunification under the Adoption and Safe Families Act of 1997;

(2) admissions in and evictions from Federal housing programs;

(3) child support obligations and procedures;

(4) Social Security benefits, veterans benefits, food stamps, and other forms of Federal public assistance;

(5) Medicaid and Medicare procedures, requirements, regulations, and guidelines;

(6) education programs, financial assistance, and full civic participation;

(7) TANF program funding criteria and other welfare benefits;

(8) employment;

(9) laws, regulations, rules, and practices that restrict Federal employment licensure and participation in Federal contracting programs;

(10) reentry procedures, case planning, and the transition of persons from the custody of the Federal Bureau of Prisons to a Federal parole or probation program or community corrections;

(11) laws, regulations, rules, and practices that may require a parolee to return to the same county that the parolee was living in prior to his or her arrest, and the potential for changing such laws, regulations, rules, and practices so that a parolee may change his or her setting upon release, and not settle in the same location with persons who may be a negative influence; and

(12) pre-release planning procedures for prisoners to ensure that a prisoner's eligibility for Federal or State benefits (including Medicaid, Medicare, Social Security, and veteran's benefits) upon release is established prior to release, subject to any limitations under the law, and the provision of referrals to appropriate social and health services or are linked to appropriate community-based organizations.

(d) ANNUAL REPORTS.—On an annual basis, the task force required by subsection (a) shall submit to Congress a report on the activities of the task force, including specific

recommendations of the task force on matters referred to in subsection (b).

SEC. 5. OFFENDER REENTRY RESEARCH.

(a) NATIONAL INSTITUTE OF JUSTICE.—From amounts made available to carry out this Act, the National Institute of Justice may conduct research on offender reentry, including—

(1) a study identifying the number and characteristics of children who have had a parent incarcerated and the likelihood of these minors becoming involved in the criminal justice system some time in their lifetime;

(2) a study identifying a mechanism to compare rates of recidivism (including re-arrest, violations of parole and probation, and re-incarceration) among States; and

(3) a study on the population of individuals released from custody who do not engage in recidivism and the characteristics (housing, employment, treatment, family connection) of that population.

(b) BUREAU OF JUSTICE STATISTICS.—From amounts made available to carry out this Act, the Bureau of Justice Statistics may conduct research on offender reentry, including—

(1) an analysis of special populations, including prisoners with mental illness or substance abuse disorders, female offenders, juvenile offenders, and the elderly, that present unique reentry challenges;

(2) studies to determine who is returning to prison or jail and which of those returning prisoners represent the greatest risk to community safety;

(3) annual reports on the profile of the population coming out of prisons, jails, and juvenile justice facilities;

(4) a national recidivism study every 3 years; and

(5) a study of parole violations and revocations.

SEC. 6. CHILDREN OF INCARCERATED PARENTS AND FAMILIES.

(a) INTAKE PROCEDURES AND EDUCATION PROGRAMS.—

(1) PILOT PROGRAM.—The Federal Bureau of Prisons shall, using amounts made available to carry out this subsection, carry out a pilot program to—

(A) collect information regarding the dependent children of an incarcerated person as part of standard intake procedures, including the number, age, and residence of such children;

(B) review all policies, practices, and facilities to ensure that, as appropriate to the health and well-being of the child, they support the relationship between family and child;

(C) identify the training needs of staff with respect to the impact of incarceration on children, families, and communities, age-appropriate interactions, and community resources for the families of incarcerated persons; and

(D) take such steps as are necessary to encourage State correctional agencies to implement the requirements of subparagraphs (A) through (C).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $1,500,000 for each of fiscal years 2005 and 2006.

(b) DUTIES OF SECRETARY.—The Secretary of Health and Human Services shall—

(1) review, and make available to States a report on any recommendations regarding, the role of State child protective services at the time of the arrest of a person; and

(2) by regulation, establish such services as the Secretary determines necessary, as appropriate to the health and well-being of any child involved, for the preservation of families that have been impacted by the incarceration of a family member.

SEC. 7. ENCOURAGEMENT OF EMPLOYMENT OF FORMER PRISONERS.

The Secretary of Labor shall take such steps as are necessary to implement a program, including but not limited to the Employment and Training Administration, to educate employers about existing incentives, including bonding, to the hiring of former Federal, State, or county prisoners.

SEC. 8. FEDERAL RESOURCE CENTER FOR CHILDREN OF PRISONERS.

There are authorized to be appropriated to the Secretary of Health and Human Services for each of fiscal years 2005 and 2006, such sums as may be necessary for the continuing activities of the Federal Resource Center for Children of Prisoners, including conducting a review of the policies and practices of State and Federal corrections agencies to support parent-child relationships, as appropriate for the health and well-being of the child.

SEC. 9. ELIMINATION OF AGE REQUIREMENT FOR RELATIVE CAREGIVER UNDER NATIONAL FAMILY CAREGIVER SUPPORT PROGRAM.

Section 372 of the National Family Caregiver Support Act (part E of title III of the Older Americans Act of 1965; 42 U.S.C. 3030s) is amended in paragraph (3) by striking ''who is 60 years of age or older and—'' and inserting ''who—''.

SEC. 10. CLARIFICATION OF AUTHORITY TO PLACE PRISONER IN COMMUNITY CORRECTIONS.

Section 3624(c) of title 18, United States Code, is amended to read as follows:

''(c) PRE-RELEASE CUSTODY.—

''(1) IN GENERAL.—The Bureau of Prisons shall, to the extent practicable, assure that a prisoner serving a term of imprisonment spends a reasonable part of the final portion of the term to be served, not to exceed 1 year, under conditions that will afford the prisoner a reasonable opportunity to adjust to and prepare for the prisoner's reentry into the community. Such conditions may include a community correctional facility.

''(2) AUTHORITY.—This subsection authorizes the Bureau of Prisons to place a prisoner in home confinement for the last 10 per centum of the term to be served, not to exceed 6 months.

''(3) ASSISTANCE.—The United States Probation System shall, to the extent practicable, offer assistance to a prisoner during such pre-release custody.

''(4) NO LIMITATIONS.—Nothing in this subsection shall be construed to limit or restrict the authority of the Bureau of Prisons granted under section 3621 of this title.''.

SEC. 11. USE OF VIOLENT OFFENDER TRUTH-IN-SENTENCING GRANT FUNDING FOR DEMONSTRATION PROJECT ACTIVITIES.

Section 20102(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13702(a)) is amended—

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

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

(3) by adding at the end the following:

''(4) to carry out any activity referred to in subsections (b) and (c) of section 2976 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797w(b)–(c)).''.

SEC. 12. GRANTS TO STUDY PAROLE OR POST INCARCERATION SUPERVISION VIOLATIONS AND REVOCATIONS.

(a) GRANTS AUTHORIZED.—From amounts made available to carry out this section, the Attorney General may award grants to States to study, and to improve the collection of data with respect to, individuals whose parole or post incarceration supervision is revoked and which such individuals represent the greatest risk to community safety.

(b) APPLICATION.—As a condition of receiving a grant under this section, a State shall—

(1) certify that the State has, or intends to establish, a program that collects comprehensive and reliable data with respect to individuals described in subsection (a), including data on—

(A) the number and type of parole or post incarceration supervision violations that occur within the State;

(B) the reasons for parole or post incarceration supervision revocation;

(C) the underlying behavior that led to the revocation; and

(D) the term of imprisonment or other penalty that is imposed for the violation; and

(2) provide the data described in paragraph (1) to the Bureau of Justice Statistics, in a form prescribed by the Bureau.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2005 and 2006.

SEC. 13. REAUTHORIZATION OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR STATE PRISONERS PROGRAM.

(a) IN GENERAL.—The Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.) is amended by inserting after section 1905 the following:

''SEC. 1906. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as are necessary to carry out the purposes of this part for each of fiscal years 2005 through 2010.''.

(b) IMPROVEMENTS TO PROGRAM.—Section 1902 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff–1) is amended—

(1) in subsection (c)—

(A) in the subsection heading, by striking ''ELIGIBILITY FOR PREFERENCE WITH'' and inserting ''REQUIREMENT FOR'';

(B) by striking paragraph (1) and inserting the following:

''(1) To be eligible for funding under this part, a State shall ensure that individuals who participate in the evidence-based substance abuse treatment program established or implemented with assistance provided under this part will be provided with aftercare services.''; and

(C) by adding at the end the following:

''(4) Aftercare services required under paragraph (1) shall be funded by amounts made available under this part.'';

(2) by redesignating subsections (c) through (f) as (d) through (g), respectively; and

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

''(c) DEFINITION OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT.—The term 'residential substance abuse treatment' means a course of evidence-based individual and group activities and treatment, lasting not less than 6 months, in residential treatment facilities set apart from the general prison population. Such treatment can include the use of pharmacotherapies, where appropriate, that may be administered for more than 6 months.''.

SEC. 14. REAUTHORIZATION OF SUBSTANCE ABUSE TREATMENT PROGRAM UNDER TITLE 18.

Section 3621(e) of title 18, United States Code, is amended—

(1) by striking paragraph (4) and inserting the following:

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2005 through 2010.''; and

(2) in paragraph (5), by striking subparagraph (A) and inserting the following:

''(A) the term 'residential substance abuse treatment' means a course of evidence-based individual and group activities and treatment, lasting not less than 6 months, in residential treatment facilities set apart from the general prison population, and such treatment can include the use of pharmacotherapies, where appropriate, that may be administered for more than 6 months;''.

SEC. 15. REMOVAL OF LIMITATION ON AMOUNT OF FUNDS AVAILABLE FOR CORRECTIONS EDUCATION PROGRAMS UNDER THE ADULT EDUCATION AND FAMILY LITERACY ACT.

(a) IN GENERAL.—Section 222(a)(1) of the Adult Education and Family Literacy Act (20 U.S.C. 9222(a)(1)) is amended by striking '', of which not more than 10 percent'' and inserting ''of which not less than 10 percent''.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Education shall submit to Congress a report on the use of literacy funds to correctional intuitions, as defined in section 225(d)(2) of the Adult Education and Family Literacy Act (20 U.S.C. 9224(d)(2)). The report shall specify the amount of literacy funds that are provided to each category of correctional institution in each State, and identify whether funds are being sufficiently allocated among the various types of institutions.

SEC. 16. TECHNICAL AMENDMENT TO DRUG-FREE STUDENT LOANS PROVISION TO ENSURE THAT IT APPLIES ONLY TO OFFENSES COMMITTED WHILE RECEIVING FEDERAL AID.

Section 4840(r)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(r)(1)) is amended by striking ''A student'' and all that follows through ''table:'' and inserting the following: ''A student who is convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance for conduct that occurred during a period of enrollment for which the student was receiving any grant, loan, or work assistance under this title shall not be eligible to receive any grant, loan, or work assistance under this title from the date of that conviction for the period of time specified in the following table:''.

SEC. 17. MENTORING GRANTS TO COMMUNITY-BASED ORGANIZATIONS.

(a) AUTHORITY TO MAKE GRANTS.—From amounts made available under this section, the Secretary of Labor shall make grants to community-based organizations for the purpose of providing mentoring and other transitional services essential to reintegrating ex-offenders and incarcerated persons into society.

(b) USE OF FUNDS.—Grant funds awarded under subsection (a) may be used for—

(1) mentoring adult and juvenile offenders; and

(2) transitional services to assist in the reintegration of ex-offenders into the community.

(c) APPLICATION.—To be eligible to receive a grant under this section, a community-based organization shall submit an application to the Secretary of Labor, based upon criteria developed by the Secretary of Labor in consultation with the Attorney General and the Secretary of Housing and Urban Development.

(d) STRATEGIC PERFORMANCE OUTCOMES.—The Secretary of Labor may require each applicant to identify specific performance outcomes related to the long-term goal of stabilizing communities by reducing recidivism and re-integrating ex-offenders and incarcerated persons into society.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for each of fiscal years 2005 and 2006.

SEC. 18. GROUP HOMES FOR RECOVERING SUBSTANCE ABUSERS.

Section 1925 of the Public Health Service Act (42 U.S.C. 300x–25) is amended—

(1) in subsection (a)(4), by striking ''$4,000'' and inserting ''$6,000''; and

(2) by adding at the end the following:

''(d) RECOVERY HOME OUTREACH WORKERS.—

''(1) IN GENERAL.—The Secretary shall award a grant to an eligible entity to enable such entity to establish group homes for recovering substance abusers in accordance with this section.

''(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

''(A) be a national nonprofit organization that has established at least 500 self-administered, self-supported substance abuse recovery homes; and

''(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

''(3) USE OF FUNDS.—An entity shall use amounts received under the grant under paragraph (1) to—

''(A) establish group homes for recovering substance abusers that conform to the requirements of subparagraphs (A) through (D) of subsection (a)(6), through activities including—

''(i) locating a suitable facility to use as the group home;

''(ii) the execution of a lease for the use of such home; and

''(iii) obtaining a charter for the operation of such home from a national non-profit organization;

''(B) recruit recovering substance abusers to reside in the group home by working with criminal justice officials and substance abuse treatment providers, including through activities targeting individuals being released from incarceration; and

''(C) carry out other activities related to establishing a group home for recovering substance abusers.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $1,000,000 for each of fiscal years 2005 through 2009. Amounts appropriated under this paragraph shall be in addition to amounts otherwise appropriated to carry out this subpart.''.

SEC. 19. IMPROVED REENTRY PROCEDURES FOR FEDERAL PRISONERS.

(a) GENERAL REENTRY PROCEDURES.—The Department of Justice shall take such steps as are necessary to modify existing procedures and policies to enhance case planning and to improve the transition of persons from the custody of the Bureau of Prisons to the community, including placement of such individuals in community corrections facilities.

(b) PROCEDURES REGARDING BENEFITS.—The Bureau of Prisons shall establish pre-release planning procedures for Federal prisoners to ensure that a prisoner's eligibility for Federal or State benefits (including Medicaid, Medicare, Social Security and veterans benefits) upon release is established prior to release, subject to any limitations in law. The Bureau shall also coordinate with inmates to ensure that inmates have medical appointments scheduled and have plans to secure needed and sufficient medications, particularly with regard to the treatment of mental illness. The Bureau shall provide each ex-offender released from Federal prisons information on how the reentering offender can restore voting rights, and other civil or civic rights, denied to the reentering offender based upon their offender status in the State to which that reentering offender shall be returning. This information shall be provided to each reentering offender in writing, and in a language that the reentering offender can understand.

SEC. 20. FAMILY UNIFICATION IN PUBLIC HOUSING.

Section 576 of the Quality Housing and Work Responsibility Act of 1988 (Public Law 105–276; 42 U.S.C. 13661) is amended—

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

''(c) AUTHORITY TO DENY ADMISSION TO CRIMINAL OFFENDERS.—

''(1) IN GENERAL.—Except as provided in subsections (a) and (b) of this section and in addition to any other authority to screen applicants, in selecting among applicants for admission to the program or to federally assisted housing, if the public housing agency or owner of such housing, as applicable, determines that an applicant or any member of the applicant's household is engaged in or was convicted of, during a reasonable time preceding the date when the applicant household would otherwise be selected for admission, any drug-related or violent criminal activity or other criminal activity which would adversely affect the health, safety, or right to peaceful enjoyment of the premises by other residents, the owner, or public housing agency employees, the public housing agency or owner may—

''(A) deny such applicant admission to the program or to federally assisted housing; and

''(B) after the expiration of the reasonable period beginning upon such activity, require the applicant, as a condition of admission to the program or to federally assisted housing, to submit to the public housing agency or owner evidence sufficient (as the Secretary shall by regulation provide) to ensure that the individual or individuals in the applicant's household who engaged in criminal activity for which denial was made under paragraph (1) have not engaged in any criminal activity during such reasonable period.

''(2) CONSIDERATION OF REHABILITATION.—In determining whether, pursuant to paragraph (1), to deny admission to the program or federally assisted housing to any household, a public housing agency or an owner shall, prior to an initial denial of eligibility, consider the following factors:

''(A) The effect of denial on the applicant's family, particularly minor children.

''(B) Whether such household member has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable) to the extent that such use would constitute a threat to the health, safety, or well-being of other residents.

''(C) Whether such household member has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable) to the extent that such use would constitute a threat to the health, safety, or well-being of other residents.

''(D) Whether such household member is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable) to the extent that such use would constitute a threat to the health, safety, or well-being of other residents.

''(E) Other mitigating circumstances such as—

''(i) the applicant's involvement in the community;

''(ii) the applicant's enrollment in or completion of a job training program;

''(iii) the employment status of the applicant;

''(iv) any other circumstances which reflect the efforts the applicant has made toward rehabilitation; and

''(v) the availability of other housing options.''; and

(2) by adding at the end the following:

''(d) CONDITIONAL ELIGIBILITY.—A public housing agency or owner of such housing may condition an applicant's or a household's eligibility for federally assisted housing on the participation of the applicant, or a member of the applicant's household, in a supervised rehabilitation program, or other appropriate social services.''.

Mr. SPECTER. Mr. President, I have sought recognition to speak in support of legislation which I am sponsoring with the Senator from Delaware, Mr. BIDEN—the Enhanced Second Chance Act of 2004. This year, more than 650,000 inmates will be released from the United States' prisons. Nearly two-thirds of released prisoners are re-arrested for either a felony or a serious misdemeanor within 3 years of release. This ''revolving door'' of criminals endangers our communities. Yet, it should really come as no surprise that an individual who is released and who is illiterate or lacks the necessary skills to get a job returns to a life of crime. The need to address the issue of recidivism to protect the public is apparent and the Enhanced Second Chance Act is designed to address that need and stop the ''revolving door'' at our Nation's correctional facilities. This bill gives criminal offenders a second chance at rehabilitation and gainful employment by creating successful reentry programs focused on education and job training.

There are two categories of individuals that we must focus our concern on in our fight to reduce recidivism—the career criminal and the person who will one day return back to his or her community. As for the career criminal, I wrote the Armed Career Criminal Bill that was adopted in 1984, which provides for life sentences for career criminals. These individuals, who have committed three or more major offenses and caught in possession of a firearm, receive mandatory sentences up to life.

The second category of individuals—individuals who will one day be released—are a special circumstance because this is not about locking them up forever but about making sure they have an opportunity to turn their life around. It is about focusing on literacy and job training in order to reduce recidivism and prevent those individuals from becoming career criminals.

The Enhanced Second Chance Act is aimed at better equipping the community, increasing public safety, and helping States and communities address the growing population of ex-offenders returning to communities. The act authorizes a $130 million a year grant program for State and local governments aimed at creating programs to help reduce recidivism rates and to create procedures to ensure that dangerous felons are not released from prison prematurely. It also calls for either establishing or expanding the use of State reentry courts to monitor ex-offenders returning to the community and to provide them with drug and alcohol treatment as well as necessary mental and medical services.

One of the most significant concerns that our communities face with regards to prisoners is the impact on their children and communities. Between 1991 and 1999, the number of children with a parent in a Federal or State correction facility increased by more than 100 percent from approximately 900,000 to approximately 2 million. This legislation deals with the issues and obstacles that these children face. The Enhanced Second Chance Act of 2004 creates a new program designed to support the relationship between parent and child while the parent is incarcerated and to help with family unification when the parent is released. It also instructs the Secretary of Health and Human Services to re-examine the current programs that are in place to help support the parent-child relationship while the parent is incarcerated and to establish the necessary services to help preserve the family relationship.

Another major concern is incarcerated juveniles. Juveniles have a recidivism rate ranging from 55 to 75 percent. These figures are staggering and that is why I have pushed for so many years for legislation aimed at educating these young offenders prior to their release. I have consistently sponsored legislation that would provide for workplace and community transition training for incarcerated youth offenders while in prison and would provide employment counseling and other services that would continue while the individual was on parole. The Enhanced Second Chance Act of 2004 builds upon my earlier efforts and provides effective reentry and aftercare programs so that these young individuals will have a chance at a successful transition back into the community. This bill encourages State and local governments to assess the literacy and educational needs of incarcerated individuals and to identify appropriate services to meet those needs while they are incarcerated. Moreover, this bill provides for collaboration with community colleges and employment services to connect inmates with employment opportunities before they are released back into the community.

The New York Times recently reported that 5 million people, or roughly 2.3 percent of the electorate, will be barred from voting in November by State laws that strip felons of voting rights. However many ex-felons are in fact eligible to vote but do not do so simply because they are not aware that they have this right. The Enhanced Second Chance Act helps remove the confusion and mandates that prison officials provide each ex-offender released from Federal prison information on how the reentering offender can restore his or her voting rights. Information must be provided to each ex-offender in writing and in a language that he or she can understand. This will allow ex-offenders to feel more connected to their communities and is another important tool in the fight to reduce recidivism.

I am pleased to join the distinguished Senator from Delaware in introducing this important and much-needed legislation. The Enhanced Second Chance Act of 2004 is a very positive step forward in providing realistic rehabilitation to individuals needing a second chance. I wholeheartedly agree with President Bush's statement that ''America is the land of second chance, and when the gates of the prison open, the path ahead should lead to a better life.'' The President urged us to work in a bipartisan fashion and I believe that this bill is the first step in the right direction.

Mr. BINGAMAN. Mr. President, I rise today, along with Senators BIDEN, SPECTER, and LANDRIEU, to introduce the Enhanced Second Chance Act of 2004.

I believe this is an important bill that will significantly improve public safety by providing $130 million a year for a competitive grant program to State, local, and tribal governments to reduce recidivism rates and improve the transition of offenders back into society. In addition to the adult and juvenile demonstration projects, the bill would create a Federal reentry task force, reauthorize funding for drug treatment programs in State and Federal correctional facilities, establish a program within the Bureau of Prisons to promote family reunification, bring additional literacy funds to correctional institutions, and establish a mentoring grant program for community-based organizations to assist inmates with their reentry back into the community.

We as a society have an interest in ensuring that when prisoners are released that they be reintegrated back into the community in a manner that reduces the likelihood of them committing additional crimes. Providing assistance to these individuals is not a charity, it is a matter of good public policy. Without employment, without housing, without basic life skills, without help in treating drug addiction or mental illness, offenders are likely to relapse into criminal behavior. It is insufficient to just punish offenders; we also need to look for ways that we can rehabilitate offenders and create an environment that fosters their ability to make a positive contribution to society.

There are programs in State and Federal detention facilities that are beginning to address some of these issues, but frankly, I believe we need to be doing more—especially with regard to jails across the country. By neglecting to focus on inmates in local jails we are also losing out on targeting the largest population of offenders that is returning to the community—it is estimated that jails return 10 to 20 times the number of people into the community as do Federal and State prisons,

approximately 10 million releases a year. I am very pleased that my suggestions regarding recognizing the role of local jails in the reentry process were incorporated into this bill.

I also believe we need to pay more attention to the issue of illiteracy among inmates. According to the National Institute of Literacy, 70 percent of all prisoners function at the two lowest literacy levels. Considering that studies have consistently demonstrated that correctional educational programs reduce recidivism rates by up to 30 percent, I strongly believe this is an area which deserves attention, and I am happy that this bill will bring additional resources for literacy programs.

If we are going to reduce the recidivism rate, we can't overlook the importance of getting these offenders the tools necessary to succeed in the community without recourse to crime. With over 2 million people incarcerated in the United States, if punishment is all we do, without any effort to rehabilitate and reintegrate offenders into the community, society will bear a heavy burden. Over 650,000 offenders are released from State and Federal facilities each year, in addition to 100,000 juveniles and the numerous individuals coming in and out of local jails that I previously mentioned. It makes sense to do all we can to ensure that these people are rehabilitated and have the skills necessary to successfully change course.

In recent years, many States and localities have begun to improve ways to transition offenders back into communities, and I believe that this bill provides the resources necessary to continue this effort.

By Mr. VOINOVICH (for himself and Mr. COLEMAN):

S. 2926. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers a credit against income tax for expenditures to remediate contaminated sites; to the Committee on Finance.

Mr. VOINOVICH. Mr. President, revitalizing our urban areas has been an issue I have been passionate about for many years. As former Mayor of Cleveland, I experienced firsthand the difficulties that cities face in redeveloping these sites for reuse.

The legislation I am introducing today with Senator COLEMAN, the Brownfields Revitalization Act of 2004, will provide incentives to clean up abandoned industrial sites—or brownfields—across the country and put them back into productive use and preserve our green spaces. I am pleased to be working on this important legislation with my colleague from Ohio, Congressman MIKE TURNER.

I have been working on brownfields issues at the national level since I became Governor of Ohio in 1990 and through my involvement with the National Governors' Association and the Republican Governors' Association. For almost 15 years, I have worked closely with congressional leaders to develop legislation that would encourage cleanup and redevelopment of these sites nationwide.

In 2001, I was closely involved in the Senate Environment and Public Works Committee's work on the Brownfields Revitalization and Environmental Restoration Act which, in part, provided grants to local governments to remediate and redevelop brownfields sites. Grants such as these are important because they provide incentives to clean up existing sites, which will provide better protection for the health and safety of our citizens and the environment. I believe the tax incentives in the bill I'm introducing today will work hand in hand with the grants that are already authorized to encourage private remediation and redevelopment efforts.

To enhance and encourage cleanup efforts, my State of Ohio has implemented a private sector-based program to clean up brownfields sites. When I was Governor, Ohio EPA, Republicans and Democrats in the Ohio General Assembly and I worked hard to implement a program that we believe works for Ohio. Our program is already successful in improving Ohio's environment and economy. In fact, 141 sites have been cleaned up under Ohio's voluntary cleanup program in 8 years. And many more cleanups are underway.

The legislation I am introducing today will build upon the success of State programs such as Ohio's by providing even more incentives to clean up brownfield sites in order to provide better protection for the health and safety of our citizens and the environment.

This legislation will provide additional tools to recycle our urban wastelands, prevent urban sprawl and preserve our farmland and greenspaces. We will be able to clean up industrial eyesores in our cities and make them more desirable places to live. Because they are putting abandoned sites back into productive use, they are a key element to providing economic rebirth to many urban areas, and good-paying jobs to local residents.

This bill makes sense for our environment and it makes sense for our economy. It is supported by the mayors of Ohio's major cities, the U.S. Conference of Mayors, the International Council of Shopping Centers, Empower America, American Council of Engineering Companies, and the National Association of Home Builders.

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. 2926

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 ''Brownfields Revitalization Act of 2004''.

SEC. 2. CREDIT FOR EXPENDITURES TO REMEDIATE CONTAMINATED SITES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

''SEC. 45G. ENVIRONMENTAL REMEDIATION CREDIT.

''(a) IN GENERAL.—For purposes of section 38, the environmental remediation credit determined under this section is 50 percent of the qualified remediation expenditures paid or incurred by the taxpayer during the taxable year with respect to a qualified contaminated site located in an eligible area.

''(b) QUALIFIED REMEDIATION EXPENDITURES.—For purposes of this section, the term 'qualified remediation expenditures' means expenditures, whether or not chargeable to capital account, in connection with—

''(1) the abatement or control of any hazardous substance (as defined in section 198(d)), petroleum, or any petroleum by-product at the qualified contaminated site in accordance with an approved remediation and redevelopment plan,

''(2) the complete demolition of any structure on such site if any portion of such structure is demolished in connection with such abatement or control,

''(3) the removal and disposal of property in connection with the activities described in paragraphs (1) and (2), and

''(4) the reconstruction of utilities in connection with such activities.

For purposes of this section, the term 'approved remediation and redevelopment plan' means any plan for such abatement, control, and redevelopment of a qualified contaminated site which is approved by the State development agency for the State in which the qualified contaminated site is located.

''(c) CREDIT MAY NOT EXCEED ALLOCATION.—

''(1) IN GENERAL.—The environmental remediation credit determined under this section with respect to any qualified contaminated site shall not exceed the credit amount allocated under this section by the State development agency to the taxpayer for the remediation and redevelopment plan submitted by the taxpayer with respect to such site.

''(2) TIME FOR MAKING ALLOCATION.—An allocation shall be taken into account under paragraph (1) for any taxable year only if made before the close of the calendar year in which such taxable year begins.

''(3) MANNER OF ALLOCATION.—

''(A) ALLOCATION MUST BE PURSUANT TO PLAN.—No amount may be allocated under this subsection to any qualified contaminated site unless such amount is allocated pursuant to a qualified allocation plan of the State development agency of the State in which such site is located.

''(B) QUALIFIED ALLOCATION PLAN.—For purposes of this paragraph, the term 'qualified allocation plan' means any plan—

''(i) which sets forth selection criteria to be used to determine priorities of the State development agency in allocating credit amounts under this section, and

''(ii) which gives preference in allocating credit amounts under this section to qualified contaminated sites based on—

''(I) the extent of poverty,

''(II) whether the site is located in an enterprise zone or renewal community,

''(III) whether the site is located in the central business district of the local jurisdiction,

''(IV) the extent of the required environmental remediation,

''(V) the extent of the commercial, industrial, or residential redevelopment of the

site in addition to environmental remediation,

''(VI) the extent of the financial commitment to such redevelopment, and

''(VII) the amount of new employment expected to result from such redevelopment.

''(4) STATES MAY IMPOSE OTHER CONDITIONS.—Nothing in this section shall be construed to prevent any State from requiring assurances, including bonding, that any project for which a credit amount is allocated under this section will be properly completed or that the financial commitments of the taxpayer are actually carried out.

''(d) STATE ENVIRONMENTAL REMEDIATION CREDIT CEILING.—

''(1) IN GENERAL.—The State environmental remediation credit ceiling applicable to any State for any calendar year shall be an amount equal to the sum of—

''(A) the unused State environmental remediation credit ceiling (if any) of such State for the preceding calendar year,

''(B) such State's share of the national environmental remediation credit limitation for the calendar year,

''(C) the amount of State environmental remediation credit ceiling returned in the calendar year, plus

''(D) the amount (if any) allocated under paragraph (3) to such State by the Secretary.

For purposes of subparagraph (A), the unused State environmental remediation credit ceiling for any calendar year is the excess (if any) of the sum of the amounts described in subparagraphs (B), (C), and (D) over the aggregate environmental remediation credit amount allocated for such year.

''(2) NATIONAL ENVIRONMENTAL REMEDIATION CREDIT LIMITATION.—

''(A) IN GENERAL.—The national environmental remediation credit limitation for each calendar year is $1,000,000,000.

''(B) STATE'S SHARE OF LIMITATION.—A State's share of such limitation is the amount which bears the same ratio to the limitation applicable under subparagraph (A) for the calendar year as such State's population bears to the population of the United States.

''(3) UNUSED ENVIRONMENTAL REMEDIATION CREDIT CARRYOVERS ALLOCATED AMONG CERTAIN STATES.—

''(A) IN GENERAL.—The unused environmental remediation credit carryover of a State for any calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

''(B) UNUSED ENVIRONMENTAL REMEDIATION CREDIT CARRYOVER.—For purposes of this paragraph, the unused environmental remediation credit carryover of a State for any calendar year is the excess (if any) of—

''(i) the unused State environmental remediation credit ceiling for the year preceding such year, over

''(ii) the aggregate environmental remediation credit amount allocated for such year.

''(C) FORMULA FOR ALLOCATION OF UNUSED ENVIRONMENTAL REMEDIATION CREDIT CARRYOVERS AMONG QUALIFIED STATES.—Rules similar to the rules of clauses (iii) and (iv) of section 42(h)(3)(D) shall apply for purposes of this paragraph.

''(4) POPULATION.—For purposes of this subsection, population shall be determined in accordance with section 146(j).

''(5) INFLATION ADJUSTMENT.—In the case of any calendar year after 2004, the $1,000,000,000 amount contained in paragraph (2) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting 'calendar year 2003' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $500,000.

''(e) ELIGIBLE AREA; OTHER DEFINITIONS.—For purposes of this section—

''(1) ELIGIBLE AREA.—

''(A) IN GENERAL.—The term 'eligible area' means the entire area encompassed by a local governmental unit if such area contains at least 1 census tract having a poverty rate of at least 20 percent.

''(B) AREAS NOT WITHIN CENSUS TRACTS.—In the case of an area which is not tracted for population census tracts, the equivalent county divisions (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of determining poverty rates.

''(C) USE OF CENSUS DATA.—Population and poverty rate shall be determined by the most recent decennial census data available.

''(2) QUALIFIED CONTAMINATED SITE.—The term 'qualified contaminated site' has the meaning given to such term by section 198, determined by treating petroleum and petroleum by-products as hazardous substances.

''(3) POSSESSIONS TREATED AS STATES.—The term 'State' includes a possession of the United States.

''(f) CREDIT MAY BE ASSIGNED.—

''(1) IN GENERAL.—If a taxpayer elects the application of this subsection for any taxable year, the amount of credit determined under this section for such year which would (but for this subsection) be allowable to the taxpayer shall be allowable to the person designated by the taxpayer. The person so designated shall be treated as the taxpayer for purposes of subsection (h).

''(2) TREATMENT OF AMOUNTS PAID FOR ASSIGNMENT.—If any amount is paid to the person who assigns the credit determined under this section, no portion of such amount or such credit shall be includible in the payee's gross income.

''(g) TREATMENT OF POTENTIAL RESPONSIBLE PARTIES.—

''(1) IN GENERAL.—No credit shall be allowed under this section to any potential responsible party (within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980) with respect to any qualified contaminated site (including by reason of receiving an assignment of the credit under subsection (f)) unless at least 25 percent of the cost of remediating such site is borne by such party.

''(2) RELIEF FROM LIABILITY FOR OTHER 75 PERCENT.—If the requirement of paragraph (1) is met by a potential responsible party, such party shall not be liable under any Federal law for any cost taken into account in determining whether such requirement is met.

''(3) AMOUNTS PAID FOR CREDIT ASSIGNMENT NOT ELIGIBLE.—Amounts paid by a potential responsible party to any person for the assignment by such person of the credit under subsection (f)) shall not be taken into account in determining whether the requirement of paragraph (1) is met.

''(h) RECAPTURE OF CREDIT IF ENVIRONMENTAL REMEDIATION NOT PROPERLY COMPLETED.—

''(1) IN GENERAL.—If the State development agency of the State in which the qualified contaminated site is located determines that the environmental remediation which is part of the approved remediation and redevelopment plan for such site was not properly completed, then the taxpayer's tax under this chapter for the taxable year in which such determination is made shall be increased by the credit recapture amount.

''(2) CREDIT RECAPTURE AMOUNT.—For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of—

''(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if the credit allowable by reason of this section were not allowed, plus

''(B) interest at the overpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

''(3) SPECIAL RULES.—

''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit or the tax imposed by section 55.

''(i) DENIAL OF DOUBLE BENEFIT.—

''(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified remediation expenditures otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under this section.

''(2) SIMILAR RULE WHERE TAXPAYER CAPITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

''(A) the amount of the credit determined for the taxable year under this section, exceeds

''(B) the amount allowable as a deduction for such taxable year for qualified remediation expenditures (determined without regard to paragraph (1)),

the amount chargeable to capital account for the taxable year for such expenditures shall be reduced by the amount of such excess.

''(3) CONTROLLED GROUPS.—In the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 52(a)) or a trade or business which is treated as being under common control with other trades or businesses (within the meaning of section 52(b)), this subsection shall be applied under rules prescribed by the Secretary similar to the rules applicable under subsections (a) and (b) of section 52.''

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) of such Code is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the environmental remediation credit determined under section 45G(a).''.

(c) NO CARRYBACKS BEFORE EFFECTIVE DATE.—Subsection (d) of section 39 of such Code (relating to carryback and carryforward of unused credits) is amended by adding at the end the following:

''(11) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the environmental remediation credit determined under section 45G may be carried back to a taxable year ending before the date of the enactment of section 45G.''.

(d) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 45G. Environmental remediation credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. CORNYN (for himself, Mr. MCCONNELL, and Mr. MCCAIN):

S. 2931. A bill to enable drivers to choose a more affordable form of auto insurance that also provides for more adequate and timely compensation for accident victims, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. CORNYN. Mr. Chairman, on behalf of my co-sponsors, Senators MCCONNELL and MCCAIN, I rise today to introduce legislation that I believe has the potential to improve profoundly the lives of millions of Americans across the country.

The Auto Choice Reform Act of 2004 offers a real solution to a very real problem faced by those of us who drive every day—the high cost and inadequate compensation of the current tort and liability automotive insurance system.

The tort system ought to ideally compensate people injured by negligence and deter others from acting irresponsibly. With respect to auto accidents, the system fails miserably on both counts.

Numerous studies over the past 75 years document just how poorly the tort system compensates injured people. Almost one-third of injured people recover nothing at all, and many injured persons who do recover compensation must wait years to receive payment from the other person's insurer.

Worst of all, people with minor injuries recover compensation far in excess of their actual losses while many people with serious injuries are grossly underpaid. The RAND Institute for Civil Justice has found that people with economic losses between $500 and $1,000 recover on average 2½ times their economic loss. This is largely due to the fact that it is cheaper for an insurer to pay a questionable claim than to pay the costs of going to court, where they risk paying a multiplier of economic damages for pain and suffering.

The perverse incentives generated by pain-and-suffering damage awards also cause rampant fraud and abuse in auto insurance claims. A study by the RAND Institute for Civil Justice confirms that between 35 and 42 percent of medical costs claimed in auto accidents occur in response to the incentives of the tort liability system. In other words, more than one-third of all medical losses claimed in auto accidents are fraudulent or exaggerated—attempts to nab the pain-and-suffering jackpot.

On the other hand, people with the highest economic losses, in excess of $100,000, recover only 9 percent of their economic loss on average. To add injury to insult, that amount doesn't even include their lawyers' standard one-third fee. Because most drivers don't carry enough insurance to even pay this level of economic loss, particularly after attorneys' fees are deducted, people with the most serious injuries rarely recover anything for pain-and-suffering.

In short, we would be hard pressed to design a worse compensation system if we tried.

Indeed, the system is so bankrupt that lawyers in the auto insurance litigation currently consume more than 25 cents out of every premium dollar spent, an amount that is significantly more than the amount received by those actually injured for medical bills and lost wages. In total, more than $16 billion went to lawyers in 2001 for automobile related personal injury cases.

What about deterrence? Perhaps it is worth paying for a poor compensation system if people are deterred from driving badly, thereby avoiding injuries in the first place. Some studies have made this argument but the most comprehensive analysis of accident data, again by the RAND Institute for Civil Justice, has found that the tort system has little or no deterrent impact. This conclusion is a logical one. If a driver is not deterred by the threat of personal danger from reckless driving, then surely that driver is not deterred by the penalty for reckless driving—simply a modest increase in one's insurance premium.

The current system is also unnecessarily expensive, as is clearly demonstrated by the fact that the Joint Economic Committee estimates that switching to the new Personal Injury Protection system, discussed below, which relies primarily on the payment of economic losses for all injured persons without regard to fault and largely without the need for lawsuits, could save drivers a total of $48 billion a year in unnecessary premiums.

Excessive premiums disproportionately impact low income Americans and welfare recipients. Families in the bottom 20 percent of incomes who buy auto insurance spend 16 percent of their household income on that insurance. That percentage is seven times the proportion that families in the top 20 percent spend. Lower premiums would enable many low income workers to afford the cars they need to travel to better-paying jobs. The Auto Choice reform legislation we are proposing today would reduce premiums for low income people by more than it would reduce them for the average driver—both in terms of percentages and often in terms of absolute dollars. And all drivers would see significantly lower premiums.

Auto Choice is designed to allow consumers to choose the type of insurance that meets their needs and to opt out of the pain-and-suffering litigation lottery associated with the current system.

Essentially, drivers are permitted under Auto Choice to choose a new Personal Injury Protection, ''PIP'', Insurance under which they would be compensated without regard to fault for all economic losses up to their policy limits by their own insurance company, with nothing available for pain and suffering. Alternatively, for those who remain in the current tort system, they will select a small amount of additional coverage similar to an uninsured motorist for situations involving another motorist that opted for the PIP system—a premium offset by the savings realized by everyone as a result of the overall shift away from the lawsuit system.

The system does not abolish lawsuits. By design, there will be reduced incentives to head straight to court, but the right to sue remains firmly intact—as injured parties not fully compensated can sue to recover excess economic losses over and above that covered by the PIP coverage and other sources of first party insurance. They can also sue for all damages, including pain and suffering, when the accident is caused by a driver who is drunk or on drugs.

In summary, if a driver wants to maintain the possibility of recovering for pain and suffering, he will stay in essentially the current system. On the other hand, if he wants to opt-out of the current system in exchange for lower premiums with prompt compensation for economic losses—then he instead will choose the personal injury protection system.

The idea is not a new one. Indeed, this idea has been discussed—and even introduced in one form or another—for over thirty years now. Several versions of Auto Choice reform have enjoyed broad support on both sides of the aisle. Senator Daniel Patrick Moynihan, Steve Forbes, Michael Dukakis, Mayor Rudy Guliani, Congressman Dick Armey—just to name a few—have all opined in support of giving drivers a way out of the current ineffective system.

The time has come for Congress to act. The results of our action are clear and tangible: were Congress to enact Auto Choice Reform legislation now, motorists would stand to save as much as $48 billion next year.

Think about that for just one moment. Over 5 years, Americans would be able to save almost $250 billion—savings tantamount to a massive tax cut with absolutely no negative impact to the Federal deficit.

And what does this mean for the average American? The average American family with two cars will be able to save nearly $380 a year, according to Joint Economic Committee estimates.

Particularly encouraging is the effect these savings will have for low income families. Lower auto insurance premiums will make owning a car more affordable for poor Americans, allowing them to find and keep better-paying jobs and have longer commutes. Auto Choice would allow low-income drivers to save almost 37 percent on their overall automobile premium. For a low-income household, these savings

are the equivalent of 5 weeks of groceries or nearly 4 months of electric bills.

Auto Choice Reform can provide immediate and real relief for average, mainstream American families across the country. Those are real savings, resulting from a sound system that offers legitimate choice—a choice between guaranteed upfront savings on insurance premiums on one hand; and on the other, the right to sue for non-economic damages such as pain and suffering in the event an accident one day occurs.

For most Americans, I believe the choice is an easy one. Unfortunately, for most Americans today, that choice is unavailable.

The Auto Choice Reform Act of 2004 gives the American people that choice. Let's get government back to doing what it ought to—protecting the rights of all Americans to have the freedom to make choices about how they live their lives.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. JOHNSON, and Mr. WYDEN):

S. 2933. A bill to amend the Public Health Service Act to expand the clinical trials drug data bank; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Fair Access to Clinical Trials (FACT) Act. I want to begin by thanking Senator KENNEDY, Senator JOHNSON, and Senator WYDEN for joining me in introducing this legislation. Our bill will create a clinical trials registry—an electronic database—for drugs, biological products, and medical devices. Such a registry will ensure that physicians, the general public, and patients seeking to enroll in clinical trials have access to basic information about those trials. It will require manufacturers and other researchers to reveal the results of clinical trials so that clinically important information will be available to all Americans, and physicians will have all the necessary information to make appropriate treatment decisions for their patients.

Events of the past several months have made it clear that such a registry is needed. Serious questions have been raised about the effectiveness and safety of antidepressants when used in children and youth. It has now become clear that the existing data indicates that these drugs may very well put children at risk. However, because the data from antidepressant clinical trials was not publicly available, it took years for this risk to be realized. In the meantime, millions of children have been prescribed antidepressants by well-meaning physicians. While these drugs undoubtedly helped many of these children, they also led to greater suffering for others.

Unfortunately, antidepressants are just one example of a story that has become all too common. In the case of antidepressants, negative data might actually have been suppressed, and if this is discovered to be the case, those responsible should be dealt with harshly. However, because of what is known as ''publication bias,'' the information available to the public and physicians can be misleading even without nefarious motives. The simple fact is that a study with a positive result is far more likely to be published, and thus publicly available, than a study with a negative result. Physicians and patients hear the good news, but rarely the bad news. In the end, the imbalance of available information hurts patients.

Our bill would correct the imbalance of information, and prevent manufacturers from suppressing negative data. It would do so by expanding clinicaltrials.gov, an existing registry that is operated by the National Library of Medicine (NLM). Currently, clinicaltrials.gov includes information for patients seeking to enroll in clinical trials for drugs to treat serious or life-threatening conditions. The FACT Act would expand the registry to include all trials (except for preliminary safety trials), and would also require the submission of results data. At the same time, the bill would ensure that clinicaltrials.gov continues to operate as a resource for patients seeking to enroll in trials.

Our legislation would enforce the requirement to register trials in two ways. First, by requiring registration as a condition of Institutional Review Board (IRB) approval, no trial could begin without submitting preliminary information to the registry. This information would include the purpose of the trial, the estimated date of trial completion, as well as all of the information necessary to help patients to enroll in the trial.

Once the trial is completed, the researcher or manufacturer is required to submit the results to the registry. If they refuse to do so, they are subject to monetary penalties or, in the case of federally funded research, a restriction on future funding. It is my belief that these enforcement mechanisms will ensure broad compliance. However, in the rare case where a manufacturer does not comply, this legislation also gives the Food and Drug Administration (FDA) the authority to publicize the required information.

Let me also say that any time you are collecting large amounts of data and making it public, protecting patient privacy and confidentiality must be paramount. Our legislation would in no way threaten that privacy. The simple fact is that under this bill, no individually identifiable information would be available to the public.

I believe that the establishment of a clinical trials registry is absolutely necessary for the health and well-being of the American public. But I would also like to highlight two other benefits that such a registry will have. First, it has the potential to reduce health care costs. Studies have shown that publication bias also leads to a bias towards new and more expensive treatment options. A registry could help make it clear that, in some cases, less expensive treatments are just as effective for patients.

In addition, a registry will ensure that the sacrifice made by patients who enroll in clinical trials is not squandered. Many patients would be less willing to participate in trials if they understood that the data are unlikely to be made public if the results of the trial are negative. We owe it to patients to make sure that their participation in a trial will benefit other individuals suffering from the same illness or condition.

The problems associated with publication bias have recently drawn more attention from the medical community, and there is broad consensus that a clinical trials registry is one of the best ways to address the issue. Accordingly, the American Medical Association (AMA) has recommended the creation of such a registry, and the major medical journals have established a policy that they will only publish the results of trials that were registered in a public database before the trial began. Our legislation meets all of the minimum criteria for a trial registry set out by the International Committee of Medical Journal Editors.

To its credit, the pharmaceutical industry has also acknowledged the problem, and has created a registry to which manufacturers can voluntarily submit clinical trials data. I applaud this step. However, if our objective is to provide the public with a complete and consistent supply of information, a voluntary registry is unlikely to achieve that goal. Some companies will provide information, but others may decide not to participate. We need a clinical trials framework that is not just fair to all companies, but provides patients with peace of mind that they will receive complete information about the medicines they rely on.

The American drug industry is an extraordinary success story. As a result of the innovations that this industry has spawned, millions of lives have been improved and saved in our country and around the globe. Because of the importance of these medicines to our health and well-being, I have consistently supported sound public policies to help the industry to succeed. This legislation aims to build upon the successes of this industry, and help ensure that the positive changes to our health care system that prescription drugs have brought are not undermined by controversies such as the one now surrounding antidepressants, which is at least in part based on a lack of public information. This bill will help ensure that new and innovative medicines will be used by well-informed patients.

I look forward to working with industry, physicians, the medical journals, patient groups, and my colleagues to

move this legislation forward. This bill has already been endorsed by the National Organization for Rare Disorders, Consumers Union, the Elizabeth Glaser Pediatric AIDS Foundation, and the American Academy of Child and Adolescent Psychiatry. I thank these organizations for lending their expertise as we crafted this legislation, and I ask that a copy of their letters of endorsement be included in the RECORD after this statement.

Clinical trials are critical to protecting the safety and health of the American public, and for this reason, trial results must not be treated as information that can be hidden from scrutiny. Recent events have made it clear that a clinical trials registry is needed. Patients and physicians agree that such a registry is in the interest of the public health. I urge my colleagues to support this legislation, and I am hopeful that it will become law as soon as possible.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

Mr. President, I ask unanimous consent that letters of support be printed in the RECORD.

NATIONAL ORGANIZATION FOR RARE DISORDERS, INC.,
Danbury, CT, October 7, 2004.

Hon. CHRISTOPHER DODD,
U.S. Senate, Washington, DC.

DEAR SENATOR DODD: The National Organization for Rare Disorders (NORD) is honored to support your efforts to establish a centralized and comprehensive registry of both public and privately funded clinical research. The ''Fair Access to Clinical Trials Act of 2004'' will provide the mechanism whereby patients, including those living with rare diseases, will have access to ALL clinical research data—both positive and negative—something NORD has supported for many years.

There are over 25 million Americans currently living with one of the 6,000 known rare diseases. Unfortunately, for most of these diseases, little, if any, research is conducted. Thus, finding a trial is like trying to locate a needle in a massive haystack. Without your help, patients will continue to struggle to somehow find a clinical trial in the hopes that a therapy to alleviate symptoms or cure their disease may someday be found.

NORD also applauds the ''FACT Act'' because it will penalize industry when they purposefully and willfully hide negative data only to their bottom line. It is unconscionable to think that harmful information has been shielded from patients and healthcare providers, causing irreparable harm, and sometimes death.

Senator Dodd, NORD thanks you for your continuing concern about the health and welfare of all Americans. We will work with you to ensure that the ''Fair Access to Clinical Trials Act of 2004'' becomes a reality.

Sincerely.

DIANE E. DORMAN,
Vice President.

CONSUMERS UNION,
October 7, 2004.

Hon. CHRISTOPHER J. DODD,
Hon. EDWARD M. KENNEDY,
Hon. TIM JOHNSON,
Hon. RON WYDEN,
U.S. Senate, Washington, DC.

DEAR SENATORS DODD, KENNEDY, JOHNSON, AND WYDEN: Consumers Union, the non-profit publisher of Consumer Reports magazine, commends you for introducing the ''Fair Access to Clinical Trials Act of 2004'' (FACT Act). The legislation would create a mandatory publicly available national registry of all clinical trials involving drugs, biological products, and devices. This bill would enable consumers, doctors, and other health care providers to make appropriate decisions about care based upon more complete and accurate safety, efficacy, and comparative-effectiveness data.

The recent episode involving Paxil, one of the most popular antidepressants on the market, underscores a potentially dangerous information gap in drug regulation: the ability of drug manufacturers to effectively conceal study results that reveal their products to be ineffective or potentially hazardous. The number of U.S. children taking antidepressants has more than doubled since the early 1990s. In the past year, new evidence has emerged suggesting a possible connection between children starting antidepressant treatment and an increase in suicide risk. The public was disturbed to learn that Paxil's manufacturer, GlaxoSmithKline, submitted three studies to the FDA when it sought approval for pediatric use. The only one of the three studies that showed that Paxil worked for depression was published in the Journal of the American Academy of Child and Adolescent Psychiatry. This article disguised evidence of potential suicidal thoughts by calling them ''emotional lability.'' However the two additional negative Paxil studies were never published in any journal. Meanwhile, doctors continued to prescribe Paxil for children—an estimated 2.1 million prescriptions in 2002 alone.

Your legislation would begin to close the gap in the disclosure of information discovered during clinical trials. It would require trial sponsors to register publicly and privately funded clinical trials of drugs, biological products, and medical devices. The registry will further the goal of transparency by making information publicly available about trials, including: the purpose of the trial; whether the trial focuses on an unapproved use; a description of primary and secondary outcomes to be studied; the estimated completion date; the actual completion date (and the reasons for any difference from the estimated completion date); a summary of the trial results; adverse events observed during the investigation; and a description of the protocol followed in the trial.

Under the bill, before receiving Federal funding, a principal investigator would be required to certify that it will comply with the bill's registration requirements. Failure to submit trial result information could result in its inability to receive future federally funded contracts. Sponsors of privately funded trials also would be required to disclose the same information, or face potential civil penalties. If any trial sponsor fails to comply with the registration requirements, the Secretary of the Department of Health and Human Services is directed to disclose in the registry that the sponsor has failed to turn over trial results.

Strong incentives and penalties must be in place in order to ensure that pharmaceutical companies do not suppress negative safety or efficacy information in order to boost their profits. These practices are unacceptable, and we look forward to working with you to ensure transparency for clinical trial results, and to create even stronger incentives and penalties in the legislation to remove any financial motive clinical trial sponsors may have to hide important health information from consumers.

Sincerely,

JANELL MAYO DUNCAN,
Legislative and Regulatory Counsel, Washington Office.

ELIZABETH GLASER PEDIATRIC AIDS FOUNDATION,
October 7, 2004.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Washington, DC.
Hon. TIM JOHNSON,
U.S. Senate, Washington, DC.
Hon. EDWARD M. KENNEDY,
U.S. Senate, Washington, DC.
Hon. RON WYDEN,
U.S. Senate, Washington, DC.

DEAR SENATORS DODD, KENNEDY, JOHNSON AND WYDEN: On behalf of the Elizabeth Glaser Pediatric AIDS Foundation, I would like to commend your leadership in introducing the ''Fair Access to Clinical Trials Act of 2004'' (The FACT Act) and offer our strong endorsement of your efforts to establish a publicly accessible registry of clinical trials, including important pediatric studies.

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. In 2000, the Glaser Pediatric Research Network was founded as an affiliate of the Foundation, with the goal of advancing vital clinical discoveries on behalf of all children. Through a partnership among five pre-eminent academic medical centers, the Network is currently supporting clinical drug trials and other pediatric studies on a range of conditions affecting children such as obesity, cancer, osteoporosis, and rare bleeding disorders.

As longstanding advocates of testing drugs for use in children, we welcome the dramatic increase in pediatric studies that has resulted from the enactment of both incentives and a pediatric testing requirement. However, simply conducting pediatric research is insufficient if the results of that research are not made fully available to pediatricians, parents, and researchers. By making clinical trial information publicly accessible in a timely way, the FACT Act will serve as a critical next step in improving the safety and efficacy of medicines used by children.

We are particularly pleased that the FACT Act acknowledges the unique circumstances and contributions of non-profit sponsors of research. Your attention to the need to ensure the continued viability of critical research partnerships between non-profit and for-profit funders is very much appreciated. In addition, as we continue our efforts to improve the availability of medical devices designed for children's unique needs, we applaud your inclusion of device clinical trials in the scope of the registry.

Thank you again for your commitment to ensuring that important safety data from pediatric and adult clinical trials is available to improve public health. We look forward to working with you in the 109th Congress to secure bipartisan support for and passage of this important legislation.

Sincerely,

MARK ISAAC,
Vice President, Policy and Communication.

AMERICAN ACADEMY OF CHILD & ADOLESCENT PSYCHIATRY,
Washington, DC, October 7, 2004.

Hon. CHRISTOPHER DODD
U.S. Senate, Washington, DC.

DEAR SENATOR DODD: On behalf of the American Academy of Child and Adolescent Psychiatry (AACAP), thank you for your efforts to improve the health of children, adolescents and adults through better access to

clinical trial data. Legislation that you are sponsoring, the Fair Access to Clinical Trials (FACT) Act, will ensure that physicians, including child and adolescent psychiatrists, patients and parents have all available knowledge about a medication's safety and effectiveness, so that they can make informed decisions about treatment options.

The AACAP is pleased to have been at the forefront of calling for a national clinical trails registry. Research is key to understanding the cause of depression, especially in children and adolescents, and access to all research findings will help clinicians develop the most effective treatment plans. It is this principle that led the AACAP and the American Psychiatric Association (APA) to urge the American Medical Association to join their call for a national registry, which it did earlier this year.

Again, we thank you for sponsoring the Fair Access to Clinical Trials Act. We are encouraged by the support for this bill and are eager to work with you to ensure its passage. Please contact Nuala S. Moore, Asst. Director of Government Affairs, at 202.966.7300, x. 126, if you have any questions concerning clinical research or other children's mental illness issues.

Sincerely,

RICHARD SARLES, M.D.,
President.

Mr. JOHNSON. Mr. President, today I join several of my colleagues in introducing a very important piece of legislation that will improve access to information about prescription drugs for patients and their doctors. Today Senators DODD, KENNEDY and WYDEN and I are introducing the Fair Access to Clinical Trials Act, or FACT Act. I want to commend my colleagues for their hard work on this legislation. I also want to thank them for their commitment to ensuring that finally, objective, unbiased information can be put in the hands of consumers and doctors, reducing negative outcomes, improving patient care and ultimately reducing costs of medications.

It is unacceptable that today, much of the information consumers and doctors rely on to make decisions about the medications they use are based on incomplete information. Patients are often swayed by direct-to-consumer drug advertisements. Doctors must rely on the information they learn at drug company sponsored conferences, and in peer reviewed journals that publish largely the success stories. But what about the untold stories? What about the clinical trials that were discontinued by drug companies because the data appeared to not be going in the right direction? What about the studies that are part of an application for a new drug that may show a negative result? And what about trials that have been conducted to study the appropriateness of an off-label use? Today, physicians and their patients do not have access to any of this important information, and that must change now.

The lack of access to this information can have real, devastating effects on patients. We have all heard the stories in the papers in recent months. We have heard about New York Attorney General Eliot Spitzer's lawsuit, which charged GlaxoSmithKline with suppressing the publication of studies suggesting that its antidepressant drug Paxil could increase the risk of suicide among adolescents. Further investigation of this issue has found that some manufacturers of antidepressants highlighted positive findings in tests on youngsters while playing down negative or inconclusive ones.

We have just recently learned that the arthritis medication Vioxx was pulled off the market, due to negative study findings, and just yesterday learned that over 27,000 sudden cardiac deaths and heart attacks may have been caused. While Merck did the right thing by pulling the drug after learning of clinical trial, they were under no obligation to share this information with consumers or the medical profession. Drug companies have lobbied to ensure that only the Food and Drug Administration gets this information and, even then, some drug companies simply discontinue studies that they do not think will reflect favorably on their product.

What doctors advocating the development of a comprehensive clinical trial registry have indicated is that without ready access to all experimental data, good, bad and indifferent, they cannot hope to know what is the best treatment for their patients. Our legislation will get at that very issue, by requiring that clinical trials are registered in a database that is accessible to the public.

This bill will create a comprehensive clinical trial database, which will require that all trials for drugs, biologics, and medical devices be registered in the database in order to obtain approval from a U.S. Institutional Review Board to move forward with any study. Researchers will be required to disclose basic information about a study initially, so that consumers can be aware of studies while they are underway.

Once trials are completed, the bill requires that the results of those studies be made available to doctors and patients. There is significant time allowed in the bill for researchers to publish their results, prior to them being made public in the database. Submission to this database will be mandatory for all federally funded and non-federally funded trials, and strong enforcement mechanisms are incorporated into the bill.

Making the results of clinical drug trials public is not only a good consumer right-to-know or rather need-to-know issue, but it is also the ethically responsible thing to do. Patients enter trials for the good of science. It is our obligation to ensure that their sacrifices provide for the greater good of the public health. Publicizing the results of those studies is a step in that direction. Patients enrolling in clinical trials often know up front that the likely chance of directly benefiting from a treatment is unknown. But patients are also told that even if they do not experience a positive outcome, doctors can learn from the results, which will advance science in the long term.

This legislation is strongly supported by the National Organization for Rare Disorders, Consumers Union and the Academy of Child and Adolescent Psychiatry. I urge my colleagues to support this important legislation which is long overdue.

Mr. KENNEDY. I am pleased today to introduce the Fair Access to Clinical Trials or FACT Act. This needed legislation will improve the information available to patients and their families about the medical treatments they receive. For too long, drug companies have been able to hide damaging data that show their new wonder drug is not really the wonder they claim it to be. That practice ends on the day the FACT Act is enacted. From that day forward, consumers, doctors and researchers will have access to the results of clinical trials, so they can make informed decisions about treatment options.

No patient should ever die because they didn't get the information they needed on the medications they rely on to protect their health.

The legislation we introduce today is offered by a strong group of Senators and Representatives from across the nation. I commend my colleague, Senator DODD, for his leadership in the Senate on this important measure. Senator DODD has a strong and lasting commitment to improving the health and health care of all our citizens, and particularly for the youngest and most vulnerable. I am also pleased to join Senator RON WYDEN and Senator TIM JOHNSON in introducing this proposal, and I commend them for their commitment and skillful leadership in this area.

Our colleagues in the House of Representatives are today introducing almost identical legislation, and I commend our colleagues, Representative ED MARKEY and Representative HENRY WAXMAN, for their tireless efforts on this important issue.

As part of the FDA Modernization Act, Congress directed the Department of Health and Human Services to establish a registry of clinical trials. This provision was well timed, because it coincided with the rapid expansion of internet use. As a result, the National Library of Medicine has established a web site, clinicaltrials.gov, that is intended to contain information on all clinical trials for serious and life threatening diseases.

Sadly, recent studies show that drug manufacturers are not complying with the requirement to list even basic information on the trials they conduct. A recent study showed that only 48 percent of the required cancer trials were properly submitted to the registry, and rates for other serious diseases were in the single digits. As a result of this shameful failure, patients are being denied important information on clinical trials in which they may be eligible to participate.

Action is long overdue to give the NIH and the FDA better ways to see that companies and researchers properly register the trials they conduct. The FACT Act will assure that any researcher or sponsor seeking to conduct a clinical trial will be required, as a condition for approval to conduct the trial, to submit information on that trial to the clinical trial registry. This common-sense provision will see that patients seeking to enroll in clinical trials will have access to a complete set of information on the trials for which they may be eligible. No patient should be denied access to a lifesaving clinical trial because the sponsor of the trial shirked their responsibility to submit information to the national registry.

Ensuring that all trials are registered is important, but registration alone is not enough to see that patients get the information they need on the treatments they receive. We must also see that the results of clinical trials are included in the registry.

The FACT Act requires researchers and clinical trial sponsors to submit the results of their trials to the registry. With a complete and comprehensive set of information, patients will be better able to evaluate the treatments they receive, and physicians will have access to complete information on the treatments they prescribe. The FACT Act requires companies to list the results of trials—even when they show that a product is less effective than its manufacturers want to claim.

All of us are familiar with the way that drug companies hid information on potentially harmful side effects in children of antidepressants. Many of our Republican colleagues in the House forcefully criticized the FDA for failing to release information they possessed showing that these pills sometimes cause suicidal tendencies in the children who received them.

The FACT Act addresses both of these serious concerns. It requires companies to list the results of their trials, and gives FDA the authority to impose civil monetary penalties on those who fail to do so. It also gives FDA the clear legal authority to release information on the results of a clinical trial if a company fails to do so. No longer will FDA face the terrible dilemma of knowing that it possesses information crucial to assuring public health and safety, but is unable to release that information to the public because of legal constraints. The FACT Act assures that FDA has the clear authority to take the steps it needs to take to protect public health.

I urge Congress to take swift action on the proposals introduced today in the House and Senate. We have little time left in this session, but the measures introduced today have broad support from medical professional, consumer organizations and the publishers of professional journals.

Some companies have already taken voluntary steps to release information on clinical trials. These voluntary efforts are commendable, but they are inadequate to give the public the comprehensive information they need and deserve. Voluntary reporting efforts on the companies' own web sites will not result in a single, central database that every patient can consult. Sporadic efforts by individual companies will not elicit the comprehensive information needed on all clinical trials—not just those of the few companies that participate in the voluntary initiative. And voluntary efforts undertaken now may not be sustained in the future, when the hot glare of public attention fades from this issue.

To give patients and health professionals the information they need to improve the quality of medical care, we need a strong legal requirement to list comprehensive information on clinical trials in a single publicly accessible database. Patients and their families deserve the FACT Act, and I urge my colleagues to support it.

Mr. WYDEN. Mr. President, today I join Senators DODD, KENNEDY, and JOHNSON in introducing the Fair Access to Clinical Trials Act of 2004. This legislation is an important milestone for patients and doctors around this country because it would create a centralized clinical trials registry by expanding the current clinical trials.gov website to provide not only information about clinical trials they might want to be part of, but also the results of those trials. If information is not provided so it can be posted on the website, serious penalties could be imposed, including a researcher losing their ability to get future Federal grants.

It is vitally important that patients and their doctors have the information they need to decide upon the best treatment for them. As we all know, drugs are often the key treatment for many health problems. Good results about the safety and effectiveness of treatments are often trumpeted by drug companies and the media, but Americans are less likely to hear about clinical trial results that are not so good or truly negative. This legislation will ensure that everyone can get a fair picture of all results of clinical trials.

I believe that this legislation strikes the delicate balance needed so that companies which create breakthrough drugs can keep their trade secrets, the important process of assuring peer review in medical literature can continue, and consumers, doctors and researchers can have access to the information they need to make sound decisions about their health care.

Research is key in assuring health care improvements. Knowing the results of research is key in assuring better health care quality and improving decision-making by doctors and their patients. I believe that the expanded website created by this legislation will be an important tool in improving doctors' and patients' knowledge and decision-making that might well mean life or death for some patients.

By Ms. CANTWELL:

S. 2934. A bill to combat methamphetamine abuse in the United States; to the Committee on the Judiciary.

Ms. CANTWELL. Mr. President, I rise today to introduce the Confronting Methamphetamines Act of 2004.

Methamphetamine, meth, use is growing exponentially in parts of our country and is spreading across the country at an alarming rate. We must act aggressively to attack the meth problem with a long-term commitment of resources or we will soon have a national drug crisis on the scale of an epidemic.

Meth is an extremely dangerous and highly addictive drug. Individuals who use meth risk becoming addicted to this life-destroying drug with just one use. Meth use has ruined the lives of many people who prior to their addiction to meth were successful contributors to our society and our economy.

Meth use triggers an avalanche of other problems for addicts' families and our communities. The use of meth is often linked to child abuse and the destruction of families. It contributes substantially to the perpetration of violent crimes, particularly burglary and crimes of substantial cost and personal pain to the victims, including identity theft. The stories I have heard about meth users are horrible—parents so focused on feeding their habit that they forget their children are right there with them, hungry, and without any love or care. Users become aggressive, violent and unstable. Often, the kids end up users as well.

Sadly, our children are discovering meth, and the results will be devastating. According to a 2001 study by the Centers for Disease Control and Prevention, nearly one in ten high school students have used meth. The statistics are clear: the problem is bad, and it's getting worse. The National Center on Addiction and Substance Abuse at Columbia University reports that while the proportion of teens who know users of LSD, cocaine, and heroin has dropped sharply from last year, the percentage of teens who know a user of methamphetamines has risen from 12 percent in 2003 to 15 percent this year.

The devastation to our kids' lives is hitting our rural communities first. The Columbia University researchers also found that eighth graders living in rural America are 104 percent more likely to use amphetamines than eighth graders in urban areas.

And meth is not just a health and social problem; it is also an enormous environmental problem. There are two types of local meth labs: so-called ''super-labs,'' which are capable of manufacturing large volumes of methamphetamines and clandestine labs set up by users to manufacture small amounts of the drug for personal use. These clandestine labs can be set up in the woods, in hotel rooms or even in the back seat of a car. They can be

set up anywhere, but are usually located where there is little traffic or population.

These hazardous ''labs'' can go unnoticed for years, but they produce major chemical hazards and pose severe fire risk. Meth production generates extremely hazardous byproducts, such as anhydrous ammonia, ether, sulfuric acid, as well as other toxins that are volatile, corrosive, and poisonous. When these substances are illegally disposed of in rivers, streams and other dump areas, explosions and serious environmental damage can and does result. Our State and local environmental agencies are responsible to cleanup these hazardous sites and it is taking a toll on their resources.

The use of meth is spreading rapidly from the western region of the United States across the rural Midwest and to the east. The spreading availability of methamphetamine is illustrated by increasing numbers of meth seizures, arrests, indictments, and sentences. And those numbers are rising across the country. According to the National Drug Intelligence Center, methamphetamine is widely available throughout the Pacific, Southwest, and West Central regions and is increasingly available in the Great Lakes and the Southeast.

Similarly, the National Institute on Drug Abuse's Community Epidemiology Working Group reports that, in 2002, methamphetamine indicators remained highest in West Coast areas and parts of the Southwest, as well as Hawaii. Meth abuse and the crimes associated with it are spreading in areas such as Atlanta, Chicago, Detroit, St. Louis, and Texas, as well as the East Coast and mid-Atlantic regions. This problem, once perceived as a ''western state'' problem, has become a nationwide problem, growing at an extraordinary rate.

My State has shown that a cooperative effort—law enforcement working side-by-side with those handling cleanup, intervention, treatment, child and family support, drug courts and family drug courts, and education—is effective at addressing this problem. Thanks to the Washington Methamphetamine Initiative and the ''Methamphetamine Action Teams,'' multi-disciplinary teams situated in each county across the State, meth production was cut back by 25 percent last year. Washington State has dropped from second in the Nation to sixth in the production of meth. The comprehensive, holistic approach my State has taken to combat meth is working well, and I believe that our program can be a model for the national fight.

By making intervention, treatment and family support as important as arrests and prosecution, we are effectively overcoming the secondary problems that meth creates by addressing the root causes, not just the social symptoms. By taking this approach we are not simply growing prison populations and pushing the problem to regions not previously impacted by meth, but attacking the growth of the use of this terrible drug.

We in Washington State have also learned that laws restricting the sale of large quantities of precursor drugs such as ephedrine make it more difficult for users to produce meth, and this tactic has reduced the number of clandestine labs in the State.

This approach to fighting meth use has been very successful, but it takes money. And although there has been an explosion in the use of meth, Federal funding has been cut. Each year, States with a growing meth problem are required to go through a politicized process seeking Federal funding through the earmark process. And each year, the funds are being cut.

These challenges to our States mean only one thing: we need to make funding to combat meth permanent. Permanent Federal funding support for meth enforcement and clean-up is critical to the efforts of State and local law enforcement to reduce the use, manufacture and sale of meth.

That is why I am introducing the Confronting Methamphetamines Act of 2004. This bill will create a supplemental grant to augment the Department of Justice's Byrne Formula Grant Program to provide block grants to help States confront their meth problems.

Under my bill, States will be able to apply for a formula grant if they meet two prerequisites: the State must have a comprehensive, long term plan to address methamphetamine use, manufacture and sale; and the State legislature must commit to enacting laws to limit the sales of precursor products (the commercially available products used to make meth, such as ephedrine). Where a State has met these two requirements, that State will be eligible to receive a Federal formula grant.

States have discretion as to how to use the funds. The activities funded may include arrest, lab seizures and clean up, child and family support services, community based education, awareness and prevention, intervention, treatment, Drug Court and Family Drug Court, community policing, the hiring of specially trained law enforcement, State and local health and environmental department support, and prosecution.

The Confronting Methamphetamines Act also provides for planning grants, $100,000 per State, so States can develop long-term strategies to address meth. We have seen in Washington and in other States that comprehensive plans to address all aspects of meth—from use to manufacture to sale—have the best and most efficient results. Through this provision, I want to encourage States to consider the long-term situation when they take the initial steps in combating meth.

To assure that the best practices to confront meth deployed in our local communities are shared across the country, my bill requires the U.S. Attorney General to collect data, to establish a national clearinghouse for best practices in addressing the meth problem, and to provide technical assistance to States or local agencies.

Like the Byrne Formula Grants, distribution to eligible States will be based on State population. The supplemental allocation to an eligible State will be no less than the base amount of $250,000 or 0.25 percent of the amount available for the program, whichever is greater, with the remaining funds allocated to the other eligible States on the basis of the state's relative share of total U.S. population.

The bill authorizes $100 million per fiscal year 2005 and 2006, elevating the funding to $200 million for the subsequent three years, assuring that the funds are available as the meth problem grows and more States become plagued by the problem of meth.

I have received letters supporting this legislation from the Fraternal Order of Police, National Association of Drug Court Professionals, the Police Executive Research Forum, the Washington State's Governor's office, representing State law enforcement, environmental protection, health and human services and the Washington State Methamphetamine Initiative, and the Pierce County Alliance, essentially the epicenter of Washington State's response to methamphetamines. These letters reflect the level and breadth of concern for our law enforcement, drug addiction care providers, the courts and environmental protection agencies.

We have to give a strong signal to the State and local governments that we recognize the meth problems that they are facing, we are committed to support long-term comprehensive strategies to confront the problem, and will assure availability of substantial federal funds to help confront this startlingly rapidly growing problem.

This legislation assures the funding and continuity of Federal support desperately needed by our State and local governments. It assures that States have the opportunity to develop a long-term comprehensive strategy to combat meth, and gives those on the front lines in this battle the flexibility to use the federal dollars as they see fit, consistent with their long-term plan. I urge the Senate to support this bill and plan to work aggressively with the other body to bring it into law as promptly as possible.

Mr. President, I ask unanimous consent that the four letters of support be printed in the RECORD.

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

NATIONAL ASSOCIATION OF DRUG COURT PROFESSIONALS,
Alexandria, VA, October 6, 2004.

Re Confronting Meth Act of 2004.

Hon. MARIA CANTWELL,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR CANTWELL: I am writing this letter in support of the Confronting

Meth Act of 2004 on behalf of the entire drug court field and the professionals and clients we serve. As active workers in the areas of treatment, law enforcement and the judiciary, we see the devastation of methamphetamine use. We understand the debilitating effect meth has on its users and the overwhelming impact it has on families and communities. Our members contact us weekly and describe in detail the special challenges that accompany addiction to meth and the additional resources needed to meet these challenges. It is important that communities all over the country have an avenue to address this issue. The Act has the unique ability to equip states with that ability.

The funding formula that is proposed will encourage local solutions to a problem that differs from jurisdiction to jurisdiction. The Act also lends itself to a multi-faceted approach to a pervasive challenge. We wholly support this legislation and pledge the expertise of our organization to its passage and implementation. Thank you for your vision in introducing this important legislation.

Sincerely,

JUDGE KAREN FREEMAN-WILSON (ret.),
Chief Executive Officer.

GRAND LODGE
FRATERNAL ORDER OF POLICE,
Washington, DC, October 6, 2004.

Hon. MARIA CANTWELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR CANTWELL: I am writing on behalf of the membership of the Fraternal Order of Police to advise you of our support for legislation you intend to introduce entitled the ''Confronting Methamphetamine Act.''

The bill creates a supplemental grant program at the U.S. Department of Justice for States that develop a comprehensive, long-term plan to address the use, manufacture, and sale of methamphetamines, and has enacted or will enact a law to limit the sale of precursor products that are used to make this dangerous drug. States that meet this criteria will be able to apply for funds to fight the growing problem of methamphetamines and will have discretion as to how to use the funds, be it for community policing, lab seizures and clean up, awareness and prevention, intervention, treatment, and prosecution. The bill authorizes $100 million for the program in fiscal years 2005 and 2006, and then elevates the funding to $200 million for the subsequent three years.

Law enforcement needs additional resources to fight the spread of methamphetamine abuse, and the bill you intend to introduce will do just that. The F.O.P. welcomes the opportunity to work with you and your staff on this legislation. If we can be of any further assistance, please do not hesitate to contact me or Executive Director Jim Pasco through my Washington office.

Sincerely,

CHUCK CANTERBURY,
National President.

POLICE EXECUTIVE
RESEARCH FORUM,
October 7, 2004.

Hon. MARIA CANTWELL,
Hart Senate Office Building,
U.S. Senate, Washington, DC.

DEAR SENATOR CANTWELL: On behalf of the Police Executive Research Forum (PERF), a national organization of police executive professionals who collectively serve more than 50 percent of the nation's population, I would like to thank you for your continued leadership on law enforcement and public issues. The men and women of law enforcement face tremendous challenges in combating the manufacturing, trafficking, sale, and use of illicit drugs, as well as drug-related violence and crime in our streets, PERF commends your efforts to introduce effective legislation to help provide law enforcement with the resources to reduce the presence of methamphetamine drugs and laboratories across the nation, and to investigate and prosecute the criminals who corrupt our children and endanger our communities.

The Confronting Methamphetamine Act of 2004 presents a comprehensive, cooperative, multi-agency approach to addressing the methamphetamine problem in the United States, and PERF believes this to be the best course of action for achieving long-term solutions. It is crucial to involve federal, state, local, and private entities in this fight, and to supplement that fight with grants that will enable law enforcement, prosecutors, treatment facilities, and community-based organizations to carry out their respective missions effectively.

PERF members see first-hand the ravaging effect that methamphetamine and other illicit drugs have on communities nationwide. They recognize and applaud your efforts to provide them with the resources to attack this problem head-on. If you have any additional questions, please feel free to contact PERF Legislative Director Martha Plotkin at mplotkin@policeforum.org or PERF Legislative Assistant Steve Loyka at sloyka@policeforum.org. I look forward to working with you and your staff on this legislation.

Sincerely,

CHUCK WEXLER,
Executive Director.

STATE OF WASHINGTON,
GOVERNOR'S EXECUTIVE POLICY OFFICE,
Olympia, WA, October 5, 2004.

Senator MARIA CANTWELL,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR CANTWELL: On behalf of members of the Governor's Methamphetamine Coordinating Committee, I am writing to thank you for your continued support of Washington's comprehensive strategy to reduce methamphetamine trafficking and use. You have been a champion for funding over five years, and I appreciate your willingness to introduce legislation establishing an ongoing federal grant program for this purpose.

Your proposed ''Confronting Methamphetamines Act'' would help states like Washington implement effective strategies including prevention, law enforcement, treatment, services to affected children and families, and cleanup. It would recognize the need for multi-disciplinary coalitions, local and tribal involvement, and state laws restricting the sale of precursor chemicals. It would provide planning grants to help states develop strategies, as well as larger grants for implementation.

I appreciate the chance to work with your staff in developing this legislation. It deserves broad support among members of Congress from the many states where the methamphetamine epidemic has spread. Our Methamphetamine Coordinating Committee members look forward to working with your office as the bill is considered. Thank you again for your leadership and support.

Sincerely,

RICHARD D. VAN WAGENEN,
Executive Policy Advisor.

PIERCE COUNTY ALLIANCE,
Tacoma, WA, June 17, 2004.

Senator MARIA CANTWELL,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR CANTWELL: On behalf of the Pierce County Alliance and the Washington State Methamphetamine Initiative, I want to express my sincere appreciation for your outstanding support and efforts to bring about the essential funding that makes our efforts possible. Your work has been crucial to the continuance of the battle to abate the methamphetamine crisis in our state.

Of course, I also fully endorse and support your sponsorship of the ''Confronting Methamphetamines Act of 2004'' that would further assist states like ours to deal with the multi-faceted problems of methamphetamine production, distribution, and use. I am pleased to note that it builds on the model that we have evolved here in Washington State, encompassing a multi-disciplinary approach with broad collaborations at all governmental levels and across all social sectors. Please do not hesitate to contact me if I can be of any assistance in this endeavor.

Again, my thanks to you for your continued leadership and support on this critical issue.

Sincerely,

TERREE SCHMIDT-WHELAN,
Executive Director.

By Mr. ROCKEFELLER:

S. 2935. A bill to amend section 35 of the Internal Revenue Code of 1986 to improve the health coverage tax credit, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. On Monday, the Government Accountability Office (GAO) released a report on the Trade Adjustment Assistance health coverage tax credit, HCTC. The report confirms what many in Congress have been saying since the HCTC program began—the credit is not enough, the program has several barriers to enrollment, the premiums are prohibitively high for some workers because of medical underwriting, and the program is very expensive to administer.

It is long past time for Congress to focus on the problems with the TAA health coverage tax credit. That is why I am introducing legislation today that will make much-needed improvements to the HCTC program. The TAA Health Coverage Improvement Act of 2004 offers solutions to many of the problems with the HCTC identified by GAO. This legislation will go a long way to make the TAA health care tax credit a realistic option for displaced workers and their families.

When Congress passed the Trade Act of 2002, we made a promise to American workers that the potential loss of jobs will not equal the loss of health care coverage. Unfortunately, Congress has failed to make good on that promise. For the last two years, I have heard from steel retirees and widows in my State about how unaffordable the TAA health care tax credit is. And I have been very frustrated, just as I was when this bill passed, that we were not able to make the credit more affordable and accessible for people who need it the most—laid-off workers and retirees who have very limited income.

For a good number of supporters of the Trade Act of 2002, the health insurance tax credit was the single most important factor in overcoming their concerns about giving the President fast-track authority to move trade agreements through Congress. In my own judgment, the fast-track would not have passed Congress without the health care tax credit. The TAA health credit was the trade-off to balance the President's authority.

Yet, the success many of us envisioned for the health care tax credit has not been realized through implementation. The number of people who have been able to access the health care tax credit over the last two years is extremely disappointing. As of July 2004, only 13,194 out of 229,044 who are eligible for the credit are enrolled in the program. That is less than six percent, which means that over 94 percent of those eligible are not participating.

I must say to my colleagues that Congress has had a hand in these disappointing enrollment figures. We have ignored every opportunity to improve the health coverage tax credit and enhance the lives of workers displaced by trade. Most recently, the members of this body voted against the Wyden-Coleman-Rockefeller-Baucus TAA amendment to the FSC/ETI bill. Not only would this amendment have extended Trade Adjustment Assistance to service workers, it also would have addressed some of the problems GAO has identified with the health coverage credit.

The TAA Health Coverage Improvement Act makes long overdue improvements to the TAA health care tax credit. First, this legislation addresses the issue of affordability. In addition to GAO, several consumer advocacy groups and research organizations—including the Commonwealth Fund, the Center on Budget and Policy Priorities, and Families USA—have cited affordability of the credit as the primary reason for low participation in the HCTC program. The bottom line is that a 65 percent subsidy is not enough. With a 65 percent credit, an eligible individual still has to pay an average of $1,714 out-of-pocket per year for single coverage. This figure is particularly astounding given the fact that the average worker, while actively employed and earning a paycheck, paid just $508 in 2003 for single employer-sponsored health insurance coverage. The TAA Health Coverage Improvement Act makes the credit more affordable by increasing the subsidy amount to 95 percent.

This legislation also addresses the issue of affordability by placing limits on the use of the individual market, as Congress intended under the original law. The Trade Act of 2002 specified that the health insurance credit could not be used for the purchase of health insurance coverage in the individual market except for HCTC-eligible workers who previously had a private, non-group coverage policy 30 days prior to separation from employment. However, States have been allowed by this Administration to create state-based coverage options in the individual market for any HCTC beneficiaries, including those who did not have individual market coverage one month prior to separation from employment.

Because of the Administration's interpretation of the law, there are people who had employer-based coverage prior to separation from employment who are now being covered in the individual market. This was not the intent of the law. To make matters worse, this interpretation undermines the consumer protections set forth in the law because individual market plans are allowed to vary premiums based on age and medical status. In one State GAO reviewed for its report, because of medical underwriting, HCTC recipients in less-than-perfect health were charged almost six times the premiums charged to recipients rated in the healthiest category. The legislation I am introducing today addresses this problem by clarifying that states can only designate individual market coverage within guidelines of 30-day restriction and by requiring individual market plans to be community-rated.

Second, this legislation guarantees that eligible workers will have access to comprehensive group health coverage. Group coverage is what people know. The vast majority of laid-off workers and PBGC retirees had employer-sponsored group coverage prior to losing their jobs or pension benefits. The TAA Health Coverage Improvement Act designates the Federal Employees Health Benefit Plan (FEHBP) as a qualified group option in every State, so that displaced workers nationwide will have access to the same type of affordable, comprehensive coverage they were used to when they were employed.

Third, the TAA Health Coverage Act clarifies the three month continuous coverage requirement. Under the original TAA statute, displaced workers are required to maintain three months of continuous health insurance coverage in order to qualify for certain consumer protections. Those protections are guaranteed issue, no preexisting condition exclusion, comparable premiums, and comparable benefits. Congress intended this 3 month period to be counted as the 3 months prior to separation from employment. However, the Administration has interpreted the 3 month requirement as 3 months of health insurance coverage prior to enrollment in the new health plan, which usually is after separation from employment and after certification of TAA eligibility. Many laid-off workers and PBGC recipients cannot afford to maintain health coverage in the months between losing their jobs and TAA certification and, therefore, lose eligibility for the statutorily provided consumer protections. This legislation corrects this problem by clarifying that 3 months of continuous coverage means 3 months prior to separation from employment.

Fourth, this bill allows spouses and dependents to receive the health coverage tax credit. Over the last 2 years, younger spouses and dependents of Medicare-eligible individuals have not been able to receive the subsidy because eligibility runs through the worker or retiree. This technicality is unfair to individuals who rely on health coverage through their spouses or parents. The TAA Health Coverage Improvement Act allows younger spouses and dependent children to retain eligibility for the health coverage tax credit in the event the qualified beneficiary becomes eligible for Medicare.

Finally, this legislation streamlines the HCTC enrollment process and makes it easier for trade-displaced workers to access health insurance coverage. According to GAO, two of the factors contributing to low participation include a complicated and fragmented enrollment process and the inability of workers to pay 100 percent of the premium during the 3 to 6 months they are waiting to enroll in advance payment. This legislation includes a presumptive eligibility provision that allows displaced workers to enroll in a qualified health plan and receive the HCTC immediately upon application to the Department of Labor for certification. There is also a provision which directs the Treasury Secretary to pay 100 percent of the cost of premiums directly to the health plans during the months TAA-eligible workers are waiting for advance payment to begin.

As a former Governor, I know how important Trade Adjustment Assistance is to individuals who have lost their jobs due to trade. In West Virginia, thousands of workers have lost their jobs as a result of trade policy. While adjusting to the loss of employment, these individuals still have to pay mortgages, put food on the table, and care for their families. Finding affordable health care adds a significant burden to their worries. The TAA health coverage tax credit is designed to help American workers retain health insurance coverage during this very difficult transition.

Unfortunately, the HCTC program is not living up to its potential. The Government Accountability Office has given us a very specific diagnosis of the problems. Now, it is up to us to fix them. The TAA Health Coverage Improvement Act builds upon the Trade Act of 2002 and the lessons we have learned since in order to make the health coverage credit workable for eligible individuals and their families. I look forward to working with my colleagues to pass this important legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2935

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''TAA Health Coverage Improvement Act of 2004''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Improvement of the affordability of the credit.
Sec. 3. 100 percent credit and payment for monthly premiums paid prior to certification of eligibility for the credit.
Sec. 4. Eligibility for certain pension plan participants; presumptive eligibility.
Sec. 5. Clarification of 3-month creditable coverage requirement.
Sec. 6. TAA pre-certification period rule for purposes of determining whether there is a 63-day lapse in creditable coverage.
Sec. 7. Continued qualification of family members after certain events.
Sec. 8. Offering of Federal group coverage.
Sec. 9. Additional requirements for individual health insurance costs.
Sec. 10. Alignment of COBRA coverage with TAA period for TAA-eligible individuals.
Sec. 11. Notice requirements.
Sec. 12. Annual report on enhanced TAA benefits.
Sec. 13. Extension of national emergency grants.
Sec. 14. Extension of funding for operation of State high risk health insurance pools.

SEC. 2. IMPROVEMENT OF THE AFFORDABILITY OF THE CREDIT.

(a) IMPROVEMENT OF AFFORDABILITY.—

(1) IN GENERAL.—Section 35(a) of the Internal Revenue Code of 1986 (relating to credit for health insurance costs of eligible individuals) is amended by striking ''65'' and inserting ''95''.

(2) CONFORMING AMENDMENT.—Section 7527(b) of such Code (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by striking ''65'' and inserting ''95''.

(b) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 2004.

SEC. 3. 100 PERCENT CREDIT AND PAYMENT FOR MONTHLY PREMIUMS PAID PRIOR TO CERTIFICATION OF ELIGIBILITY FOR THE CREDIT.

(a) IN GENERAL.—Subsection (a) of section 35 of the Internal Revenue Code of 1986, as amended by section 2(a)(1), is amended—

(1) by striking the subsection heading and all that follows through ''In case'' and inserting ''AMOUNT OF CREDIT.—

''(1) IN GENERAL.—In case''; and

(2) by adding at the end the following new paragraph:

''(2) 100 PERCENT CREDIT FOR MONTHS PRIOR TO ISSUANCE OF ELIGIBILITY CERTIFICATE.—The amount allowed as a credit against the tax imposed by subtitle A shall be equal to 100 percent in the case of the taxpayer's first eligible coverage months occurring prior to the issuance of a qualified health insurance costs credit eligibility certificate.''.

(b) PAYMENT FOR PREMIUMS DUE PRIOR TO CERTIFICATION OF ELIGIBILITY FOR THE CREDIT.—Section 7527 of the Internal Revenue Code of 1986 (relating to advance payment of credit for health insurance costs of eligible individuals) is amended by adding at the end the following new subsection:

''(e) PAYMENT FOR PREMIUMS DUE PRIOR TO ISSUANCE OF CERTIFICATE.—The program established under subsection (a) shall provide—

''(1) that the Secretary shall make payments on behalf of a certified individual of an amount equal to 100 percent of the premiums for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months (as defined in section 35(b)) occurring prior to the issuance of a qualified health insurance costs credit eligibility certificate; and

''(2) that any payments made under paragraph (1) shall not be included in the gross income of the taxpayer on whose behalf such payments were made.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after the date of the enactment of this Act in taxable years ending after such date.

SEC. 4. ELIGIBILITY FOR CERTAIN PENSION PLAN RECIPIENTS; PRESUMPTIVE ELIGIBILITY.

(a) ELIGIBILITY FOR CERTAIN PENSION PLAN RECIPIENTS.—Subsection (c) of section 35 of the Internal Revenue Code of 1986 is amended—

(1) in paragraph (1)—

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

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

(C) by adding at the end the following:

''(D) an eligible multiemployer pension participant.''; and

(2) by adding at the end the following new paragraph:

''(5) ELIGIBLE MULTIEMPLOYER PENSION RECIPIENT.—The term 'eligible multiemployer pension recipient' means, with respect to any month, any individual—

''(A) who has attained age 55 as of the first day of such month,

''(B) who is receiving a benefit from a multiemployer plan (as defined in section 3(37)(A) of the Employee Retirement Income Security Act of 1974), and

''(C) whose former employer has withdrawn from such multiemployer plan pursuant to section 4203(a) of such Act.''.

(b) PRESUMPTIVE ELIGIBILITY FOR PETITIONERS FOR TRADE ADJUSTMENT ASSISTANCE.—Subsection (c) of section 35 of the Internal Revenue Code of 1986, as amended by subsection (a), is amended by adding at the end the following new paragraph:

''(6) PRESUMPTIVE STATUS AS A TAA RECIPIENT.—The term 'eligible individual' shall include any individual who is covered by a petition filed with the Secretary of Labor under section 221 of the Trade Act of 1974. This paragraph shall apply to any individual only with respect to months which—

''(A) end after the date that such petition is so filed, and

''(B) begin before the earlier of—

''(i) the 90th day after the date of filing of such petition, or

''(ii) the date on which the Secretary of Labor makes a final determination with respect to such petition.''.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 7527(d) of such Code is amended by striking ''or an eligible alternative TAA recipient (as defined in section 35(c)(3))'' and inserting '', an eligible alternative TAA recipient (as defined in section 35(c)(3)), an eligible multiemployer pension recipient (as defined in section 35(c)(5), or an individual who is an eligible individual by reason of section 35(c)(6)''.

(2) Section 173(f)(4) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(4)) is amended—

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

(B) in subparagraph (C), by striking the period and inserting a comma; and

(C) by inserting after subparagraph (C), the following new subparagraphs:

''(D) an eligible multiemployer pension recipient (as defined in section 35(c)(5) of the Internal Revenue Code of 1986), and

''(E) an individual who is an eligible individual by reason of section 35(c)(6) of the Internal Revenue Code of 1986.''.

(d) TECHNICAL AMENDMENT CLARIFYING ELIGIBILITY OF CERTAIN DISPLACED WORKERS RECEIVING A BENEFIT UNDER A DEFINED BENEFIT PENSION PLAN.—The first sentence of section 35(c)(2) of the Internal Revenue Code of 1986 is amended by inserting before the period the following: '', and shall include any such individual who would be eligible to receive such an allowance but for the fact that the individual is receiving a benefit under a defined benefit plan (as defined in section 3(35) of the Employee Retirement Income Security Act of 1974).''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after the date of the enactment of this Act in taxable years ending after such date.

SEC. 5. CLARIFICATION OF 3-MONTH CREDITABLE COVERAGE REQUIREMENT.

(a) IN GENERAL.—Clause (i) of section 35(e)(2)(B) of the Internal Revenue Code of 1986 (defining qualifying individual) is amended by inserting ''(prior to the employment separation necessary to attain the status of an eligible individual)'' after ''9801(c)''.

(b) CONFORMING AMENDMENT.—Section 173(f)(2)(B)(ii)(I) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(B)(ii)(I)) is amended by inserting ''(prior to the employment separation necessary to attain the status of an eligible individual)'' after ''1986''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after the date of the enactment of this Act in taxable years ending after such date.

SEC. 6. TAA PRE-CERTIFICATION PERIOD RULE FOR PURPOSES OF DETERMINING WHETHER THERE IS A 63-DAY LAPSE IN CREDITABLE COVERAGE.

(a) ERISA AMENDMENT.—Section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)) is amended by adding at the end the following new subparagraph:

''(C) TAA-ELIGIBLE INDIVIDUALS.—

''(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date that is 5 days after the postmark date of the notice by the Secretary (or by any person or entity designated by the Secretary) that the individual is eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 605(b)(4)(C).''.

(b) PHSA AMENDMENT.—Section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)) is amended by adding at the end the following new subparagraph:

''(C) TAA-ELIGIBLE INDIVIDUALS.—

''(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date that is 5 days after the postmark date of the notice by the Secretary (or by any person or entity designated by the Secretary) that the individual is eligible for a qualified health insurance costs credit eligibility certificate for purposes of section

7527 of the Internal Revenue Code of 1986 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 2205(b)(4)(C).''.

(c) IRC AMENDMENT.—Section 9801(c)(2) of the Internal Revenue Code of 1986 (relating to not counting periods before significant breaks in creditable coverage) is amended by adding at the end the following new subparagraph:

''(D) TAA-ELIGIBLE INDIVIDUALS.—

''(i) TAA PRE-CERTIFICATION PERIOD RULE.—In the case of a TAA-eligible individual, the period beginning on the date the individual has a TAA-related loss of coverage and ending on the date which is 5 days after the postmark date of the notice by the Secretary (or by any person or entity designated by the Secretary) that the individual is eligible for a qualified health insurance costs credit eligibility certificate for purposes of section 7527 shall not be taken into account in determining the continuous period under subparagraph (A).

''(ii) DEFINITIONS.—The terms 'TAA-eligible individual', and 'TAA-related loss of coverage' have the meanings given such terms in section 4980B(f)(5)(C)(iv).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after the date of the enactment of this Act in taxable years ending after such date.

SEC. 7. CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER CERTAIN EVENTS.

(a) IN GENERAL.—Subsection (g) of section 35 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (9) as paragraph (10) and inserting after paragraph (8) the following new paragraph:

''(9) CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER CERTAIN EVENTS.—

''(A) ELIGIBLE INDIVIDUAL BECOMES MEDICARE ELIGIBLE.—In the case of a month which would be an eligible coverage month with respect to an eligible individual but for subsection (f)(2)(A), such month shall be treated as an eligible coverage month with respect to any qualifying family member of such eligible individual (but not with respect to such eligible individual).

''(B) DIVORCE.—In the case of a month which would be an eligible coverage month with respect to a former spouse of a taxpayer but for the finalization of a divorce between the spouse and the taxpayer that occurs during the period in which the taxpayer is an eligible individual, such month shall be treated as an eligible coverage month with respect to such former spouse.

''(C) DEATH.—In the case of a month which would be an eligible coverage month with respect to an eligible individual but for the death of such individual, such month shall be treated as an eligible coverage month with respect to any qualifying family of such eligible individual.''.

(b) CONFORMING AMENDMENT.—Section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)) is amended by adding at the end the following:

''(8) CONTINUED QUALIFICATION OF FAMILY MEMBERS AFTER CERTAIN EVENTS.—

''(A) ELIGIBLE INDIVIDUAL BECOMES MEDICARE ELIGIBLE.—In the case of a month which would be an eligible coverage month with respect to an eligible individual but for subsection (f)(2)(A), such month shall be treated as an eligible coverage month with respect to any qualifying family member of such eligible individual (but not with respect to such eligible individual).

''(B) DIVORCE.—In the case of a month which would be an eligible coverage month with respect to a former spouse of a taxpayer but for the finalization of a divorce between the spouse and the taxpayer that occurs during the period in which the taxpayer is an eligible individual, such month shall be treated as an eligible coverage month with respect to such former spouse.

''(C) DEATH.—In the case of a month which would be an eligible coverage month with respect to an eligible individual but for the death of such individual, such month shall be treated as an eligible coverage month with respect to any qualifying family of such eligible individual.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to months beginning after the date of the enactment of this Act in taxable years ending after such date.

SEC. 8. OFFERING OF FEDERAL GROUP COVERAGE.

(a) PROVISION OF GROUP COVERAGE.—

(1) IN GENERAL.—The Director of the Office of Personnel Management jointly with the Secretary of the Treasury shall establish a program under which eligible individuals (as defined in section 35(c) of the Internal Revenue Code of 1986) are offered enrollment under health benefit plans that are made available under FEHBP.

(2) TERMS AND CONDITIONS.—The terms and conditions of health benefits plans offered under paragraph (1) shall be the same as the terms and coverage offered under FEHBP, except that the percentage of the premium charged to eligible individuals (as so defined) for such health benefit plans shall be equal to 5 percent.

(3) STUDY.—The Director of the Office of Personnel Management jointly with the Secretary of the Treasury shall conduct a study of the impact of the offering of health benefit plans under this subsection on the terms and conditions, including premiums, for health benefit plans offered under FEHBP and shall submit to Congress, not later than 2 years after the date of the enactment of this Act, a report on such study. Such report may contain such recommendations regarding the establishment of separate risk pools for individuals covered under FEHBP and eligible individuals covered under health benefit plans offered under paragraph (1) as may be appropriate to protect the interests of individuals covered under FEHBP and alleviate any adverse impact on FEHBP that may result from the offering of such health benefit plans.

(4) FEHBP DEFINED.—In this section, the term ''FEHBP'' means the Federal Employees Health Benefits Program offered under chapter 89 of title 5, United States Code.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 35(e) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

''(K) Coverage under a health benefits plan offered under section 8(a)(1) of the TAA Health Care Tax Credit Improvement Act of 2004.''.

(2) Section 173(f)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)(A)) is amended by adding at the end the following new clause:

''(xi) Coverage under a health benefits plan offered under section 8(a)(1) of the TAA Health Care Tax Credit Improvement Act of 2004.''.

SEC. 9. ADDITIONAL REQUIREMENTS FOR INDIVIDUAL HEALTH INSURANCE COSTS.

(a) IN GENERAL.—Subparagraph (A) of section 35(e)(2) of such Code is amended by striking ''subparagraphs (B) through (H) of paragraph (1)'' and inserting ''paragraph (1) (other than subparagraphs (A), (I), and (K) thereof)''.

(b) RATING SYSTEM REQUIREMENT.—Subparagraph (J) of section 35(e)(1) of such Code is amended by adding at the end the following: ''For purposes of this subparagraph and clauses (ii), (iii), and (iv) of subparagraph (F), such term does not include any insurance unless the premiums for such insurance are restricted based on a community rating system (determined other than on the basis of age).''.

(c) CLARIFICATION OF CONGRESSIONAL INTENT TO LIMIT USE OF INDIVIDUAL HEALTH INSURANCE COVERAGE OPTION.—Section 35(e)(1)(J) (relating to qualified health insurance) is amended in the matter preceding clause (i), by inserting '', but only'' after ''under individual health insurance''.

(d) CONFORMING AMENDMENTS.—Section 173(f)(2) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)(2)) is amended—

(1) in subparagraph (A)(x), by adding at the end the following: ''Such term does not include any insurance unless the premiums for such insurance are restricted based on a community rating system (determined other than on the basis of age).''; and

(2) in subparagraph (B)—

(A) in the matter preceding subclause (I), by inserting '', but only'' after ''under individual health insurance''; and

(B) in clause (i), by striking ''clauses (ii) through (viii) of subparagraph (A)'' and inserting ''subparagraph (A) (other than clauses (i), (x), and (xi) thereof)''.

SEC. 10. ALIGNMENT OF COBRA COVERAGE WITH TAA PERIOD FOR TAA-ELIGIBLE INDIVIDUALS.

(a) ERISA.—Section 605(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165(b)) is amended—

(1) in the subsection heading, by inserting ''AND COVERAGE'' after ''ELECTION''; and

(2) in paragraph (2)—

(A) in the paragraph heading, by inserting ''AND PERIOD'' after ''COMMENCEMENT'';

(B) by striking ''and shall'' and inserting '', shall''; and

(C) by inserting '', and in no event shall the maximum period required under section 602(2)(A) be less than the period during which the individual is a TAA-eligible individual'' before the period at the end.

(b) INTERNAL REVENUE CODE OF 1986.—Section 4980B(f)(5)(C) of the Internal Revenue Code of 1986 is amended—

(1) in the subparagraph heading, by inserting ''AND COVERAGE'' after ''ELECTION''; and

(2) in clause (ii)—

(A) in the clause heading, by inserting ''AND PERIOD'' after ''COMMENCEMENT'';

(B) by striking ''and shall'' and inserting '', shall''; and

(C) by inserting '', and in no event shall the maximum period required under paragraph (2)(B)(i) be less than the period during which the individual is a TAA-eligible individual'' before the period at the end.

(c) PUBLIC HEALTH SERVICE ACT.—Section 2205(b) of the Public Health Service Act (42 U.S.C. 300bb–5(b)) is amended—

(1) in the subsection heading, by inserting ''AND COVERAGE'' after ''ELECTION''; and

(2) in paragraph (2)—

(A) in the paragraph heading, by inserting ''AND PERIOD'' after ''COMMENCEMENT'';

(B) by striking ''and shall'' and inserting '', shall''; and

(C) by inserting '', and in no event shall the maximum period required under section 2202(2)(A) be less than the period during which the individual is a TAA-eligible individual'' before the period at the end.

SEC. 11. NOTICE REQUIREMENTS.

Section 7527 of the Internal Revenue Code of 1986 (relating to advance payment of credit for health insurance costs of eligible individuals), as amended by section 3(b), is

amended by adding at the end the following new subsection:

''(f) INCLUSION OF CERTAIN INFORMATION.—The notice by the Secretary (or by any person or entity designated by the Secretary) that an individual is eligible for a qualified health insurance costs credit eligibility certificate shall include—

''(1) the name, address, and telephone number of the State office or offices responsible for determining that the individual is eligible for such certificate and for providing the individual with assistance with enrollment in qualified health insurance (as defined in section 35(e)),

''(2) a list of the coverage options that are treated as qualified health insurance (as so defined) by the State in which the individual resides, and

''(3) in the case of a TAA-eligible individual (as defined in section 4980B(f)(5)(C)(iv)(II)), a statement informing the individual that the individual has 63 days from the date that is 5 days after the postmark date of such notice to enroll in such insurance without a lapse in creditable coverage (as defined in section 9801(c)).''.

SEC. 12. ANNUAL REPORT ON ENHANCED TAA BENEFITS.

Not later than October 1 of each year (beginning in 2004) the Secretary of the Treasury, after consultation with the Secretary of Labor, shall report to the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Ways and Means and the Committee on Education and the Workforce of the House of Representatives the following information with respect to the most recent taxable year ending before such date:

(1) The total number of participants utilizing the health insurance tax credit under section 35 of the Internal Revenue Code of 1986, including a measurement of such participants identified—

(A) by State, and

(B) by coverage under COBRA continuation provisions (as defined in section 9832(d)(1) of such Code) and by non-COBRA coverage (further identified by group and individual market).

(2) The range of monthly health insurance premiums offered and the average and median monthly health insurance premiums offered to TAA-eligible individuals (as defined in section 4980B(f)(5)(C)(iv)(II) of such Code) under COBRA continuation provisions (as defined in section 9832(d)(1) of such Code), State-based continuation coverage provided under a State law that requires such coverage, and each category of coverage described in section 35(e)(1) of such Code, identified by State and by the actuarial value of such coverage and the specific benefits provided and cost-sharing imposed under such coverage.

(3) The number of States applying for and receiving national emergency grants under section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)) and the time necessary for application approval of such grants.

(4) The cost of administering the health credit program under section 35 of such Code, by function, including the cost of subcontractors.

SEC. 13. EXTENSION OF NATIONAL EMERGENCY GRANTS.

(a) IN GENERAL.—Section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

''(1) USE OF FUNDS.—

''(A) HEALTH INSURANCE COVERAGE FOR ELIGIBLE INDIVIDUALS IN ORDER TO OBTAIN QUALIFIED HEALTH INSURANCE THAT HAS GUARANTEED ISSUE AND OTHER CONSUMER PROTECTIONS.—Funds made available to a State or entity under paragraph (4)(A) of subsection (a) shall be used to provide an eligible individual described in paragraph (4)(C) and such individual's qualifying family members with health insurance coverage for the 3-month period that immediately precedes the first eligible coverage month (as defined in section 35(b) of the Internal Revenue Code of 1986) in which such eligible individual and such individual's qualifying family members are covered by qualified health insurance that meets the requirements described in clauses (i) through (iv) of section 35(e)(2)(A) of the Internal Revenue Code of 1986 (or such longer minimum period as is necessary in order for such eligible individual and such individual's qualifying family members to be covered by qualified health insurance that meets such requirements).

''(B) ADDITIONAL USES.—Funds made available to a State or entity under paragraph (4)(A) of subsection (a) may be used by the State or entity for the following:

''(i) HEALTH INSURANCE COVERAGE.—To assist an eligible individual and such individual's qualifying family members with enrolling in health insurance coverage and qualified health insurance or paying premiums for such coverage or insurance.

''(ii) ADMINISTRATIVE EXPENSES AND START-UP EXPENSES TO ESTABLISH GROUP HEALTH PLAN COVERAGE OPTIONS FOR QUALIFIED HEALTH INSURANCE.—To pay the administrative expenses related to the enrollment of eligible individuals and such individuals' qualifying family members in health insurance coverage and qualified health insurance, including—

''(I) eligibility verification activities;

''(II) the notification of eligible individuals of available health insurance and qualified health insurance options;

''(III) processing qualified health insurance costs credit eligibility certificates provided for under section 7527 of the Internal Revenue Code of 1986;

''(IV) providing assistance to eligible individuals in enrolling in health insurance coverage and qualified health insurance;

''(V) the development or installation of necessary data management systems; and

''(VI) any other expenses determined appropriate by the Secretary, including start-up costs and on going administrative expenses, in order for the State to treat the coverage described in subparagraph (C), (D), (E), or (F)(i) of section 35(e)(1) of the Internal Revenue Code of 1986, or, only if the coverage is under a group health plan, the coverage described in subparagraph (F)(ii), (F)(iii), (F)(iv), (G), or (H) of such section, as qualified health insurance under that section.

''(iii) OUTREACH.—To pay for outreach to eligible individuals to inform such individuals of available health insurance and qualified health insurance options, including outreach consisting of notice to eligible individuals of such options made available after the date of enactment of this clause and direct assistance to help potentially eligible individuals and such individual's qualifying family members qualify and remain eligible for the credit established under section 35 of the Internal Revenue Code of 1986 and advance payment of such credit under section 7527 of such Code.

''(iv) BRIDGE FUNDING.—To assist potentially eligible individuals purchase qualified health insurance coverage prior to issuance of a qualified health insurance costs credit eligibility certificate under section 7527 of the Internal Revenue Code of 1986 and commencement of advance payment, and receipt of expedited payment, under subsections (a) and (e), respectively, of that section.

''(C) RULE OF CONSTRUCTION.—The inclusion of a permitted use under this paragraph shall not be construed as prohibiting a similar use of funds permitted under subsection (g).''; and

(2) by striking paragraph (2) and inserting the following new paragraph:

''(2) QUALIFIED HEALTH INSURANCE.—For purposes of this subsection and subsection (g), the term 'qualified health insurance' has the meaning given that term in section 35(e) of the Internal Revenue Code of 1986.''.

(b) FUNDING.—Section 174(c)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2919(c)(1)) is amended—

(1) in the paragraph heading, by striking ''AUTHORIZATION AND APPROPRIATION FOR FISCAL YEAR 2002'' and inserting ''APPROPRIATIONS''; and

(2) by striking subparagraph (A) and inserting the following new subparagraph:

''(A) to carry out subsection (a)(4)(A) of section 173—

''(i) $10,000,000 for fiscal year 2002; and

''(ii) $300,000,000 for the period of fiscal years 2005 through 2007; and''.

(c) REPORT REGARDING FAILURE TO COMPLY WITH REQUIREMENTS FOR EXPEDITED APPROVAL PROCEDURES.—Section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)) is amended by adding at the end the following new paragraph:

''(8) REPORT FOR FAILURE TO COMPLY WITH REQUIREMENTS FOR EXPEDITED APPROVAL PROCEDURES.—If the Secretary fails to make the notification required under clause (i) of paragraph (3)(A) within the 15-day period required under that clause, or fails to provide the technical assistance required under clause (ii) of such paragraph within a timely manner so that a State or entity may submit an approved application within 2 months of the date on which the State or entity's previous application was disapproved, the Secretary shall submit a report to Congress explaining such failure.''.

(d) TECHNICAL AMENDMENT.—Effective as if included in the enactment of the Trade Act of 2002 (Public Law 107–210; 116 Stat. 933), subsection (f) of section 203 of that Act is repealed.

SEC. 14. EXTENSION OF FUNDING FOR OPERATION OF STATE HIGH RISK HEALTH INSURANCE POOLS.

(a) EXTENSION OF SEED GRANTS.—Section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended—

(1) in subsection (a), in the subsection heading by inserting ''EXTENSION OF'' before ''SEED''; and

(2) in subsection (c)(1), by striking ''$20,000,000'' and all that follows through ''2003'' and inserting ''$15,000,000 for the period of fiscal years 2005 and 2006''.

(b) FUNDS FOR OPERATIONS.—Section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended—

(1) in subsection (b)—

(A) in the subsection heading by striking ''MATCHING''; and

(B) by striking paragraph (2) and inserting the following new paragraph:

''(2) ALLOTMENT.—The amounts appropriated under subsection (c)(2) for a fiscal year shall be made available to the States (or the entities that operate the high risk pool under applicable State law) as follows:

''(A) An amount equal to 50 percent of the appropriated amount for the fiscal year shall be allocated in equal amounts among each eligible State that applies for assistance under this subsection.

''(B) An amount equal to 25 percent of the appropriated amount for the fiscal year shall be allocated among the States so that the amount provided to a State bears the same ratio to such available amount as the number of uninsured individuals in the State

bears to the total number of uninsured individuals in all States (as determined by the Secretary).

''(C) An amount equal to 25 percent of the appropriated amount for the fiscal year shall be allocated among the States so that the amount provided to a State bears the same ratio to such available amount as the number of individuals enrolled in health care coverage through the qualified high risk pool of the State bears to the total number of individuals so enrolled through qualified high risk pools in all States (as determined by the Secretary).''; and

(2) in subsection (c)(2), by striking ''$40,000,000'' and all that follows through the period and inserting ''$75,000,000 for each of fiscal years 2005 through 2009 to make allotments under subsection (b)(2).''.

(c) DEFINITIONS.—Section 2745 of the Public Health Service Act (42 U.S.C. 300gg–45) is amended—

(1) in subsection (d), by inserting after ''2744(c)(2)'' the following: '', except that with respect to subparagraph (A) of such section a State may elect to provide for the enrollment of eligible individuals through an acceptable alternative mechanism,''; and

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

''(e) STANDARD RISK RATE.—In subsection (b)(1)(A), the term 'standard risk rate' means a rate—

''(1) determined under the State high risk pool by considering the premium rates charged by other health insurers offering health insurance coverage to individuals in the insurance market served;

''(2) that is established using reasonable actuarial techniques; and

''(3) that reflects anticipated claims experience and expenses for the coverage involved.''.

By Mr. CAMPBELL:

S. 2936. A bill to restore land to the Enterprise Rancheria to rectify an inequitable taking of the land; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce the Enterprise Rancheria Land Restoration Act of 2004, a bill that would restore lands to the Enterprise Rancheria, a Federally recognized Indian tribe. The tribe seeks this restoration to rectify an inequitable taking of their lands for the Oroville Dam in 1964.

I am introducing this bill, at the request of the tribe, primarily to initiate a discussion regarding the tribe's efforts to obtain an equitable resolution among all the interested parties, including the tribe, local communities, and the tribe's congressional delegation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2936

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 ''Enterprise Rancheria Land Restoration Act of 2004''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Enterprise Rancheria is 1 of several Federally recognized tribes of Maidu Indians in the State of California that function under a government-to-government relationship with the Federal Government;

(2) the Maidu people lived for thousands of years along the watershed of the Feather River drainage area in north central California, near what is now known as the Sacramento Valley floor, and near the confluence of the south, middle, north, and west branches of the Feather River;

(3) in 1916, pursuant to section 3 of the Act of August 1, 1914 (38 Stat. 589, chapter 222), and other Federal laws relating to homeless Indians, a parcel of land comprising approximately 40.64 acres was purchased for Enterprise Rancheria;

(4) in 1915, the Secretary of the Interior developed a census of approximately 51 Maidu Indians, which is now used for the purpose of establishing the base membership roll for the Enterprise Rancheria;

(5) Enterprise Rancheria has been continuously federally recognized since 1915 and was again recognized by virtue of voting in an election on June 12, 1935, pursuant to section 19 of the Act of June 18, 1934 (commonly known as the ''Indian Reorganization Act'') (48 Stat. 984, chapter 576);

(6) Enterprise Rancheria has a constitution recognized by the Bureau of Indian Affairs, a functioning governing body, and approximately 664 enrolled members;

(7) on August 20, 1964, Public Law 88–453 was enacted, which authorized the Secretary of the Interior to sell Enterprise Rancheria No. 2 parcel to the State of California for the approximate sum of $12,196, for the sole purpose of construction of Oroville Dam;

(8) the State of California requested the law described in paragraph (7) because Enterprise Rancheria No. 2 parcel would be within the reservoir area of the Oroville Dam, an important element of the California water plan;

(9) as a result of Public Law 88-453, Enterprise Rancheria No. 2 parcel is nearly all under water within the reservoir of the Oroville Dam;

(10) pursuant to Public Law 88–453, $11,175 was paid as consideration for the 40.46 acres of Enterprise Rancheria No. 2 parcel, along with $1,020 for appraised personal property, for a total purchase price of $12,196.00;

(11) the payment was distributed to 4 individuals, Henry B. Martin, Vera Martin Kiras, Stanley Martin, and Ralph G. Martin, who received a pro rata share of the proceeds;

(12) the remaining heirs and members of the Tribe received no compensation for the sale of the land;

(13) subsequent to the sale of the Enterprise Rancheria No. 2 parcel, the Enterprise Rancheria members, having lost their homes, community, and traditional homeland, were forced to scatter throughout the surrounding foothill communities and the Sacramento Valley area, which has caused a continuing decay of their culture, language, and traditions;

(14) recognizing that the final resolution of any equitable compensation claims based on the inequitable taking of Enterprise Rancheria No. 2 parcel will take many years and entail great expense to all parties, rectifying the loss of the Enterprise Rancheria is imperative at this time;

(15) the uncertainty as to the availability of Enterprise Rancheria land taken in 1964 should be settled as soon as practicable to avoid further damage to the long-term economic, social, cultural planning, and development of the Enterprise Rancheria;

(16) to advance and fulfill the goals of Federal Indian policy and the responsibility of the United States to protect the land base and members of Enterprise Rancheria, it is appropriate that the United States participate in the implementation of restoring the land in accordance with this Act; and

(17) this Act settles all claims Enterprise Rancheria may have regarding any equitable compensation based on the taking of the original Enterprise Rancheria No. 2 parcel in 1964.

(b) PURPOSES.—The purposes of this Act are—

(1) to rectify an inequitable taking of land owned by Enterprise Rancheria, specifically that parcel known as Enterprise Rancheria No. 2 parcel, which comprised approximately 40.64 acres, in a manner that is consistent with the trust responsibility of the United States toward Federally recognized Indian tribes;

(2) to restore land to the Enterprise Rancheria and improve the socioeconomic, cultural, and traditional aspects of the Maidu people of the Enterprise Rancheria, through land that can be used for economic development to improve the social, cultural, governmental, educational, health, and general welfare of Enterprise Rancheria and members of the Enterprise Rancheria; and

(3) to require that land not to exceed 41 acres acquired by Enterprise Rancheria within the 40-mile radius of Enterprise Rancheria No. 2 parcel and within the Estom Yumeka Maidu aboriginal boundaries, if approved for trust status pursuant to part 151 of title 25, Code of Federal Regulations (or a successor regulation), be treated for all legal purposes as the restoration of land for an Indian tribe that is restored to Federal recognition.

SEC. 3. DEFINITIONS.

In this Act:

(1) ABORIGINAL BOUNDARIES.—The term ''aboriginal boundaries'' means the boundaries of the land occupied and possessed by the Maidu people prior to conquest, as a defined area of what is now California, designated as the land near and around the confluence of the Feather River within the Sacramento Valley.

(2) ACQUIRED LAND.—The term ''acquired land'' means that land purchased on or after the date of enactment of this Act to restore land taken from the Enterprise Rancheria for the State of California, pursuant to Public Law 88–453.

(3) ENTERPRISE RANCHERIA.—The term ''Enterprise Rancheria'' means the Rancheria Tribe that was federally recognized on April 20, 1915, with a governing constitution, approved April 12, 1995.

(4) ENTERPRISE RANCHERIA NO. 2 PARCEL.—The term ''Enterprise Rancheria No. 2 parcel'' means the original 40.64 acre land base parcel belonging to the Maidu Indians that was established and purchased by the United States and placed in trust status for the homeless Maidu people in the area of the parcel.

(5) FEATHER RIVER DRAINAGE AREA.—The term ''Feather River drainage area'' means the area near and around the confluence of the south, middle, north, and west branches of the Feather River and drainage area below the confluence.

(6) RANCHERIA ACT.—The term ''Rancheria Act'' means Public Law 85-671 (commonly known as the ''California Rancheria Act''), which terminated 38 California Rancherias.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(8) TRUST STATUS.—The term ''trust status'' means the status of land, the title of which is held by the United States on behalf and for the beneficial use of recognized Indian tribes in accordance with part 151 of title 25, Code of Federal Regulations (or a successor regulation).

SEC. 4. PLACEMENT OF ACQUIRED LAND IN TRUST STATUS.

The Secretary may place into trust status not to exceed 41 acres of land of the Enterprise Rancheria, if the land is approved for trust status.

SEC. 5. REPLACEMENT LAND.

(a) PURCHASE.—To restore the Enterprise Rancheria No. 2 parcel, the Enterprise Rancheria may purchase not to exceed 41 acres of replacement land within the 40-mile radius of Enterprise Rancheria No. 2 parcel and within the aboriginal boundaries of the Estom Yumeka Maidu.

(b) TRUST STATUS.—The Secretary may place the replacement land into trust status, the title to which shall be held in trust by the United States for the benefit of Enterprise Rancheria, if all Federal requirements of placing the land into trust status are satisfied.

(c) TREATMENT OF REPLACEMENT LAND.—The acquisition of land under subsection (a) shall be treated as the restoration of land for an Indian tribe that is recognized by the Federal Government.

SEC. 6. EFFECT ON TRUST STATUS.

This Act does not limit the authority of the Secretary to approve or deny any land application for trust status.

SEC. 7. FULL SATISFACTION OF CLAIMS.

On the placement of the land described in section 5 into trust status, the Enterprise Rancheria shall be considered to have relinquished all equitable compensation claims the Enterprise Rancheria may have against the United States and the State of California arising from the sale of Enterprise Rancheria No. 2 parcel.

By Mr. DURBIN (for himself and Mr. REED):

S. 2937. A bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Mr. President, today I rise with my colleague, Senator JACK REED, to introduce the Services for Ending Long-Term Homelessness Act. I would like to thank Senator REED for his support in introducing this bill. I appreciate his dedication and commitment to this issue.

The chronically homeless are about 10 percent of the entire homeless population, but consume a majority of the services. There are approximately 200,000 to 250,000 people who experience chronic homelessness. Those numbers include the heads of families, as well.

Tragically, for these individuals, the periods of homelessness are measured in years—not weeks and months. They tend to have disabling health and behavioral health problems: 40 percent have substance abuse disorders, 25 percent have a physical disability, and 20 percent have serious mental illness. These factors often contribute to a person becoming homeless, in the first place, and are certainly an impediment to overcoming it.

The President has set a goal of ending chronic homelessness in 10 years. The President's New Freedom Commission on Mental Health, chaired by the Ohio Department of Mental Health Director, Mike Hogan, recommended that a comprehensive program be created to facilitate access to permanent supportive housing for individuals and families who are chronically homeless. This recommendation is so important because affordable housing, alone, is not enough for this hard to reach group. And, temporary shelter-housing does not provide the stability and services needed to provide long-term positive outcomes. Only supportive housing, where the chronically homeless can receive shelter and services, such as mental health and substance abuse treatment, has been effective in decreasing their chances of returning to the streets and increasing their chances for leading productive lives.

Not only is it right to help this group of hard to reach individuals, but it is also fiscally responsible. This group is one of the most expensive groups to serve. As I mentioned previously, they represent 10 percent of the overall homeless population, however they consume a majority of the services for the homeless. They consume the most emergency housing and health care services, which are also the most costly to provide. By encouraging supportive housing, we are providing the services necessary for these individuals and families to really get back on their feet. We can either continue to provide expensive emergency services to these needy people or we can give them the right kind of help—the type of help they need for their long-term well-being and long-term well-being of our communities.

Unfortunately, current programs for funding services in permanent supportive housing, other than those administered by the Department of Housing and Urban Development (HUD), were not designed to be coordinated with housing programs. These programs were also not designed to meet the challenging needs of this specific subgroup of the homeless. That is why the bill we are introducing today would provide the authorization to fund services to the chronically homeless in supportive housing by providing grants which can be used with existing programs through HUD and State and local communities.

This bill also would encourage those who provide services to the chronically homeless, such as SAMHSA within the Department of Health and Human Services, to work with and coordinate their efforts with those who provide the physical housing, such as HUD. Under the current administration, these two departments have started to truly coordinate their efforts and this bill would encourage and support that continued collaboration.

This is a good bill, and it could make a real difference in the lives of so many individuals in need. I ask my colleagues to join us in support.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2937

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 ''Services for Ending Long-Term Homelessness Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Nationally, there are approximately 200,000 to 250,000 people who experience chronic homelessness, including some families with children. Chronically homeless people often live in shelters or on the streets for years at a time, experience repeated episodes of homelessness without achieving housing stability, or cycle between homelessness, jails, mental health facilities, and hospitals.

(2) The President's New Freedom Commission on Mental Health recommended the development and implementation of a comprehensive plan designed to facilitate access to 150,000 units of permanent supportive housing for consumers and families who are chronically homeless. The Commission found that affordable housing alone is insufficient for many people with severe mental illness, and that flexible, mobile, individualized support services are also necessary to support and sustain consumers in their housing.

(3) Congress and the President have set a goal of ending chronic homelessness in 10 years.

(4) Permanent supportive housing is a proven and cost effective solution to chronic homelessness. A recent study by the University of Pennsylvania found that each unit of supportive housing for homeless people with mental illness in New York City resulted in public savings of $16,281 per year in systems of care such as mental health, human services, health care, veterans' affairs, and corrections.

(5) Current programs for funding services in permanent supportive housing, other than those administered by the Department of Housing and Urban Development, were not designed to be closely coordinated with housing resources, nor were they designed to meet the multiple needs of people who are chronically homeless.

SEC. 3. DUTIES OF ADMINISTRATOR OF SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.

Section 501(d) of the Public Health Service Act (42 U.S.C. 290aa(d)) is amended—

(1) in paragraph (17), by striking ''and'' at the end;

(2) in paragraph (18), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(19) collaborate with Federal departments and programs that are part of the President's Interagency Council on Homelessness, particularly the Department of Housing and Urban Development, the Department of Labor, and the Department of Veterans Affairs, and with other agencies within the Department of Health and Human Services, particularly the Health Resources and Services Administration, the Administration on Children and Families, and the Centers for Medicare and Medicaid Services, to design national strategies for providing services in supportive housing that will assist in ending chronic homelessness and to implement programs that address chronic homelessness.''.

SEC. 4. GRANTS FOR SERVICES FOR CHRONICALLY HOMELESS INDIVIDUALS IN SUPPORTIVE HOUSING.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following:

"PART J—GRANTS FOR SERVICES TO END CHRONIC HOMELESSNESS

"SEC. 596. GRANTS FOR SERVICES TO END CHRONIC HOMELESSNESS.

''(a) IN GENERAL.—

''(1) GRANTS.—The Secretary shall make grants to entities described in paragraph (2) for the purpose of carrying out projects to provide the services described in subsection (c) to chronically homeless individuals in permanent supportive housing.

''(2) ELIGIBLE ENTITIES.—For purposes of paragraph (1), an entity described in this paragraph is—

''(A) a State or political subdivision of a State, an Indian tribe or tribal organization, or a public or nonprofit private entity, including a community-based provider of homelessness services, health care, housing, or other services important to individuals experiencing chronic homelessness; or

''(B) a consortium composed of entities described in subparagraph (A), which consortium includes a public or nonprofit private entity that serves as the lead applicant and has responsibility for coordinating the activities of the consortium.

''(b) PRIORITIES.—In making grants under subsection (a), the Secretary shall give priority to applicants demonstrating that the applicants—

''(1) target funds to individuals or families who—

''(A) have been homeless for longer periods of time or have experienced more episodes of homelessness than are required to meet the definition of chronic homelessness under this section;

''(B) have high rates of utilization of emergency public systems of care; or

''(C) have a history of interactions with law enforcement and the criminal justice system;

''(2) have greater funding commitments from State or local government agencies responsible for overseeing mental health treatment, substance abuse treatment, medical care, and employment (including commitments to provide Federal funds in accordance with subsection (d)(2)(B)(ii)); and

''(3) will provide for an increase in the number of units of permanent supportive housing that would serve chronically homeless individuals in the community as a result of an award of a grant under subsection (a).

''(c) SERVICES.—The services referred to in subsection (a) are the following:

''(1) Services provided by the grantee or by qualified subcontractors that promote recovery and self-sufficiency and address barriers to housing stability, including but not limited to the following:

''(A) Mental health services, including treatment and recovery support services.

''(B) Substance abuse treatment and recovery support services, including counseling, treatment planning, recovery coaching, and relapse prevention.

''(C) Integrated, coordinated treatment and recovery support services for co-occurring disorders.

''(D) Health education, including referrals for medical and dental care.

''(E) Services designed to help individuals make progress toward self-sufficiency and recovery, including benefits advocacy, money management, life-skills training, self-help programs, and engagement and motivational interventions.

''(F) Parental skills and family support.

''(G) Case management.

''(H) Other supportive services that promote an end to chronic homelessness.

''(2) Services, as described in paragraph (1), that are delivered to individuals and families who are chronically homeless and who are scheduled to become residents of permanent supportive housing within 90 days pending the location or development of an appropriate unit of housing.

''(3) For individuals and families who are otherwise eligible, and who have voluntarily chosen to seek other housing opportunities after a period of tenancy in supportive housing, services, as described in paragraph (1), that are delivered, for a period of 90 days after exiting permanent supportive housing or until the individuals have transitioned to comprehensive services adequate to meet their current needs, provided that the purpose of the services is to support the individuals in their choice to transition into housing that is responsive to their individual needs and preferences.

''(d) MATCHING FUNDS.—

''(1) IN GENERAL.—A condition for the receipt of a grant under subsection (a) is that, with respect to the cost of the project to be carried out by an applicant pursuant to such subsection, the applicant agree as follows:

''(A) In the case of the initial grant pursuant to subsection (i)(1)(A), the applicant will, in accordance with paragraphs (2) and (3), make available contributions toward such costs in an amount that is not less than $1 for each $3 of Federal funds provided in the grant.

''(B) In the case of a renewal grant pursuant to subsection (i)(1)(B), the applicant will, in accordance with paragraphs (2) and (3), make available contributions toward such costs in an amount that is not less than $1 for each $1 of Federal funds provided in the grant.

''(2) SOURCE OF CONTRIBUTION.—For purposes of paragraph (1), contributions made by an applicant are in accordance with this paragraph if made as follows:

''(A) The contribution is made from funds of the applicant or from donations from public or private entities.

''(B) Of the contribution—

''(i) not less than 80 percent is from non-Federal funds; and

''(ii) not more than 20 percent is from Federal funds provided under programs that—

''(I) are not expressly directed at services for homeless individuals, but whose purposes are broad enough to include the provision of a service or services described in subsection (c) as authorized expenditures under such program; and

''(II) do not prohibit Federal funds under the program from being used to provide a contribution that is required as a condition for obtaining Federal funds.

''(3) DETERMINATION OF AMOUNT CONTRIBUTED.—Contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of non-Federal contributions required in paragraph (2)(B)(i).

''(e) ADMINISTRATIVE EXPENSES.—A condition for the receipt of a grant under subsection (a) is that the applicant involved agree that not more than 6 percent of the grant will be expended for administrative expenses with respect to the grant.

''(f) CERTAIN USES OF FUNDS.—Notwithstanding other provisions of this section, a grantee under subsection (a) may expend not more than 20 percent of the grant to provide the services described in subsection (c) to homeless individuals who are not chronically homeless.

''(g) APPLICATION FOR GRANT.—A grant may be made under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

''(h) CERTAIN REQUIREMENTS.—A condition for the receipt of a grant under subsection (a) is that the applicant involved demonstrate the following:

''(1) The applicant and all direct providers of services have the experience, infrastructure, and expertise needed to ensure the quality and effectiveness of services, which may be demonstrated by any of the following:

''(A) Compliance with all local, city, county, or State requirements for licensing, accreditation, or certification (if any) which are applicable to the proposed project.

''(B) A minimum of two years experience providing comparable services that do not require licensing, accreditation, or certification.

''(C) Certification as a Medicaid service provider, including health care for the homeless programs and community health centers.

''(D) An executed agreement with a relevant State or local government agency that will provide oversight over the mental health, substance abuse, or other services that will be delivered by the project.

''(2) There is a mechanism for determining whether residents are chronically homeless. Such a mechanism may rely on local data systems or records of shelter admission. If there are no sources of data regarding the duration or number of homeless episodes, or if such data are unreliable for the purposes of this subsection, an applicant must demonstrate that the project will implement appropriate procedures, taking into consideration the capacity of local homeless service providers to document episodes of homelessness and the challenges of engaging persons who have been chronically homeless, to verify that an individual or family meets the definition for being chronically homeless under this section.

''(3) The applicant participates in a local, regional, or statewide homeless management information system.

''(i) DURATION OF INITIAL AND RENEWAL GRANTS; ADDITIONAL PROVISIONS REGARDING RENEWAL GRANTS.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), the period during which payments are made to a grantee under subsection (a) shall be in accordance with the following:

''(A) In the case of the initial grant, the period of payments shall be not less than three years and not more than five years.

''(B) In the case of a subsequent grant (referred to in this subsection as a 'renewal grant'), the period of payments shall be not more than five years.

''(2) ANNUAL APPROVAL; AVAILABILITY OF APPROPRIATIONS; NUMBER OF GRANTS.—The provision of payments under an initial or renewal grant is subject to annual approval by the Secretary of the payments and to the availability of appropriations for the fiscal year involved to make the payments. This subsection may not be construed as establishing a limitation on the number of grants under subsection (a) that may be made to an entity.

''(3) ADDITIONAL PROVISIONS REGARDING RENEWAL GRANTS.—

''(A) PRIORITY IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give priority to renewal grants.

''(B) COMPLIANCE WITH MINIMUM STANDARDS.—A renewal grant may be made by the Secretary only if the Secretary determines that the applicant involved has, in the project carried out with the grant, maintained compliance with minimum standards for quality and successful outcomes for housing retention, as determined by the Secretary.

''(C) AMOUNT.—The maximum amount of a renewal grant under this subsection shall not exceed an amount equal to—

''(i) 75 percent of the amount of Federal funds provided in the final year of the initial grant period; or

''(ii) 50 percent of the total costs of sustaining the program funded under the grant at the level provided for in the year preceding the year for which the renewal grant is being awarded;

as determined by the Secretary.

''(j) STRATEGIC PERFORMANCE OUTCOMES AND REPORTS.—

''(1) IN GENERAL.—The Secretary shall, as a condition of the receipt of grants under subsection (a), require grantees to report data regarding the performance outcomes of the projects carried out pursuant to such subsection. Consistent with the requirement of the preceding sentence, each applicant shall measure and report specific performance outcomes related to the long-term goals of increasing stability within the community for individuals who have been chronically homeless, and decreasing recurrence of periods of homelessness.

''(2) PERFORMANCE OUTCOMES.—The performance outcomes identified by a grantee under paragraph (1) shall include, with respect to individuals who have been chronically homeless, improvements in—

''(A) housing stability;

''(B) employment and education;

''(C) problems related to substance abuse;

''(D) participation in mental health services; and

''(E) other areas as the Secretary determines appropriate.

''(3) COORDINATION AND CONSISTENCY WITH OTHER HOMELESS ASSISTANCE PROGRAMS.—

''(A) PROCEDURES.—In establishing strategic performance outcomes and reporting requirements under paragraph (1), the Secretary shall develop and implement procedures that minimize the costs and burdens to grantees and program participants, and that are practical, streamlined, and designed for consistency with the requirements of the homeless assistance programs administered by the Secretary of Housing and Urban Development.

''(B) APPLICANT COORDINATION.—Applicants under this section shall coordinate with community stakeholders, including participants in the local homeless management information system, concerning the development of systems to measure performance outcomes and with the Secretary for assistance with data collection and measurements activities.

''(4) REPORT.—A grantee shall submit an annual report to the Secretary that—

''(A) identifies the grantee's progress towards achieving its strategic performance outcomes; and

''(B) describes other activities conducted by the grantee to increase the participation, housing stability, and other improvements in outcomes for individuals who have been chronically homeless.

''(k) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary, directly or through awards of grants or contracts to public or nonprofit private entities, shall provide training and technical assistance regarding the planning, development, and provision of services in projects under subsection (a).

''(l) BIENNIAL REPORTS TO CONGRESS.—Not later than two years after the date of the enactment of the Services for Ending Long-Term Homelessness Act, and biennially thereafter, the Secretary shall submit to the Congress a report on projects under subsection (a) that includes a summary of information received by the Secretary under subsection (j), and that describes the impact of the program under subsection (a) as part of a comprehensive strategy for ending long term homelessness and improving outcomes for individuals with mental illness and substance abuse problems.

''(m) DEFINITIONS.—For purposes of this section:

''(1) The term 'chronically homeless' means an individual or family who—

''(A) is currently homeless;

''(B) has been homeless continuously for at least one year or has been homeless on at least four separate occasions in the last three years; and

''(C) has an adult head of household with a disabling condition, defined as a diagnosable substance use disorder, serious mental illness, developmental disability, or chronic physical illness or disability, including the co-occurrence of two or more of these conditions.

''(2) The term 'disabling condition' means a condition that limits an individual's ability to work or perform one or more activities of daily living.

''(3) The term 'homeless' means sleeping in a place not meant for human habitation or in an emergency homeless shelter.

''(4)(A) The term 'permanent supportive housing' means permanent, affordable housing with flexible support services that are available and designed to help the tenants stay housed and build the necessary skills to live as independently as possible. Such term does not include housing that is time-limited. Supportive housing offers residents assistance in reaching their full potential, which may include opportunities to secure other housing that meets their needs and preferences, based on individual choice instead of the requirements of time-limited transitional programs. Under this section, permanent affordable housing includes but is not limited to permanent housing funded or assisted through title IV of the McKinney-Vento Homeless Assistance Act and section (8) of the United States Housing Act of 1937.

''(B) For purposes of subparagraph (A), the term 'affordable' means within the financial means of individuals who are extremely low income, as defined by the Secretary of Housing and Urban Development.

''(n) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2005 through 2009.

''(2) ALLOCATION FOR TRAINING AND TECHNICAL ASSISTANCE.—Of the amount appropriated under paragraph (1) for a fiscal year, the Secretary may reserve not more than 3 percent for carrying out subsection (k).''.

Mr. REED. Mr. President, I am proud to join my colleague from Ohio, the Chairman of the Substance Abuse and Mental Health Subcommittee of the Senate HELP Committee, to introduce a bill that we believe will bring us closer to helping people who experience chronic homelessness get off the streets, out of shelters and into permanent housing. The Services for Ending Long-Term Homelessness Act (SELHA) will help local communities provide health care, mental health and substance abuse services in conjunction with safe, decent and affordable housing. This bill is another essential component in the continuum of housing and supportive service programs geared towards people who have become homeless in our society.

Nationwide, as many as 3.5 million people experience homelessness every year. Between 200,000 and 250,000 of them—including at least 12,000 children—experience chronic homelessness. They live on the streets and in emergency shelters for years on end or cycle between homelessness, jails, emergency rooms, and other institutions. Many also confront mental illness, substance addiction or other serious chronic health conditions. Moreover, because they don't get appropriate and regular care, these people exact a substantial toll on our public health systems.

The legislation the Senior Senator from Ohio and I are proposing today would authorize funding for grants to state and local entities to offer services to individuals and families in supportive housing to help bring them out of the downward spiral of homelessness and onto the road to recovery and self-sufficiency. Permanent supportive housing combines safe, decent and affordable housing with needed services such as mental health, substance abuse, employment, health care, and other services.

Research indicates that supportive housing represents a cost-effective investment toward the goal of ending long-term homelessness. In one California supportive housing program, residents experienced a 57 percent decline in emergency room visits, a 58 percent decline in the number of inpatient hospital days, and a near elimination of their need for residential mental-health facilities. A study in New York City found that each unit of supportive housing saved $16,282 per person per year in public expenditures for emergency care, court and jail costs, and other public services. After deducting the public benefits, the average supportive housing unit in New York City cost only $995 per year. In other words, it costs little more to house and offer supportive services to people than it does to leave them homeless.

These remarkable findings have led the bipartisan Millennial Housing Commission, the President's New Freedom Mental Health Commission, the U.S. Conference of Mayors and the National League of Cities to endorse the goal of creating 150,000 units of permanent supportive housing.

As the Ranking Member of the Senate Subcommittee on Housing of the Senate Banking Committee, I am deeply interested in tackling the challenge of homelessness on several fronts. I have been working on a bill to reauthorize the McKinney-Vento Homeless Assistance Act. My legislation would realign the incentives behind HUD's homelessness assistance programs, while more funding would flow to communities that actually demonstrate a commitment to accomplishing the goals of preventing and ending homelessness. It would also simplify and consolidate the three competitive HUD homeless assistance programs into one program and provide new flexibility in using McKinney-Vento funds.

The Services for Ending Long-Term Homelessness Act perfectly compliments these efforts by making sure that communities offering permanent housing are also able to provide health, education and other supportive services that are so critical to the ultimate success of these efforts.

I believe we have the ingenuity and dedication to ensure that everyone has a safe decent and affordable place to call home. We need to support innovative solutions, and this bill does just that. It gives communities some of the resources they need to develop more supportive housing and move towards ending chronic homelessness, and I am proud to join my colleague from Ohio in spearheading this initiative.

By Mr. DASCHLE (for himself, Mr. CAMPBELL, Mr. INOUYE, Mr. JOHNSON, Mr. BINGAMAN, and Ms. LANDRIEU):

S. 2938. A bill to grant a Federal charter to the National American Indian Veterans, Incorporated; read the first time.

FEDERAL CHARTER FOR NATIONAL AMERICAN INDIAN VETERANS ASSOCIATION

Mr. DASCHLE. Mr. President, every American knows this photograph. It is one of the great iconic images of American courage and determination: the Marines raising the flag at Iwo Jima. What many Americans probably do not know is that one of the six Marines in this photo was a Native American. His name was Ira Hayes. He was a full-blooded Pima Indian, raised on a small farm on the Gila River Indian Community in Arizona.

Raising the flag with Ira Hayes that day on Iwo Jima were: a coal miner's son from Pennsylvania who came to America as an infant from Czechoslovakia; a farm boy from the Rio Grande Valley of Texas; a mill worker's son from New Hampshire; a former altar boy from Wisconsin, and a poor kid from eastern Kentucky.

One writer has called this photo '' a triumphant metaphor for the very soul of the (Marine) Corps.'' It is also something else. It is a reflection of every war our Nation has ever fought. In every major military conflict in our Nation's history, Indians have fought side-by-side with non-Indians. Native Americans served with honor and distinction in the Revolutionary War and the War of 1812. They served on both sides in the Civil War. Stand Watie, a Cherokee, was the last Confederate brigadier general to surrender to the Union troops. And Eli Parker, a Seneca from New York, was at Appomattox, serving as an aide to General Ulysses S. Grant when Robert E. Lee surrendered.

Native American soldiers rode with Teddy Roosevelt's Rough Riders in the charge on San Juan Hill in the Spanish-American War. Twelve-thousand Indians served in World War I. Even though Native Americans were denied U.S. citizenship at the time, many were so eager to serve that they went to Canada to enlist before the U.S. even entered the war. Their tremendous demonstration of patriotism finally moved Congress to pass the Indian Citizenship Act in 1924.

In World War II, more than one-third of all able-bodied Indian men between the ages of 18 and 50 served. The most famous were the ''Code Talkers'' from the Navajo Nation and other tribes—including the Lakota, Dakota and Nakota tribes of the Great Sioux Nation. During the Korean War, two Native American soldiers were awarded posthumous Congressional Medals of Honor. Another Korean War veteran, a Northern Cheyenne from Colorado, served with distinction in the Air Force and later in the United States Senate. He is our friend and colleague, the chairman of the Senate Indian Affairs Committee, Senator BEN NIGHTHORSE CAMPBELL.

In Vietnam, nearly 42,000 Native Americans served—90 percent of them volunteers. Native Americans served with honor in Grenada, Panama, the Persian Gulf war, Somalia, Bosnia and Kosovo. And they are serving our Nation today in Afghanistan and Iraq.

Given the tragic history between Indian tribes and the U.S. military, some might regard it as remarkable that Native Americans choose to serve in the military at all. Yet, not only do Native Americans serve, they have the highest rate of military service of any ethnic group in America. Today, one in four Native American men is a military veteran, as are nearly half of all tribal leaders.

Incredibly, despite this extraordinary history of service and sacrifice for our Nation, there has never been a national American Indians veterans organization. Until now.

Last week, a new organization, the National American Indian Veterans Association, held its first annual meeting in Arizona. At that meeting, members voted unanimously to approve the organization's charter. Today, I am introducing a bipartisan proposal to grant the National American Indian Veterans Association a Federal charter. I am proud to sponsor this proposal, along with four great champions of Indian people and tribes: my fellow South Dakotan, Senator JOHNSON; Senator BINGAMAN; Senator CAMPBELL, the distinguished chairman of the Indian Affairs Committee; and the committee's ranking member, Senator INOUYE, a noble warrior himself and a Medal of Honor recipient.

The National American Indian Veterans Association is long overdue, and it is desperately needed. Native Americans are the most likely of all Americans to volunteer for military service. But they are the least likely of all veterans to apply for the benefits they have earned. When they do try to claim those benefits, too often, the First Americans find themselves last in line.

Too many Native American veterans go without urgently needed medical care because they can't get appointments or they can't overcome bureaucratic hurdles at the VA or the nearest clinic is too far away. Too many Native American veterans are living in crowded apartments and crumbling houses and trailers, partly because homeownership assistance programs that work for most veterans don't take into account the specific needs of many Indian veterans. Many Native American veterans don't claim the education benefits they have earned. Too many Native American veterans don't get the retirement benefits they deserve. And when they die, too many of their families don't get the survivors' benefits they should.

A Federal charter does not grant the National American Indian Veterans Association any special legal status or favors. It will simply enable Native American veterans from all tribes to speak with one voice to Congress and to the Nation.

The National Commander of the National American Indian Veterans Association is a man I am proud to know. Don Loudner is from Mitchell, SD. He is a member of the Crow Creek Sioux Tribe and a Korean War veteran with 35 years in the Army Reserves. He is also a member of the VA's Advisory Committee on Minority Veterans, a former Commissioner of Indian Affairs for the State of South Dakota, a former superintendent of the Crow Creek Sioux Reservation, and one of the most tireless, articulate advocates for Native American veterans I have ever known.

Congress has chartered many veterans organizations representing specific groups: the American War Mothers, the Blinded Veterans Association, Catholic War Veterans, Italian American War Veterans of the USA, Jewish War Veterans of the USA, the National Association for Black Veterans, Polish Legion of American Veterans.

I believe the guidance and collected wisdom of the National American Indian Veterans Association will enable America to better honor its commitments to Native American veterans and their families. In doing so, it will strengthen Native Americans' long and exceptional tradition of military service to our Nation. And that will make America even safer and stronger.

Five Native American warriors have already given their lives in Iraq. They include three members of the Navajo Nation: Army Private First Class Lori Piestewa, a young Hopi mother and the first Native American woman soldier ever killed in combat; and a young Army Private First Class from the Cheyenne River Sioux Reservation in South Dakota. Sheldon Hawk Eagle was a member of the Army's 101st Airborne Division, the famed ''Screaming Eagles,'' the same unit that parachuted into Normandy on D-Day. He was also a descendant of the legendary Lakota warrior leader, Crazy Horse.

There are many reasons that these young warriors and so many other Native Americans have risked—and

given—their lives for this Nation. Clarence Wolf Guts may have said it best. Mr. Wolf Guts is from the Oglala Sioux Tribe and one of the last two surviving Lakota Code Talkers from World War II. Two weeks ago, he testified before the Senate Committee on Indian Affairs about a bill I am sponsoring to honor all Native American Code Talkers, from all tribes. In Clarence Wolf Guts' words, ''Indian people love America, and we will do whatever it takes to protect our freedom from all aggressors.''

By formally recognizing the National American Indian Veterans Association—America's first and only Native American veterans organization—America will be better able to honor the extraordinary patriotism of these heroes and provide them with the respect and benefits they have earned. I urge my colleagues to join us. Let's pass this bill this year.

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. 2938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECOGNITION AS CORPORATION AND GRANT OF FEDERAL CHARTER FOR NATIONAL AMERICAN INDIAN VETERANS, INCORPORATED.

(a) IN GENERAL.—Part B of subtitle II of title 36, United States Code, is amended by inserting after chapter 1503 the following new chapter:

''CHAPTER 1504—NATIONAL AMERICAN INDIAN VETERANS, INCORPORATED

''**Sec.**
''150401. Organization.
''150402. Purposes.
''150403. Membership.
''150404. Board of directors.
''150405. Officers.
''150406. Nondiscrimination.
''150407. Powers.
''150408. Exclusive right to name, seals, emblems, and badges.
''150409. Restrictions.
''150410. Duty to maintain tax-exempt status.
''150411. Records and inspection.
''150412. Service of process.
''150413. Liability for acts of officers and agents.
''150414. Failure to comply with requirements.
''150415. Annual report.

''§ 150401. Organization

''The National American Indian Veterans, Incorporated, a nonprofit corporation organized in the United States (in this chapter referred to as the 'corporation'), is a federally chartered corporation.

''§ 150402. Purposes

''The purposes of the corporation are those stated in its articles of incorporation, constitution, and bylaws, and include a commitment—

''(1) to uphold and defend the Constitution of the United States while respecting the sovereignty of the American Indian, Alaska Native, and Native Hawaiian Nations;

''(2) to unite under one body all American Indian, Alaska Native, and Native Hawaiian veterans who served in the Armed Forces of United States;

''(3) to be an advocate on behalf of all American Indian, Alaska Native, and Native Hawaiian veterans without regard to whether they served during times of peace, conflict, or war;

''(4) to promote social welfare (including educational, economic, social, physical, cultural values, and traditional healing) in the United States by encouraging the growth and development, readjustment, self-respect, self-confidence, contributions, and self-identity of American Indian veterans;

''(5) to serve as an advocate for the needs of American Indian, Alaska Native, and Native Hawaiian veterans, their families, or survivors in their dealings with all Federal and State government agencies;

''(6) to promote, support, and utilize research, on a nonpartisan basis, pertaining to the relationship between the American Indian, Alaska Native, and Native Hawaiian veterans and American society; and

''(7) to provide technical assistance to the 12 regional areas without veterans committees or organizations and programs by—

''(A) providing outreach service to those Tribes in need; and

''(B) training and educating Tribal Veterans Service Officers for those Tribes in need.

''§ 150403. Membership

''Subject to section 150406 of this title, eligibility for membership in the corporation, and the rights and privileges of members, shall be as provided in the constitution and by-laws of the corporation.

''§ 150404. Board of directors

''Subject to section 150406 of this title, the board of directors of the corporation, and the responsibilities of the board, shall be as provided in the constitution and bylaws of the corporation and in conformity with the laws under which the corporation is incorporated.

''§ 150405. Officers

''Subject to section 150406 of this title, the officers of the corporation, and the election of such officers, shall be as provided in the constitution and bylaws of the corporation and in conformity with the laws of the jurisdiction under which the corporation is incorporated.

''§ 150406. Nondiscrimination

''In establishing the conditions of membership in the corporation, and in determining the requirements for serving on the board of directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, national origin, handicap, or age.

''§ 150407. Powers

''The corporation shall have only those powers granted the corporation through its articles of incorporation and its constitution and bylaws which shall conform to the laws of the jurisdiction under which the corporation is incorporated.

''§ 150408. Exclusive right to name, seals, emblems, and badges

''(a) IN GENERAL.—The corporation shall have the sole and exclusive right to use the names 'National American Indian Veterans, Incorporated' and 'National American Indian Veterans', and such seals, emblems, and badges as the corporation may lawfully adopt.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to interfere or conflict with established or vested rights.

''§ 150409. Restrictions

''(a) STOCK AND DIVIDENDS.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

''(b) DISTRIBUTION OF INCOME OR ASSETS.—(1) No part of the income or assets of the corporation shall inure to any person who is a member, officer, or director of the corporation or be distributed to any such person during the life of the charter granted by this chapter.

''(2) Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation, or reimbursement for actual and necessary expenses, in amounts approved by the board of directors.

''(c) LOANS.—The corporation shall not make any loan to any officer, director, member, or employee of the corporation.

''(d) NO FEDERAL ENDORSEMENT.—The corporation shall not claim congressional approval or Federal Government authority by virtue of the charter granted by this chapter for any of its activities.

''§ 150410. Duty to maintain tax-exempt status

''The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

''§ 150411. Records and inspection

''(a) RECORDS.—The corporation shall keep—

''(1) correct and complete books and records of accounts;

''(2) minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors; and

''(3) at its principal office, a record of the names and addresses of all members having the right to vote.

''(b) INSPECTION.—(1) All books and records of the corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time.

''(2) Nothing in this section shall be construed to contravene the laws of the jurisdiction under which the corporation is incorporated or the laws of those jurisdictions within which the corporation carries on its activities in furtherance of its purposes within the United States and its territories.

''§ 150412. Service of process

''With respect to service of process, the corporation shall comply with the laws of the jurisdiction under which the corporation is incorporated and those jurisdictions within which the corporation carries on its activities in furtherance of its purposes within the United States and its territories.

''§ 150413. Liability for acts of officers and agents

''The corporation shall be liable for the acts of the officers and agents of the corporation when such individuals act within the scope of their authority.

''§ 150414. Failure to comply with requirements

''If the corporation fails to comply with any of the restrictions or provisions of this chapter, including the requirement under section 150410 of this title to maintain its status as an organization exempt from taxation, the charter granted by this chapter shall expire.

''§ 150415. Annual report

''(a) IN GENERAL.—The corporation shall report annually to Congress concerning the activities of the corporation during the preceding fiscal year.

''(b) SUBMITTAL DATE.—Each annual report under this section shall be submitted at the same time as the report of the audit of the corporation required by section 10101(b) of this title.

''(c) REPORT NOT PUBLIC DOCUMENT.—No annual report under this section shall be printed as a public document.''.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of

title 36, United States Code, is amended by insert after the item relating to chapter 1503 the following new item:

"1504. National American Indian Veterans, Incorporated ..... 150401".

By Mr. LUGAR (for himself, Mrs. BOXER, Mr. CHAFEE, Mr. FEINGOLD, and Mr. COLEMAN):

S. 2939. A bill to amend the Foreign Assistance Act of 1961 to provide assistance for orphans and other vulnerable children in developing countries, and for other purposes; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, I rise to introduce the Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2004.

The unprecedented AIDS orphan crisis in sub-Saharan Africa has profound implications for political stability, development, and human welfare that extend far beyond the region. Sub-Saharan African nations stand to lose generations of educated and trained professionals who can contribute meaningfully to their countries' development. Orphaned children, many of whom are homeless, are more likely to resort to prostitution and other criminal behavior to survive. Most frighteningly, these uneducated, poorly socialized, and stigmatized young adults are extremely vulnerable to being recruited into criminal gangs, rebel groups, or extremist organizations that offer shelter and food and act as ''surrogate'' families. It is imperative that the international community respond to this crisis that threatens stability within individual countries, the region, and around the world.

An estimated 110 million orphans live in sub-Saharan Africa, Asia, Latin America, and the Caribbean. The HIV/AIDS pandemic is rapidly expanding the orphan population. Currently an estimated 14 million children have been orphaned by AIDS, most of whom live in sub-Saharan Africa. This number is projected to soar to more than 25 million by 2010. The pandemic is orphaning generations of African children and is compromising the overall development prospects of their countries.

Most orphans in the developing world live in extremely disadvantaged circumstances. Poor communities in the developing world struggle to meet the basic food, clothing, health care, and educational needs of orphans. Experts recommend supporting community-based organizations to assist these children. Such an approach enables the children to remain connected to their communities, traditionals, rituals, and extended families.

My bill seeks to improve assistance to orphans and other vulnerable children in developing countries. It would require the United States Government to develop a comprehensive strategy for providing such assistance and would authorize the President to support community-based organizations that provide basic care for orphans and vulnerable children.

Orphans are less likely to be in school, and more likely to be working full time. Yet only education can help children acquire the knowledge and develop the skills they need to build a better future. Studies have shown that school food programs provide an incentive for children to stay in school. School meals provide basic nutrition to children who otherwise do not have access to reliable food.

For many children, the primary barrier to an education is the expense of school fees, uniforms, supplies, and other costs. My bill aims to improve enrollment and access to primary school education by supporting programs that reduce the negative impact of school fees and other expenses. It also would affirm our commitment to international school lunch programs.

Many children who lose one or both parents often face difficulty in asserting their inheritance rights. Even when the inheritance rights of women and children are spelled out in law, such rights are difficult to claim and are seldom enforced. In many countries it is difficult or impossible for a widow—even if she has small children—to claim property after the death of her husband. This often leaves the most vulnerable children impoverished and homeless. My bill seeks to support programs that protect the inheritance rights of orphans and widows with children.

The AIDS orphan crisis in sub-Saharan Africa has implications for political stability, development, and human welfare that extend far beyond the region, affecting governments and people worldwide. Every 14 seconds another child is orphaned by AIDS. Turning the tide on this crisis will require a coordinated, comprehensive, and swift response. I am hopeful that Senators will join me in backing this legislation, and I ask 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. 2939

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 ''Assistance for Orphans and Other Vulnerable Children in Developing Countries Act of 2004''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) More than 110,000,000 orphans live in sub-Saharan Africa, Asia, Latin America, and the Caribbean. These children often are disadvantaged in numerous and devastating ways and most households with orphans cannot meet the basic needs of health care, food, clothing, and educational expenses.

(2) It is estimated that 121,000,000 children worldwide do not attend school and that the majority of such children are young girls. According to the United Nations Children's Fund (UNICEF), orphans are less likely to be in school and more likely to be working full time.

(3) School food programs, including take-home rations, in developing countries provide strong incentives for children to remain in school and continue their education. School food programs can reduce short-term hunger, improve cognitive functions, and enhance learning, behavior, and achievement.

(4) Financial barriers, such as school fees and other costs of education, prevent many orphans and other vulnerable children in developing countries from attending school. Providing children with free primary school education, while simultaneously ensuring that adequate resources exist for teacher training and infrastructure, would help more orphans and other vulnerable children obtain a quality education.

(5) The trauma that results from the loss of a parent can trigger behavior problems of aggression or emotional withdrawal and negatively affect a child's performance in school and the child's social relations. Children living in families affected by HIV/AIDS or who have been orphaned by AIDS often face stigmatization and discrimination. Providing culturally appropriate psychosocial support to such children can assist them in successfully accepting and adjusting to their circumstances.

(6) Orphans and other vulnerable children in developing countries routinely are denied their inheritance or encounter difficulties in claiming the land and other property which they have inherited. Even when the inheritance rights of women and children are spelled out in law, such rights are difficult to claim and are seldom enforced. In many countries it is difficult or impossible for a widow, even if she has young children, to claim property after the death of her husband.

(7) The HIV/AIDS pandemic has had a devastating affect on children and is deepening poverty in entire communities and jeopardizing the health, safety, and survival of all children in affected areas.

(8) The HIV/AIDS pandemic has increased the number of orphans worldwide and has exacerbated the poor living conditions of the world's poorest and most vulnerable children. AIDS has created an unprecedented orphan crisis, especially in sub-Saharan Africa, where children have been hardest hit. An estimated 14,000,000 orphans have lost 1 or both parents to AIDS. By 2010, it is estimated that over 25,000,000 children will have been orphaned by AIDS.

(9) Approximately 2,500,000 children under the age of 15 worldwide have HIV/AIDS. Every day another 2,000 children under the age of 15 are infected with HIV. Without treatment, most children born with HIV can expect to die by age two, but with sustained drug treatment through childhood, the chances of long-term survival and a productive adulthood improve dramatically.

(10) Few international development programs specifically target the treatment of children with HIV/AIDS in developing countries. Reasons for this include the perceived low priority of pediatric treatment, a lack of pediatric health care professionals, lack of expertise and experience in pediatric drug dosing and monitoring, the perceived complexity of pediatric treatment, and mistaken beliefs regarding the risks and benefits of pediatric treatment.

(11) Although a number of organizations seek to meet the needs of orphans or other vulnerable children, extended families and local communities continue to be the primary providers of support for such children.

(12) The HIV/AIDS pandemic is placing huge burdens on communities and is leaving many orphans with little support. Alternatives to traditional orphanages, such as community-based resource centers, continue to evolve in response to the massive number of orphans that has resulted from the pandemic.

(13) The AIDS orphans crisis in sub-Saharan Africa has implications for political stability, human welfare, and development that extend far beyond the region, affecting governments and people worldwide, and this crisis requires an accelerated response from the international community.

(14) Although section 403(b) of the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (22 U.S.C. 7673(b)) establishes the requirement that not less than 10 percent of amounts appropriated for HIV/AIDS assistance for each of fiscal years 2006 through 2008 shall be expended for assistance for orphans and other vulnerable children affected by HIV/AIDS, there is an urgent need to provide assistance to such children prior to 2006.

(15) Numerous United States and indigenous private voluntary organizations, including faith-based organizations, provide assistance to orphans and other vulnerable children in developing countries. Many of these organizations have submitted applications for grants to the Administrator of the United States Agency for International Development to provide increased levels of assistance for orphans and other vulnerable children in developing countries.

(16) Increasing the amount of assistance that is provided by the Administrator of the United States Agency for International Development through United States and indigenous private voluntary organizations, including faith-based organizations, will provide greater protection for orphans and other vulnerable children in developing countries.

(17) It is essential that the United States Government adopt a comprehensive approach for the provision of assistance to orphans and other vulnerable children in developing countries. A comprehensive approach would ensure that important services, such as basic care, psychosocial support, school food programs, increased educational opportunities and employment training and related services, the protection and promotion of inheritance rights for such children, and the treatment of orphans and other vulnerable children with HIV/AIDS, are made more accessible.

(18) Assistance for orphans and other vulnerable children can best be provided by a comprehensive approach of the United States Government that—

(A) ensures that Federal agencies and the private sector coordinate efforts to prevent and eliminate duplication of efforts and waste in the provision of such assistance; and

(B) to the maximum extent possible, focuses on community-based programs that allow orphans and other vulnerable children to remain connected to the traditions and rituals of their families and communities.

SEC. 3. ASSISTANCE FOR ORPHANS AND OTHER VULNERABLE CHILDREN IN DEVELOPING COUNTRIES.

Chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following section:

"SEC. 135. ASSISTANCE FOR ORPHANS AND OTHER VULNERABLE CHILDREN.

''(a) FINDINGS.—Congress finds the following:

''(1) There are more than 110,000,000 orphans living in sub-Saharan Africa, Asia, Latin America, and the Caribbean.

''(2) The HIV/AIDS pandemic has created an unprecedented orphan crisis, especially in sub-Saharan Africa, where children have been hardest hit. The pandemic is deepening poverty in entire communities, and is jeopardizing the health, safety, and survival of all children in affected countries. It is estimated that 14,000,000 children have lost one or both parents to AIDS.

''(3) The orphans crisis in sub-Saharan Africa has implications for human welfare, development, and political stability that extend far beyond the region, affecting governments and people worldwide.

''(4) Extended families and local communities are struggling to meet the basic needs of orphans and vulnerable children by providing food, health care including treatment of children living with HIV/AIDS, education expenses, and clothing.

''(5) Providing assistance to such children is an important expression of the humanitarian concern and tradition of the people of the United States.

''(b) DEFINITIONS.—In this section:

''(1) AIDS.—The term 'AIDS' has the meaning given the term in section 104A(g)(1) of this Act.

''(2) CHILDREN.—The term 'children' means persons who have not attained the age of 18.

''(3) HIV/AIDS.—The term 'HIV/AIDS' has the meaning given the term in section 104A(g)(3) of this Act.

''(4) ORPHAN.—The term 'orphan' means a child deprived by death of one or both parents.

''(5) PSYCHOSOCIAL SUPPORT.—The term 'psychosocial support' includes care that addresses the ongoing psychological and social problems that affect individuals, their partners, families, and caregivers in order to alleviate suffering, strengthen social ties and integration, provide emotional support, and promote coping strategies.

''(c) ASSISTANCE.—The President is authorized to provide assistance, including providing such assistance through international or nongovernmental organizations, for programs in developing countries to provide basic care and services for orphans and other vulnerable children. Such programs should provide assistance—

''(1) to support families and communities to mobilize their own resources through the establishment of community-based organizations to provide basic care for orphans and other vulnerable children;

''(2) for school food programs, including the purchase of local or regional foodstuffs where appropriate;

''(3) to increase primary school enrollment through the elimination of school fees, where appropriate, or other barriers to education while ensuring that adequate resources exist for teacher training and infrastructure;

''(4) to provide employment training and related services for orphans and other vulnerable children who are of legal working age;

''(5) to protect and promote the inheritance rights of orphans, other vulnerable children, and widows;

''(6) to provide culturally appropriate psychosocial support to orphans and other vulnerable children; and

''(7) to treat orphans and other vulnerable children with HIV/AIDS through the provision of pharmaceuticals, the recruitment and training of individuals to provide pediatric treatment, and the purchase of pediatric-specific technologies.

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to the President to carry out this section such sums as may be necessary for each of the fiscal years 2005 and 2006.

''(2) AVAILABILITY OF FUNDS.—Amounts made available under paragraph (1) are authorized to remain available until expended and are in addition to amounts otherwise available for such purposes.

''(3) RELATIONSHIP TO OTHER LAWS.—Amounts made available for assistance pursuant to this subsection, and amounts made available for such assistance pursuant to any other provision of law, may be used to provide such assistance notwithstanding any other provision of law.''.

SEC. 4. STRATEGY OF THE UNITED STATES.

(a) REQUIREMENT FOR STRATEGY.—Not later than 180 days after the date of enactment of this Act, the President shall develop, and submit to the appropriate congressional committees, a strategy for coordinating, implementing, and monitoring assistance programs for orphans and vulnerable children.

(b) CONSULTATION.—The President should consult with employees of the field missions of the United States Agency for International Development in developing the strategy required by subsection (a) to ensure that such strategy—

(1) will not impede the efficiency of implementing assistance programs for orphans and vulnerable children; and

(2) addresses the specific needs of indigenous populations.

(c) CONTENT.—The strategy required by subsection (a) shall include—

(1) the identity of each agency or department of the Federal Government that is providing assistance for orphans and vulnerable children in foreign countries;

(2) a description of the efforts of the head of each such agency or department to coordinate the provision of such assistance with other agencies or departments of the Federal Government or nongovernmental entities;

(3) a description of a coordinated strategy, including coordination with other bilateral and multilateral donors, to provide the assistance authorized in section 135 of the Foreign Assistance Act of 1961, as added by section 3 of this Act;

(4) an analysis of additional coordination mechanisms or procedures that could be implemented to carry out the purposes of such section;

(5) a description of a monitoring system that establishes performance goals for the provision of such assistance and expresses such goals in an objective and quantifiable form, to the extent feasible; and

(6) a description of performance indicators to be used in measuring or assessing the achievement of the performance goals described in paragraph (5).

SEC. 5. ANNUAL REPORT.

Not later than one year after the date on which the President submits the strategy required by section 4(a) to the appropriate congressional committees, and annually thereafter, the President shall submit a report to the appropriate congressional committees on the implementation of this Act.

SEC. 6. APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.

In this Act, the term ''appropriate congressional committees'' means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on International Relations of the House of Representatives.

By Mr. PRYOR (for himself, Mrs. LINCOLN, Mr. AKAKA, Mr. BAUCUS, Mr. BAYH, Mr. BINGAMAN, Mrs. BOXER, Ms. CANTWELL, Mrs. CLINTON, Mr. CORZINE, Mr. DASCHLE, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. DURBIN, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM of Florida, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. MILLER, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. REID, Mr. ROCKEFELLER, Mr. SARBANES, Mr. SCHUMER, and Ms. STABENOW):

S. 2942. A bill to amend the Internal Revenue Code of 1986 to provide that

combat pay be treated as earned income for purposes of the earned income credit; to the Committee on Finance.

Mr. PRYOR. Mr. President, I know the hour is late, and I will try to keep my comments fairly brief. I promise I will not take more than an hour or two.

What I am showing tonight is a picture of some American heroes. Oftentimes we look at a person in uniform and say: That's a hero. Certainly, the folks injured and killed in combat we see them as heroes. But you are really just a hero if you serve, if you put on your uniform and do your duty to your country.

The other heroes in this picture are this soldier's family. We can see they are hugging him and supporting him, and that is really part of the definition of a hero as well. Certainly, the folks who are not pictured here—this man's employer because he is probably in the Guard or Reserve, and folks in the community, people in his church or his neighborhood—whatever the circumstances may be—they are heroes in this picture.

We thank all of our soldiers who are serving bravely for our country, wherever they may be tonight. I want to thank the conferees, who worked so hard on the Working Families Tax Relief Act last week, for including the provisions of S. 2417, the Tax Relief for Americans in Combat Act or, as some people call it, TRAC.

One thing that TRAC was designed to do was eliminate the combat pay penalty. I introduced TRAC back in May of this year. The rationale for introducing TRAC was to help our men and women in combat. In fact, in my work on the Armed Services Committee, and with the help of Chairman GRASSLEY and Ranking Member BAUCUS, the committee requested a GAO report. We became concerned in the Armed Services Committee about the tax package that is available to our soldiers, Marines, airmen and seamen. So Chairman GRASSLEY and Ranking Member BAUCUS were gracious enough to request a GAO report.

In essence, what the GAO report found was a glitch in the Tax Code, an unintended consequence. Basically, what they found is that if one is a soldier and receives combat pay, which means they are in theater and they are in harm's way every day, they receive their combat pay and they want to claim their earned income tax credit, which many of these individuals are entitled to under our Tax Code, they actually can lose money on their taxes by receiving their combat pay. That is why I call it the ''combat pay penalty,'' because it really does disadvantage some people on their taxes.

I have a chart that illustrates what I am talking about. If someone is working in a hardware store 12 months out of the year, let's say they were making $16,000 a year annually, under the earned income tax system that we have on our books right now, $4,100 may possibly come back to him under the EITC. If that same person works in a hardware store, say, for 4 months, and he is in the guard or reserve and he gets 8 months for his military service and he makes the same $16,000, by the time he does the math and he fills out his tax form he is only entitled to $2,100 under the earned income tax credit.

What we are doing is, inadvertently we are putting our soldiers at a disadvantage. In other words, this soldier in this example has lost on his taxes about $2,000. Clearly, this is not the intent of Congress.

The way I feel about it—and I know a lot of my colleagues on both sides of the aisle feel about this—is while our brave soldiers are overseas fighting for us, we need to be in Washington fighting for them and their families. I think it is just incumbent upon us to recognize the principle that we need to take care of those who take care of us. There is no one in the world who is doing a better job taking care of us than our men and women in combat.

Under the provisions of a bill that I will file this evening, the provisions are very simple. What it will do is allow men and women in uniform serving in combat to include combat pay for the purpose of calculating their earned income and their child tax credit benefits. If that calculation works in their best interest, it gives them control over their taxes and allows them to make the determination for what is in their best interest on their taxes.

Again, I want to thank the conference, and the Senate, House, and the President for signing it, because we did win a short-term victory on this. We got this provision on the earned income tax credit for 2 years. Everything else in the bill was 5 years, but we did get 2 years. It is a short-term victory, something I hope we will be able to go back and change and make it a long-term solution for these brave Americans.

I do not want to speak to all the intricacies of the earned income tax credit because I have heard Senators in this Chamber say that it is basically a Tax Code for a welfare program. I disagree with that. We may have an honest disagreement about that. Clearly, our men and women in uniform receiving combat pay are working hard. We know this is not a welfare program for them. We know they are not going to abuse this or they are not going to miscalculate it. We have a high degree of confidence that this is going to be good for them and good for all of us.

Anyway, I want to draw the attention of my colleagues to the next chart, which is the earned income tax credit. This chart shows how it is structured. Depending on a person's situation, if they have no child, one child, two or more children, it shows a sort of range of possibilities, depending on what one's income is. Obviously, it is like a formula where the numbers have to be plugged in. It is different for different people.

As we can see, a soldier who is making, say, about $6,300 ought to get about $390 from the earned income tax credit. Whereas a soldier who is down on the income scale, making $1,400, should get about $2,600 in earned income tax credit. So, again, this will change depending on the situation.

What we are proposing would allow our soldiers, our men and women in uniform, to take advantage of an existing provision of the Tax Code and maximize it to their full advantage.

I am not saying that we can get this done this week. We certainly understand that we are out of legislative days, but I hope sincerely that we can come back in the lame duck session or whenever we reconvene and really get serious about helping our men and women in uniform.

We fixed the earned income tax credit for 2004 and 2005.

Here is another chart showing some of the numbers and how it would work, again, depending on how many months one is in combat. Just depending on the various losses that one might have, we can see based on this chart and the numbers here, the soldiers who are impacted the most are the enlisted men. Officers can be penalized under this, but the enlisted men and women are the ones who are probably at the greatest danger of losing their tax benefit.

One reason that Senators have decided to help me on this—we have, I believe 36 cosponsors now who have signed up to help out on this—is because it is a cheap fix. When we look at the numbers for 2 years, 2006 and 2007, we are only talking about $15 million. When we talk about taxes in this country, we talk about billions or trillions, but over 2 years this is only $15 million. Over 10 years it is only $68 million. That is not a lot of money. That is really peanuts in the grand scheme of things when we are talking about our Tax Code and other numbers that we talk about, when we talk about fixing our taxes in this country. This is real money for these soldiers in uniform.

I close with another picture of some heroes to remind us what this is all about, who we are trying to help. These soldiers, most of them, are relatively low-income because one has to be relatively low-income to even qualify for the earned income tax credit. They are leaving their families behind. Many of them are leaving jobs, homes, all kinds of economic security. Like I said, these are the folks who are taking care of us, and I think in the Senate and in the Congress we ought to do our part to take care of them.

Mrs. LINCOLN: Mr. President, I rise to join my colleagues Senators PRYOR and BAUCUS in introducing legislation to ensure members of the military who serve in combat are not treated unfairly under the tax code. I believe strongly that we have an obligation in Congress to take care of the brave men and women in uniform who risk their lives to take care of us.

As my friend and colleague Senator PRYOR mentioned, the provision in the Tax Code we are seeking to amend affects the ability of military personnel who serve in combat zones to benefit from the Earned Income Tax Credit. Due to an unintended consequence in the tax code, those affected may loose up to $4,000 in tax relief simply because they have volunteered to defend our freedom.

This is wrong.

We corrected the problem for 2 years—until 2006—in the Working Families Tax Relief Act which Congress recently approved but we didn't resolve the matter appropriately in my judgement. I offered an amendment during the conference report to bring tax relief for military families in line with the other provisions in the bill but that amendment was rejected.

I hope my colleagues will reconsider.

The men and women in uniform who serve in harm's way and their families here at home are the last people we should burden with uncertainty in the Tax Code. I think we should fix this problem without delay and that is why I am proud to join in this effort.

I applaud Senator PRYOR for his leadership and hard work on this issue, and I yield the floor.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 451—EXPRESSING THE SENSE OF THE SENATE THAT A POSTAGE STAMP SHOULD BE ISSUED HONORING OSKAR SCHINDLER

Mr. LAUTENBERG submitted the following resolution; which was referred to the Committee on Governmental Affairs:

S. RES. 451

Whereas during the Nazi occupation of Poland, Oskar Schindler personally risked his life and that of his wife to provide food and medical care and saved the lives of over 1,000 Jews, many of whom later made their homes in the United States;

Whereas Oskar Schindler also rescued about 100 Jewish men and women from the Golezow concentration camp, who lay trapped and partly frozen in 2 sealed train cars stranded near Brunnlitz;

Whereas millions of Americans have been made aware of the story of Schindler's bravery;

Whereas on April 28, 1962, Oskar Schindler was named a ''Righteous Gentile'' by Yad Vashem; and

Whereas Oskar Schindler is a true hero and humanitarian deserving of honor by the United States Government: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Postal Service should issue a stamp honoring the life of Oskar Schindler.

Mr. LAUTENBERG. Mr. President, I rise today to ask the Senate to honor an individual who stands in high esteem in America and throughout the world. I am pleased to submit a resolution calling on the Postal Service to issue a stamp commemorating the life of Oskar Schindler. Postage stamps are often reserved for individuals who have offered especially significant contributions—Oskar Schindler demonstrates how one person truly can make a difference in the world.

The stories of Oskar Schindler and his heroism are well-documented and must never be forgotten. To speak against Hitler's genocide during the Holocaust was rare; to help Jews escape from persecution was perilous. Yet Oskar Schindler selflessly risked his own life to save the lives of over 1200 Jewish men, women, and children. He also rescued from the Golezow concentration camp approximately 100 Jewish men and women who were trapped in a sealed and freezing railroad car.

I have had the benefit of learning about these heroics first-hand from a New Jersey resident and friend of mine, Abraham Zuckerman. In 1942, Abraham was sent to the Plaszow concentration camp, where he faced certain death—until the day he was told that he was on Schindler's List. He attests: ''I am one of the Survivors and I owe my life to the courage and strength of this great man. His life was always in danger but still he persisted to do what he knew to be the right thing, he saved the Jews anyway he could.'' Since the day Abraham immigrated to the United States, he has made it a mission to keep Oskar Schindler's contributions alive in the minds of Americans, and I thank him for his efforts.

A ''general policy'' of the Citizens' Stamp Advisory Committee, which decides the subject matter of postage stamps, is that U.S. postage stamps and stationery ''primarily will feature Americans or American-related subjects.'' Oskar Schindler rescued many Jewish people who fled areas ruled by Hitler and made America their home. His valor and selflessness exhibit attributes that parallel the founding principles of America and all democracies. He devoted much of his life in the pursuit of freedom and humanitarianism. That is the ultimate American-related subject.

Oskar Schindler's bravery and contributions make him worthy of honor and recognition. Issuing a stamp in his memory would assure that his story is told to a new generation.

SENATE RESOLUTION 452—DESIGNATING DECEMBER 13, 2004, AS ''NATIONAL DAY OF THE HORSE'' AND ENCOURAGING THE PEOPLE OF THE UNITED STATES TO BE MINDFUL OF THE CONTRIBUTION OF HORSES TO THE ECONOMY, HISTORY, AND CHARACTER OF THE UNITED STATES

Mr. CAMPBELL submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 452

Whereas the horse is a living link to the history of the United States;

Whereas without horses, the economy, history, and character of the United States would be profoundly different;

Whereas horses continue to permeate the society of the United States, as witnessed on movie screens, on open land, and in our own backyards;

Whereas horses are a vital part of the collective experience of the United States and deserve protection and compassion;

Whereas because of increasing pressure from modern society, wild and domestic horses rely on humans for adequate food, water, and shelter; and

Whereas the Congressional Horse Caucus estimates that the horse industry contributes much more than $100,000,000,000 each year to the economy of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) designates December 13, 2004, as ''National Day of the Horse'', in recognition of the importance of horses to the security, economy, recreation, and heritage of the United States;

(2) encourages all people of the United States to be mindful of the contribution of horses to the economy, history, and character of the United States; and

(3) requests that the President issue a proclamation calling on the people of the United States and interested organizations to observe the day with appropriate programs and activities.

Mr. CAMPBELL. Mr. President, I am today submitting a resolution to designate December 13, 2004 as ''The National Day of the Horse.''

The image of the horse is a fixture of American society, an icon whose role has changed greatly through the history of our Nation, but whose status has never wavered. Even for the very forefathers of our country, the horse has meant not only transportation and utility, but companionship and a way of life.

Who can forget the indelible images to which horses have given rise? Mere mention of the American West conjures pictures of Plains Indians hunting buffalo, dusty ranchers and cowboys on the trail for the great cattle drives, and vast herds of wild mustangs roaming free across the undiscovered frontier. Horses have been used in military campaigns, police operations, to say nothing of their roles in agricultural labor as beasts of burden.

Modern interest in horses ranges from the serious thoroughbred horse breeders, trainers, and jockeys whose work we enjoy at events such as the Breeder's Cup, which will be run later this month, to the thousands of Americans who enjoy riding horses with no concern for ribbons or money, but as a welcome respite from their otherwise hectic lives and a link to the past.

The horse industry is highly diverse, and supports a wide variety of activities in all regions of the country; from the pastoral activities of breeding, training, and riding horses to more urban pursuits such as horse shows and competitive racing.

In terms of economic impact, the horse industry directly employs more people than railroads, radio and television broadcasting, petroleum and coal, and tobacco. In fact, the industry's contribution to the U.S. Gross Domestic Product is estimated at over $100 billion, only slightly less than the

apparel and textile manufacturing industries.

While the role of the horse in the daily life and economy of the United States has changed much over the past two hundred years, it still remains a strong and influential force in both our collective imagination and daily lives.

SENATE RESOLUTION 453—EXPESSING THE SENSE OF THE SENATE THAT THE UNITED STATES SHOULD PREPARE A COMPREHENSIVE STRATEGY FOR ADVANCING AND ENTERING INTO INTERNATIONAL NEGOTIATIONS ON A BINDING AGREEMENT THAT WOULD SWIFTLY REDUCE GLOBAL MERCURY USE AND POLLUTION TO LEVELS SUFFICIENT TO PROTECT PUBLIC HEALTH AND THE ENVIRONMENT

Mr. JEFFORDS (for himself, Mr. CHAFEE, Mr. SARBANES, Ms. SNOWE, Mr. LIEBERMAN, Mr. LEAHY, Mr. DAYTON, and Mr. LAUTENBERG) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 453

Whereas mercury is a persistent, bioaccumulative, and toxic heavy metal;

Whereas mercury is found naturally in the environment but is also emitted into the air, land, and water in various forms in the United States and around the world during fossil fuel combustion, waste incineration, chlor-alkali production, mining, and other industrial processes, as well as during the production, use, and disposal of various products;

Whereas mercury air pollution has the ability to both deposit locally and travel thousands of miles in a global atmospheric pool of emissions before eventual deposition, crossing national boundaries and becoming a shared global burden;

Whereas the United Nations Environment Programme reported that, on average, anthropogenic emissions of mercury since preindustrial times have resulted in 50- to 300-percent increases in deposition rates around the world;

Whereas the United Nations Environment Programme reported that global consumption of mercury equaled 3,337 tons in 1996, and that all mercury releases to the global environment total approximately 5,000 tons each year;

Whereas mercury air pollution can deposit into lakes, streams, and the oceans where it is transformed into toxic methylmercury and bioaccumulates in fish and fish-eating wildlife;

Whereas the National Academy of Sciences confirmed that consumption of mercury-contaminated fish and seafood by pregnant women can cause serious neurodevelopmental harm in the fetus, including such detrimental effects as intelligence quotient deficits, abnormal muscle tone, decreases in motor function, attention, or visuospatial performance, mental retardation, seizure disorders, cerebral palsy, blindness, and deafness;

Whereas the 1997 Mercury Study Report submitted by the Administrator of the Environmental Protection Agency to Congress found that every region of the United States is adversely affected by mercury deposition;

Whereas the Food and Drug Administration, the Environmental Protection Agency, and 48 States currently have advisories warning the public to limit consumption of certain fish that are high in mercury content;

Whereas, of the 4,000,000 children born every year in the United States, scientists at the Environmental Protection Agency estimate that approximately 630,000 are exposed to mercury levels in the womb above the safe health threshold, caused primarily by maternal consumption of mercury-tainted fish;

Whereas these health and environmental effects of mercury contamination can impose significant social and economic costs in the form of increased medical care, special educational and occupational needs, reduced economic performance, and disruptions in recreational and commercial fishing and hunting, and can create disproportionate health, social, and economic impacts among subpopulations dependent on subsistence fishing;

Whereas the Environmental Protection Agency has estimated that the United States is a net emitter of mercury in that the United States contributes 3 times as much mercury to the global atmospheric pool of air emissions as it receives through deposition;

Whereas the United States Geological Survey has not reported mercury consumption figures for key sectors in the United States economy since 1996, thereby creating important information gaps relating to domestic mercury use and trade;

Whereas the quantity of domestic fugitive chlor-alkali sector emissions has been labeled an enigma by the Environmental Protection Agency;

Whereas, in accordance with Public Law 101–549 (commonly known as the ''Clean Air Act Amendments of 1990'') (42 U.S.C. 7401 et seq.), the Environmental Protection Agency determined in December 2000 that a maximum achievable control technology standard for mercury and other air toxic emissions for electric utility steam generating units in the United States is appropriate and necessary, and listed coal- and oil-fired electric utility steam generating units for regulation, thereby triggering a statutory requirement that maximum achievable controls be implemented at every existing coal- and oil-fired electric utility steam generating unit by not later than December 2005;

Whereas other major stationary sources have already implemented maximum achievable control technology standards for mercury and other air toxics, as required by the Clean Air Act (42 U.S.C. 7401 et seq.);

Whereas effective mercury and other heavy metal removal techniques have been demonstrated and are available on an industrial scale in the major stationary source categories;

Whereas the lack of effective emission control standards in other countries can give foreign industries a competitive advantage over United States businesses;

Whereas alternatives and substitutes have been demonstrated and are available to reduce or eliminate mercury use in most products and processes;

Whereas the European Commission reports that mercury mining, the closing of mercury cell chlor-alkali facilities, and the phasing out of other outmoded industrial processes in the United States and Europe are contributing significantly to imports of mercury in the developing world;

Whereas the Department of Defense announced in April 2004 that it will consolidate and store its stockpile of approximately 5,000 tons of mercury rather than allow the surplus to enter the global marketplace;

Whereas from 1996 through 2004, the Environmental Council of the States adopted or renewed 9 resolutions highlighting the importance of substantially reducing mercury use and releases in the United States and around the world, and of managing excess supplies of mercury so that they do not enter the global marketplace;

Whereas many States, including California, Connecticut, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, and Wisconsin, are already implementing their own laws, regulations, and other strategies for tracking or reducing various forms of mercury use and pollution, and the Governors of States in New England have set a goal of virtually eliminating mercury emissions in that region;

Whereas the European Commission is developing a mercury strategy that is aimed at comprehensively addressing all aspects of the mercury cycle, including the use, trade, and release of mercury;

Whereas the United States is a party to the Protocol on Heavy Metals of the Convention on Long-Range Transboundary Air Pollution, done at Aarhus, Denmark on June 24, 1998, which entered into force in December 2003 and commits the United States to a basic obligation to limit air emissions of mercury and other heavy metals from new and existing sources, within 2 and 8 years respectively, using the best available techniques;

Whereas the current parties to the Convention and the Protocol represent only a portion of anthropogenic emissions of heavy metals annually that are subject to transboundary atmospheric transport and are likely to have significant adverse effects on human health or the environment;

Whereas the 22nd session of the United Nations Environment Programme Governing Council concluded that there is sufficient evidence in the Programme's Global Mercury Assessment of significant global adverse impacts to warrant international action to reduce the risks to human health and the environment from releases of mercury;

Whereas the United Nations Environment Programme invited submission of governmental views on medium- and long-term actions on mercury and other heavy metals, which will be synthesized into a report for presentation at the 23rd session of the Governing Council occurring February 21 to 25, 2005, with a view to developing a legally binding instrument, a non-legally binding instrument, or other measures or actions; and

Whereas the United States has taken no position on any such instrument: Now, therefore, be it

Resolved, That it is the Sense of the Senate that—

(1) the United States should engage constructively and proactively in international dialogue regarding mercury pollution, use, mining, and trade; and

(2) the President should prepare a comprehensive strategy—

(A) to advance and enter into international negotiations on a binding agreement that would—

(i) reduce global use, trade, and releases of mercury to levels sufficient to protect public health and the environment, including steps to—

(I) establish specific and stringent targets and schedules for reductions in mercury use in the United States, and emissions below levels for calendar year 2000, beyond current domestic and global efforts;

(II) end primary mercury mining in the near future and establish a system to ensure excess mercury supplies do not enter the global marketplace; and

(III) require countries to develop regional and national action plans to address mercury sources and uses;

(ii) include all countries that use, trade, or release significant quantities of mercury into the environment from anthropogenic sources;

(iii) require the application of the best available control technologies and strategies to control releases from industrial sectors in the very near future, including minimizing releases from coal-fired power plants and replacing obsolete mercury products and processes, including the mercury cell chlor-alkali process;

(iv) contain mechanisms for promoting and funding the transfer and adoption of less emitting technologies and mercury-free processes, and for facilitating the safe clean-up of mercury contamination;

(v) establish a standardized system to document and track the use, production, and trade of mercury and mercury-containing products, including a licensing requirement for mercury traders; and

(vi) incorporate explicit mechanisms for adding toxic air pollutants with similar characteristics in the future;

(B) to delineate the preferred structure, format, participants, mechanisms, and resources necessary for achieving and implementing the agreement described in subparagraph (A);

(C) to enter into bilateral and multilateral agreements to align global mercury production with reduced global demand and minimize global mercury releases, while negotiating the agreement described in subparagraph (A);

(D) to initiate and support a parallel international research effort that does not delay current or planned mercury pollution or use reduction efforts—

(i) to collect global data to support the development of a comprehensive inventory of mercury use, mining, trade, and releases; and

(ii) to develop less emitting technologies and technologies to reduce the need for, and use of, mercury in commerce;

(E) to review monitoring capabilities and data collection efforts of the United States for domestic mercury use, trade, and releases to ensure there is sufficient information available for any implementing legislation that may be necessary for compliance with existing protocols and future global mercury agreements;

(F) to work through existing international organizations, such as the United Nations, the International Standards Organization, and the World Trade Organization, to encourage the development of programs, standards, and trade agreements that will result in reduced use and trade of mercury, the elimination of primary mercury mining, and reductions in releases of mercury and other long-range transboundary air pollutants; and

(G) not later than February 11, 2005, to submit to the Committee on Foreign Relations and the Committee on Environment and Public Works of the Senate a report on that strategy, including a description of the ways in which the strategy will be used and communicated at the 23rd Session of the United Nations Environment Programme Governing Council.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3986. Mr. REID (for Mr. BYRD) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

SA 3987. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 3988. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 3989. Mr. BAUCUS (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra.

SA 3990. Mr. KENNEDY (for Mr. CHAMBLISS (for himself and Mr. KENNEDY)) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 3991. Mr. HAGEL (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 3992. Mr. CORNYN (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 3993. Mr. CORNYN (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 3994. Mr. CHAMBLISS (for himself, Mr. KENNEDY, and Mr. SPECTER) proposed an amendment to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra.

SA 3995. Mr. BAYH (for himself, Mr. ROBERTS, Mr. WYDEN, Mrs. FEINSTEIN, Mr. MCCAIN, and Ms. SNOWE) proposed an amendment to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra.

SA 3996. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 3997. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 3998. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 3999. Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LOTT, Ms. SNOWE, and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra.

SA 4000. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra.

SA 4001. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4002. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4003. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4004. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4005. Mr. LEAHY (for himself and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4006. Mr. LEAHY (for himself and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4007. Mr. LEAHY (for himself, Mr. HATCH, Mr. SESSIONS, Mr. SPECTER, and Mr. BIDEN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4008. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4009. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4010. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4011. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4012. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4013. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4014. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and

Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4015. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4016. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4017. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4018. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra.

SA 4019. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra.

SA 4020. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4021. Mr. BIDEN (for himself and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra.

SA 4022. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4023. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4024. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4025. Mr. MCCONNELL (for himself and Mr. REID) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4026. Mr. NICKLES (for himself and Mr. CONRAD) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4027. Mr. NICKLES (for himself and Mr. CONRAD) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4028. Mr. NICKLES (for himself and Mr. CONRAD) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4029. Mr. NICKLES (for himself and Mr. CONRAD) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4030. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra.

SA 4031. Mr. ROCKEFELLER (for himself and Mr. BIDEN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4032. Mr. REID submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4033. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4034. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4035. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4036. Mr. DURBIN proposed an amendment to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra.

SA 4037. Mr. HATCH (for Mr. LEAHY (for himself, Mr. SPECTER, and Mr. HATCH)) proposed an amendment to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra.

SA 4038. Mr. MCCONNELL (for Mr. SHELBY (for himself and Mr. SARBANES)) proposed an amendment to the resolution S. Res. 445, supra.

SA 4039. Mr. SHELBY (for himself and Mr. SARBANES) submitted an amendment intended to be proposed by him to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4040. Mr. BINGAMAN (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra.

SA 4041. Mr. NICKLES (for himself and Mr. CONRAD) submitted an amendment intended to be proposed to amendment SA 4027 submitted by Mr. NICKLES (for himself and Mr. CONRAD) and intended to be proposed to the amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

SA 4042. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 4015 submitted by Mrs. HUTCHISON and intended to be proposed to the amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3986. Mr. REID (for Mr. BYRD) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

At the appropriate place in Sec. 402(b) after the word ''matters'' insert the following: '', as determined by the Senate Committee on Appropriations''.

SA 3987. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

Strike section 101(b)(1) of the resolution and insert the following:

(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—

(A) the Coast Guard, the Transportation Security Administration, or the Federal Law Enforcement Training Center; and

(B) the following functions performed by any employee of the Department of Homeland Security—

(i) any customs revenue function including any function provided for in section 415 of the Homeland Security Act of 2002 (Public Law 107–296);

(ii) any commercial function or commercial operation of the Bureau of Customs and Border Protection or Bureau of Immigration and Customs Enforcement, including matters relating to trade facilitation and trade regulation; or

(iii) any other function related to clause (i) or (ii) that was exercised by the United States Customs Service on the day before the effective date of the Homeland Security Act of 2002 (Public Law 107–296).

SA 3988. Mr. GRASSLEY submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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 appropriate place in the resolution, insert the following:

SEC. ___. CLARIFICATION OF SENATE RULE XVI.

Notwithstanding the provisions of paragraph 2 of rule XVI of the Standing Rules of the Senate, the Committee on Appropriations shall not report an appropriation bill proposing new or general legislation or any restriction on the expenditure of the funds appropriated which proposes a limitation not authorized by law if such restriction is to take effect or cease to be effective upon the happening of a contingency, and if an appropriation bill is reported to the Senate proposing new or general legislation or any such

restriction, a point of order may be made against the bill, and if the point is sustained, the bill shall be recommitted to the Committee on Appropriations.

SA 3989. Mr. BAUCUS (for Mr. GRASSLEY (for himself and Mr. BAUCUS)) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

Strike section 101(b)(1) of the resolution and insert the following:

(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—

(A) the Coast Guard, the Transportation Security Administration, or the Federal Law Enforcement Training Center; and

(B) the following functions performed by any employee of the Department of Homeland Security—

(i) any customs revenue function including any function provided for in section 415 of the Homeland Security Act of 2002 (Public Law 107–296);

(ii) any commercial function or commercial operation of the Bureau of Customs and Border Protection or Bureau of Immigration and Customs Enforcement, including matters relating to trade facilitation and trade regulation; or

(iii) any other function related to clause (i) or (ii) that was exercised by the United States Customs Service on the day before the effective date of the Homeland Security Act of 2002 (Public Law 107–296).

SA 3990. Mr. KENNEDY (for Mr. CHAMBLISS (for himself and Mr. KENNEDY)) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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 section 101(b)(1) insert the following: ''except matters relating to the U.S. Citizenship and Immigration Service, and the immigration functions of the U.S. Customs and Border Protection, the U.S. Immigration and Customs Enforcement, and the Directorate of Border and Transportation Security.''.

SA 3991. Mr. HAGEL (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

Section 301(b) is amended by adding at the end the following: ''The service of a member selected pursuant to section 2(a)(1) of S. Res. 400 (94th Congress) shall not be counted for purposes of paragraph 4(a)(1) of rule XXV of the Standing Rules of the Senate.''.

SA 3992. Mr. CORNYN (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Inelligence; which was ordered to lie ont eh table; as follows:

In section 101(d), insert ''(1)'' after ''subsection (b)''.

SA 3993. Mr. CORNYN (for himself and Mr. LEAHY) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 101(d), insert '', except that the Committee on the Judiciary shall continue to have joint jurisdiction over government information'' before the period at the end.

SA 3994. Mr. CHAMBLISS (for himself, Mr. KENNEDY, and Mr. SPECTER) proposed an amendment to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

At the end of section 101(b)(1) insert the following: ''except matters relating to the U.S. Citizenship and Immigration Service and the immigration functions of the U.S. Customs and Border Protection and the U.S. Immigration and Customs Enforcement, the Directorate of Border and Transportation Security.''.

SA 3995. Mr. BAYH (for himself, Mr. ROBERTS, Mr. WYDEN, Mrs. FEINSTEIN, Mr. MCCAIN, and Ms. SNOWE) proposed an amendment to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

Section 201 is amended by adding at the end the following:

(i) REFERRAL.—Section 3 of S. Res. 400 is amended by—

(1) striking subsection (b); and

(2) redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SA 3996. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 101, strike subsections (b) and (c) and insert the following:

(b) JURISDICTION.—

(1) COMMITTEE.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

(A) Department of Homeland Security, except matters relating to the Coast Guard, the Transportation Security Administration, the Federal Law Enforcement Training Center, and the revenue functions of the Customs Service.

(B) Archives of the United States.

(C) Federal Civil Service.

(D) Government information.

(E) Intergovernmental relations.

(F) Municipal affairs of the District of Columbia, except appropriations therefor.

(G) Organization and reorganization of the executive branch of the Government.

(H) Postal Service.

(I) Status of officers and employees of the United States, including their classification, compensation, and benefits, except for retirement and pensions.

(2) OTHER COMMITTEES.—

(A) COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS.—There shall be referred to the Committee on Banking, Housing, and Urban Affairs all proposed legislation, messages, petitions, memorials, and other matters relating primarily to budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

(B) COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.—There shall be referred to the Committee on Commerce, Science, and Transporation all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the census and collection of statistics, including economic and social statistics.

(C) COMMITTEE ON RULES AND ADMINISTRATION.—There shall be referred to the Committee on Rules and Administration all proposed legislation, messages, petitions, memorials, and other matters relating primarily to congressional organization.

(D) COMMITTEE ON ENERGY AND NATURAL RESOURCES.—There shall be referred to the Committee on Energy and Natural Resources all proposed legislation, messages, petitions, memorials, and other matters relating primarily to organization and management of United States nuclear export policy.

(E) COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS.—There shall be referred to the Committee on Health, Education, Labor, and Pensions all proposed legislation, messages, petitions, memorials, and other matters relating primarily to Federal workforce retirement and pension benefits.

(F) COMMITTEE ON FOREIGN RELATIONS.—There shall be referred to the Committee on Foreign Relations all proposed legislation, messages, petitions, memorials, and other matters relating primarily to studying the intergovernmental relationships between the United States and international organizations of which the United States is a member.

(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.

SA 3997. Mr. ENZI submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 101, strike subsections (b) and (c) and insert the following:

(b) JURISDICTION.—

(1) COMMITTEE.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

(A) Department of Homeland Security, except matters relating to the Coast Guard, the Transportation Security Administration, the Federal Law Enforcement Training Center, and the revenue functions of the Customs Service.

(B) Archives of the United States.

(C) Federal Civil Service.

(D) Government information.

(E) Intergovernmental relations.

(F) Municipal affairs of the District of Columbia, except appropriations therefor.

(G) Organization and reorganization of the executive branch of the Government.

(H) Postal Service.

(I) Status of officers and employees of the United States, including their classification, compensation, and benefits, except for retirement and pensions.

(2) OTHER COMMITTEES.—

(A) COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS.—There shall be referred to the Committee on Banking, Housing, and Urban Affairs all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following:

(i) Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

(ii) Compliance or noncompliance of corporations, companies, or individual or other entities with the rules, regulations, and law governing the various governmental agencies.

(B) COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION.—There shall be referred to the Committee on Commerce, Science, and Transporation all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the census and collection of statistics, including economic and social statistics.

(C) COMMITTEE ON RULES AND ADMINISTRATION.—There shall be referred to the Committee on Rules and Administration all proposed legislation, messages, petitions, memorials, and other matters relating primarily to congressional organization.

(D) COMMITTEE ON ENERGY AND NATURAL RESOURCES.—There shall be referred to the Committee on Energy and Natural Resources all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following:

(i) Organization and management of United States nuclear export policy.

(ii) Efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy resources and relations with other oil producing and consuming countries with respect to Government involvement in the control and management of energy shortages.

(E) COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS.—There shall be referred to the Committee on Health, Education, Labor, and Pensions all proposed legislation, messages, petitions, memorials, and other matters relating primarily to Federal workforce retirement and pension benefits.

(F) COMMITTEE ON FOREIGN RELATIONS.—There shall be referred to the Committee on Foreign Relations all proposed legislation, messages, petitions, memorials, and other matters relating primarily to studying the intergovernmental relationships between the United States and international organizations of which the United States is a member.

(G) COMMITTEE ON THE JUDICIARY.—There shall be referred to the Committee on the Judiciary all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following:

(i) Syndicated or organized crime which may operate in or otherwise utilize the facilities of interstate and international commerce.

(ii) All other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety.

(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.

SA 3998. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

On page 7, between lines 20 and 21, insert the following:

SEC. 202. SENATE CONFERENCE PROCESS FOR INTELLIGENCE APPROPRIATIONS.

(a) CONFERENCE REQUIREMENT AND PROCEDURE.—

(1) IN GENERAL.—It shall not be in order for the Senate to proceed to the consideration of a bill making an intelligence appropriation unless—

(A) it is a bill that has been reported by the Committee on Appropriations;

(B) the bill has been subsequently referred to the Select Committee on Intelligence;

(C) there has been a conference between the Committees on any difference between the bill reported by the Committee on Appropriations and the bill subsequently reported by the Select Committee on Intelligence;

(E) each committee has been represented at that conference by an equal number of conferees; and

(F) the committee of conference, after full and free conference, has recommended to the Senate a bill in lieu of the bill reported by either Committee.

(2) SEQUENTIAL REFERRAL REQUIRED.—Notwithstanding any provision of the Standing Rules of the Senate to the contrary, whenever the Committee on Appropriations reports a bill making an intelligence appropriation, that bill shall be referred to the Select Committee on Intelligence for a period of not more than 30 days (disregarding any day on which the Senate is not in session).

(3) 30-DAY PERIOD.—If the Select Committee on Intelligence does not report the bill within 30 days (disregarding any day on which the Senate is not in session) after the bill is referred to it under paragraph (2), then—

(A) the Select Committee on Intelligence shall be discharged from further consideration of the bill; and

(B) no point of order under subsection (b) shall lie against the Senate's proceeding to its consideration.

(b) ENFORCEMENT.—On a point of order made by any Senator the Senate may not proceed to the consideration of a bill making an intelligence appropriation except as provided in subsection (a).

(c) SUPERMAJORITY REQUIRED FOR WAIVER.—A point of order under subsection (b) may be waived only by a motion agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn. If an appeal is taken from the ruling of the Presiding Officer with respect to such a point of order, the ruling of the Presiding Officer shall be sustained absent an affirmative vote of three-fifths of the Senators duly chosen and sworn.

(d) INTELLIGENCE APPROPRIATION DEFINED.—In this section, the term ''intelligence appropriation'' means an appropriation to provide funds for foreign or domestic intelligence operations, equipment, salaries, expenses, or other intelligence-related activities of the United States, other than an amount appropriated to the Secretary of Defense or to or for the use of an agency or office of the Department of Defense.

SA 3999. Mr. MCCAIN (for himself, Mr. LIEBERMAN, Mr. LOTT, Ms. SNOWE, and Mr. ROBERTS) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

Strike section 402 and insert the following:

SEC. 402. JURISDICTION OVER INTELLIGENCE APPROPRIATIONS.

Notwithstanding subparagraph (b) of paragraph 1 of Rule XXV of the Standing Rules of the Senate, the Select Committee on Intelligence shall have jurisdiction over all proposed legislation, messages, petitions, memorials, and other matters relating to appropriation, rescission of appropriations, and new spending authority related to funding for intelligence matters.

SA 4000. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

On page 2, beginning in line 13, strike ''to the Transportation Security Administration,''.

SA 4001. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr.

MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

On page 2, line 13, strike ''Coast Guard,'' and insert ''Coast Guard (other than functions of the Coast Guard related to homeland security),''.

SA 4002. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 101(b)(1), strike ''Coast Guard, to the Transportation Security Administration,'' and insert ''Coast Guard (other than functions of the Coast Guard related to homeland security),''.

SA 4003. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 101(b)(1), insert after ''Customs Service'' the following:

'', and energy infrastructure''.

SA 4004. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 101(b)(1), insert after ''Customs Service'' the following:

'', and energy infrastructure''.

SA 4005. Mr. LEAHY (for himself and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

Section 101 is amended by striking subsection (d).

SA 4006. Mr. LEAHY (for himself and Mr. CORNYN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

Section 101(b) is amended by striking paragraph (7).

SA 4007. Mr. LEAHY (for himself, Mr. HATCH, Mr. SESSIONS, Mr. SPECTER, and Mr. BIDEN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 101(b)(1), after ''administration,'' strike ''and'', and after ''Center,'' insert ''to the United States Secret Service,''.

SA 4008. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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 title I, insert the following:

SEC. 102. CLARIFICATION OF JURISDICTION.

Nothing in this resolution shall diminish the jurisdiction of the Committee on the Judiciary over matters relating to privacy and civil liberties.

SA 4009. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 101(b)(1), after ''Service'' insert '', the Bureau of Customs and Border Protection, the Bureau of Citizenship and Immigration Services, the Bureau of Immigration and Customs Enforcement, and matters relating to the immigration functions of the Directorate of Border and Transportation Security''.

SA 4010. Mr. DURBIN submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 201, at the end of subsection (g), add the following:

''(d) Of the funds made available to the select Committee for personnel—

''(1) not more than 55 percent shall be under the control of the Chairman; and

''(2) not less than 45 percent shall be under the control of the Vice Chairman.''.

SA 4011. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 101(b), strike paragraph (10) and insert the following:

(10) Matters relating to organization and management of United States nuclear export policy shall be referred to the Committee on Energy and Natural Resources.

SA 4012. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

Section 101(b) is amended by—

(1) striking paragraph (10); and

(2) adding at the end the following:

''Matters relating to organization and management of United States nuclear export policy shall be referred to the Committee on Energy and Natural Resources.''.

SA 4013. Mr. KYL submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

On page 7, line 4, strike '', and shall have full'' and all that follows through line 6, and insert the following: ''. Personal designated representatives shall have the same access to select Committee staff, information, records, and databases as select Committee staff, as determined by the Chairman and Vice Chairman.''.

SA 4014. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 402, strike the second sentence.

SA 4015. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 402, strike the second sentence and insert the following: ''The Committee on Appropriations shall reorganize into 13 subcommittees not later than 2 weeks after the convening of the 109th Congress.''.

SA 4016. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr.

FRIST, and Mr. DASCHLE) 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:

In section 402, strike the second sentence and insert ''The Subcommittee on the Legislative Branch shall be combined with the Subcommittee on Commerce, Justice, State, and the Judiciary into 1 subcommittee.''.

SA 4017. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 402, strike the second sentence and insert ''The Subcommittee on the Legislative Branch shall be combined with the Subcommittee on VA, HUD, and Independent Agencies into 1 subcommittee.''.

SA 4018. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

In section 201, strike subsection (h) and insert the following:

(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 reporting the nominations of civilian persons nominated by the President to fill all positions within the intelligence community requiring the advice and consent of the Senate.

''(b) Other committees with jurisdiction over the nominees' executive branch department may hold hearings and interviews with such persons, but only the select Committee shall report such nominations.''.

SA 4019. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

In section 201, strike subsection (g) insert the following:

(g) STAFF.—Section 15 of S. Res. 400 is amended to read as follows:

''SEC. 15. (a) In addition to other committee staff selected by the select Committee, 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. Designated personal representatives shall have the same access to Committee staff, information, records, and databases as select Committee staff, as determined by the Chairman and Vice Chairman.

''(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee security clearance requirements for employment by the select Committee.''.

SA 4020. Mr. ROBERTS submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 201, add at the end the following:

(i) ELIMINATION OF REFERRAL.—

(1) REFERRAL.—Section 3 of S. Res. 400 is amended by—

(A) striking subsection (b); and

(B) redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of adoption of this resolution.

SA 4021. Mr. BIDEN (for himself and Mr. LUGAR) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

On page 5, after line 3, insert the following:

''(C) The Chairman and Ranking Member of the Committee on Foreign Relations (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.''.

SA 4022. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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 appropriate place insert the following:

SEC. . JOINT REFERRAL.

(a) When the Senate receives from the House a bill making an intelligence appropriation the bill then be jointly referred to the Committee on Appropriations and the Select Committee on Intelligence;

(b) If the Committee on Appropriations reports a bill making an intelligence appropriation the bill then will be jointly referred to the Committee on Appropriations and the Select Committee on Intelligence;

SEC. . POINT OF ORDER.

(a) IN GENERAL.—It shall not be in order for the Senate to proceed to the consideration of a bill making intelligence appropriation unless it has been referred to the Committee on Appropriations and the Select Committee on Intelligence;

(b) SUPERMAJORITY REQUIRED FOR WAIVER.—A point of order under subsection (a) of this section may be waived only by a motion to proceed which is agreed to by the affirmative vote of three-fifths of the Senators duly chosen and sworn.

SEC. . INTELLIGENCE APPROPRIATIONS.

DEFINED.—The term ''intelligence appropriation'' means an appropriation to provide funds for foreign or domestic intelligence operations, equipment, salaries, expenses, or other intelligence-related activities of the United States.

SA 4023. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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 title I, insert the following:

SEC. 102. CLARIFICATION OF JURISDICTION.

Nothing in this resolution shall be construed to grant the Committee on Homeland Security and Governmental Affairs primary jurisdiction over any federal governmental entity whose primary responsibility is enforcement of Title 18, including the Department of Justice, Federal bureau of Investigation, or other criminal law enforcement entity currently under the jurisdiction of the Committee on the Judiciary unless otherwise modified by this resolution.

SA 4024. Mr. HATCH submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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 title I, insert the following:

SEC. 102. CLARIFICATION OF JURISDICTION.

Nothing in this resolution shall diminish the primary jurisdiction of the Committee on the Judiciary over matters relating to the administration of justice, including the criminal law and law enforcement entities including the Department of Justice and the Federal Bureau of Investigation.

SA 4025. Mr. MCCONNELL (for himself and Mr. REID) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In lieu of the matter proposed to be inserted, 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 to the following subjects:

(1) Department of Homeland Security, except matters relating to the Coast Guard, the Transportation Security Administration, 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)(1) 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 VICE CHAIRMAN.—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 jurisdiction 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.

SA 4026. Mr. NICKLES (for himself and Mr. CONRAD) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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 Section 101, insert the following:

''(e) JURISDICTION OF BUDGET COMMITTEE.—Notwithstanding paragraph (b)(3) of this section, the Committee on the Budget shall have exclusive jurisdiction over measures affecting the congressional budget process, including:

(1) the functions, duties, and powers of the Budget Committee;

(2) the functions, duties, and powers of the Congressional Budget Office;

(3) the process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof—and including the establishment of mandatory ceilings on spending and appropriations, a floor on revenues, timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills, and enforcement mechanisms for budgetary limits and timetables;

(4) the limiting of backdoor spending devices;

(5) the timetables of Presidential submission of appropriations and authorization requests;

(6) the definitions of what constitutes impoundment—such as ''rescissions'' and ''deferrals'';

(7) the process and determination by which impoundments must be reported to and considered by Congress;

(8) the mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

(9) the provisions which affect the content or determination of amounts included in or excluded from the congressional budget or

the calculation of such amounts, including the definition of terms provided by the Budget Act.

''(f) OMB NOMINEES.—The Committee on the Budget and the Governmental Affairs Committee shall have joint jurisdiction over reviewing, holding hearings, and voting on persons nominated by the President to fill positions within the Office of Management and Budget that require the advice and consent of the Senate, and if one committee acts on such a nomination, the other must act within 30 calendar days of continuous possession, or be automatically discharged.

SA 4027. Mr. NICKLES (for himself and Mr. CONRAD) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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 Section 101, insert the following:

''(e) JURISDICTION OF BUDGET COMMITTEE.—Notwithstanding paragraph (b)(3) of this section, the Committee on the Budget shall have exclusive jurisdiction over measures affecting the congressional budget process, including:

(1) the functions, duties, and power of the Budget Committee;

(2) the function, duties, and powers of the Congressional Budget Office;

(3) the process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof—and including the establishment of mandatory ceilings on spending and appropriations, a floor on revenues, timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills, and enforcement mechanisms for budgetary limits and timetables;

(4) the limiting of backdoor spending devices;

(5) the timetables for Presidential submission of appropriations and authorization requests;

(6) the definitions of what constitutes impoundment—such as ''rescissions'' and ''deferrals'';

(7) the process and determination by which impoundments must be reported to and considered by Congress;

(8) the mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

(9) the provisions which affect the content or determination of amounts included in or excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act.''

SA 4028. Mr. NICKLES (for himself and Mr. CONRAD) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In Section 101(b), strike paragraph (3), and insert in its place the following:

''(3) Management and accounting measures; and the Committee on the Budget and the Governmental Affairs Committee shall have joint jurisdiction over reviewing, holding hearings, and voting on persons nominated by the President to fill positions within the Office of Management and Budget that require the advice and consent of the Senate, and if one committee acts on such a nomination, the other must act within 30 calendar days of continuous possession, or be automatically discharged.''

SA 4029. Mr. NICKLES (for himself and Mr. CONRAD) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In Section 101(b), strike paragraph (3), and insert in its place the following:

''(3) Management and accounting measures.''

SA 4030. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

At the end of section 201, insert the following:

(i) JURISDICTION.—Section 3(b) of S. Res. 400 is amended to read as follows:

''(b)(1) Any proposed legislation reported by the select Committee except any legislative involving matters specified in paragraph (1) or (4)(A) of subsection (a), containing any legislative actions or budgetary provisions directly affecting any agencies, departments, activities, or programs of the United States Government within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such standing committee; and any proposed legislation reported by any committee, other than the select Committee, which contains any legislative involving matters specified in clause (i) or paragraph (4)(A) of subsection (a), containing any legislative actions or budgetary provisions directly affecting any agencies, departments, activities, or programs of the United States Government within the jurisdiction of the select Committee shall, at the request of the chairman of the select Committee, be referred to the select Committee for its consideration of such matter and be reported to the Senate by the select Committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such committee.

''(2) In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed in this subsection, such Committee shall be automatically discharged from further consideration of such proposed legislation on the 10th day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise.

''(3) In computing any 10-day period under this subsection there shall be excluded from such computation any days on which the Senate is not the session.

''(4) The reporting and referral processes outlined in this subsection shall be conducted in strict accordance with the Standing Rules of the Senate. In accordance with such rules, committees to which legislation is referred are not permitted to make changes or alterations to the text of the referred bill and its annexes, but may propose changes or alterations to the same in the form of amendments.''.

SA 4031. Mr. ROCKEFELLER (for himself and Mr. BIDEN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

On page 6, line 11, of the amendment, strike ''quarterly'' and insert ''annual''.

SA 4032. Mr. REID submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 201, strike subsection (a) and insert the following:

(a) EX OFFICIO MEMBERSHIP.—Section 2(a)(3) of Senate Resolution 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 and the Committee on Foreign Relations (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 select Committee and shall not be counted for purposes of determining a quorum.''.

SA 4033. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

Strike section 101(b)(1) of the resolution and insert the following:

(b) JURISDICTION.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

(1) Department of Homeland Security except matters relating to—

(A) the Coast Guard, the Transportation Security Administration, the Federal Law Enforcement Training Center, the revenue functions of the Customs Service,

(B) the Strategic National Stockpile as authorized by section 319F–2 of the Public Health Service Act,

(C) the National Disaster Medical System as authorized by section 2811(b) of the Public Health Service Act, and

(D) the office of the Assistant Secretary for Public Health Emergency Preparedness (ASPHEP) as authorized by section 2811(a) of the Public Health Service Act.

SA 4034. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

In section 101(b), strike paragraph (1) and insert the following:

(1) Department of Homeland Security, except matters relating to the functions of the Coast Guard not related to homeland security, the Federal Law Enforcement Training Center, and the revenue functions of the Customs Service.

SA 4035. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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 section 201, insert the following:

(i) SECURITY PROCEDURES.—Section 7 of S. Res. 400 is amended to read as follows:

''SEC. 7. (a) At the beginning of each Congress, the select Committee also shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. The rules and procedures of the select Committee shall be formulated jointly with the Office of Senate Security and shall be subject to the approval of that office.

''(b) The select Committee shall inform the Office of Senate Security not later than 30 days prior to making any changes to the rules and procedures of the select Committee, which shall be contingent upon the approval of the Office of Senate Security.

''(c) Nothing in this section shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.''.

(j) PUBLIC DISCLOSURE.—Section 8 of S. Res. 400 is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking ''shall notify the President of such vote'' and inserting ''shall—

''(A) first, notify the Majority Leader and Majority Leader of the Senate of such vote; and

''(B) second, notify the President of such vote.'';

(B) in paragraph (2), by striking ''transmitted to the President'' and inserting ''transmitted to the Majority Leader and the Minority Leader and the President''; and

(C) by amending paragraph (3) to read as follows:

''(3) If the President, personally, in writing, notifies the majority leader of the Senate or select committee of his objections to the disclosure of such information as provided in paragraph (2), such the majority leader of th committee may, refer to the question of the disclosure of such information to the Senate for consideration. The committee shall not publicly disclose such information without leave of the Senate.'';

(2) by redesignating subsections (d) and (e) as subsections (e) and (f) and inserting after subsection (c) the following:

''(d) Any known or possible loss or compromise of classified material which comes to the attention of the Select Committee or its personnel shall be immediately reported to the Office of Senate Security. The Office of Senate Security shall investigate the reported incident in accordance with the procedures set forth in the Senate Security Manual, and shall report the results of said investigation to the Committee and to the Joint Leadership.'';

(3) in subsection (e), as redesignated by paragraph (2) (old (d)), by striking ''Senate Select Committee on Ethics'' and inserting ''Office of Senate Security''; and

(4) in subsection (f), as redesignated by paragraph (2) (old (e)), is amended to read as follows:

''(f) Upon the request of any person who is subject to any such investigation, the Office of Senate Security shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Office of Senate Security determines that there has been a breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the majority leader and minority leader of the Senate.''.

SA 4036. Mr. DURBIN proposed an amendment to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

In section 201, at the end of subsection (g), add the following:

''(d) Of the funds made available to the select Committee for personnel—

''(1) not more than 55 percent shall be under the control of the Chairman; and

''(2) not less than 45 percent shall be under the control of the Vice Chairman.''.

SA 4037. Mr. HATCH (for Mr. LEAHY (for himself, Mr. SPECTER, and Mr. HATCH)) proposed an amendment to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

In section 101(b)(1), after ''Service'' insert '', and the Secret Service''.

SA 4038. Mr. MCCONNELL (for Mr. SHELBY (for himself and Mr. SARBANES)) proposed an amendment to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

At the appropriate place, insert the following:

''*Provided*, That the jurisdiction provided under section 101(b)(1) shall not include the National Flood Insurance Act of 1968, or functions of the Federal Emergency Management Agency related thereto.''.

SA 4039. Mr. SHELBY (for himself and Mr. SARBANES) 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 appropriate place insert the following: ''*Provided*, That the jurisdiction provided under section 101(b)(1) shall not include the Currency and Financial Transaction Reporting Act.

SA 4040. Mr. BINGAMAN (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

Section 101(b) is amended by—

(1) striking paragraph (10); and

(2) adding at the end the following:

''Matters relating to organization and management of United States nuclear export policy (except programs in the Homeland Security) shall be referred to the Committee on Energy and Natural Resources.''.

SA 4041. Mr. NICKLES (for himself and Mr. CONRAD) submitted an amendment intended to be proposed to amendment SA 4027 submitted by Mr. NICKLES (for himself and Mr. CONRAD) and intended to be proposed to the amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

Strike all after the first word, and insert the following:

JURISDICTION OF BUDGET COMMITTEE.—Notwithstanding paragraph (b)(3) of this section, and except as otherwise provided in the Congressional Budget Act of 1974, the Committee on the Budget shall have exclusive jurisdiction over measures affecting the congressional budget process, which are:

(1) the functions, duties, and powers of the Budget Committee;

(2) the functions, duties, and powers of the Congressional budget Office;

(3) the process by which Congress annually establishes the appropriate levels of budget authority, outlays, revenues, deficits or surpluses, and public debt—including subdivisions thereof—and including the establishment of mandatory ceilings on spending and appropriations, a floor on revenues, timetables for congressional action on concurrent resolutions, on the reporting of authorization bills, and on the enactment of appropriation bills, and enforcement mechanisms for budgetary limits and timetables;

(4) the limiting of backdoor spending devices;

(5) the timetables for Presidential submission of appropriations and authorization requests;

(6) the definitions of what constitutes impoundment—such as ''rescissions'' and ''deferrals'';

(7) the process and determination by which impoundments must be reported to and considered by Congress;

(8) the mechanisms to insure Executive compliance with the provisions of the Impoundment Control Act, title X—such as GAO review and lawsuits; and

(9) the provisions which affect the content or determination of amounts included in our excluded from the congressional budget or the calculation of such amounts, including the definition of terms provided by the Budget Act.

(f) OMB NOMINEES.—the Committee on the Budget and the Governmental Affairs Committee shall have joint jurisdiction over the nominations of persons nominated by the President to fill the positions of Director and Deputy Director for Budget within the Office of Management and Budget, and if one committee votes to order reported such a nomination, the other must report within 30 calendar days session, or be automatically discharged.

SA 4042. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 4015 submitted by Mrs. HUTCHISON and intended to be proposed to the amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) 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:

Strike ''not later than 2 weeks'' and insert ''as soon as possible''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MCCONNELL. 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 7, 2004, at a time to be determined, for the purposes of conducting a vote on pending committee business.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

MCCONNELL. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet on Thursday, October 7, 2004, at 9:30 a.m., on the Effect of Federal Bankruptcy and Pension Policy on the Financial Situation of the Airlines.

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

COMMITTEE ON THE JUDICIARY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, October 7, 2004 in Dirksen Senate Office Room 226.

Agenda:

I. Nominations: Claude A. Allen to be U.S. Circuit Judge for the Fourth Circuit and Robert Cramer Balfe to be U.S. Attorney for the Western District of Arkansas.

II. Legislation: S. 2396, Federal Courts Improvement Act of 2004, Hatch, Leahy, Chambliss, Durbin, Schumer; S. 2204, A bill to provide criminal penalties for false information and hoaxes relating to terrorism Act of 2004, Hatch, Schumer, Cornyn, Feinstein, DeWine; S. 1860, A bill to reauthorize the Office of National Drug Control Policy Act of 2003, Hatch, Biden, Grassley; S. 2560, A bill to amend chapter 5 of title 17, United States Code, relating to inducement of copyright infringement, and for other purposes Act 2004, Hatch, Leahy, Graham; S.J. Res. 23, A joint resolution proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated Act of 2003, Cornyn, Chambliss; S. 2373, A bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names Act of 2004, Domenici, Graham, Sessions; S. 2863, A bill to reauthorize the Department of Justice Act of 2004, Hatch, Leahy, DeWine, Schumer; H.R. 2391, To amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises Act of 2003, Smith—TX; S. 2760, A bill to limit and expedite Federal collateral review of convictions for killing a public safety officer Act of 2004, Kyl, Hatch, Craig, Cornyn, Sessions, Chambliss; S. 1297, A bill to amend title 28, United State Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance to the Flag Act of 2003, Hatch, Talent, Kyl; S. 2302, A bill to improve access to physicians in medically underserved areas Act of 2004, Conrad, Feingold, Kennedy, Schumer, DeWine, Kohl; S. 989, A bill to provide death and disability benefits for aerial firefighters who work on a contract basis for a public agency and suffer death or disability in the line of duty, and for other purposes Act of 2003, Enzi, Reid; S. 1728, Terrorism Victim Compensation Equity Act of 2003, Specter, Leahy, Schumer; S. 1740, Anthrax Victims Fund Fairness Act of 2003, Leahy, Feingold; S. 549, A bill to amend the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note; Public Law 107–42) to provide compensation for victims killed in the bombing of the World Trade Center in 1993, and for other purposes Act of 2003, Schumer; and S. 2268, Private Bill; A bill for the relief of Griselda Lopez Negrete, Graham—SC.

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

PRIVILEGES OF THE FLOOR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Wade Glover, a member of my Finance Committee staff, be granted the privileges of the floor during today's session.

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

Mr. HATCH. Mr. President, I ask unanimous consent that Paul Kovac, a detailee from the Department of Justice, and Nicholas Rossi, a detailee from the Federal Bureau of Investigation, be granted the privilege of the floor for the remainder of the 108th session.

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

MEASURE READ THE FIRST TIME—S. 2938

Mr. MCCONNELL. I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2938) to grant a Federal charter to the National American Indian Veterans, Incorporated.

Mr. MCCONNELL. I now ask for its second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

APPOINTMENTS

The PRESIDING OFFICER. The Chair on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the following Senators as members of the Senate Delegation to the NATO Parliamentary Assembly during the Second Session of the 108th Congress: Senator PATRICK LEAHY of Vermont and Senator DIANE FEINSTEIN of California.

The Chair, on behalf of the majority leader, after consultation with the Democratic leader, pursuant to Public Law 93–415, as amended by Public Law 102–586, appoints the following individuals to serve as members of the Coordinating Council on Juvenile Justice and Delinquency Prevention: The Honorable Steven H. Jones of Tennessee, Mr. Bill Gibbons of Tennessee and, Mr. Larry K. Brendtro of South Dakota.

ORDERS FOR FRIDAY, OCTOBER 8, 2004

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m. tomorrow, Friday, October 8. 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; provided further, that the Senate then immediately proceed to the consideration of the conference report to accompany H.R. 4520, the FSC/ETI JOBS bill, provided it is available. I further ask unanimous consent that the majority leader then be recognized in order to file a cloture motion on the conference report. I further ask unanimous

consent that following the filing of that cloture motion, the Senate proceed to a cloture vote on the pending substitute amendment to S. Res. 445.

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

PROGRAM

Mr. MCCONNELL. Mr. President, tomorrow morning, the Senate will begin consideration of the FSC/ETI JOBS conference report. We will be unable to reach a limited time for debate; therefore, cloture will be filed on the conference report. At approximately 9:15 a.m., the Senate will begin the first cloture vote on the pending substitute amendment to the intelligence resolution. It is my expectation that cloture will be invoked, and we should be able to adopt the substitute shortly thereafter and then proceed to the cloture vote on the underlying resolution.

I also encourage Senators who wish to offer the amendments that are listed on the amendment list approved earlier tonight to come forward and offer those amendments. We hope to dispose of those tomorrow. Following the disposition of the resolution, the Senate will resume consideration of the FSC/ETI JOBS conference report.

Again, we have been unable to lock in a time certain for a vote on the conference report, and it appears cloture will be necessary. We will continue to work with all Members to move forward on our remaining work. As I mentioned earlier, we will finish both the Senate intelligence reform resolution and the FSC conference report prior to adjourning, as well as the Homeland Security appropriations conference report and/or Defense conference report as they are available.

Mr. REID. Will the Senator yield to me for a brief minute?

Mr. MCCONNELL. Mr. President, I ask unanimous consent to waive the live quorum vote prior to cloture.

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

The Senator from Nevada.

Mr. REID. Mr. President, this second part of the 9/11 Commission recommendations is winding down. I know there has been a lot of hurt feelings today: You took too much from my committee; you are not giving enough to my committee.

People are very protective of what they have around here and what they fear they might lose. I have been chairman of the Environment and Public Works Committee on two separate occasions, and transferred from the Environment and Public Works Committee today was a very important aspect of the Public Works Committee, FEMA, the Federal Emergency Management Administration.

I only indicate that because when the dust settles, we will find that we have created a much more powerful Intelligence Committee, a much more powerful intelligence apparatus, and we will find that the homeland security committee, which we have created, merged with the Governmental Affairs Committee, is going to be one of the most powerful committees in the Congress of the United States.

As I said, there are a lot of hurt feelings. This has been very difficult for Senator MCCONNELL and I. We did not run for this assignment to manage this bill, but this is part of the responsibilities we have, and we have done the very best we can.

I hope tomorrow people will sit back and rather than lamenting what they did not get or what they felt they should get, they will understand what we are doing. This is part of the recommendations of the 9/11 Commission. Always remember this is legislation, it is not perfection. Legislation is the art of compromise, and I believe that includes consensus building, which we have done.

I want to again, through the Chair, extend my appreciation to the distinguished Senator from Kentucky. This has been extremely difficult for him and for me, but this is part of our responsibilities. I want to express my admiration and appreciation for his cooperation in allowing us to move forward on this legislation.

Mr. MCCONNELL. Mr. President, I thank my friend from Nevada for his kind comments. I will have a good deal more to say about him tomorrow as well because this has been a challenging undertaking. I do think we have made substantial progress, if not having achieved everything we hoped, but I think we have come a long way in the right direction.

ORDER FOR ADJOURNMENT

Mr. MCCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator PRYOR.

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

The Senator from Arkansas is recognized.

Mr. PRYOR. I thank the Chair.

(The remarks of Mr. PRYOR pertaining to the introduction of S. 2941 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until Friday, October 8 at 9 a.m.

There being no objection, the Senate, at 11:29 p.m., adjourned until Friday, October 8, 2004, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 7, 2004:

COMMODITY FUTURES TRADING COMMISSION

FEDERICK WILLIAM HATFIELD, OF CALIFORNIA, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR A TERM EXPIRING APRIL 13, 2008, VICE THOMAS J. ERICKSON, TERM EXPIRED.

DEPARTMENT OF THE TREASURY

HAROLD DAMELIN, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF THE TREASURY, VICE JEFFREY RUSH, JR., RESIGNED.

EXECUTIVE OFFICE OF THE PRESIDENT

JORGE A. PLASENCIA, OF FLORIDA, TO BE A MEMBER OF THE ADVISORY BOARD FOR CUBA BROADCASTING FOR A TERM EXPIRING OCTOBER 27, 2006, VICE JOSEPH FRANCIS GLENNON, TERM EXPIRED.

GENERAL SERVICES ADMINISTRATION

BRIAN DAVID MILLER, OF VIRGINIA, TO BE INSPECTOR GENERAL, GENERAL SERVICES ADMINISTRATION, VICE DANIEL R. LEVINSON.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

EDWARD L. FLIPPEN, OF VIRGINIA, TO BE INSPECTOR GENERAL, CORPORATION FOR NATIONAL AND COMMUNITY SERVICE, VICE J. RUSSELL GEORGE.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBERS OF THE SENIOIR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

RALPH L. BOYCE JR., OF VIRGINIA
MAURA A. HARTY, OF MARYLAND
RICHARD H. JONES, OF VIRGINIA
NANCY J. POWELL, OF IOWA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

BERNARD ALTER, OF COLORADO
PERRY EDWIN BALL, OF VIRGINIA
MARSHA E. BARNES, OF FLORIDA
JOHN ROSS BEYRLE, OF THE DISTRICT OF COLUMBIA
ROBERT O. BLAKE JR., OF THE DISTRICT OF COLUMBIA
TERRY ALAN BREESE, OF CALIFORNIA
JEFFERSON T. BROWN, OF NEW JERSEY
DONALD CAMP, OF VIRGINIA
DOUGLAS A. DAVIDSON, OF VIRGINIA
MILTON K. DRUCKER, OF VIRGINIA
JAMES BRENDAN FOLEY, OF NEW YORK
BURLEY P. FUSELIER JR., OF VIRGINIA
RICHARD F. GONZALEZ, OF CALIFORNIA
GORDON GRAY III, OF VIRGINIA
DEBORAH E. GRAZE, OF VIRGINIA
SUNETA LYN HALLIBURTON, OF NEW YORK
ROSEMARY ELLEN HANSEN, OF VIRGINIA
LAWRENCE N. HILL, OF CALIFORNIA
KATHLEEN V. HODAI, OF WASHINGTON
JEANINE ELIZABETH JACKSON, OF WYOMING
ANDREW C. KOSS, OF VIRGINIA
GEORGE ALBERT KROL, OF NEW JERSEY
DUNCAN H. MACINNES, OF VIRGINIA
GAIL DENNISE MATHIEU, OF NEW JERSEY
JAMES D. NEALON JR., OF NEW HAMPSHIRE
ANDREA J. NELSON, OF NEW YORK
KAREN L. PEREZ, OF MARYLAND
GARY B. PERGL, OF CALIFORNIA
JUNE CARTER PERRY, OF THE DISTRICT OF COLUMBIA
EUNICE S. REDDICK, OF NEW YORK
JOHN G. RENDEIRO JR., OF PENNSYLVANIA
NICHOLAS J. RIESLAND, OF WASHINGTON
JAMES E. ROBERTSON, OF MARYLAND
JOSIAH B. ROSENBLATT, OF NEW YORK
PAUL J. SAXTON, OF VIRGINIA
STEPHEN A. SECHE, OF NEW HAMPSHIRE
PAMELA JO H. SLUTZ, OF TEXAS
RICHARD HENRY SMYTH, OF VIRGINIA
GREGORY BOWNE STARR, OF VIRGINIA
DAVID C. STEWART, OF TEXAS
MARK TAPLIN, OF CALIFORNIA
HARRY KEELS THOMAS JR., OF NEW YORK
J. PATRICK TRUHN, OF THE DISTRICT OF COLUMBIA
CAROL LEE VAN VOORST, OF VIRGINIA
PHILIP R. WALL, OF WASHINGTON
JACOB WALLES, OF THE DISTRICT OF COLUMBIA
DON QUINTIN WASHINGTON, OF CALIFORNIA
DONALD EUGENE WELLS, OF TEXAS
CHARLES D. WISECARVER JR., OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND FOR APPOINTMENT AS CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE, AS INDICATED.

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

GINA ABERCROMBIE-WINSTANLEY, OF OHIO
BARBARA S. AYCOCK, OF OREGON
CHARLES V. BARCLAY JR., OF CALIFORNIA
ROBERT C. BRYSON, OF SOUTH DAKOTA
THOMAS R. CARMICHAEL, OF FLORIDA
PHILLIP CARTER III, OF VIRGINIA
LEIGH G. CARTER, OF FLORIDA
PETER CLAUSSEN, OF SOUTH DAKOTA
MAURA CONNELLY, OF NEW JERSEY
MICHAEL HUGH CORBIN, OF CALIFORNIA
ELIZABETH A. CORWIN, OF FLORIDA

RICHARD DE VILLAFRANCA, OF CONNECTICUT
MICHAEL JOHN DELANEY, OF MISSOURI
GREGORY TORRENCE DELAWIE, OF VIRGINIA
JAMES C. DICKMEYER, OF OHIO
LINDA L. DONAHUE, OF VIRGINIA
KAARA NICOLE ETTESVOID, OF NEW YORK
KENNETH J. FAIRFAX, OF CALIFORNIA
ANTHONY O. FISHER, OF FLORIDA
LMICHAEL GFOELLER, OF VIRGINIA
DAVID M. HALE, OF NEW JERSEY
PATRICIA MCMAHON HAWKINS, OF NEW HAMPSHIRE
JOHN ASHWOOD HEFFERN, OF VIRGINIA
KENNETH M. HILLAS JR., OF VIRGINIA
PHILLIP P. HOFFMAN, OF NEW YORK
STUART E. JONES, OF PENNSYLVANIA
ALEXANDER KARAGIANNIS, OF MISSOURI
DAVID JOSEPH KEEGAN, OF FLORIDA
DANIEL F. KELLER, OF TEXAS
MARTHA NOVICK KELLEY, OF VIRGINIA
THOMAS PATRICK KELLY, OF CALIFORNIA
THOMAS M. LEARY, OF FLORIDA
JESSICA LECROY, OF TEXAS
THERESA MARY LEECH, OF VIRGINIA
STEVEN SCULLY MALONEY, OF MARYLAND
MARY F. MARTINEZ, OF CALIFORNIA
CHRISTOPHER J. MARUT, OF CONNECTICUT
LESLIE W. MCBEE, OF CALIFORNIA
CAMERON PHELPS MUNTER, OF CALIFORNIA
EFFRY R. OLESEN, OF VIRGINIA
RICHARD GUSTAVE OLSON JR., OF MARYLAND
MICHAEL S. OWEN, OF TENNESSEE
WALTER PFLAUMER, OF VIRGINIA
CONSTANCE A. PHLIPOT, OF VIRGINIA
DANIEL WILLIAM PICCUTA II, OF CALIFORNIA
ROBERTO POWERS, OF CALIFORNIA
EDWARD JAMES RAMOTOWSKI, OF CONNECTICUT
FRANKIE ANNETTE REED, OF CALIFORNIA
KEVIN RICHARDSON, OF NEW JERSEY
DONNA J. ROGINSKI, OF TEXAS
DOUGLAS ROHN, OF VIRGINIA
DANIEL RICHARD RUSSEL, OF CALIFORNIA
WAYNE STEVEN SALISBURY, OF WASHINGTON
DUANE E. SAMS, OF CONNECTICUT
ROBERT C. SCHMIDT, OF HAWAII
DAVID SAMUEL SEDNEY, OF MASSACHUSETTS
DANIEL L. SHIELDS III, OF PENNSYLVANIA
MARC J. SIEVERS, OF MARYLAND
DOUGLAS A. SILLIMAN, OF TEXAS
SANDRA RUGHT SMITH, OF MISSOURI
JULIA REEVES STANLEY, OF NEW YORK
KAREN CLARK STANTON, OF VIRGINIA
RICHARD W. STITES, OF CALIFORNIA
JAMES C. SWAN, OF CALIFORNIA
MATTHEW HEYWOOD TUELLER, OF UTAH
KRISHNA R. URS, OF TEXAS
HUGH FLOYD WILLIAMS, OF MARYLAND
JAMES L. WILLIAMS, OF FLORIDA
STEPHAN BRYAN WILLIAMS, OF VIRGINIA
THOMAS M. YOUNG, OF CALIFORNIA
MARIE L. YOVANOVITCH, OF CONNECTICUT

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

ISMAIL G. ASMAL, OF VIRGINIA
DARWIN D. CADOGAN, OF NEW YORK
MICHAEL ALLEN CESENA, OF WASHINGTON
JAMES L. CLEVELAND, OF CALIFORNIA
MICHAEL GREGORY CONSIDINE, OF NEW YORK
NACE B. CRAWFORD, OF FLORIDA
JEFFREY W. CULVER, OF VIRGINIA
MICHAEL JOSEPH DARMIENTO, OF VIRGINIA
DEBORAH P. GLASS, OF WASHINGTON
ROBERT A. HARTUNG, OF VIRGINIA
PETER KINCAID JENSEN, OF NEW HAMPSHIRE
STANLEY J. JOSEPH, OF VIRGINIA
DANNY DUANE LOCKWOOD, OF VIRGINIA
HARRY WAYNE LUMLEY, OF TEXAS
BRADLEY C. LYNCH, OF CALIFORNIA
ROBERT MCKINNIE, OF TENNESSEE
MARCIA A. MECKLER, OF PENNSYLVANIA
KIMBERLY K. OTTWELL, OF ARIZONA
CHARLES H. ROSENFARB, OF MARYLAND
SAMUEL B. THEILMAN, OF NORTH CAROLINA
BRUCE W. TULLY, OF MARYLAND
MARILYN M. WANNER, OF VIRGINIA
JAMES C. WELLMAN, OF WEST VIRGINIA
ROBERT J. WHIGHAM, OF NEW YORK

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

ROBERT M. CLAY, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, COUNSULAR OFFICE AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

JENNIFER M. ADAMS, OF NEW YORK
SUSAN L. ANTHONY, OF SOUTH DAKOTA
BEVERLY A. HADLEY, OF NEW JERSEY
JOHN R. NIEMEYER, OF ILLINOIS
TANYA J. NUNN, OF THE DISTRICT OF COLUMBIA
M. BABETTE PREVOT, OF TEXAS
DEAN P. SALPINI, OF VIRGINIA
MARGARET KINKOPF WITHERSPOON, OF VIRGINIA
ROSEMARY T. RAKAS, OF THE DISTRICT OF COLUMBIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

BRUCE N. ABRAMS, OF CONNECTICUT
ARTHUR W. BROWN JR., OF FLORIDA
ELIZABETH ARIEVA CHAMBERS, OF VIRGINIA
CLAY WILLIAM EPPERSON, OF CALIFORNIA
YVETTE MARIE FEURTADO, OF FLORIDA
SEAN PATRICK HALL, OF NEW YORK
ANDREW DAVID HOLLAND, OF CALIFORNIA
JAMES MICHAEL HOPE, OF VIRGINIA
CHERYL KIM, OF CALIFORNIA
COURTNEY IVES, OF MARYLAND
REBECCA OTTKE KRZYWDA, OF VIRGINIA
DANIEL C. MOORE II, OF CALIFORNIA
DEBORAH I. MOSEL, OF CALIFORNIA
MARISA ANN PARENTE, OF RHODE ISLAND
NEIL GERARD PRICE, OF VIRGINIA
THOMAS E. RHODES, OF FLORIDA
KATHRYN DAVIS STEVENS, OF TEXAS
NATALIE JOY THUNBERG, OF PENNSYLVANIA
JESSICA ROSEN TULODO, OF NEW HAMPSHIRE
KAREN LEA WELCH, OF FLORIDA
ANNE NADIA WILLIAMS, OF FLORIDA
ALLAN JOSEPH ALONZO WIND, OF FLORIDA

DEPARTMENT OF STATE

DAVID S. ELMO, OF NEW YORK

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

ALISON VAL AREIAS, OF CALIFORNIA
STEPHEN MICHAEL ASHBY, OF FLORIDA
WILLIAM M. AYALA, OF CALIFORNIA
CHRISTINA N. BOILER, OF CALIFORNIA
ANN ELIZABETH DONICK, OF NEW YORK
JAY DOUGLAS DYKHOUSE, OF MICHIGAN
ANDREW LANE FLASHBERG, OF CALIFORNIA
MARC WILLIAM FUNGARD, OF VIRGINIA
SILVIO I. GONZALEZ, OF TEXAS
SHERMAN L. GRANDY, OF IDAHO
KAREN LOUISE GUSTAFSON DE ANDRADE, OF COLORADO
KERRI STRENG HANNAN, OF FLORIDA
ELIZABETH KATHRYN HORST, OF MINNESOTA
KEITH E. HUGHES, OF NEW YORK
KENNETH ANDREW LKERO, OF VERMONT
ANGELA M. KERWIN, OF PENNSYLVANIA
KATHERINE E. LAWSON, OF MARYLAND
PANFILO MARQUEZ, OF CALIFORNIA
CRYSTAL KATHRYN MERIWETHER, OF MINNESOTA
LISA L. MEYER, OF MARYLAND
DAVID MUNIZ, OF VIRGINIA
CARRIE LYNN MUNTEAN, OF VIRGINIA
WILLIAM G. MUNTEAN III, OF VIRGINIA
JEREMY M. NEITZKE, OF OHIO
MICHAEL ANTHONY NEWBILL, OF ILLINOIS
MICHAEL THOMAS PASCUAL, OF MARYLAND
TERESA D. PEREZ, OF TEXAS
STEPHEN J. POSIVAK JR., OF VIRGINIA
VAN E. REIDHEAD, OF MISSOURI
DAVID JAMES ROVINSKY, OF PENNSYLVANIA
MICHAEL J. SCHREUDER, OF MICHIGAN
SAMEER VIJAY SHETH, OF FLORIDA
DAVID BRYANT TULLOCH, OF CALIFORNIA
DEREK HARRY WESTFALL, OF TEXAS
ELIZABETH SOPHIA WHARTON, OF CALIFORNIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

DONALD P. PEARCE, OF NEW YORK

DEPARTMENT OF STATE

AMIR A. ABBOUND, OF VIRGINIA
S. NAJLAA ABDUS-SAMAD, OF NEW YORK
CORI ANN ALSTON, OF TEXAS
DANIEL H. AMBROSE, OF PENNSYLVANIA
FOREST G. ATKINSON, OF CALIFORNIA
JOHN D. BAILS, OF MICHIGAN
CHELSEA M. H. BAKKEN, OF VIRGINIA
DANIELA A. BALLARD, OF CALIFORNIA
GAURAV BANSAL, OF OHIO
ANN BARROW, OF FLORIDA
TODD M. BATE-POXON, OF FLORIDA
RALPH F. BEAHM, OF VIRGINIA
MATTHEW KENNETH BEH, OF NEW YORK
ANNE M. BENNETT, OF NEVADA
MARIJU LIBO-ON BOFILL, OF WEST VIRGINIA
JAMES B. BONGIOLATTI, OF VIRGINIA
JOANIE BROOKS-LINDSAY, OF CALIFORNIA
STACI A. BROTHERS-JACKSON, OF MARYLAND
D. A. BROWN, OF FLORIDA
BRIAN CARBAUGH, OF THE DISTRICT OF COLUMBIA
CASSANDRA CARRAWAY, OF CALIFORNIA
LAWRENCE R. CARSON, OF MARYLAND
ERIC CATALFAMO, OF FLORIDA
ETHAN DANIEL CHORIN, OF CALIFORNIA
GORDON S. CHURCH, OF TENNESSEE
JEANNE L. CLARK, OF NEW YORK
BOBBY CLAYTON, OF VIRGINIA
CHRISOPHER T. CORTESE, OF FLORIDA
FRANCES JUANITA CRESPO, OF TEXAS
DEEPIKA DAYAL, OF THE DISTRICT OF COLUMBIA
YAHYH AHMAD DEHQANZADA, OF VIRGINIA
PETER L. DELACY, OF VIRGINIA
SHELLY J. DITTMAR, OF NEW YORK
KATYA DMITRIEVA, OF NEW YORK
REBECCA EVE DODDS, OF OHIO
ERIN LYNN EDDY, OF SOUTH DAKOTA
JUSTIN M. ELICKER, OF THE DISTRICT OF COLUMBIA
JOSEPH T. FARRELLY, OF THE DISTRICT OF COLUMBIA
REES M. FISCHER, OF FLORIDA
RICHARD BRADLEY FISHER, OF VIRGINIA
MICHAEL FITZPATRICK, OF MARYLAND
JAMIE FETNER FORD, OF TEXAS
PHILIP B. GALE, OF MARYLAND
PETER PAUL GALUS, OF CALIFORNIA
ANITA GHILDYAL, OF MISSOURI
EMILY A. GLOYD, OF MARYLAND
AARON GREENSTONE, OF THE DISTRICT OF COLUMBIA
JANINE E. GUSTAFSON, OF THE DISTRICT OF COLUMBIA
NOAH N. HARDIE, OF VIRGINIA
DANIEL E. HALL, OF ARIZONA
LESLEY M. HAYDEN, OF MINNESOTA
MARIA HERBST, OF ALASKA
SAUL ANTONIO HERNANDEZ, OF GEORGIA
ERIN C. HILLIARD-COMBS, OF VIRGINIA
KARY I. HINTZ-TATE, OF VIRGINIA
ROBERT L. HOLBY, OF FLORIDA
COURTNEY B. HOUK, OF FLORIDA
MICHAEL C. HUGHES, OF VIRGINIA
VIVIAN IMAIZUMI, OF VIRGINIA
RICHARD C. JAO, OF NEW YORK
JUDITH M. JOHNSON, OF TEXAS
THOMAS KALINA, OF VIRGINIA
YOONAH KANG, OF VIRGINIA
CATHERINE L. KEANE, OF VIRGINIA
SAMUEL E. KING JR., OF VIRGINIA
BRYAN K. KOONTZ JR., OF WISCONSIN
MARYBETH KRUMM, OF THE DISTRICT OF COLUMBIA
SUSANNE GRACE KUESTER, OF FLORIDA
BENJAMIN N. LEE, OF VIRGINIA
JOHN C. LETVIN, OF FLORIDA
DREA LEWIS, OF MASSACHUSETTS
ALEXANDER LIPSCOMB III, OF VIRGINIA
TODD LUDEKE, OF TEXAS
BENJAMIN M. LUDLOW, OF VIRGINIA
ERIC T. LUND, OF UTAH
CHRISTIAN J. LYNCH, OF NEW YORK
WILLIAM P. MANDROS, OF VIRGINIA
JENNIFER J. MCALPINE, OF MINNESOTA
EVAN MCCARTHY, OF RHODE ISLAND
PATRICK JOSEPH MCCARTHY, OF VIRGINIA
ROBERT A. MCCUTCHEON, OF MARYLAND
JOHN T. MCNAMARA, OF NEW YORK
RICHARD CONRAD MICHAELS, OF GEORGIA
REBECCA SHIRA MORGAN, OF ILLINOIS
ERIC GENE ANDRE MORIN, OF FLORIDA
JOSH MORRIS, OF CALIFORNIA
OLIVER JOHN MOSS III, OF FLORIDA
JENNIFER ANN MUSGROVE, OF VIRGINIA
JOHN C. NEELY, OF VIRGINIA
PHILLIP NERVIG, OF NEW YORK
MICHAEL I. NEWMAN, OF THE DISTRICT OF COLUMBIA
MARY JANE O'BRIEN, OF VIRGINIA
SEAN PATRICK O'HARA, OF VIRGINIA
FILEMON R. PALERO JR., OF CALIFORNIA
DANA MARIE PANGER, OF VIRGINIA
WALTER PARRS III, OF NEW YORK
CYNTHIA H. PLATH, OF CALIFORNIA
MARY ELIZABETH R. POLLEY, OF VIRGINIA
JOHN R. POWELL, OF VIRGINIA
APRIL PRICE, OF THE DISTRICT OF COLUMBIA
SCOTT ALAN REESE, OF VERMONT
SARA MARIE REVELL, OF TEXAS
BERNADETTE EILEEN ROBERTS, OF THE DISTRICT OF COLUMBIA
BENEDICT ROBINETTE, OF VIRGINIA
RUTH RUDZINSKI, OF COLORADO
RUTHANNA MARIA RUFFER, OF VIRGINIA
EMMETT JEROME RYAN JR., OF MONTANA
KAREN P. SCHINNERER, OF MICHIGAN
ALEXANDER SCHRANK, OF MASSACHUSETTS
DAWN M. SCHREPEL, OF TEXAS
VANESSA ANNA SCHULZ, OF THE DISTRICT OF COLUMBIA
SHELLY ANN SEAVER, OF VIRGINIA
JUNE A. SHIN, OF CALIFORNIA
JOHN SILSON, OF OHIO
BETH MOSER SMITH, OF VIRGINIA
MAKEESHA LYNN SOVA, OF VIRGINIA
ALISON C. STACY, OF OHIO
CHRISTY MELICIA WATKINS STONER, OF VIRGINIA
JACOB M. STUDLEY, OF VIRGINIA
MARCI J. STUDLEY, OF VIRGINIA
MATTHEW ALAN TAYLOR, OF FLORIDA
ANTHONY MICHAEL DEAN TRANCHINA, OF NEW YORK
ELIZABETH KENNEDY TRUDEAU, OF NEW HAMPSHIRE
HELENE N. TULING, OF WASHINGTON
MICHAEL TURNER, OF CALIFORNIA
SUSAN L. UNRUH, OF TEXAS
YOLANDA A. URBANSKI, OF VIRGINIA
EDWARD L. USHER, OF NEW YORK
JASON VORDERSTRASSE, OF CALIFORNIA
JOCELYN ANN VOSSLER, OF CALIFORNIA
BRIGID REILLY WEILLER, OF NEW YORK
MARY K. WELSH, OF VIRGINIA
KAREN MARIE WHALEN, OF VIRGINIA
KIMBERLY S. WHITWORTH, OF VIRGINIA
EMILY L. WILLIAMS, OF MINNESOTA
MELANIE ANNE ZIMMERMAN, OF MARYLAND

THE FOLLOWING-NAMED CAREER MEMBER OF FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

MARCIA L. NORMAN, OF CALIFORNIA

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT AS PERMANENT LIMITED DUTY OFFICERS IN THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTIONS 531 AND 5589.

To be lieutenant

ARMAND P ABAD, 0000
DANIEL E ADAMS, 0000
LEONARD L ADAMS JR., 0000
TIMOTHY R ADAMS, 0000
CHERYL E AIMESTILLMAN, 0000
AARRON S ALEXANDER, 0000
BRIAN R ALLEN, 0000
MITCHELL R ALLEN, 0000
KENNETH G ALLISON, 0000
KENNETH O ALLISON JR., 0000
BRAD S ANDERSON, 0000
CHRISTOPHER A ANDERSON, 0000
DAVID C ANDERSON JR., 0000
ROSS M ANDERSON, 0000
NORLANDO F ANTONIO, 0000
ALFRED F APPLEWHAITE, 0000
LESLIE E ASLARONA, 0000
TODD A ATKINSON, 0000
FABIO O AUSTRIA JR., 0000
PETER J AVITTO, 0000
GEORGE D BALDWIN, 0000
JAMES S BALDWIN, 0000
LANCE O G BARKER, 0000
DEREK A BARKSDALE, 0000
ROBERT J BAST, 0000
RUSSELL P BATES, 0000
BRAD A BAUER, 0000
ALAN D BEATY, 0000
BRYAN K BEECHER, 0000
WILLIAM L BEITZ, 0000
JAMES L BELL, 0000
MATTHEW J BELLAIR, 0000
CHARLES J BERGSTOL, 0000
WILLIE J BERNARD, 0000
MARY L BERRIAN, 0000
SAM BETHUNE, 0000
JONATHAN F BIELAR, 0000
MARK J BISH, 0000
CHRISTOPHER BISHOP, 0000
DOWAYNE BISTLINE, 0000
STEVEN M BOATWRIGHT, 0000
JOHNNY D BOBO, 0000
LESTER F BOERNER, 0000
DONZALEIGH M BOLDEN, 0000
IVAN R BORJA, 0000
BARRY E BOWERS, 0000
JAMES C BRADLEY, 0000
PAUL A BRADLEY, 0000
TERRELLE C BRADSHAW, 0000
RICHARD W BRANCH III, 0000
KENNETH A BRANDON, 0000
JAMES S BRANT JR., 0000
ANDREW D BROLLIAR, 0000
CRAIG M BROUSSARD, 0000
THOMAS A BROUWER, 0000
CURTIS BROWN, 0000
JAMES A BROWN, 0000
JOHN T BROWN, 0000
ROBERT A BROWN, 0000
RUSSELL W BROWN, 0000
ARNULFO C BUELA, 0000
ROBERT W BURGETT, 0000
TERRELL A BURNETT, 0000
ZEVERICK L BUTTS, 0000
DAVID Q BUXTON, 0000
KYLE A CALDWELL, 0000
MICHAEL CANAVATI JR., 0000
TONY D CANOY, 0000
STEVEN S CARPENTER, 0000
JOYCE D CARRIERE, 0000
BRIAN N CARROLL, 0000
MARK A CARSTENS, 0000
ROBERT D CARTER JR., 0000
TROY L CARTER, 0000
YOLANDA M CARTER, 0000
JOEL A CASTILLO, 0000
JAMES M CATTEAU, 0000
MICHEAL L CAWYER, 0000
MICHAEL A CETNAROWSKI, 0000
ROLLIE L CHANCE JR., 0000
DANIEL E CHARLTON, 0000
PATRICK R CHELL, 0000
HARRY A CHENG, 0000
NADINE A CHUBA, 0000
MICHAEL J CHURCH, 0000
JAMES C CLARK, 0000
JOHN F CLARK, 0000
GAIL M CLIFTON, 0000
JOHN W CLINE, 0000
LORI L CODY, 0000
FREDIRICK R CONNER, 0000
DAVID A CONTI, 0000
FRANK D COON III, 0000
ALDRIN J A CORDOVA, 0000
RALPH M CORONADO III, 0000
DELWYN A COSBY, 0000
STEPHEN L COX, 0000
CHRISTOPHER K CRIDER, 0000
ROBERT P CROCETTA III, 0000
EARL W CULLUM, 0000
ROBERT J DAFOE, 0000
KEVIN J DALY, 0000
JEROLD E DAVIS, 0000
JON R DAVIS, 0000
MARC T DAVIS, 0000
RANSOM A DAVIS JR., 0000
WILLIAM J DAVIS, 0000
JASON A DAVY, 0000
TRAVIS W DAWSON, 0000
TIMOTHY J DEBELAK, 0000
KENGE A DEBOLD, 0000
ANDY P DELEON, 0000
WILLIAM A DENNIS, 0000
CHARLES A DEPALMA II, 0000
JAMES W DESROSIERS JR., 0000
MARCUS A DEVINE, 0000
ANDREA M DEWDNEY, 0000
GRETCHEN E DOANE, 0000
ALBERTO DONES, 0000
DAVID M DONSELAR, 0000
RUSTIN J DOZEMAN, 0000
BRYAN D DRECKMAN, 0000
MARK R DUMAS, 0000
LYNOR A DUNCAN, 0000
STEPHEN J DURHAM, 0000
FRANK A DURSO, 0000
MICHAEL B EDQUIST, 0000
JEFFREY S EIDENBERGER, 0000
MICHAEL J ENCINIA, 0000
VICTORIO M ENRIQUEZ, 0000
AARON C ERICKSON, 0000
ANTONIO ERVIN, 0000
RICARDO ERVIN JR., 0000
SHERRY L EVANS, 0000
GEORGE J EZELL, 0000
JOHN S FAIRWEATHER, 0000
DARRIN E FALLER, 0000
DAVID M FERRER, 0000
ROBERT H FINCH, 0000
SHAUN W FISCHER, 0000
PRESTON FLEMING, 0000
STANLEY E FLEMING, 0000
NOEL A FONTANILLA, 0000
TAYLOR R FORESTER, 0000
BRYAN K FORSHEY, 0000
KEITH B FOSTER, 0000
ROOSEVELT FRANKLIN JR., 0000
MARTY P FRIGAARD, 0000
ROBERT C FRY, 0000
HENRY FUENTES, 0000
TAWANNA A GALLASSERO, 0000
CHRISTOPHER M GARCIA, 0000
JOHN F GARY, 0000
CLEMENTE V GATTANO, 0000
STEPHEN J GENOSHE, 0000
DANA S GIBSON, 0000
DAN M GLESENER, 0000
RUSSELL J GOFF JR., 0000
JOSEPH P GONZALES, 0000
JOHN W GOOLSBY, 0000
LELON V GRAY, 0000
MICHAEL B GREEN, 0000
MATTHEW T GRIFFIN, 0000
KAY E GSCHWIND, 0000
ALBERT GUAJARDO, 0000
PARRISH P GUERRERO, 0000
DUNCAN K GUISHARD, 0000
BRETT B GUNDERSON, 0000
TYRONE F GUZMAN, 0000
HOPE D HAIR, 0000
RICHARD E HALL, 0000
KIRBY A HALLAS, 0000
CHRISTOPHER M HALSAN, 0000
SCOTT R HALSEY, 0000
BRUCE A HAMILTON, 0000
BRIAN K HARBIN, 0000
JOHN A HARDESTY, 0000
RONALD A HARMON JR., 0000
ROBERT L HARRIS, 0000
JOSEPH B HARRISON II, 0000
ERIC W HASS, 0000
CURTIN K HAUG, 0000
ERIC E HAYES, 0000
BRIAN HEASLEY, 0000
GERALD R HEGWOOD, 0000
CHRISTOPHER D HEINZ, 0000
JAY C HENSON, 0000
DURWARD HICKENBOTTOM, 0000
MILES G HICKS, 0000
TERESA M HICKS, 0000
WILLIAM E HIERONIMUS, 0000
HARLAN C HILL, 0000
ROBERT C HILTON, 00000
CHRISTINA HINES, 0000
THOMAS L HINNANT III, 0000
RICHARD C HIRN, 0000
RHYSS B HIZON, 0000
CHAD A HOLINGER, 0000
HAROLD E HONEYCUTT, 0000
JAMES J HORNEF, 0000
GARY R HORSEY, 0000
ANTHONY W HUGHES, 0000
JAMES L HUGHES JR., 0000
JON B HUGHES, 0000
DAVID A HUMPEL, 0000
ROBERT K HUTCHINS, 0000
TRACY V HUTCHISON, 0000
ROBERT L HYLTON JR., 0000
DOUGLAS E JACKSON, 0000
GREGORY J JACOBS, 0000
REYMUNDO C JAVIER, 0000
BRANDON L JOHNSON, 0000
RICHARD W JOHNSON, 0000
MITCHELL R JONES, 0000
JAMES R JOYNER JR., 0000
ROBERT A KALLMAN, 0000
LOYAL A KAMM JR., 0000
STEPHEN E KASHUBA, 0000
ARTHUR C KEENAN II, 0000
TIMOTHY J KELLY, 0000
MARK A KENNEDY, 0000
TERRY L KERR, 0000
RICHARD B KILLIAN, 0000
GEORGE H KIPP, 0000
GREGORY A KLITGARD, 0000
TERRY L KNAPP, 0000
FREDDIE B KOONCE, 0000
KEVIN M KURTZ, 0000
WILLIAM R KUZMA, 0000
STEVEN T LAATSCH, 0000
EVAN J LAFRANCE, 0000
ARTHURRLLOYD G LAMBINICIO, 0000
MARK J LAMBRECHT, 0000
GARY L LANE, 0000
JAMES M LANGLOIS, 0000
KENNETH R LARSON JR., 0000
BLAINE A LAURION, 0000
RUSSELL A LAWRENCE, 0000
JOHN C LEITNER, 0000
MICHAEL A LINCOLN, 0000
CHARLES D LINNEMANN, 0000
JEFFREY P LITTLE, 0000
RODERICK V LITTLE, 0000
JAMES F LOCKMAN, 0000
THOMAS L LOOP, 0000
MANUEL LOPEZ JR., 0000
BENGT G LOWANDER, 0000
BRYAN K LUKIE, 0000
JOHN A LYSINGER, 0000
JON O MAGNUSON, 0000
FELIXBERTO C MALACA, 0000
ROMULO P MALIKSI, 0000
CHARLES G MANN, 0000
WALTER F MANUEL, 0000
WAYNE E MARK, 0000
MICHAEL J MARTIN, 0000
MICHAEL T MARTIN, 0000
RANDY W MARTIN, 0000
JAMES S MATHUS, 0000
ERNEST A MATTA, 0000
DONOVAN A MAXWELL, 0000
ANDREW C MAYERCHAK II, 0000
ROBERT J MCCARTHY, 0000
STEVEN J MCCLELLAND, 0000
WALTER M MCCLINTON JR., 0000
JONATHAN M MCCOMB, 0000
JAMES A MCCOSLEY, 0000
BARRY D MCCULLOCH, 0000
CHARLES G MCDERMOTT, 0000
BRUCE A MCDONALD, 0000
GEORGE A MCLAUGHLIN, 0000
SEAN P MCMICHAEL, 0000
SHANNON C MCMILLAN, 0000
DARNELL C MCNEILL, 0000
LAURENCE E MCPHERSON, 0000
GLEN A MECKES, 0000
GILBERTO MENDIOLA JR, 0000
JOSEPH E MIKOLAJCZAK, 0000
DAVID M MINNICK JR, 0000
TERETHA A MINTZ, 0000
DIOMEDES L MIRANDA, 0000
MARK D MISENER, 0000
DONNIE W MIZE, 0000
ALBERT L MOORE, 0000
MARK G MORAN, 0000
DOUGLAS M MORELAND, 0000
MERCER MORGAN III, 0000
JACK E MORRIS, 0000
KEITH M MORRIS, 0000
RICHARD L MORRIS, 0000
JOSEPH T MORRISON, 0000
WILSON M MOTES, 0000
ROBERT J NAIFEH, 0000
DENNIS A NARLOCK II, 0000
TIMOTHY G NASELLO, 0000
JIMMY S NELSON JR, 0000
TODD D NELSON, 0000
ELROY L NEWTON, 0000
DANIEL K NICHOLS, 0000
KELLY S NICHOLS, 0000
SHAUN A NIDIFFER, 0000
JACOB R NORMAN II, 0000
KYLE A NYSETH, 0000
DERRICK C OBRIEN, 0000
RONALD K OCHELTREE, 0000
JOHN A ODLE, 0000
JUNSIMON A OLIVEROS, 0000
ERIC C OLSEN, 0000
THEORDORE A ORTEGA, 0000
CARL R ORTMANN, 0000
CLINTON H OSBORN, 0000
LEONARD OUZTS, 0000
ROLANDO R PAGADUAN, 0000
CHRISTOPHER S PALMERONE, 0000
WILLIAM R PARKER, 0000
JAMES H PASLEY JR, 0000
JOSE L PERALTA, 0000
JEFFREY P PETERSON, 0000
SYLVESTER L PFARR, 0000
SCOTT A PHEASANT, 0000
ANTHONY D PINK, 0000
GREGORY A PINKLEY, 0000
JAMES S PIRGER, 0000
BLAINE C PITKIN, 0000
BRIAN PONCE, 0000
DONALD B PORTER, 0000
TERRENCE L POWELL, 0000
GERARDO S PRUDENCIO, 0000
MARK A PUTTKAMMER, 0000
JOHNNY QUEZADA, 0000
PABLITO V QUIATCHON, 0000
TIMOTHY L RAYMIE, 0000
CHARLES D REDDER, 0000
CHRIS J REEDY, 0000
WESLEY D REEDY, 0000
RANDY R REID, 0000
RAYMOND A REID, 0000
JAMES L REMINGTON JR, 0000
MICHAEL J REYNOLDS, 0000
STEVEN R REYNOLDS, 0000
MARSHALL G RIGGALL, 0000
MATTHEW T RIGGINS, 0000

ANDREW R RINCHETTI, 0000
JOSE RIVAS JR, 0000
JERRY RIVERA, 0000
CARL C RIVERS, 0000
DENVER D ROBB, 0000
ROBERT E ROBERSON JR, 0000
BRYAN C ROBERTSON, 0000
CECIL L ROBINSON JR, 0000
DANIEL E ROBINSON, 0000
ERIK J ROBINSON, 0000
PAUL V ROCK, 0000
MARK V ROLLSTON, 0000
JEFFERY N RONEY, 0000
JERALD L ROOKS, 0000
WILLIAM L ROSENBERRY, 0000
STEPHEN P RUSHLEY, 0000
WAYNE N SALGADO JR, 0000
CESAR A SALINAS, 0000
JESSIE L SANCHEZ, 0000
RAUL SANTOSPIEVE, 0000
CHRISTOPHER SAUNDERS, 0000
ANTHONY D SCHERMERHORN, 0000
VAUGHN L SCHNEIDER, 0000
MURRAY L SCHULTZ, 0000
STEPHEN H SCHULTZ, 0000
JAMES P SCOTT JR, 0000
GERALD M SELLERS, 0000
ANDREW J SERVAES, 0000
GARY M SHELLEY, 0000
SCOTT N SHENK, 0000
JAMES R SHIRLEY, 0000
JAMES C SHORT, 0000
RICHARD W SIMMONS, 0000
MICHAEL K SIMS, 0000
ALEXANDER SINGLETON, 0000
JOE P SMITH JR, 0000
RONALD D SMITH, 0000
TODD M SMITH, 0000
DONNA L SMOAK, 0000
RAYMOND SNYDER III, 0000
TONY L SNYDER, 0000
DENYSE F SPRINGER, 0000
JAMES H STACEY, 0000
MARK O STACK, 0000
JOHN A STAHLEY II, 0000
JOHNNY L STAMBERGER, 0000
BOBBY C STANCIL, 0000
JULIA M STANTON, 0000
WILLIAM C STCLAIR, 0000
STERLING M STEDMAN, 0000
JEFFREY L STEWART, 0000
ANDRE M STONE, 0000
CLINTON STONEWALL III, 0000
SCOTT M SUCY, 0000
KEVIN M SULLIVAN, 0000
ROBERT E SWANSON, 0000
TIMOTHY TARAFAS, 0000
LARRY E TARVER, 0000
MARK A TATCH, 0000
CLAUDE E TAYLOR III, 0000
MONTE R TEMPLE, 0000
JOHN T THOMPSON, 0000
JOSEPH L THOMPSON, 0000
MATTHEW D THOMPSON, 0000
HENRY S THRIFT III, 0000
JEFFREY A TIDD, 0000
WILLIAM G TIMKO, 0000
CLARENCE H TOLLIVER, 0000
WALTER TONEY, 0000
JORGE L TORRES, 0000
TROY D TOWNSEND, 0000
ERIC A TRAINI, 0000
TERRY N TRAWEEK JR., 0000
AROL B. TREWIN, 0000
SHAWN A TRISLER, 0000
SCOTT TROJAHN, 0000
ROBERT TRUJILLO, 0000
JEFFREY A TUCKER, 0000
JENNIFER A TUCKER, 0000
DAVID J TULOWIECKI, 0000
JASON L TUMLINSON, 0000
VYRON T TURNER, 0000
JAMES T UNCAPHER, 0000
ANTHONY R UNIEWSKI JR., 0000
MICHAEL J URICH, 0000
JOHN M VANCE, 0000
RICHARD VANDRIESEN, 0000
JUNE H VELEZ, 0000
RONALD VIGGIANI JR., 0000
GARY J VOROUS, 0000
STEPHEN M VOSSLER, 0000
BOBBY W WALKER, 0000
JAMES M WALKER, 0000
GREGORY J WARD, 0000
THOMAS S WARE, 0000
JANTREICE H WASHINGTON, 0000
STEVEN R WHEATLEY, 0000
CLARENCE M WHITE JR., 0000
DAVID W WHITSITT, 0000
BENJAMIN J WIECHERT III, 0000
ANTHONY C WILDER, 0000
DWAYNE E WILLIAMS, 0000
MICHAEL L WILLIAMS, 0000
RICHARD G WILLIAMS, 0000
RORY A WIUFF, 0000
MICHAEL J WORKS, 0000
DONOVAN B WORTHAM, 0000
RICHARD D WRIGHT, 0000
FELIX O WYATT, 0000
CLARENCE E XANDER, 0000
MICHAEL L YBARRA, 0000
TIMOTHY L YEICH, 0000
MATTHEW A YOUNG, 0000
ELLIOTT W YOUNGBLOOD, 0000
MATTHEW P ZENTZ, 0000

WITHDRAWALS

Executive messages transmitted by the President to the Senate on October 7, 2004, withdrawing from further Senate consideration the following nominations:

JAMES B. CUNNINGHAM, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE VIENNA OFFICE OF THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR, WHICH WAS SENT TO THE SENATE ON APRIL 8, 2004.

JAMES B. CUNNINGHAM, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE INTERNATIONAL ATOMIC ENERGY AGENCY, WITH THE RANK OF AMBASSADOR, WHICH WAS SENT TO THE SENATE ON APRIL 8, 2004.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 7, 2004:

To be general

GEN. GREGORY S. MARTIN, 0000