United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, FIRST SESSION

Vol. 153 WASHINGTON, MONDAY, SEPTEMBER 17, 2007 No. 137

Senate

The Senate met at 2 p.m. and was called to order by the Honorable JIM WEBB, a Senator from the State of Virginia.

PRAYER

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

Let us pray.

Lord God, ruler of the nations, we magnify Your Name above all names. Your absolute purity, holiness, and justice illuminate our paths. Your fairness is intertwined with everything You do.

Lord, hasten the day when the Government shall be on Your shoulders and Your kingdom will be established with righteousness and justice. Bring an end to injustice, sin, corruption, violence, and immorality. Use the Members of this body to do Your will on Earth, even as it is done in Heaven. Help them to strive for integrity and faithfulness, for the glory of Your Name. May they persevere in doing what is best for America and our world, knowing You will give them a bountiful harvest.

We pray in Your majestic Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM WEBB led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant bill clerk read as follows:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 17, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM WEBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, the Senate will be in a period of morning business until 3 p.m. today, with the time equally divided between the two sides.

At 3 p.m. the Senate will resume consideration of H.R. 1585, the Department of Defense authorization measure. There will be no rollcall votes today, which we announced several weeks ago. The managers, though, will be here to deal with the authorization bill at 3 o'clock. Members are encouraged to come to the floor and offer and debate amendments to this bill.

As we all know, this bill is important, to say the least, and there are numerous issues associated with this bill that will require debate. Of course, the issue of Iraq is a matter that has been discussed at some length. I indicated previously I hope we can work out an agreement on how we can proceed as it relates to the Iraq amendments. There are more than 300 Iraq amendments on this bill. We need to proceed in some orderly and structured manner. I will continue to consult with the Republican leader and the two managers on this legislation.

ORDER OF PROCEDURE

Mr. REID. I ask unanimous consent that whatever time I consume now not be counted against the time set for the bill to begin. So if I take 5 minutes or 10 minutes, whatever it is, the 3 o'clock time would slip by that much.

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

THE WEEK AHEAD

Mr. REID. Mr. President, on this day 220 years ago, in 1787, our Founding Fathers gathered at Philadelphia and signed a document that remains today our country's moral compass, our Constitution. The preamble to that Constitution reads:

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

No matter how many times we hear that preamble, it touches a chord in all of our hearts because that is what this country is all about.

The years since that day in Philadelphia, 220 years ago, have not been a perfect journey. In fact, it has been imperfect on some occasions—but more perfect than none. There are times where we have stumbled—we can all think of examples of that: slavery, the Civil War, the internment of Japanese Americans during World War II. But each time our fidelity to the ideals of justice has been tested, America has moved closer to securing the blessings of liberty.

Over the past 6½ years, the Bush administration has challenged that fidelity time and time again. We have suffered through a White House that values secrecy and disdains the separation of powers. The Justice Department served the President rather than the

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

Printed on recycled paper.

people. The pervasive attitude among the administration was that civil liberties are a nuisance rather than an inalienable right.

I spoke to the President's nominee to be Attorney General a short time ago, Judge Mukasey. I told him I admire his willingness to take this job. He has a good background, a good record. We will find out what happens during the time the hearings take place before the Judiciary Committee. But I told him that never in the history of our country have we had a Justice Department in such a state of disrepair, and he realizes that.

But as we turn to the Defense authorization bill this week and likely the next, we in Congress have an opportunity to reassert our allegiance to the Constitution and the core American values for which it stands, values that have made America the world's beacon of freedom for more than two centuries.

Senators will have a chance to show whether they support the inalienable right of habeas corpus, something that is talked about in our Constitution—the right to petition a court to review the grounds for a detention. Senators will have an opportunity to review the cost, both fiscally and morally, in maintaining the Guantanamo Bay detention facility, and whether closing it will do more to further the fight against terrorism and advance America's values, as I believe it would, than keeping it open indefinitely. We hope to debate the administration's use of so-called enhanced interrogation techniques and whether we should bring the practices of intelligence agencies under the same rules that our military believes are proper under the Army Field Manual; in effect, no more torture.

The Defense authorization bill is also our next best chance to continue our efforts to force President Bush to change course in an intractable civil war in which we find ourselves involved in Iraq. Last week the President delivered yet another prime-time address to the Nation on his Iraq policy and once again he announced he has no intention to change his failed war plan. He has given neither a convincing rationale to continue the war nor a plan to end it. Meanwhile, brave American troops continue to be killed and grievously wounded, our Treasury is being depleted at an ever faster rate, the Iraqi Government has made no progress in political reconciliation, and those responsible for attacking us on 9/11 grow stronger, as indicated in the latest video from Osama bin Laden. Today brings news that the President will not even return our troop presence in Iraq to presurge levels next year, meaning that a year from now we will be dug in even deeper than we were a year ago in Iraq.

The President's speech last week made one thing clear, though: He has no intention of changing course. He plans to keep the status quo through the duration of his administration with the hope that if we stick around long enough, something, anything, will start going right; and if it doesn't—and there is no sign it will—he will leave it to the next President to clean things up.

We could start to change course now. The overwhelming majority of the American people and the majority of Congress are ready to do just that. A majority of Senators has voted to send legislation to the President that will force him to change the mission and begin to bring our troops home, but the Republican leadership so far has not allowed the voice of the majority to be heard. By requiring a 60-vote margin on all Iraq-related votes, they have repeatedly filibustered the will of the people and blocked the new direction our troops deserve. As long as our brave soldiers and marines remain mired in the crossfire of another country's civil war, we can continue fighting to responsibly end this war. We all know it will take the courage of our Republican colleagues to stand up to the President. A few have, and I admire and respect them. We know standing up to their President is not easy, but it is the right thing to do. It is long past time for those Republicans who expressed opposition to this endless war to work with us to find a way to end it; otherwise, this is not only Bush's war but the war of the Republican Senators as well, because we all know there has been little support in the House or the Senate by Republicans to change the direction of the war in Iraq.

Next week we will turn our attention back to the Children's Health Insurance Program, known as SCHIP. This remarkably successful program was enacted a decade ago to fill a crucial gap in insurance, the gap between the children of families who often have private health insurance and the children of the very low-income families who are covered by Medicaid. But between the two, millions of children whose families neither qualify for Medicaid nor can afford private insurance were left uninsured—left without medical attention most of the time. Today 6.6 million children have insurance because of this program started 10 years ago. That is a 35-percent reduction in the number of uninsured children of working families. The program has been a remarkable success by any means, and a great example of what the State and Federal Government can do in a tangible way to make peoples' lives better.

Earlier this summer, an overwhelming bipartisan majority in the Senate voted to reauthorize and approve this outstanding program. Next week we will vote on a compromise version between the House and Senate and send it to the President's desk. The bill we send to the President will continue the program and provide insurance for millions more children of working families. For many, it will replace emergency room care with regular checkups; it will mean proper dental care; it will mean preventive medicine.

Study after study shows that kids enrolled in the Children's Health Insurance Program are much more likely to have regular doctor and dental care. The report shows that these children report lower rates of unmet need for care, the quality of care they receive is far better than it was before, and school performance improves. The plan is helping to close a disparity in care for minority children and it has become a major source of care for rural children.

There is no doubt, no question at all, that the Children's Health Insurance Program is good for children, good for families, and it is certainly good for our country. This bill will be the product of real bipartisan cooperation.

I appreciate very much the work of Chairman BAUCUS and Ranking Member GRASSLEY of the Finance Committee, and the work of Senators ROCKEFELLER and HATCH. They have done the right thing for this country.

The President, though, has threatened to veto this legislation. This is pretty surprising because listen to what he said in the 2004 election campaign, a direct quote:

> In a new term, we will lead an aggressive effort to enroll millions of poor children who are eligible but not signed up for the government health insurance programs. We will not allow a lack of attention, or information, to stand between these children and the health care they need.

I take the President at his word and expect he will live up to this promise. I hope before issuing more threats, he will take a real look at what he said before, and the legislation we are sending to him. It has the support of so many Democrats and so many Republicans for a reason. It is an example of Government at its best, lending a helping hand, providing a safety net to children who need a boost to reach their full potential. All too often we hear what Government can't do. The Children's Health Insurance Program is a stellar example of what we can do. I am confident the Senate will not be intimidated by the President's veto threats, especially, I repeat, based on what he told us during the reelection campaign of 2004. For the President to do anything less would be his not keeping his word. So I hope once again we will vote to pass this legislation with strong bipartisan support.

I ask my unanimous consent request also include any statement my friend, the Republican leader, may give.

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

RECOGNITION OF THE MINORITY LEADER

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

NOMINATION OF JUDGE MUKASEY

Mr. MCCONNELL. Mr. President, today the President nominated Judge

Michael Mukasey to be our Nation's 81st Attorney General. He has impressive credentials. I look forward to learning more about his record.

In this regard, the Judiciary Committee should promptly hold hearings on his nomination, carefully examine his record, and vote in a timely manner. For the past several months our Democratic colleagues have told us we need to install new leadership at the Justice Department and that we ''can't afford to wait,'' in their words

A successful nominee, they have told us, is someone with integrity and experience, who respects the rule of law and who can hit the ground running. The senior Senator from New York has assured us that he and his colleagues would not obstruct or impede someone with these qualifications.

Judge Mukasey appears to be just such a nominee. He is a former Federal prosecutor and Federal judge with extensive experience, especially in terrorism-related matters. He served on the Federal trial bench for 19 years, and for the last 6 years of his career he has been the chief judge on the U.S. District Court for the Southern District of New York.

He presided over the 1993 World Trade Center bombing case, in which he was widely respected for his equanimity, intelligence, and deep appreciation for the complex legal issues at stake.

The prosecutor, Andrew McCarthy, recently wrote a compelling first-hand account of Judge Mukasey's conduct in that case for the National Review. I ask unanimous consent to have the article printed at the close of my remarks.

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

(See exhibit 1.)

Mr. McCONNELL. In the article, Mr. McCarthy notes the Second Circuit Court of Appeals, after upholding Judge Mukasey's work, took the highly unusual step of praising his handling of the case. Here is what the court of appeals wrote:

> The trial judge, the Honorable Michael B. Mukasey, presided with extraordinary skill and patience, assuring fairness to the prosecution and to each defendant and helpfulness to the jury. His was an outstanding achievement in the face of challenges far beyond those normally endured by a trial judge.

Judge Mukasey has earned the deep respect and admiration of the lawyers who have appeared before him and of the many other public servants who have observed and studied his work. His intelligence, experience, and fairmindedness would seem to make him an ideal candidate to lead the Justice Department.

At the very least, these qualities warrant timely and fair consideration of his nomination by the Judiciary Committee. Unfortunately, recent press reports, including a Roll Call article from just a couple of hours ago, indicate that at least some Democrats on the Judiciary Committee are more interested in dragging out this nomination than in installing new leadership at the Justice Department.

They have said they might hold Judge Mukasey's nomination hostage in order to extract still more administration documents in the U.S. attorneys matter.

This would be extremely unfortunate. By injecting politics into the confirmation process, committee Democrats would be turning their backs on earlier public comments that installing new leadership at the Department was of critical importance. They would be turning their backs on earlier public assurances that they would not obstruct or impede—again their words—a nominee with Judge Mukasey's qualities.

Now is the chance for our Democratic colleagues to prove they were serious when they cried out for new leadership at the Justice Department by following Senate precedent, weighing the nominee's qualifications, and voting in a timely fashion.

I would hope they would not hold him hostage, forgetting the words of the senior Senator from New York, who has told us:

> This Nation needs a new Attorney General and it cannot afford to wait.

In these times, it is especially important that the Senate act promptly. We are at war, and as the distinguished ranking member has noted: Apart from the Defense Department, no department of the executive branch is more important to defending our Nation than the Department of Justice.

We need to act. Now, I understand that Judge Mukasey will begin his courtesy visits tomorrow with Members of the Senate. I am hopeful my colleagues will be able to meet with him so the Senate can begin considering his nomination as soon as reasonably possible.

EXHIBIT 1

JUDGE MUKASEY WOULD MAKE A STELLAR ATTORNEY GENERAL; A GIFTED FORMER PROSECUTOR AND RENOWNED JURIST COULD BE JUST THE RIGHT FIT.

(By Andrew C. McCarthy)

It is not exaggeration to say that the United States Department of Justice is among the handful of our nation's most important institutions. It is the fulcrum of our rule of law.

The department must be above reproach. It must enforce our laws without fear or favor. It must be the place the courts, the Congress and the American people look to without hesitation for the most unflinching recitation of fact and the most reliable construction of law. Creativity is welcome—it is the department's proud boast always to be home for some of the world's most creative legal minds. Defense of executive prerogatives is also essential—for the department is not the servant but the peer of the judges and lawmakers before whom it appears, with its first fidelity to the Constitution. Creativity, however, is not invention, and prerogative is not partisanship.

The department must foremost be the Department of Justice. Its emblem is integrity. We can argue about where the law should take us, in what direction it should evolve. We must first, however, be able to know what it is. For that, we must be able to rely without question on the department and its leader, the attorney general.

President Bush is about to select a new attorney general at a particularly tempestuous time. In today's Washington, even national security has not been spared from our fulminating politics. In the cross-fire, we need stalwart leadership of incontestable competence and solid mooring in the department's highest traditions. Without it, a growing crisis of confidence will grip not only the courts but field prosecutors across the nation.

To address such a crisis, the President is fortunate to have several able candidates. One I know particularly well, though you may not, would instantly restore the department's well-deserved reputation for rectitude, scholarship, vision and sober judgment. He is Michael B. Mukasey.

I had the privilege of appearing before Judge Mukasey for nearly three years, from 1993 into 1996, when, as an Assistant U.S. Attorney in the Southern District of New York, I led the prosecution of Sheikh Omar Abdel Rahman and eleven other jihadists who had waged a terrorist war against the United States—bombing the World Trade Center, plotting to strike other New York City landmarks (including the United Nations complex, the FBI's lower Manhattan headquarters, U.S. military installations, and the Lincoln and Holland Tunnels), and conspiring political assassinations against American and foreign leaders.

The case was bellwether for 9/11 and its aftermath, presenting all the complex and, at times, excruciating issues we deal with today: the obscure lines a free society must draw between religious belief and religiously motivated violence, between political dissent and the summons to savagery, between due process for accused criminals with a right to present their defense and the imperative to shield precious intelligence from incorrigible enemies bent on killing us.

The trial was probably the most important one ever witnessed by . . . nobody. In an odd quirk of history, our nine-month proceeding began at the same time as, and ended a day before, the infamous O.J. Simpson murder trial. While Americans were riveted to a televised three-ring circus in California, Judge Mukasey, in his meticulous yet decisive way, was demonstrating why our judicial system is the envy of the world: carefully crafting insightful opinions on the proper balance between national security and civil liberties, permitting the government to introduce the full spectrum of its evidence but holding it rigorously to its burden of proof and its ethical obligations; managing a complex litigation over defense access to classified information; and developing jury instructions that became models for future national-security cases.

All the defendants were convicted, and the sentencing proceedings, complicated by the need to apply novel federal guidelines to a rarely used, Civil War era charge of seditious conspiracy, ended in the imposition of appropriately lengthy jail terms. No one, however, could contend that the case had not been an exemplar of our system at its best. Indeed, in an unusual encomium, the Second Circuit Court of Appeals, upon scrutinizing and upholding the judge's work, was moved to observe:

''The trial judge, the Honorable Michael B. Mukasey, presided with extraordinary skill and patience, assuring fairness to the prosecution and to each defendant and helpfulness to the jury. His was an outstanding achievement in the face of challenges far beyond those normally endured by a trial judge.''

No one should have been surprised. By the time the Blind Sheikh's trial was assigned to him, Judge Mukasey had already forged a reputation as one of America's top trial judges. (In my mind, he is peerless.) That was so because he was also one of America's most brilliant lawyers. From humble beginnings in the Bronx, he had earned his bachelor's degree at Columbia before graduating from Yale Law School in 1967. As a judge, he tolerated nothing but the best effort from prosecutors because he had, himself, been a top prosecutor. He well understood the enormous power in the hands of young assistant U.S. attorneys, the need to temper it with reason and sound judgment. He grasped implicitly and conveyed by example that the great honor of being a lawyer for the United States Department of Justice is that no one gets, or should expect to get, an award for being honest and forthright. It is a realm where those attributes are assumed.

In 1988, Michael Mukasey left a lucrative private law practice when President Ronald Reagan appointed him to the federal bench. He was exactly the credit to his court and his country that the President had anticipated. Quite apart from terrorism matters, he handled thousands of cases, many of them high-stakes affairs, with skill and quiet distinction. In his final years on the bench before returning to private practice, he was the Southern District's chief judge, putting his stamp on the court—especially in the aftermath of the September 11th attacks. Through the sheer force of his persistence and his sense of duty, the court quickly reopened for business despite being just a few blocks away from the carnage. Indeed, it never really closed—Judge Mukasey personally traveled to other venues in the District to ensure that the court's vital processes were available to the countless federal, state and local officials who were working round the clock to investigate and prevent a reprise of the suicide hijackings.

Characteristically, the judge ensured that the Justice Department was able to do its vital work in a manner that would withstand scrutiny when the heat of the moment had cooled. Judges, himself included, made themselves available, day and night, to review applications for warrants and other lawful authorization orders—no one would ever claim that in his besieged district, crisis had trumped procedural regularity. And as investigators detained material witnesses and scrambled to determine whether they were mere information sources or actual terror suspects, Judge Mukasey made certain that there was a lawful basis for detention, that detainees were represented by counsel fully apprised of that basis, and that the proceedings were kept on a tight leash—under strict judicial supervision, with detainees promptly released unless there was an independent reason to charge them with crimes.

Judge Mukasey's mastery of national security issues, reflecting a unique fitness to lead the Justice Department in this critical moment of our history, continued to manifest itself after 9/11. He deftly handled the enemy-combatant detention of Jose Padilla (recently convicted of terrorism crimes), forcefully endorsing the executive branch's wartime power to protect the United States from an al Qaeda operative dispatched to our homeland to conduct mass-murder attacks, but vindicating the American citizen's constitutional rights to counsel and to challenge his detention without trial through habeas corpus. Later, in accepting the Federal Bar Council's prestigious Learned Hand Medal for excellence in federal jurisprudence, Judge Mukasey spoke eloquently of the need to maintain the Patriot Act's reasonable national security protections. More recently, he has written compellingly as a private citizen with unique insight about the profound challenges radical Islam presents for our judicial system.

At this moment in time, the nation would be best served by an attorney general who would bring the department instant credibility with the courts and Congress, provide a needed shot in the arm for prosecutors craving a reminder of the department's proud traditions, and reassure the public of the administration's commitment to the department's high standards. There are precious few people who fit that bill, and of them, Michael Mukasey may be the least well known nationally. But he is as solid as they come. Our country would be well served if he were asked, once again, to answer its call.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until the hour of 3:00 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided between the two leaders or their designees.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from West Virginia is recognized.

Mr. BYRD. I thank the Chair.

220TH ANNIVERSARY OF THE UNITED STATES CONSTITUTION

Mr. BYRD. Mr. President, today, September 17, in this year of Our Lord, 2007, marks the 220th anniversary of the signing of the Constitution of the United States. Praise God.

Across the Nation, many students, teachers, and historians are spending at least part of their time today reviewing, learning about, and, most of all, appreciating the U.S. Constitution.

Although not as flashy looking as the American flag on Flag Day, or as bedecked in sparklers and fireworks as the celebration of the Declaration of Independence on the Fourth of July, the workhorse that is our Constitution truly merits a day of appreciation by all citizens.

The Constitution is a living, breathing document, still as full of passion, patriotism, jealousy, and intrigue after 220 years as the star of any long-running soap opera. Perhaps it is because the Constitution, similar to soap operas, deals with the relations between human beings in society.

The Constitution, in its articles and amendments, lays out the roles for its actors: the executive, the legislature, the judiciary, the States, and the rights of individuals.

The script is pretty basic: Run a country and ensure the welfare of its citizens. But being human, people never seem content with playing out their own roles as written. James Madison aptly observed that:

> [T]he essence of Government is power; and power, lodged as it must be in human hands, will ever be liable to abuse.

History is replete with examples of governmental actors who have improvised, seeking to expand their own role and put their name in bigger lights at the expense of the other players. Fortunately, history is also full of examples in which the grasping star's excesses are checked by the concerted actions of the rest of the cast. It is a fascinating read, and well worth one's time. Federal versus States rights, the freedoms of individuals versus the need for order in society, protection from tyranny pitted against a strong executive, declarations of war and peaceful diplomacy—these are some of the great themes, the high dramas written into the Constitution and played out over the course of our Nation's history. Our Founding Fathers truly knew what they were doing when they crafted a document that hoped for the best, most noble instincts in men but guarded against the worst.

As James Madison famously observed, ''If men were angels, no government would be necessary.'' At the same time, however, he also noted that ''All men having power ought to be mistrusted,'' so the foundation of all the checks and balances in the Constitution is the premise that ''ambition must be made to counteract ambition.'' As a result, the Constitution has found itself in a constantly shifting political landscape created by the ebb and flow of Executive power, legislative control, judicial counterbalancing, Federal expansion, and individualism. These great themes are all played out in many smaller scenes each year, from each nomination through each budget submission, authorization, and appropriations bill, and each Supreme Court case.

I have always found this historical drama more stimulating and absorbing than any television reality show. Perhaps it is because the constitutional drama has played such a large role in my own long life. In the 220-year history of this Nation's Constitution, there have been only 1,896 individuals fortunate enough to serve as Senators. I am number 1,579 out of 1,896. I have served in the Senate for one-quarter of the Senate's history—not quite an original cast member but pretty close. Amen. You better believe it.

But whether each citizen has an active role in our Constitution drama or is merely a spectator, the Constitution

plays a large role in the life of every citizen. I encourage everyone, every citizen to read the Constitution—read the Constitution—read the Constitution and to read the Federalist Papers as well as other writings by our Founding Fathers. Read deeply in history; with all thy volumes vast hath but one page. Read deeply in history and biography, and read the newspapers and follow what is happening in Washington.

Do not believe everything you see, do not believe everything you hear, but view it through the prism of the Constitution—the Constitution—the Constitution. Be your own Supreme Court and decide if the arguments put forth by the White House, the Congress, the press, and the pundits are in accordance with the Constitution and with the intent of the immortal Framers. Then and only then will you become the most valuable of all things: a true defender of liberty, an informed citizen.

Mr. President, I close with a poem—a great poem—by Henry Wadsworth Longfellow entitled ''O Ship of State.'' Our Constitution is our ship, the heart and soul of our Nation, and the stalwart vessel that will carry our Nation's liberty into the future. Long, long, long may it live.

O Ship of State,
Thou, too, sail on, O Ship of State!
Sail on, O Union, strong and great!
Humanity with all its fears,
With all the hopes of future years,
Is hanging breathless on thy fate!
We know what Master laid thy keel,
What Workmen wrought thy ribs of steel,
Who made each mast, and sail, and rope,
What anvils rang, what hammers beat,
In what a forge and what a heat
Were shared the anchors of thy hope!
Fear not each sudden sound and shock,
'Tis of the wave and not the rock,
'Tis but the flapping of the sail,
And not a rent made by the gale!
In spite of rock and tempest's roar,
In spite of false lights on the shore,
Sail on, nor fear to breast the sea!
Our hearts, our hopes are all with thee.
Our hearts, our hopes, our prayers, our tears,
Our faith triumphant o'er our fears,
Are all with thee—are all with thee!

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

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

DC VOTING RIGHTS ACT

Mr. McCONNELL. Mr. President, on a hot September afternoon in 1787, 55 men put away their quills after 4 months of hard work in the Pennsylvania statehouse. The U.S. Constitution was finally finished. One of the delegates read it aloud, and then the oldest man in the room rose to speak.

Benjamin Franklin had seen a lot in his 81 years. Now, pointing to an image of the Sun that was painted onto the back of a chair in the convention hall, he saw something else. That Sun, he said, was rising. It was a hopeful metaphor which was meant to put the nervous delegates at ease. When Franklin finished speaking, everyone left the stuffy convention hall and retired to a local tavern for dinner. And then they all went home.

Two hundred twenty years later to the day, we remember the courage and the wisdom of those 55. And we recommit ourselves to the task of upholding and defending the wise and durable document they wrote. As a political document, the U.S. Constitution is without equal in the history of man. And as its political children, we consider it an honor and a sacred duty to defend it. Doing so today does not involve the risk to life and property that it did back then. But it does require a constant vigilance against anything that would erode it, especially from within the government itself. And this is why I rise.

The senior Senator from West Virginia does his country a great service every time he reminds us of the value and the binding nature of the Constitution. It was he who designated by law 3 years ago that September 17 should be recognized and celebrated as Constitution Day. And so I think it is rather fitting that I should fulfill my duty this week as a guardian of that document by voting against a motion to proceed to a bill that constitutes, in my view, a fundamental assault against it.

The bill itself would grant congressional representation to residents of the District of Columbia. And let me make something very clear to my colleagues, to the citizens of my State, and to the rest of the country from the outset: my opposition should in no way be interpreted as opposition to the enfranchisement of any constitutionally eligible American. As the lead Senate Republican cosponsor of the Help America Vote Act, my commitment to the franchise rights of Americans should be clear to everyone in this Chamber.

I have long fought for making it easier to vote and harder to cheat. The right to vote is fundamental, and I will fight any attempt to dilute or impede that right.

My opposition to this bill rests instead on a single all-important fact: it is clearly and unambiguously unconstitutional. It contravenes what the Framers wrote, what they intended, what the courts have always held, and the way Congress has always acted in the past. And to vote for it would violate our oath of office, in which we solemnly swear to support and defend the Constitution. If the residents of the District are to get a member for themselves, they have a remedy: amend the Constitution. But the Members of this body derive their authority from the Constitution. We are its servants and guardians. And we have no authority to change it on our own.

Amending the Constitution would not be necessary, of course, if the framers had intended the District to be treated as a State for purposes of representation. But they clearly did not. As article 1, section 2, states:

> The House of Representatives shall be composed of Members chosen every second Year by the People of the several States.

That is not ambiguous. Every resident of a State, therefore, is entitled under the Constitution to congressional representation. Yet no similar representation is accorded to the residents of areas that are not so designated. One of these areas, in particular, is mentioned explicitly later on in the same article.

In article 1, section 8, the so-called District clause, the Framers gave Congress power over a new Federal district and any other Federal lands purchased by the Federal Government. Article 1, section 8 states:

> Congress shall have power to lay and collect taxes over such District as may, by cession of particular states, and the acceptance of Congress, become the Seat of Government of the United States and to exercise like authority over all places purchased by the consent of the legislature . . .

The Framers clearly envisioned the Federal city as a separate entity from the States, as an entity they themselves would control. James Madison, the Constitution's primary author, explained why in Federalist 43. The seat of government couldn't be in one of the states, he said, because of the potential benefits that would accrue to that State, either material or in reputation, as a result of that distinction.

Moreover, lawmakers themselves should not be dependent on the good favor of any one State or its residents to carry out their business. A third reason, perhaps even more relevant in a time of terrorist threats, is that the District's independence would allow it to relocate if need be.

So the Framers spelled it out explicitly in the original text. They also explained what they meant. The District of Columbia has been many things: a Federal enclave, a Federal city, even, under President Johnson, a Federal agency. But the District of Columbia has never been a State. And for this reason, according to the Constitution, it does not get congressional representation.

This is not a novel interpretation of the text. The historical record is full of proof that Congress and the courts have always interpreted the Constitution as denying congressional representation to residents of the Federal district. When Congress decided to change the way senators are elected in the early 1900s, they did it the right way, through the amendment process. And consistent with article 1, section 2, this amendment understands as eligible for representation only those Americans who reside in a State.

Half a century later, in 1961, the 23rd amendment was ratified, granting residents of the District the right to vote in Presidential elections. It states:

The District constituting the seat of government of the United States shall appoint in such manner as the Congress may direct . . .

Let me stop right there. The District, you will notice, is referred to here yet again not as a State but as, in the words of the amendment, ''the seat of government.'' It continues:

A number of electors of President and Vice President equal to the whole number of senators and representatives in Congress to which the District would be entitled if it were a state . . .

The language here could not be more explicit: to which the District would be entitled, meaning of course that it is not entitled, and if it were a State, meaning, or course, that it is not a State.

Remember the words of article I, section 2:

The House of Representatives shall be composed of Members chosen every second Year by the People of the several States.

This an old debate. It is as old as the Constitution itself. The Framers were fully aware of the implications of article I, section 2 for the residents of the Federal district. Indeed, one of its original authors, Alexander Hamilton, tried but failed to include congressional representation for residents of the Capital city. The rejection of this proposal by the delegates of the Constitutional Convention clearly shows they knew what they were denying residents of the Federal city.

And again, in the late seventies, Congress passed and the President signed a constitutional amendment giving the District congressional representation. After only 16 States ratified it, it failed. Professor Jonathan Turley of the George Washington Law School gave a valuable history lesson on this issue to the House Judiciary Committee. I commend to my colleagues his testimony on H.R. 1433 on March 14, 2007.

Over the years, many other ideas for securing representation for residents of the District have been proposed. Some have proposed what's known as semi-retrocession, or counting District residents as citizens of Maryland for voting purposes. Another idea was full retrocession, which would simply transfer most of the District to Maryland, just as the western half of the original Federal city was transferred back to Virginia before the Civil War. I will let others argue the relative merits of these other remedies. But let me say it again: the remedy we are currently considering is no remedy at all, according to Constitution. The only way to change the Constitution is to amend it.

The process for doing so is clear. We have done it 27 times. Article V states:

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states . . .

A two-thirds vote in both Houses, ratified by three-fourths of the States. That is the remedy. That is the method the Framers outlined. That is the one we have used every other time we have needed to amend. Any other method to change the Constitution would be, by definition, unconstitutional, which is of course out of the question. The only real question here is whether giving residents of the Federal district the right to vote is a constitutional issue at all. If it isn't, we could confer the right by statute, on our own. If it is, we can't. And in my view, there's no question in looking at the words, the intent of the writers, and the traditional interpretation of the courts and the Congress.

I welcome this debate, because it clarifies the meaning of the Constitution and our lack of authority to change its meaning on our own. If there is a problem, we have a remedy. It may not be the remedy we want. It may not be quick. But it is the remedy we have got. And it is proven to be the most durable one over the years. Indeed, if we were to vote in favor of this bill today, the constitutional tangle we would find ourselves in would throw every subsequent vote decided by the new Members into serious jeopardy.

A Presidential election decided by one or two electoral votes would be nearly impossible to resolve. Better to grant this right on the bedrock of an amendment, as we have always done in the past, beyond the reach of litigators.

If we want to give the residents representation, then we should begin the amendment process. But we cannot, we must not, circumvent the Constitution by arrogating powers to ourselves that it does not give us itself. To do so would be to undermine the law from which all others in this nation derive, the one Lincoln once referred to as the only safeguard of our liberties.

The purpose of the Constitution is to limit, not expand powers. We must always be careful in tampering with that principle. This is the wisdom of the amendment process. Despite the clearly good intentions of the authors of this bill, let's not turn away from a principle that has served us well in remedying injustice in the past.

The question here is not the end we seek, but the means by which it is achieved. And any other means than the one outlined in the Constitution would be by definition unconstitutional.

Let's do what we have always done and follow the Constitution to achieve our good ends. Otherwise, the achievement itself would be unconstitutional. And the supreme law cannot be at war with itself.

The Framers have spoken, prior congresses have spoken, the citizens of the United States have spoken. Now it is time for us, on this Constitution Day, to see the text, listen to these voices, and vote, as we have all sworn, ''to support and defend the Constitution of the United States of America.'' Then we will be able to say with Franklin that the Sun, which lights the way for all of our work in this Chamber, continues even today to rise.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, is the body still in morning business?

The ACTING PRESIDENT pro tempore. The Senate is in morning business, but the Republican time has expired.

Mr. KYL. Mr. President, I ask unanimous consent that I be allowed to proceed in morning business for 10 minutes.

Mr. LEVIN. I have no objection.

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

NOMINATION OF JUDGE MICHAEL MUKASEY

Mr. KYL. Mr. President, I wish to address two topics quickly, and I appreciate the cooperation of the chairman of the Armed Services Committee.

I first wish to speak to the President's announcement this morning that he is going to ask the Senate to confirm Judge Michael Mukasey as the new Attorney General for the United States. I had an occasion to meet with Judge Mukasey this morning, and I have been reading throughout the last several months a great deal of what he has written, particularly on matters of national security and intelligence gathering. I find him to be very thoughtful and a highly qualified person for this position.

I simply wish to make the point to my colleagues that I am looking forward to this confirmation process, first as a member of the Judiciary Committee and then as a matter before the full body.

I think my colleagues will find Judge Mukasey not only highly qualified, being a graduate of Columbia and Yale Law School, but also someone who has an extraordinarily fine reputation on the bench and bar.

After practicing law and serving as a U.S. assistant attorney, Judge Mukasey, nominated by President Ronald Reagan, served 18 distinguished years on the Federal bench in New York as chief of the New York division. During that period of time, he acquired a reputation of the highest order, someone who is tough but fair, someone who is highly respected by his peers and the litigants who appeared before him and, as I said, who has presided over some of the most difficult and high-profile cases to come before the bench, particularly in matters dealing with terrorism.

I am looking forward to the confirmation process. I note that Members on both sides of the aisle have expressed concern that many of the positions in the Attorney General's Office have been vacant. I believe now there

are 9 out of 15 high-level positions in the Department of Justice vacant, including the position of Attorney General. It is clear that we need to get the nominee dealt with as soon as possible.

The average time for confirming an Attorney General is 3½ weeks, and I am hopeful we can use our time wisely to confirm Judge Mukasey within that period of time.

DEFENSE AUTHORIZATION

Mr. KYL. Mr. President, the other topic I wish to address is the subject of the week, the Defense authorization bill, and especially as it relates to the issue of the current ongoing military activity in Iraq. I wish to briefly respond to a couple of comments that have been said recently, particularly comments by General Petraeus and the remarks the President made to us last week.

It seems to me the President said something very important to all of America when he said the success of the surge in Iraq today offers us an opportunity to be united as we have not had for some time. There are people who want us to leave as soon as we can from Iraq. There are people who want us to stay and complete the mission. And what the President said was, regardless of which of these general positions you have supported, there is an opportunity now for us to get together because the reality is that as long as this mission does continue to succeed, we can withdraw more and more troops which, obviously, we would all wish to do. So I hope as time goes on and this surge continues to succeed, we will have the opportunity to continue to withdraw American troops.

I also wish to respond to a couple of comments made about the mission in Iraq because there has been some criticism of the mission and a suggestion that we should change the mission. I wish to make a couple of points.

First, one thing we do not want to do is change the mission by redefining that mission in the Senate based upon what kind of a mission could get 60 votes in the Senate as opposed to what kind of a mission makes sense militarily on the ground. Yet one of our colleagues has even made that point, saying that the mission should be defined to whatever will get 60 votes. That is the wrong thing to do.

The mission should be to secure Iraq, to have a stable country that can be on our side in the war against terror, that has a chance to do what the civilian government there needs to do, and to be secure enough to enable us to withdraw our troops so Iraqi troops can take over. That is the mission.

As the security is being established there, the mission can gradually evolve less to providing security, as that is turned over to Iraqi troops, and more to the continuation of the training of Iraqi troops and focusing on the mission of getting al-Qaida. That clearly is our No. 1 goal there.

But for those who say we can do that with a severely diminished number of troops, General Petraeus himself commented on that point and said you need the combination of troops that we have there today and in fairly large numbers to perform the counterterrorism mission; that it is not simply something you can say we are going to change the mission to one of counterterrorism only and expect you can perform that with just special operations troops.

As he said:

> To do counterterrorism requires conventional as well as all types of special operations forces, and intelligence, surveillance and reconnaissance assets. If the goal is to take away sanctuary from al-Qaeda, Gen. Petraeus said, ''that is something that is not just done by counterterrorist forces per se but . . . by conventional forces as well.''

The point is, those who talk about redefining the mission should be under no illusion that can be done with a different mix of forces than we have right now. It is one of the reasons we are being successful against al-Qaida because we do have the kind of full conventional forces at our disposal that enables us to succeed in that effort.

It will be very dangerous, indeed, for the Senate to define a different mission based on how many votes it could get in the Senate rather than what is necessary on the ground, or, No. 2, to restrict the kind of troops that are available to perform that mission to those that would not succeed. As General Petraeus has pointed out, we need the kind of troops we have there today in order to succeed in the mission we have there.

Finally, the whole question of whether we are going to be in Iraq for a long time, there are some who criticize the prospect of a relationship between the Iraqi Government and the United States Government, as the President discussed in his speech. But the reality is, as he pointed out, the Iraqi leaders have asked for that relationship, and it should be one that we actually support. We need to have a good, strong relationship with another country in the Middle East, a country that can be on our side in the war against the terrorists, that refuses to give sanctuary to the terrorists, and can be a buffer against a nuclear-armed Iran, a fastidious Syria, and others in the region, and whose interests are identical to ours.

This is one reason why it bothers me not in the least that Iraqi leaders would ask to us have an enduring, ongoing relation even after we have pulled out many of our troops, to the point that we may have troops in Iraq for a long time. We have had troops in Germany now for over 60 years, and we have had troops in Korea for over 50 years. There may be a point in having U.S. troops in the region and even in the country of Iraq.

Our hope—and I am sure this is shared by all of us on both sides of the aisle in this body—is that as the troop surge continues to succeed, we can draw down the number of those troops to a point that it is not a strain on the U.S. military and the danger to the troops there is greatly diminished. Clearly, this is the way we seek to resolve our involvement in Iraq.

I hope the President's message, that this offers us an opportunity to be united rather than divided, in fact, comes to pass, because not only would that benefit the people of Iraq, it would help sustain our national security interests and help to bring our country together politically over this most difficult issue as well.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008—Resumed

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of H.R. 1585, which the clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 1585) to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Pending:

> Nelson of Nebraska (for Levin) amendment No. 2011, in the nature of a substitute.
>
> Levin amendment No. 2087 (to amendment No. 2011), to provide for a reduction and transition of United States forces in Iraq.
>
> Reed amendment No. 2088 (to amendment No. 2087), to change the enactment date.
>
> Dodd (for Levin) amendment No. 2274 (to the language proposed to be stricken by amendment No. 2011), to provide for a reduction and transition of United States forces in Iraq.
>
> Levin amendment No. 2275 (to amendment No. 2274), to provide for a reduction and transition of United States forces in Iraq.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. Mr. President, I am pleased the Senate today returns to the consideration of the National Defense Authorization Act for fiscal year 2008. This bill contains important benefits for our men and women in uniform, including pay raises, targeted bonuses and special pays, and benefits. It also includes funding and authorities needed to provide our troops the equipment and support they will need.

Prompt Senate action on this bill will send an important message. Regardless of our position on the war in Iraq, we all support our men and women in uniform. The bill was approved by the Armed Services Committee on a unanimous 25-to-0 vote, and it is my hope it will receive a similarly strong endorsement from the full Senate.

We have a lot of hard work ahead of us before that can happen. As of today,

more than 300 amendments have been filed. We are working hard to clear as many of these amendments as possible, but some amendments will inevitably require votes. Where that is the case, I hope my colleagues will work with us to develop appropriate time agreements that protect the interests of everybody involved while expediting consideration of the bill.

Congress has enacted a Defense Authorization Act every year for more than 40 years. I hope we will build on that record and show our strong support for our soldiers, sailors, airmen, and marines by working together to pass this bill.

On a procedural note, I understand the President signed the Honest Leadership and Open Government Act of 2007 into law on Friday. In accordance with the new rules, I am placing into the RECORD a certification that each congressionally directed item in this bill and the accompanying report has been identified through lists identifying the names of the Senator or Senators requesting the item and that this information has been available on the committee's Web site for more than 48 hours.

In addition, the committee is in the process of collecting a certification from each such Senator that neither the Senator nor the Senator's immediate family has a pecuniary interest in the item, and, again, that is consistent with the requirements of the Senate rules now. In accordance with the requirements of the new rules, we will make these certifications available for public inspection on our Web site as soon as practicable.

Mr. President, I ask unanimous consent to have printed in the RECORD my certification of compliance with the requirements of the Honest Leadership and Open Government Act of 2007.

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

CERTIFICATION OF COMPLIANCE WITH THE REQUIREMENTS OF THE HONEST LEADERSHIP AND OPEN GOVERNMENT ACT OF 2007

SEPTEMBER 17, 2007.

I hereby certify that—

(1) each congressionally directed spending item, limited tax benefit, and limited tariff benefit, if any, in the National Defense Authorization Act for Fiscal Year 2008, as reported by the Committee on Armed Services, has been identified through lists, charts, or other similar means including the name of each Senator who submitted a request to the committee for each item so identified; and

(2) the information described in paragraph (1) has been available on the website of the Committee on Armed Services in a searchable format for more than 48 hours.

CARL LEVIN,
Chairman.

Mr. LEVIN. Mr. President, we are open to amendments. If Senators want to come to the floor now and offer amendments, it will be required we set aside a pending amendment. We are hoping to get unanimous consent to do that. We expect we will be able to get unanimous consent to do that. So Senators who have amendments, if they will come to the floor and discuss and describe their amendments, we will be able to hopefully make some progress, and then at a later time this afternoon hopefully make those amendments in order by a unanimous consent agreement to withdraw the pending second-degree amendment.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

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

(The remarks of Mr. LEAHY are printed in today's RECORD under ''Morning Business.'')

AMENDMENT NO. 2022

Mr. LEAHY. Mr. President, I realize it is not possible, because agreement has not yet been reached, to set aside the pending legislation to bring up the Habeas Corpus Restoration Act as an amendment. As the managers of the bill are not on the floor, I certainly will not take advantage of that and do it. So let me speak about it.

I now am speaking on the National Defense Authorization Act. At an appropriate time, I will bring up amendment No. 2022. I will tell you why I will do this.

Last year, Congress committed an historic mistake by suspending the Great Writ of habeas corpus—not just for those confined at Guantanamo Bay but for millions of legal residents in the United States. The Senate Judiciary Committee's hearing in May on this bill illustrated the broad agreement among representatives from diverse political beliefs and backgrounds that the mistake committed in the Military Commissions Act of 2006 must be corrected. The Habeas Corpus Restoration Act of 2007, S.185, the bill on which this amendment is based, has 30 cosponsors. The Senate Judiciary Committee reported it on a bipartisan basis. I hope Senators will review the committee report on this measure.

Habeas corpus was recklessly undermined in last year's Military Commissions Act. Like the internment of Japanese Americans during World War II, the elimination of habeas rights was an action driven by fear, and it was a stain on America's reputation in the world. This is a time of testing. Future generations will look back to examine the choices we made during a time when security was too often invoked as a watchword to convince us to slacken our defense of liberty and the rule of law.

The Great Writ of habeas corpus is the legal process that guarantees an opportunity to go to court and challenge the abuse of power by the Government. The Military Commissions Act rolled back these protections by eliminating that right, permanently, for any noncitizen labeled an enemy combatant. In fact, a detainee does not have to be found to be an enemy combatant; it is enough for the Government to say someone is ''awaiting'' determination of that status—something detainees cannot even contest when they are held in jail.

The sweep of this habeas provision goes far beyond the few hundred detainees currently held at Guantanamo Bay, and it includes an estimated 12 million lawful permanent residents in the United States today. These are people who work and pay taxes, people who abide by our laws and should be entitled to fair treatment. It is, after all, the American way. It is what we brag about when we go to their countries. But under this law, any of these people can be detained, forever, without any ability to challenge their detention in court.

This is wrong. It is unconstitutional. It is un-American.

Top conservative thinkers, evangelical activists, and prominent members of the Latino community have all spoken out on the need to restore these basic American rights. GEN Colin Powell, like many leading former military and diplomatic officials, has spoken of the importance of these habeas rights. He asked, ''Isn't that what our system's all about?''

Perhaps most powerful for me was the testimony of RADM Donald Guter, who was working in his office in the Pentagon as Judge Advocate General of the Navy on September 11, 2001, and saw firsthand the effects of terrorism. His credibility is unimpeachable when he says that denying habeas rights to detainees endangers our troops and undermines our military efforts.

Admiral Guter testified:

> As we limit the rights of human beings, even those of the enemy, we become more like the enemy. That makes us weaker and imperils our valiant troops, serving not just in Iraq and Afghanistan, but around the globe.

He was right. Whether you are an individual soldier, or a great nation, it is difficult to defend the higher ground by taking the lower road. The world knows what our enemies stand for. The world also knows what this country has tried to stand for and live up to in—the best of times, and the worst of times.

Now, as we work to reauthorize the many programs that compose our valiant armed forces, it is the right time to heed the advice of so many of our top military lawyers who tell us that eliminating basic legal rights undermines our fighting men and women; it does not make them stronger.

I especially want to thank Senator SPECTER and acknowledge his strong and consistent leadership on this issue. Senator SPECTER and I came to this

floor to offer this amendment back on July 10, when this bill was initially being considered, and thereafter. I hope all Senators will now join with us in restoring basic American values and the rule of law, while making our Nation stronger.

It is from strength that America should defend our values and our way of life. It is from the strength of our freedoms, our Constitution, and the rule of law that we shall prevail. I hope all in the Senate, Republicans and Democrats, will join us in standing up for a stronger America, for the America we believe in, and support the Habeas Corpus Restoration Act of 2007.

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

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

The legislative clerk proceeded to call the roll.

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

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

AMENDMENTS NOS. 2174, AS MODIFIED; 2175; 2168; 2108; 2015; 2050; 2120; 2056; 2147; 2047; 2117; 2190; 2199; 2203; 2201; 2200; 2112; 2099; 2212; 2222; 2230, AS MODIFIED; 2234, AS MODIFIED; 2272; 2220; 2276; 2257; 2281; 2250; 2254; 2268; 2292; 2305; 2216; 2309; 2308; 2310; 2617; 2313; 2863; 2282; 2210; 2291; 2096; 2315; 2176; 2326; 2263; 2294; 2277, AS MODIFIED; AND 2862 TO AMENDMENT NO. 2011

Mr. LEVIN. Mr. President, I send a series of amendments to the desk which have been cleared by myself and Senator WARNER. I ask unanimous consent that the Senate consider those amendments en bloc, the amendments be agreed to en bloc, and the motions to reconsider be laid on the table. Finally, I ask unanimous consent to have any statements relating to any of these individual amendments printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. No objection. As a matter of fact, we have worked out in a very satisfactory way each of these amendments.

Mr. LEVIN. Mr. President, I understand there are 50 amendments.

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

The amendments were agreed to, as follows:

AMENDMENT NO. 2174, AS MODIFIED

At the end of subtitle B of title I, add the following:

SEC. 115. GENERAL FUND ENTERPRISE BUSINESS SYSTEM.

(a) ADDITIONAL AMOUNT.—

(1) IN GENERAL.—The amount authorized to be appropriated by section 201(1) for research, development, test and evaluation for the Army is hereby increased by $59,041,000.

(2) AVAILABILITY.—Of the amount authorized to be appropriated by section 201(1) for research, development test and evaluation for the Army, as increased by paragraph (1), $59,041,000 may be available for the General Fund Enterprise Business System of the Army.

(3) SUPPLEMENT NOT SUPPLANT.—The amount available under paragraph (2) for the purpose specified in that paragraph is in addition to any other amounts available in this Act for that purpose.

(b) OFFSET.—

(1) RDTE, ARMY.—The amount authorized to be appropriated by section 101(5) for other procurement for the Army is hereby reduced by $29,219,000, with the amount of the reduction to be allocated to amounts available for the General Fund Enterprise Business System.

(2) O&M, ARMY.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby reduced by $29,822,000, with the amount of the reduction to be allocated to amounts available for the General Fund Enterprise Business System.

AMENDMENT NO. 2175

(Purpose: To modify the requirements on the Defense Science Board Review of Department of Defense policies and procedures for the acquisition of information technology)

On page 246, strike lines 4 through 6 and insert the following:

(G) the information officers of the Defense Agencies; and

(H) the Director of Operational Test and Evaluation and the heads of the operational test organizations of the military departments and the Defense Agencies.

On page 247, between lines 7 and 8, insert the following:

(9) The adequacy of operational and development test resources (including infrastructure and personnel), policies, and procedures to ensure appropriate testing of information technology systems both during development and before operational use.

(10) The appropriate policies and procedures for technology assessment, development, and operational testing for purposes of the adoption of commercial technologies into information technology systems.

AMENDMENT NO. 2168

(Purpose: To express the sense of Congress on the procurement program for the KC–X tanker aircraft)

At the end of subtitle D at title I, add the following:

SEC. 143. SENSE OF CONGRESS ON THE PROCUREMENT PROGRAM FOR THE KC–X TANKER AIRCRAFT.

(a) FINDINGS.—Congress makes the following findings:

(1) Aerial refueling is a critically important force multiplier for the Air Force.

(2) The KC-X tanker aircraft procurement program is the number one acquisition and recapitalization priority of the Air Force.

(3) Given the competing budgetary requirements of the other Armed Forces and other sectors of the Federal Government, the Air Force needs to modernize at the most cost effective price.

(4) Competition in defense procurement provides the Armed Forces with the best products at the best price.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Air Force should—

(1) hold a full and open competition to choose the best possible joint aerial refueling capability at the most reasonable price; and

(2) be discouraged from taking any actions that would limit the ability of either of the teams seeking the contract for the procurement of KC-X tanker aircraft from competing for that contract.

AMENDMENT NO. 2108

(Purpose: To require a report on the planning and implementation of the policy of the United States toward Darfur)

At the end of title XII, add the following:

SEC. 1205. REPORT ON PLANNING AND IMPLEMENTATION OF UNITED STATES ENGAGEMENT AND POLICY TOWARD DARFUR.

(a) REQUIREMENT FOR REPORTS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense and the Secretary of State shall submit to the appropriate congressional committees a report on the policy of the United States to address the crisis in Darfur, in eastern Chad, and in north-eastern Central African Republic, and on the contributions of the Department of Defense and the Department of State to the North Atlantic Treaty Organization (NATO), the United Nations, and the African Union in support of the current African Union Mission in Sudan (AMIS) or any covered United Nations mission.

(b) ELEMENTS.—Each report under subsection (a) shall include the following:

(1) An assessment of the extent to which the Government of Sudan is in compliance with its obligations under international law and as a member of the United Nations, including under United Nations Security Council Resolutions 1706 (2006) and 1591 (2005), and a description of any violations of such obligations, including violations relating to the denial of or delay in facilitating access by AMIS and United Nations peacekeepers to conflict areas, failure to implement responsibilities to demobilize and disarm the Janjaweed militias, obstruction of the voluntary safe return of internally displaced persons and refugees, and degradation of security of and access to humanitarian supply routes.

(2) A comprehensive explanation of the policy of the United States to address the crisis in Darfur, including the activities of the Department of Defense and the Department of State.

(3) A comprehensive assessment of the impact of a no-fly zone for Darfur, including an assessment of the impact of such a no-fly zone on humanitarian efforts in Darfur and the region and a plan to minimize any negative impact on such humanitarian efforts during the implementation of such a no-fly zone.

(4) A description of contributions made by the Department of Defense and the Department of State in support of NATO assistance to AMIS and any covered United Nations mission.

(5) An assessment of the extent to which additional resources are necessary to meet the obligations of the United States to AMIS and any covered United Nations mission.

(c) FORM AND AVAILABILITY OF REPORTS.—

(1) FORM.—Each report submitted under this section shall be in an unclassified form, but may include a classified annex.

(2) AVAILABILITY.—The unclassified portion of any report submitted under this section shall be made available to the public.

(d) REPEAL OF SUPERSEDED REPORT REQUIREMENT.—Section 1227 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2426) is repealed.

(e) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives.

(2) COVERED UNITED NATIONS MISSION.—The term ''covered United Nations mission'' means any United Nations-African Union hybrid peacekeeping operation in Darfur, and any United Nations peacekeeping operating in Darfur, eastern Chad, or northern Central

African Republic, that is deployed on or after the date of the enactment of this Act.

AMENDMENT NO. 2015

(Purpose: To provide for additional members on the Department of Defense Military Family Readiness Council)

On page 107, between lines 16 and 17, insert the following:

''(D) In addition to the members appointed under subparagraphs (B) and (C), eight individuals appointed by the Secretary of Defense, of whom—

''(i) one shall be a commissioned officer of the Army or spouse of a commissioned officer of the Army, and one shall be an enlisted member of the Army or spouse of an enlisted member of the Army, except that of the individuals appointed under this clause at any particular time, one shall be a member of the Army and the other shall be a spouse of a member of the Army;

''(ii) one shall be a commissioned officer of the Navy or spouse of a commissioned officer of the Navy, and one shall be an enlisted member of the Navy or spouse of an enlisted member of the Navy, except that of the individuals appointed under this clause at any particular time, one shall be a member of the Navy and the other shall be a spouse of a member of the Navy;

''(iii) one shall be a commissioned officer of the Marine Corps or spouse of a commissioned officer of the Marine Corps, and one shall be an enlisted member of the Marine Corps or spouse of an enlisted member of the Marine Corps, except that of the individuals appointed under this clause at any particular time, one shall be a member of the Marine Corps and the other shall be a spouse of a member of the Marine Corps; and

''(iv) one shall be a commissioned officer of the Air Force or spouse of a commissioned officer of the Air Force, and one shall be an enlisted member of the Air Force or spouse of an enlisted member of the Air Force, except that of the individuals appointed under this clause at any particular time, one shall be a member of the Air Force and the other shall be a spouse of a member of the Air Force.''.

AMENDMENT NO. 2050

(Purpose: To require a report on surveys of patient satisfaction at military treatment facilities)

At the end of title VII, add the following:

SEC. 703. REPORT ON PATIENT SATISFACTION SURVEYS.

(a) REPORT REQUIRED.—Not later than March 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the ongoing patient satisfaction surveys taking place in Department of Defense inpatient and outpatient settings at military treatment facilities.

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

(1) The types of survey questions asked.

(2) How frequently the surveying is conducted.

(3) How often the results are analyzed and reported back to the treatment facilities.

(4) To whom survey feedback is made available.

(5) How best practices are incorporated for quality improvement.

(6) An analysis of the impact and effect of inpatient and outpatient surveys quality improvement and a comparison of patient satisfaction survey programs with patient satisfaction survey programs used by other public and private health care systems and organizations.

(c) USE OF REPORT INFORMATION.—The Secretary shall use information in the report as the basis for a plan for improvements in patient satisfaction surveys at health care at military treatment facilities in order to ensure the provision of high quality healthcare and hospital services in such facilities.

AMENDMENT NO. 2120

(Purpose: To require an additional element in the management plan for the Joint Improvised Explosive Device Defeat Fund)

On page 415, between lines 2 and 3, insert the following:

(C) activities for the coordination of research technology development and concepts of operations on improvised explosive defeat with the military departments, the Defense Agencies, the combatant commands, the Department of Homeland Security, and other appropriate departments and agencies of the Federal Government.

AMENDMENT NO. 2056

(Purpose: To provide support and assistance for families of members of the Armed Forces who are undergoing deployment)

At the end of subtitle G of title V, add the following:

SEC. 583. FAMILY SUPPORT FOR FAMILIES OF MEMBERS OF THE ARMED FORCES UNDERGOING DEPLOYMENT, INCLUDING NATIONAL GUARD AND RESERVE PERSONNEL.

(a) FAMILY SUPPORT.—

(1) IN GENERAL.—The Secretary of Defense shall enhance and improve current programs of the Department of Defense to provide family support for families of deployed members of the Armed Forces, including deployed members of the National Guard and Reserve, in order to improve the assistance available for families of such members before, during, and after their deployment cycle.

(2) SPECIFIC ENHANCEMENTS.—In enhancing and improving programs under paragraph (1), the Secretary shall enhance and improve the availability of assistance to families of members of the Armed Forces, including members of the National Guard and Reserve, including assistance in—

(A) preparing and updating family care plans;

(B) securing information on health care and mental health care benefits and services and on other community resources;

(C) providing referrals for—

(i) crisis services; and

(ii) marriage counseling and family counseling; and

(D) financial counseling.

(b) POST-DEPLOYMENT ASSISTANCE FOR SPOUSES AND PARENTS OF RETURNING MEMBERS.—

(1) IN GENERAL.—The Secretary of Defense shall provide spouses and parents of members of the Armed Forces, including members of the National Guard and Reserve, who are returning from deployment assistance in—

(A) understanding issues that arise in the readjustment of such members—

(i) for members of the National Guard and Reserve, to civilian life; and

(ii) for members of the regular components of the Armed Forces, to military life in a non-combat environment;

(B) identifying signs and symptoms of mental health conditions; and

(C) encouraging such members and their families in seeking assistance for such conditions.

(2) INFORMATION ON AVAILABLE RESOURCES.—In providing assistance under paragraph (1), the Secretary shall provide information on local resources for mental health services, family counseling services, or other appropriate services, including services available from both military providers of such services and community-based providers of such services.

(3) TIMING.—The Secretary shall provide resources under paragraph (1) to a member of the Armed Forces approximately six months after the date of the return of such member from deployment.

SEC. 584. SUPPORT SERVICES FOR CHILDREN, INFANTS, AND TODDLERS OF MEMBERS OF THE ARMED FORCES UNDERGOING DEPLOYMENT, INCLUDING NATIONAL GUARD AND RESERVE PERSONNEL.

(a) ENHANCEMENT OF SUPPORT SERVICES FOR CHILDREN.—The Secretary of Defense shall—

(1) provide information to parents and other caretakers of children, including infants and toddlers, who are deployed members of the Armed Forces to assist such parents and caretakers in responding to the adverse implications of such deployment (and the death or injury of such members during such deployment) for such children, including the role such parents and caretakers can play in addressing and mitigating such implications;

(2) develop programs and activities to increase awareness throughout the military and civilian communities of the potential adverse implications of such deployment (including the death or injury of such members during such deployment) for such children and their families and to increase collaboration within such communities to address and mitigate such implications;

(3) develop training for early childhood education, child care, mental health, health care, and family support professionals to enhance the awareness of such professionals of their role in assisting families in addressing and mitigating the potential adverse implications of such deployment (including the death or injury of such members during such deployment) for such children; and

(4) conduct or sponsor research on best practices for building psychological and emotional resiliency in such children in coping with the deployment of such members.

(b) REPORTS.—

(1) REPORTS REQUIRED.—At the end of the 18-month period beginning on the date of the enactment of this Act, and at the end of the 36-month period beginning on that date, the Secretary of Defense shall submit to Congress a report on the services provided under subsection (a).

(2) ELEMENTS.—Each report under paragraph (1) shall include the following:

(A) An assessment of the extent to which outreach to parents and other caretakers of children, or infants and toddlers, as applicable, of members of the Armed Forces was effective in reaching such parents and caretakers and in mitigating any adverse effects of the deployment of such members on such children or infants and toddlers.

(B) An assessment of the effectiveness of training materials for education, mental health, health, and family support professionals in increasing awareness of their role in assisting families in addressing and mitigating the adverse effects on children, or infants and toddlers, of the deployment of deployed members of the Armed Forces, including National Guard and Reserve personnel.

(C) A description of best practices identified for building psychological and emotional resiliency in children, or infants and toddlers, in coping with the deployment of deployed members of the Armed Forces, including National Guard and Reserve personnel.

(D) A plan for dissemination throughout the military departments of the most effective practices for outreach, training, and building psychological and emotional resiliency in the children of deployed members.

AMENDMENT NO. 2147

(Purpose: To authorize the Air University to confer additional academic degrees)

At the end of subtitle D of title V, add the following:

SEC. 555. AUTHORITY OF THE AIR UNIVERSITY TO CONFER ADDITIONAL ACADEMIC DEGREES.

Section 9317(a) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

''(5) The degree of doctor of philosophy in strategic studies upon graduates of the School of Advanced Airpower Studies who fulfill the requirements for that degree in manner consistent with the guidelines of the Department of Education and the principles of the regional accrediting body for Air University.

''(6) The degree of master of air, space, and cyberspace studies upon graduates of Air University who fulfill the requirements for that degree in a manner consistent with the recommendations of the Department of Education and the principles of the regional accrediting body for Air University.

''(7) The degree of master of flight test engineering science upon graduates of the Air Force Test Pilot School who fulfill the requirements for that degree in a manner consistent with the recommendations of the Department of Education and the principles of the regional accrediting body for Air University.''.

AMENDMENT NO. 2047

(Purpose: To specify additional individuals eligible to transportation for survivors of deceased members)

At the end of subtitle D of title VI, add the following:

SEC. 656. ADDITIONAL INDIVIDUALS ELIGIBLE FOR TRANSPORTATION FOR SURVIVORS OF DECEASED MEMBERS TO ATTEND THE MEMBER'S BURIAL CEREMONIES.

Section 411f(c) of title 37, United States Code, is amended—

(1) in paragraph (1) by adding at the end the following new subparagraphs:

''(D) Any child of the parent or parents of the deceased member who is under the age of 18 years if such child is attending the burial ceremony of the memorial service with the parent or parents and would otherwise be left unaccompanied by the parent or parents.

''(E) The person who directs the disposition of the remains of the deceased member under section 1482(c) of title 10, or, in the case of a deceased member whose remains are commingled and buried in a common grave in a national cemetery, the person who have been designated under such section to direct the disposition of the remains if individual identification had been made.''; and

(2) in paragraph (2), by striking ''may be provided to—'' and all that follows through the end and inserting ''may be provided to up to two additional persons closely related to the deceased member who are selected by the person referred to in paragraph (1)(E).''.

AMENDMENT NO. 2117

(Purpose: To revise the authorized variances on end strengths authorized for Selected reserve personnel)

At the end of subtitle B of title IV, add the following:

SEC. 416. REVISION OF AUTHORIZED VARIANCES IN END STRENGTHS FOR SELECTED RESERVE PERSONNEL.

(a) INCREASE.—Section 115(f)(3) of title 10, United States Code, is amended by striking ''2 percent'' and inserting ''3 percent''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2007, and shall apply with respect to fiscal years beginning on or after that date.

AMENDMENT NO. 2190

(Purpose: To designate the positions of Principal Military Deputy to the Assistant Secretaries of the military departments for acquisition matters as critical acquisition positions)

On page 269, line 20, insert after ''management.'' the following: ''The position of Principal Deputy shall be designated as a critical acquisition position under section 1733 of this title.''.

On page 270, line 10, insert after ''management.'' the following: ''The position of Principal Deputy shall be designated as a critical acquisition position under section 1733 of this title.''.

On page 270, line 23, insert after ''management.'' the following: ''The position of Principal Deputy shall be designated as a critical acquisition position under section 1733 of this title.''.

AMENDMENT NO. 2199

(Purpose: To require a Comptroller General assessment of the Defense Experimental Program to Stimulate Competitive Research)

At the end of subtitle D of title II, add the following:

SEC. 256. COMPTROLLER GENERAL ASSESSMENT OF THE DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

(a) REVIEW.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on Armed Services of the Senate and the House of Representatives an assessment of the effectiveness of the Defense Experimental Program to Stimulate Competitive Research.

(b) ASSESSMENT.—The report under subsection (a) shall include the following:

(1) A description and assessment of the tangible results and progress toward the objectives of the program, including—

(A) an identification of any past program activities that led to, or were fundamental to, applications used by, or supportive of, operational users; and

(B) an assessment of whether the program has expanded the national research infrastructure.

(2) An assessment whether the activities undertaken under the program are consistent with the statute authorizing the program.

(3) An assessment whether the various elements of the program, such as structure, funding, staffing, project solicitation and selection, and administration, are working effectively and efficiently to support the effective execution of the program.

(4) A description and assessment of past and ongoing activities of State planning committees under the program in supporting the achievement of the objectives of the program.

(5) An analysis of the advantages and disadvantages of having an institution-based formula for qualification to participate in the program when compared with the advantages and disadvantages of having a State-based formula for qualification to participate in supporting defense missions and the objective of expanding the Nation's defense research infrastructure.

(6) An identification of mechanisms for improving the management and implementation of the program, including modification of the statute authorizing the program, Department regulations, program structure, funding levels, funding strategy, or the activities of the State committees.

(7) Any other matters the Comptroller General considers appropriate.

AMENDMENT NO. 2203

(Purpose: To express the sense of Congress on family care plans and the deployment of members of the Armed Forces who have minor dependents)

At the end of title X, add the following:

SEC. 1070. SENSE OF CONGRESS ON FAMILY CARE PLANS AND THE DEPLOYMENT OF MEMBERS OF THE ARMED FORCES WHO HAVE MINOR DEPENDENTS.

(a) IN GENERAL.—It is the sense of Congress that—

(1) single parents who are members of the Armed Forces with minor dependents, and dual-military couples with minor dependents, should develop and maintain effective family care plans that—

(A) address all reasonably foreseeable situations that would result in the absence of the single parent or dual-military couple in order to provide for the efficient transfer of responsibility for the minor dependents to an alternative caregiver; and

(B) are consistent with Department of Defense Instruction 1342.19, dated July 13, 1992, and any applicable regulations of the military department concerned; and

(2) the Secretary of Defense should establish procedures to ensure that if a single parent and both spouses in a dual-military couple are required to deploy to a covered area—

(A) requests by the single parent or dual-military couple for deferments of deployment due to unforeseen circumstances are evaluated rapidly; and

(B) appropriate steps are taken to ensure adequate care for minor dependents of the single parent or dual-military couple.

(b) DEFINITIONS.—In this section:

(1) COVERED AREA.—The term ''covered area'' means an area for which special pay for duty subject to hostile fire or imminent danger is authorized under section 310 of title 37, United States Code.

(2) DUAL-MILITARY COUPLE.—The term ''dual-military couple'' means a married couple in which both spouses are members of the Armed Forces.

AMENDMENT NO. 2201

(Purpose: To amend the American Servicemembers' Protection Act of 2002 to repeal the limitations on providing United States military assistance to parties to the International Criminal Court)

At the end of subtitle A of title XII, add the following:

SEC. 1205. REPEAL OF LIMITATIONS ON MILITARY ASSISTANCE UNDER THE AMERICAN SERVICEMEMBERS' PROTECTION ACT OF 2002.

(a) REPEAL OF LIMITATIONS.—Section 2007 of the American Servicemembers' Protection Act of 2002 (22 U.S.C. 7426) is repealed.

(b) CONFORMING AMENDMENTS.—Such Act is further amended—

(1) in section 2003 (22 U.S.C. 7422)—

(A) in subsection (a)—

(i) in the heading, by striking ''SECTIONS 5 AND 7'' and inserting ''SECTION 2005''; and

(ii) by striking ''sections 2005 and 2007'' and inserting ''section 2005'';

(B) in subsection (b)—

(i) in the heading, by striking ''SECTIONS 5 AND 7'' and inserting ''SECTION 2005''; and

(ii) by striking ''sections 2005 and 2007'' and inserting ''section 2005'';

(C) in subsection (c)(2)(A), by striking ''sections 2005 and 2007'' and inserting ''section 2005'';

(D) in subsection (d), by striking ''sections 2005 and 2007'' and inserting ''section 2005''; and

(E) in subsection (e), by striking ''2006, and 2007'' and inserting ''and 2006''; and

(2) in section 2013 (22 U.S.C. 7432), by striking paragraph (13).

AMENDMENT NO. 2200

(Purpose: To prescribe that members of the Armed Forces and veterans out of uniform may render the military salute during hoisting, lowering, or passing of flag)

At the end of subtitle E of title X, add the following:

SEC. 1070. CONDUCT BY MEMBERS OF THE ARMED FORCES AND VETERANS OUT OF UNIFORM DURING HOISTING, LOWERING, OR PASSING OF FLAG.

Section 9 of title 4, United States Code, is amended by striking ''all persons present'' and all that follows through the end and inserting ''those present in uniform should render the military salute. Members of the Armed Forces and veterans who are present but not in uniform may render the military salute. All other persons present should face the flag and stand at attention with their right hand over the heart, or if applicable, remove their headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Citizens of other countries should stand at attention. All such conduct toward the flag in a moving column should be rendered at the moment the flag passes.''.

AMENDMENT NO. 2112

(Purpose: To require studies on support services for families of members of the Active and Reserve components who are undergoing deployment)

At the end of subtitle G of title V, add the following:

SEC. 583. STUDY ON IMPROVING SUPPORT SERVICES FOR CHILDREN, INFANTS, AND TODDLERS OF MEMBERS OF THE ACTIVE AND RESERVE COMPONENTS UNDERGOING DEPLOYMENT.

(a) STUDY REQUIRED.—

(1) STUDY.—The Secretary of Defense shall conduct a study to evaluate the feasibility and advisability of entering into a contract or other agreement with a private sector entity having expertise in the health and well-being of families and children, infants, and toddlers in order to enhance and develop support services for children of members of the Active and Reserve components who are deployed.

(2) TYPES OF SUPPORT SERVICES.—In conducting the study, the Secretary shall consider the need—

(A) to develop materials for parents and other caretakers of children of members of the Active and Reserve components who are deployed to assist such parents and caretakers in responding to the adverse implications of such deployment (and the death or injury of such members during such deployment) for such children, including the role such parents and caretakers can play in addressing and mitigating such implications;

(B) to develop programs and activities to increase awareness throughout the military and civilian communities of the adverse implications of such deployment (and the death or injury of such members during such deployment) for such children and their families and to increase collaboration within such communities to address and mitigate such implications;

(C) to develop training for early child care and education, mental health, health care, and family support professionals to enhance the awareness of such professionals of their role in assisting families in addressing and mitigating the adverse implications of such deployment (and the death or injury of such members during such deployment) for such children; and

(D) to conduct research on best practices for building psychological and emotional resiliency in such children in coping with the deployment of such members.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing the results of the study conducted under subsection (a).

SEC. 584. STUDY ON ESTABLISHMENT OF PILOT PROGRAM ON FAMILY-TO-FAMILY SUPPORT FOR FAMILIES OF DEPLOYED MEMBERS OF THE ACTIVE AND RESERVE COMPONENTS AND RESERVE.

(a) STUDY.—The Secretary of Defense shall carry out a study to evaluate the feasibility and advisability of establishing a pilot program on family-to-family support for families of deployed members of the Active and Reserve components. The study shall include an assessment of the following:

(1) The effectiveness of family-to-family support programs in—

(A) providing peer support for families of deployed members of the Active and Reserve components;

(B) identifying and preventing family problems in such families;

(C) reducing adverse outcomes for children of such families, including poor academic performance, behavioral problems, stress, and anxiety; and

(D) improving family readiness and post-deployment transition for such families.

(2) The feasibility and advisability of utilizing spouses of members of the Armed Forces as counselors for families of deployed members of the Active and Reserve components, in order to assist such families in coping throughout the deployment cycle.

(3) Best practices for training spouses of members of the Armed Forces to act as counselors for families of deployed members of the Active and Reserve components.

(b) REPORT.—The Secretary of Defense shall submit to Congress a report containing the results of the study conducted under subsection (a) not later than 180 days after the date of the enactment of this Act.

AMENDMENT NO. 2099

(Purpose: To extend the date on which the National Security Personnel System will first apply to certain defense laboratories)

On page 354, after line 24, add the following:

SEC. 1070. EXTENSION OF DATE OF APPLICATION OF NATIONAL SECURITY PERSONNEL SYSTEM TO DEFENSE LABORATORIES.

Section 9902(c)(1) of title 5, United States Code, is amended by striking ''October 1, 2008'' each place such term appears and inserting ''October 1, 2011'' in each such place.

AMENDMENT NO. 2212

(Purpose: To authorize the Secretary of Defense to provide for the protection of certain individuals)

At the end of title X, add the following:

SEC. 1070. PROTECTION OF CERTAIN INDIVIDUALS.

(a) PROTECTION FOR DEPARTMENT LEADERSHIP.—The Secretary of Defense, under regulations prescribed by the Secretary and in accordance with guidelines approved by the Secretary and the Attorney General, may authorize qualified members of the Armed Forces and qualified civilian employees of the Department of Defense to provide physical protection and security within the United States to the following persons who, by nature of their positions, require continuous security and protection:

(1) Secretary of Defense.

(2) Deputy Secretary of Defense.

(3) Chairman of the Joint Chiefs of Staff.

(4) Vice Chairman of the Joint Chiefs of Staff.

(5) Secretaries of the military departments.

(6) Chiefs of the Services.

(7) Commanders of combatant commands.

(b) PROTECTION FOR ADDITIONAL PERSONNEL.—

(1) AUTHORITY TO PROVIDE.—The Secretary of Defense, under regulations prescribed by the Secretary and in accordance with guidelines approved by the Secretary and the Attorney General, may authorize qualified members of the Armed Forces and qualified civilian employees of the Department of Defense to provide physical protection and security within the United States to individuals other than individuals described in paragraphs (1) through (7) of subsection (a) if the Secretary determines that such protection is necessary because—

(A) there is an imminent and credible threat to the safety of the individual for whom protection is to be provided; or

(B) compelling operational considerations make such protection essential to the conduct of official Department of Defense business.

(2) PERSONNEL.—Individuals authorized to receive physical protection and security under this subsection include the following:

(A) Any official, military member, or employee of the Department of Defense, including such a former or retired official who faces serious and credible threats arising from duties performed while employed by the Department.

(B) Any distinguished foreign visitor to the United States who is conducting official business with the Department of Defense.

(C) Any member of the immediate family of a person authorized to receive physical protection and security under this section.

(3) LIMITATION ON DELEGATION.—The authority of the Secretary of Defense to authorize the provision of physical protection and security under this subsection may be delegated only to the Deputy Secretary of Defense.

(4) REQUIREMENT FOR WRITTEN DETERMINATION.—A determination of the Secretary of Defense to provide physical protection and security under this subsection shall be in writing, shall be based on a threat assessment by an appropriate law enforcement, security or intelligence organization, and shall include the name and title of the officer, employee, or other individual affected, the reason for such determination, and the duration of the authorized protection and security for such officer, employee, or individual.

(5) DURATION OF PROTECTION.—

(A) INITIAL PERIOD OF PROTECTION.—After making a written determination under paragraph (4), the Secretary of Defense may provide protection and security to an individual under this subsection for an initial period of not more than 90 calendar days.

(B) SUBSEQUENT PERIOD.—If, at the end of the 90-day period that protection and security is provided to an individual under subsection (A), the Secretary determines that a condition described in subparagraph (A) or (B) of paragraph (1) continues to exist with respect to the individual, the Secretary may extend the period that such protection and security is provided for additional 60-day periods. The Secretary shall review such a determination at the end of each 60-day period to determine whether to continue to provide such protection and security.

(C) REQUIREMENT FOR COMPLIANCE WITH REGULATIONS.—Protection and security provided under subparagraph (B) shall be provided in accordance with the regulations and guidelines referred to in paragraph (1).

(6) SUBMISSION TO CONGRESS.—

(A) IN GENERAL.—The Secretary of Defense shall submit to the congressional defense committees a report of each determination made under paragraph (4) to provide protection and security to an individual and of each determination under paragraph (5)(B) to

extend such protection and security, together with the justification for such determination, not later than 30 days after the date on which the determination is made.

(B) FORM OF REPORT.—A report submitted under subparagraph (A) may be made in classified form.

(c) DEFINITIONS.—In this section:

(1) CONGRESSIONAL DEFENSE COMMITTEES.—The term ''congressional defense committees'' means the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives.

(2) QUALIFIED MEMBERS OF THE ARMED FORCES AND QUALIFIED CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.—The terms ''qualified members of the Armed Forces and qualified civilian employees of the Department of Defense'' refer collectively to members or employees who are assigned to investigative, law enforcement, or security duties of any of the following:

(A) The U.S. Army Criminal Investigation Command.

(B) The Naval Criminal Investigative Service.

(C) The U.S. Air Force Office of Special Investigations.

(D) The Defense Criminal Investigative Service.

(E) The Pentagon Force Protection Agency.

(d) CONSTRUCTION.—

(1) NO ADDITIONAL LAW ENFORCEMENT OR ARREST AUTHORITY.—Other than the authority to provide security and protection under this section, nothing in this section may be construed to bestow any additional law enforcement or arrest authority upon the qualified members of the Armed Forces and qualified civilian employees of the Department of Defense.

(2) AUTHORITIES OF OTHER DEPARTMENTS.—Nothing in this section may be construed to preclude or limit, in any way, the express or implied powers of the Secretary of Defense or other Department of Defense officials, or the duties and authorities of the Secretary of State, the Director of the United States Secret Service, the Director of the United States Marshals Service, or any other Federal law enforcement agency.

AMENDMENT NO. 2222

(Purpose: To prevent nuclear terrorism, and for other purposes)

At the end of title XXXI, add the following:

Subtitle D—Nuclear Terrorism Prevention

SEC. 3131. DEFINITIONS.

In this subtitle:

(1) The term ''Convention on the Physical Protection of Nuclear Material'' means the Convention on the Physical Protection of Nuclear Material, signed at New York and Vienna March 3, 1980.

(2) The term ''formula quantities of strategic special nuclear material'' means uranium–235 (contained in uranium enriched to 20 percent or more in the U–235 isotope), uranium–233, or plutonium in any combination in a total quantity of 5,000 grams or more computed by the formula, grams = (grams contained U–235) + 2.5 (grams U–233 + grams plutonium), as set forth in the definitions of ''formula quantity'' and ''strategic special nuclear material'' in section 73.2 of title 10, Code of Federal Regulations.

(3) The term ''Nuclear Non-Proliferation Treaty'' means the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (21 UST 483).

(4) The term ''nuclear weapon'' means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for the development of, a weapon, a weapon prototype, or a weapon test device.

SEC. 3132. FINDINGS.

Congress makes the following findings:

(1) The possibility that terrorists may acquire and use a nuclear weapon against the United States is the most horrific threat that our Nation faces.

(2) The September 2006 ''National Strategy for Combating Terrorism'' issued by the White House states, ''Weapons of mass destruction in the hands of terrorists is one of the gravest threats we face.''

(3) Former Senator and cofounder of the Nuclear Threat Initiative Sam Nunn has stated, ''Stockpiles of loosely guarded nuclear weapons material are scattered around the world, offering inviting targets for theft or sale. We are working on this, but I believe that the threat is outrunning our response.''.

(4) Existing programs intended to secure, monitor, and reduce nuclear stockpiles, redirect nuclear scientists, and interdict nuclear smuggling have made substantial progress, but additional efforts are needed to reduce the threat of nuclear terrorism as much as possible.

(5) Former United Nations Secretary-General Kofi Annan has said that a nuclear terror attack ''would not only cause widespread death and destruction, but would stagger the world economy and thrust tens of millions of people into dire poverty''.

(6) United Nations Security Council Resolution 1540 (2004) reaffirms the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts, and directs all countries, in accordance with their national procedures, to adopt and enforce effective laws that prohibit any non-state actor from manufacturing, acquiring, possessing, developing, transporting, transferring, or using nuclear, chemical, or biological weapons and their means of delivery, in particular for terrorist purposes, and to prohibit attempts to engage in any of the foregoing activities, participate in them as an accomplice, or assist or finance them.

(7) The Director General of the International Atomic Energy Agency, Dr. Mohammed ElBaradei, has said that it is a ''race against time'' to prevent a terrorist attack using a nuclear weapon.

(8) The International Atomic Energy Agency plays a vital role in coordinating efforts to protect nuclear materials and to combat nuclear smuggling.

(9) Legislation sponsored by Senator Richard Lugar, Senator Pete Domenici, and former Senator Sam Nunn has resulted in groundbreaking programs to secure nuclear weapons and materials and to help ensure that such weapons and materials do not fall into the hands of terrorists.

SEC. 3133. SENSE OF CONGRESS ON THE PREVENTION OF NUCLEAR TERRORISM.

It is the sense of Congress that—

(1) the President should make the prevention of a nuclear terrorist attack on the United States of the highest priority;

(2) the President should accelerate programs, requesting additional funding as appropriate, to prevent nuclear terrorism, including combating nuclear smuggling, securing and accounting for nuclear weapons, and eliminating, removing, or securing and accounting for formula quantities of strategic special nuclear material wherever such quantities may be;

(3) the United States, together with the international community, should take a comprehensive approach to reducing the danger of nuclear terrorism, including by making additional efforts to identify and eliminate terrorist groups that aim to acquire nuclear weapons, to ensure that nuclear weapons worldwide are secure and accounted for and that formula quantities of strategic special nuclear material worldwide are eliminated, removed, or secure and accounted for to a degree sufficient to defeat the threat that terrorists and criminals have shown they can pose, and to increase the ability to find and stop terrorist efforts to manufacture nuclear explosives or to transport nuclear explosives and materials anywhere in the world;

(4) within such a comprehensive approach, a high priority must be placed on ensuring that all nuclear weapons worldwide are secure and accounted for and that all formula quantities of strategic special nuclear material worldwide are eliminated, removed, or secure and accounted for; and

(5) the International Atomic Energy Agency should be funded appropriately to fulfill its role in coordinating international efforts to protect nuclear material and to combat nuclear smuggling.

SEC. 3134. MINIMUM SECURITY STANDARD FOR NUCLEAR WEAPONS AND FORMULA QUANTITIES OF STRATEGIC SPECIAL NUCLEAR MATERIAL.

(a) POLICY.—It is the policy of the United States to work with the international community to take all possible steps to ensure that all nuclear weapons around the world are secure and accounted for and that all formula quantities of strategic special nuclear material are eliminated, removed, or secure and accounted for to a level sufficient to defeat the threats posed by terrorists and criminals.

(b) INTERNATIONAL NUCLEAR SECURITY STANDARD.—In furtherance of the policy described in subsection (a), and consistent with the requirement for ''appropriate effective'' physical protection contained in United Nations Security Council Resolution 1540 (2004), as well as the Nuclear Non-Proliferation Treaty and the Convention on the Physical Protection of Nuclear Material, the President, in consultation with relevant Federal departments and agencies, shall seek the broadest possible international agreement on a global standard for nuclear security that—

(1) ensures that nuclear weapons and formula quantities of strategic special nuclear material are secure and accounted for to a sufficient level to defeat the threats posed by terrorists and criminals;

(2) takes into account the limitations of equipment and human performance; and

(3) includes steps to provide confidence that the needed measures have in fact been implemented.

(c) INTERNATIONAL EFFORTS.—In furtherance of the policy described in subsection (a), the President, in consultation with relevant Federal departments and agencies, shall—

(1) work with other countries and the International Atomic Energy Agency to assist as appropriate, and if necessary, work to convince, the governments of any and all countries in possession of nuclear weapons or formula quantities of strategic special nuclear material to ensure that security is upgraded to meet the standard described in subsection (b) as rapidly as possible and in a manner that—

(A) accounts for the nature of the terrorist and criminal threat in each such country; and

(B) ensures that any measures to which the United States and any such country agree are sustained after United States and other international assistance ends;

(2) ensure that United States financial and technical assistance is available as appropriate to countries for which the provision of such assistance would accelerate the implementation of, or improve the effectiveness of, such security upgrades; and

(3) work with the governments of other countries to ensure that effective nuclear security rules, accompanied by effective regulation and enforcement, are put in place to govern all nuclear weapons and formula quantities of strategic special nuclear material around the world.

SEC. 3135. ANNUAL REPORT.

(a) IN GENERAL.—Not later than September 1 of each year, the President, in consultation with relevant Federal departments and agencies, shall submit to Congress a report on the security of nuclear weapons, formula quantities of strategic special nuclear material, radiological materials, and related equipment worldwide.

(b) ELEMENTS.—The report required under subsection (a) shall include the following:

(1) A section on the programs for the security and accounting of nuclear weapons and the elimination, removal, and security and accounting of formula quantities of strategic special nuclear material and radiological materials, established under section 3132(b) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (50 U.S.C. 2569(b)), which shall include the following:

(A) A survey of the facilities and sites worldwide that contain nuclear weapons or related equipment, formula quantities of strategic special nuclear material, or radiological materials.

(B) A list of such facilities and sites determined to be of the highest priority for security and accounting of nuclear weapons and related equipment, or the elimination, removal, or security and accounting of formula quantities of strategic special nuclear material and radiological materials, taking into account risk of theft from such facilities and sites, and organized by level of priority.

(C) A prioritized diplomatic and technical plan, including measurable milestones, metrics, estimated timetables, and estimated costs of implementation, on the following:

(i) The security and accounting of nuclear weapons and related equipment and the elimination, removal, or security and accounting of formula quantities of strategic special nuclear material and radiological materials at such facilities and sites worldwide.

(ii) Ensuring that security upgrades and accounting reforms implemented at such facilities and sites worldwide using the financial and technical assistance of the United States are effectively sustained after such assistance ends.

(iii) The role that international agencies and the international community have committed to play, together with a plan for securing contributions.

(D) An assessment of the progress made in implementing the plan described in subparagraph (C), including a description of the efforts of foreign governments to secure and account for nuclear weapons and related equipment and to eliminate, remove, or secure and account for formula quantities of strategic special nuclear material and radiological materials.

(2) A section on efforts to establish and implement the international nuclear security standard described in section 3134(b) and related policies.

(c) FORM.—The report may be submitted in classified form but shall include a detailed unclassified summary.

AMENDMENT NO. 2230, AS MODIFIED

Strike section 1215 and insert the following:

SEC. 1215. LIMITATION ON ASSISTANCE TO THE GOVERNMENT OF THAILAND.

(a) FINDINGS.—Congress makes the following findings:

(1) Thailand is an important strategic ally and economic partner of the United States.

(2) The United States strongly supports the prompt restoration of democratic rule in Thailand.

(3) While it is in the interest of the United States to have a robust defense relationship with Thailand, it is appropriate that the United States has curtailed certain military-to-military cooperation and assistance programs until democratic rule has been restored in Thailand.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Thailand should continue on the path to restore democratic rule as quickly as possible, and should hold free and fair national elections as soon as possible and no later than December 2007; and

(2) once Thailand has fully reestablished democratic rule, it will be both possible and desirable for the United States to reinstate a full program of military assistance to the Government of Thailand, including programs such as International Military Education and Training (IMET) and Foreign Military Financing (FMF) that were appropriately suspended following the military coup in Thailand in September 2006.

(c) LIMITATION.—No funds authorized to be appropriated by this Act may be obligated or expended to provide direct assistance to the Government of Thailand to initiate new military assistance activities until 15 days after the Secretary of Defense notifies the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives of the intent of the Secretary to carry out such new types of military assistance activities with Thailand.

(d) EXCEPTION.—The limitation in subsection (c) shall not apply with respect to funds as follows:

(1) Amounts authorized to be appropriated for Overseas Humanitarian, Disaster, and Civic Aid.

(2) Amounts otherwise authorized to be appropriated by this Act and available for humanitarian or emergency assistance for other nations.

(e) NEW MILITARY ASSISTANCE ACTIVITIES DEFINED.—In this section, the term ''new military assistance activities'' means military assistance activities that have not been undertaken between the United States and Thailand during fiscal year 2007.

AMENDMENT NO. 2234, AS MODIFIED

At the end of subtitle E of title III, the following:

SEC. 358. AUTHORITY FOR DEPARTMENT OF DEFENSE TO PROVIDE SUPPORT FOR CERTAIN SPORTING EVENTS.

(a) PROVISION OF SUPPORT.—Section 2564 of title 10, United States Code, is amended—

(1) in subsection (c), by adding at the end the following new paragraphs:

''(4) A sporting event sanctioned by the United States Olympic Committee through the Paralympic Military Program.

''(5) Any national or international paralympic sporting event (other than a sporting event described in paragraphs (1) through (4))—

''(A) that—

''(i) is held in the United States or any of its territories or commonwealths;

''(ii) is governed by the International Paralympic Committee; and

''(iii) is sanctioned by the United States Olympic Committee;

''(B) for which participation exceeds 100 amateur athletes; and

''(C) in which at least 10 percent of the athletes participating in the sporting event are members or former members of the armed forces who are participating in the sporting event based upon an injury or wound incurred in the line of duty in the armed force and veterans who are participating in the sporting event based upon a service-connected disability.''; and

(2) by adding at the end the following new subsection:

''(g) FUNDING FOR SUPPORT OF CERTAIN EVENTS.—(1) Amounts for the provision of support for a sporting event described in paragraph (4) or (5) of subsection (c) may be derived from the Support for International Sporting Competitions, Defense account established by section 5802 of the Omnibus Consolidated Appropriations Act, 1997 (10 U.S.C. 2564 note), notwithstanding any limitation under that section relating to the availability of funds in such account for the provision of support for international sporting competitions.

''(2) The total amount expended for any fiscal year to provide support for sporting events described in subsection (c)(5) may not exceed $1,000,000.''.

(b) SOURCE OF FUNDS.—Section 5802 of the Omnibus Consolidated Appropriations Act, 1997 (10 U.S.C. 2564 note) is amended—

(1) by inserting after ''international sporting competitions'' the following: ''and for support of sporting competitions authorized under section 2564(c)(4) and (5), of title 10, United States Code,''; and

(2) by striking ''45 days'' and inserting ''15 days''.

AMENDMENT NO. 2272

(Purpose: To extend and modify the authorities on Commission to Assess the Threat to the United States from Electromagnetic Pulse Attack)

At the end of subtitle E of title X, add the following:

SEC. 1070. MODIFICATION OF AUTHORITIES ON COMMISSION TO ASSESS THE THREAT TO THE UNITED STATES FROM ELECTROMAGNETIC PULSE ATTACK.

(a) EXTENSION OF DATE OF SUBMITTAL OF FINAL REPORT.—Section 1403(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 50 U.S.C. 2301 note) is amended by striking ''June 30, 2007'' and inserting ''November 30, 2008''.

(b) COORDINATION OF WORK WITH DEPARTMENT OF HOMELAND SECURITY.—Section 1404 of such Act is amended by adding at the end the following new subsection:

''(c) COORDINATION WITH DEPARTMENT OF HOMELAND SECURITY.—The Commission and the Secretary of Homeland Security shall jointly ensure that the work of the Commission with respect to electromagnetic pulse attack on electricity infrastructure, and protection against such attack, is coordinated with Department of Homeland Security efforts on such matters.''.

(c) LIMITATION ON DEPARTMENT OF DEFENSE FUNDING.—The aggregate amount of funds provided by the Department of Defense to the Commission to Assess the Threat to the United States from Electromagnetic Pulse Attack for purposes of the preparation and submittal of the final report required by section 1403(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as amended by subsection (a)), whether by transfer or otherwise and including funds provided the Commission before the date of the enactment of this Act, shall not exceed $5,600,000.

AMENDMENT NO. 2220

(Purpose: To authorize the payment of inactive duty training travel costs for certain Selected Reserve members)

At the end of subtitle A of title VI, add the following:

SEC. 604. PAYMENT OF INACTIVE DUTY TRAINING TRAVEL COSTS FOR CERTAIN SELECTED RESERVE MEMBERS.

(a) PAYMENT OF TRAVEL COSTS AUTHORIZED.—

(1) IN GENERAL.—Chapter 7 of title 37, United States Code, is amended by inserting after section 408 the following new section:

"§ 408a. Travel and transportation allowances: inactive duty training

''(a) ALLOWANCE AUTHORIZED.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned may reimburse a member of the Selected Reserve of the Ready Reserve described in subsection (b) for travel expenses for travel to an inactive duty training location to perform inactive duty training.

''(b) ELIGIBLE MEMBERS.—A member of the Selected Reserve of the Ready Reserve described in this subsection is a member who—

''(1) is—

''(A) qualified in a skill designated as critically short by the Secretary concerned;

''(B) assigned to a unit of the Selected Reserve with a critical manpower shortage, or is in a pay grade in the member's reserve component with a critical manpower shortage; or

''(C) assigned to a unit or position that is disestablished or relocated as a result of defense base closure or realignment or another force structure reallocation; and

''(2) commutes a distance from the member's permanent residence to the member's inactive duty training location that is outside the normal commuting distance (as determined under regulations prescribed by the Secretary of Defense) for that commute.

''(c) MAXIMUM AMOUNT.—The maximum amount of reimbursement provided a member under subsection (a) for each round trip to a training location shall be $300.

''(d) TERMINATION.—No reimbursement may be provided under this section for travel that occurs after December 31, 2010.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of such title is amended by inserting after the item relating to section 408 the following new item:

''408a. Travel and transportation allowances: inactive duty training.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2007. No reimbursement may be provided under section 408a of title 37, United States Code (as added by subsection (a)), for travel costs incurred before October 1, 2007.

AMENDMENT NO. 2276

(Purpose: To require a report on the implementation of the green procurement policy of the Department of Defense)

At the end of title VIII, add the following:

SEC. 876. GREEN PROCUREMENT POLICY.

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

(1) On September 1, 2004, the Department of Defense issued its green procurement policy. The policy affirms a goal of 100 percent compliance with Federal laws and executive orders requiring purchase of environmentally friendly, or green, products and services. The policy also outlines a strategy for meeting those requirements along with metrics for measuring progress.

(2) On September 13, 2006, the Department of Defense hosted a biobased product showcase and educational event which underscores the importance and seriousness with which the Department is implementing its green procurement program.

(3) On January 24, 2007, President Bush signed Executive Order 13423: Strengthening Federal Environmental, Energy, and Transportation Management, which contains the requirement that Federal agencies procure biobased and environmentally preferable products and services.

(4) Although the Department of Defense continues to work to become a leading advocate of green procurement, there is concern that there is not a procurement application or process in place at the Department that supports compliance analysis.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Department of Defense should establish a system to document and track the use of environmentally preferable products and services.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on its plan to increase the usage of environmentally friendly products that minimize potential impacts to human health and the environment at all Department of Defense facilities inside and outside the United States, including through the direct purchase of products and the purchase of products by facility maintenance contractors.

AMENDMENT NO. 2257

(Purpose: To provide that the study on the national security interagency system shall focus on improving interagency cooperation in post-conflict contingency relief and reconstruction operations)

At the end of section 1043, insert the following:

(f) FOCUS ON IMPROVING INTERAGENCY COOPERATION IN POST-CONFLICT CONTINGENCY RELIEF AND RECONSTRUCTION OPERATIONS.—

(1) FINDINGS.—Congress makes the following findings:

(A) The interagency coordination and integration of the United States Government for the planning and execution of overseas post-conflict contingency relief and reconstruction operations requires reform.

(B) Recent operations, most notably in Iraq, lacked the necessary consistent and effective interagency coordination and integration in planning and execution.

(C) Although the unique circumstances associated with the Iraq reconstruction effort are partly responsible for this weak coordination, existing structural weaknesses within the planning and execution processes for such operations indicate that the problems encountered in the Iraq program could recur in future operations unless action is taken to reform and improve interdepartmental integration in planning and execution.

(D) The agencies involved in the Iraq program have attempted to adapt to the relentless demands of the reconstruction effort, but more substantive and permanent reforms are required for the United States Government to be optimally prepared for future operations.

(E) The fresh body of evidence developed from the Iraq relief and reconstruction experience provides a good basis and timely opportunity to pursue meaningful improvements within and among the departments charged with managing the planning and execution of such operations.

(F) The success achieved in departmental integration of overseas conflict management through the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433; 100 Stat. 992) provides precedent for Congress to consider legislation designed to promote increased cooperation and integration among the primary Federal departments and agencies charged with managing post-conflict contingency reconstruction and relief operations.

(2) INCLUSION IN STUDY.—The study conducted under subsection (a) shall include the following elements:

(A) A synthesis of past studies evaluating the successes and failures of previous interagency efforts at planning and executing post-conflict contingency relief and reconstruction operations, including relief and reconstruction operations in Iraq.

(B) An analysis of the division of duties, responsibilities, and functions among executive branch agencies for such operations and recommendations for administrative and regulatory changes to enhance integration.

(C) Recommendations for legislation that would improve interagency cooperation and integration and the efficiency of the United States Government in the planning and execution of such operations.

(D) Recommendations for improvements in congressional, executive, and other oversight structures and procedures that would enhance accountability within such operations.

AMENDMENT NO. 2281

(Purpose: To require a report on the control of the brown tree snake)

At the end of subtitle B of title III, add the following:

SEC. 314. REPORT ON CONTROL OF THE BROWN TREE SNAKE.

(a) FINDINGS.—Congress makes the following findings:

(1) The brown tree snake (Boiga irregularis), an invasive species, is found in significant numbers on military installations and in other areas on Guam, and constitutes a serious threat to the ecology of Guam.

(2) If introduced into Hawaii, the Commonwealth of the Northern Mariana Islands, or the continental United States, the brown tree snake would pose an immediate and serious economic and ecological threat.

(3) The most probable vector for the introduction of the brown tree snake into Hawaii, the Commonwealth of the Northern Mariana Islands, or the continental United States is the movement from Guam of military aircraft, personnel, and cargo, including the household goods of military personnel.

(4) It is probable that the movement of military aircraft, personnel, and cargo, including the household goods of military personnel, from Guam to Hawaii, the Commonwealth of the Northern Mariana Islands, or the continental United States will increase significantly coincident with the increase in the number of military units and personnel stationed on Guam,

(5) Current policies, programs, procedures, and dedicated resources of the Department of Defense and of other departments and agencies of the United States may not be sufficient to adequately address the increasing threat of the introduction of the brown tree snake from Guam into Hawaii, the Commonwealth of the Northern Mariana Islands, or the continental United States.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the following:

(1) The actions currently being taken (including the resources being made available) by the Department of Defense to control, and to develop new or existing techniques to control, the brown tree snake on Guam and to ensure that the brown tree snake is not introduced into Hawaii, the Commonwealth of

the Northern Mariana Island, or the continental United States as a result of the movement from Guam of military aircraft, personnel, and cargo, including the household goods of military personnel.

(2) Current plans for enhanced future actions, policies, and procedures and increased levels of resources in order to ensure that the projected increase of military personnel stationed on Guam does not increase the threat of introduction of the brown tree snake from Guam into Hawaii, the Commonwealth of the Northern Mariana Islands, or the continental United States.

AMENDMENT NO. 2250

(Purpose: To provide for a review of licensed mental health counselors, social workers, and marriage and family therapists under the TRICARE program)

At the end of title VII, add the following:

SEC. 703. REVIEW OF LICENSED MENTAL HEALTH COUNSELORS, SOCIAL WORKERS, AND MARRIAGE AND FAMILY THERAPISTS UNDER THE TRICARE PROGRAM.

(a) REVIEW REQUIRED.—The Secretary of Defense shall enter into a contract with the Institute of Medicine of the National Academy of Sciences, or another similarly qualified independent academic medical organization, for the purpose of—

(1) conducting an independent study of the comparability of credentials, preparation, and training of individuals practicing as licensed mental health counselors, social workers, and marriage and family therapists under the TRICARE program to provide mental health services; and

(2) making recommendations for permitting such professionals to practice independently under the TRICARE program.

(b) ELEMENTS.—The study required by subsection (a) shall provide for each of the health care professions referred to in subsection (a)(1) the following:

(1) An assessment of the educational requirements and curriculums relevant to mental health practice for members of such profession, including types of degrees recognized, certification standards for graduate programs for such profession, and recognition of undergraduate coursework for completion of graduate degree requirements.

(2) An assessment of State licensing requirements for members of such profession, including for each level of licensure if a State issues more than one type of license for the profession. The assessment shall examine requirements in the areas of education, training, examination, continuing education, and ethical standards, and shall include an evaluation of the extent to which States, through their scope of practice, either implicitly or explicitly authorize members of such profession to diagnose and treat mental illnesses.

(3) An analysis of the requirements for clinical experience in such profession to be recognized under regulations for the TRICARE program, and recommendations, if any, for standardization or adjustment of such requirements with those of the other professions.

(4) An assessment of the extent to which practitioners under such profession are authorized to practice independently under other Federal programs (such as the Medicare program, the Department of Veterans Affairs, the Indian Health Service, Head Start, and the Federal Employee Health Benefits Program), and a review the relationship, if any, between recognition of such profession under the Medicare program and independent practice authority for such profession under the TRICARE program.

(5) An assessment of the extent to which practitioners under such profession are authorized to practice independently under private insurance plans. The assessment shall identify the States having laws requiring private insurers to cover, or offer coverage of, the services of members of such profession, and shall identify the conditions, if any, that are placed on coverage of practitioners under such profession by insurance plans and how frequently these types of conditions are used by insurers.

(6) An historical review of the regulations issued by the Department of Defense regarding which members of such profession are recognized as providers under the TRICARE program as independent practitioners, and an examination of the recognition by the Department of third party certification for members of such profession.

(c) PROVIDERS STUDIED.—It the sense of Congress that the study required by subsection (a) should focus only on those practitioners of each health care profession referred to in subsection (a)(1) who are permitted to practice under regulations for the TRICARE program as specified in section 119.6 of title 32, Code of Federal Regulations.

(d) CLINICAL CAPABILITIES STUDIES.—The study required by subsection (a) shall include a review of outcome studies and of the literature regarding the comparative quality and effectiveness of care provided by practitioners within each of the health care professions referred to in subsection (a)(1), and provide an independent review of the findings.

(e) RECOMMENDATIONS FOR TRICARE INDEPENDENT PRACTICE AUTHORITY.—The recommendations provided under subsection (a)(2) shall include specific recommendation (whether positive or negative) regarding modifications of current policy for the TRICARE program with respect to allowing members of each of the health care professions referred to in subsection (a)(1) to practice independently under the TRICARE program, including recommendations regarding possible revision of requirements for recognition of practitioners under each such profession.

(f) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the review required by subsection (a).

AMENDMENT NO. 2254

(Purpose: To require a Department of Defense Inspector General report on physical security of Department of Defense installations)

At the end of subtitle E of title III, add the following:

SEC. 358. DEPARTMENT OF DEFENSE INSPECTOR GENERAL REPORT ON PHYSICAL SECURITY OF DEPARTMENT OF DEFENSE INSTALLATIONS.

(a) REPORT.—Not later than one year after the date of the enactment of this Act, the Inspector General of the Department of Defense shall submit to Congress a report on the physical security of Department of Defense installations and resources.

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

(1) An analysis of the progress in implementing requirements under the Physical Security Program as set forth in the Department of Defense Instruction 5200.08–R, Chapter 2 (C.2) and Chapter 3, Section 3: Installation Access (C3.3), which mandates the policies and minimum standards for the physical security of Department of Defense installations and resources.

(2) Recommendations based on the findings of the Comptroller General of the United States in the report required by section 344 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–366; 120 Stat. 2155).

(3) Recommendations based on the lessons learned from the thwarted plot to attack Fort Dix, New Jersey, in 2007.

AMENDMENT NO. 2268

(Purpose: To provide for an increase in the number of nurses and faculty)

At the end of subtitle D of title V, add the following:

SEC. 555. NURSE MATTERS.

(a) IN GENERAL.—The Secretary of Defense may provide for the carrying out of each of the programs described in subsections (b) through (f).

(b) SERVICE OF NURSE OFFICERS AS FACULTY IN EXCHANGE FOR COMMITMENT TO ADDITIONAL SERVICE IN THE ARMED FORCES.—

(1) IN GENERAL.—One of the programs under this section may be a program in which covered commissioned officers with a graduate degree in nursing or a related field who are in the nurse corps of the Armed Force concerned serve a tour of duty of two years as a full-time faculty member of an accredited school of nursing.

(2) COVERED OFFICERS.—A commissioned officer of the nurse corps of the Armed Forces described in this paragraph is a nurse officer on active duty who has served for more than nine years on active duty in the Armed Forces as an officer of the nurse corps at the time of the commencement of the tour of duty described in paragraph (1).

(3) BENEFITS AND PRIVILEGES.—An officer serving on the faculty of an accredited school or nursing under this subsection shall be accorded all the benefits, privileges, and responsibilities (other than compensation and compensation-related benefits) of any other comparably situated individual serving a full-time faculty member of such school.

(4) AGREEMENT FOR ADDITIONAL SERVICE.—Each officer who serves a tour of duty on the faculty of a school of nursing under this subsection shall enter into an agreement with the Secretary to serve upon the completion of such tour of duty for a period of four years for such tour of duty as a member of the nurse corps of the Armed Force concerned. Any service agreed to by an officer under this paragraph is in addition to any other service required of the officer under law.

(c) SERVICE OF NURSE OFFICERS AS FACULTY IN EXCHANGE FOR SCHOLARSHIPS FOR NURSE OFFICER CANDIDATES.—

(1) IN GENERAL.—One of the programs under this section may be a program in which commissioned officers with a graduate degree in nursing or a related field who are in the nurse corps of the Armed Force concerned serve while on active duty a tour of duty of two years as a full-time faculty member of an accredited school of nursing.

(2) BENEFITS AND PRIVILEGES.—An officer serving on the faculty of an accredited school of nursing under this subsection shall be accorded all the benefits, privileges, and responsibilities (other than compensation and compensation-related benefits) of any other comparably situated individual serving as a full-time faculty member of such school.

(3) SCHOLARSHIPS FOR NURSE OFFICER CANDIDATES.—(A) Each accredited school of nursing at which an officer serves on the faculty under this subsection shall provide scholarships to individuals undertaking an educational program at such school leading to a degree in nursing who agree, upon completion of such program, to accept a commission as an officer in the nurse corps of the Armed Forces.

(B) The total amount of funds made available for scholarships by an accredited school of nursing under subparagraph (A) for each officer serving on the faculty of that school under this subsection shall be not less than the amount equal to an entry-level full-time faculty member of that school for each year

that such officer so serves on the faculty of that school.

(C) The total number of scholarships provided by an accredited school of nursing under subparagraph (A) for each officer serving on the faculty of that school under this subsection shall be such number as the Secretary of Defense shall specify for purposes of this subsection.

(d) SCHOLARSHIPS FOR CERTAIN NURSE OFFICERS FOR EDUCATION AS NURSES.—

(1) IN GENERAL.—One of the programs under this section may be a program in which the Secretary provides scholarships to commissioned officers of the nurse corps of the Armed Force concerned described in paragraph (2) who enter into an agreement described in paragraph (4) for the participation of such officers in an educational program of an accredited school of nursing leading to a graduate degree in nursing.

(2) COVERED NURSE OFFICERS.—A commissioned officer of the nurse corps of the Armed Forces described in this paragraph is a nurse officer who has served not less than 20 years on active duty in the Armed Forces and is otherwise eligible for retirement from the Armed Forces.

(3) SCOPE OF SCHOLARSHIPS.—Amounts in a scholarship provided a nurse officer under this subsection may be utilized by the officer to pay the costs of tuition, fees, and other educational expenses of the officer in participating in an educational program described in paragraph (1).

(4) AGREEMENT.—An agreement of a nurse officer described in this paragraph is the agreement of the officer—

(A) to participate in an educational program described in paragraph (1); and

(B) upon graduation from such educational program—

(i) to serve not less than two years as a full-time faculty member of an accredited school of nursing; and

(ii) to undertake such activities as the Secretary considers appropriate to encourage current and prospective nurses to pursue service in the nurse corps of the Armed Forces.

(e) TRANSITION ASSISTANCE FOR RETIRING NURSE OFFICERS QUALIFIED AS FACULTY.—

(1) IN GENERAL.—One of the programs under this section may be a program in which the Secretary provides to commissioned officers of the nurse corps of the Armed Force concerned described in paragraph (2) the assistance described in paragraph (3) to assist such officers in obtaining and fulfilling positions as full-time faculty members of an accredited school of nursing after retirement from the Armed Forces.

(2) COVERED NURSE OFFICERS.—A commissioned officer of the nurse corps of the Armed Forces described in this paragraph is a nurse officer who—

(A) has served an aggregate of at least 20 years on active duty or in reserve active status in the Armed Forces;

(B) is eligible for retirement from the Armed Forces; and

(C) possesses a doctoral or master degree in nursing or a related field which qualifies the nurse officer to discharge the position of nurse instructor at an accredited school of nursing.

(3) ASSISTANCE.—The assistance described in this paragraph is assistance as follows:

(A) Career placement assistance.

(B) Continuing education.

(C) Stipends (in an amount specified by the Secretary).

(4) AGREEMENT.—A nurse officer provided assistance under this subsection shall enter into an agreement with the Secretary to serve as a full-time faculty member of an accredited school of nursing for such period as the Secretary shall provide in the agreement.

(f) BENEFITS FOR RETIRED NURSE OFFICERS ACCEPTING APPOINTMENT AS FACULTY.—

(1) IN GENERAL.—One of the programs under this section may be a program in which the Secretary provides to any individual described in paragraph (2) the benefits specified in paragraph (3).

(2) COVERED INDIVIDUALS.—An individual described in this paragraph is an individual who—

(A) is retired from the Armed Forces after service as a commissioned officer in the nurse corps of the Armed Forces;

(B) holds a graduate degree in nursing; and

(C) serves as a full-time faculty member of an accredited school of nursing.

(3) BENEFITS.—The benefits specified in this paragraph shall include the following:

(A) Payment of retired or retirement pay without reduction based on receipt of pay or other compensation from the institution of higher education concerned.

(B) Payment by the institution of higher education concerned of a salary and other compensation to which other similarly situated faculty members of the institution of higher education would be entitled.

(C) If the amount of pay and other compensation payable by the institution of higher education concerned for service as an associate full-time faculty member is less than the basic pay to which the individual was entitled immediately before retirement from the Armed Forces, payment of an amount equal to the difference between such basic pay and such payment and other compensation.

(g) ADMINISTRATION AND DURATION OF PROGRAMS.—

(1) IN GENERAL.—The Secretary shall establish requirements and procedures for the administration of the programs authorized by this section. Such requirements and procedures shall include procedures for selecting participating schools of nursing.

(2) DURATION.—Any program carried out under this section shall continue for not less than two years.

(3) ASSESSMENT.—Not later than two years after commencing any program under this section, the Secretary shall assess the results of such program and determine whether or not to continue such program. The assessment of any program shall be based on measurable criteria, information concerning results, and such other matters as the Secretary considers appropriate.

(4) CONTINUATION.—The Secretary may continue carrying out any program under this section that the Secretary determines, pursuant to an assessment under paragraph (3), to continue to carry out. In continuing to carry out a program, the Secretary may modify the terms of the program within the scope of this section. The continuation of any program may include its expansion to include additional participating schools of nursing.

(h) DEFINITIONS.—In this section, the terms ''school of nursing'' and ''accredited'' have the meaning given those terms in section 801 of the Public Health Service Act (42 U.S.C. 296).

AMENDMENT NO. 2292

(Purpose: To provide for continuity and efficiency of the depot operations of the Department of Defense to reset combat equipment and vehicles in support of the wars in Iraq and Afghanistan)

At the end of title III, add the following:

SEC. 358. CONTINUITY OF DEPOT OPERATIONS TO RESET COMBAT EQUIPMENT AND VEHICLES IN SUPPORT OF WARS IN IRAQ AND AFGHANISTAN.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States Armed Forces, particularly the Army and the Marine Corps, are currently engaged in a tremendous effort to reset equipment that was damaged and worn in combat operations in Iraq and Afghanistan.

(2) The implementing guidance from the Under Secretary of Defense for Acquisition, Technology, and Logistics related to the decisions of the 2005 Defense Base Closure and Realignment Commission (BRAC) to transfer depot functions appears not to differentiate between external supply functions and in-process storage functions related to the performance of depot maintenance.

(3) Given the fact that up to 80 percent of the parts involved in the vehicle reset process are reclaimed and refurbished, the transfer of this inherently internal depot maintenance function to the Defense Logistics Agency could severely disrupt production throughput, generate increased costs, and negatively impact Army and Marine Corps equipment reset efforts.

(4) The goal of the Department of Defense, the Defense Logistics Agency, and the 2005 Defense Base Closure and Realignment Commission is the reengineering of businesses processes in order to achieve higher efficiency and cost savings.

(b) REPORT.—

(1) IN GENERAL.—Not later than June 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the challenges of implementing the transfer of depot functions and the impacts on production, including parts reclamation and refurbishment.

(2) CONTENT.—The report required under paragraph (1) shall describe—

(A) the sufficiency of the business plan to transfer depot functions to accommodate a timely and efficient transfer without the disruption of depot production;

(B) a description of the completeness of the business plan in addressing part reclamation and refurbishment;

(C) the estimated cost of the implementation and what savings are likely be achieved;

(D) the impact of the transfer on the Defense Logistics Agency and depot hourly rates due to the loss of budgetary control of the depot commander over overtime pay for in-process parts supply personnel, and any other relevant rate-related factors;

(E) the number of personnel positions affected;

(F) the sufficiency of the business plan to ensure the responsiveness and availability of Defense Logistics supply personnel to meet depot throughput needs, including potential impact on depot turnaround time; and

(G) the impact of Defense Logistics personnel being outside the chain of command of the depot commander in terms of overtime scheduling and meeting surge requirements.

(3) GOVERNMENT ACCOUNTABILITY OFFICE ASSESSMENT.—Not later than September 30, 2008, the Comptroller General of the United States shall review the report submitted under paragraph (1) and submit to the congressional defense committees an independent assessment of the matters addressed in such report, as requested by the Chairman of the Committee on Armed Services of the House of Representatives.

AMENDMENT NO. 2305

(Purpose: To require a report on counternarcotics assistance for the Government of Haiti)

At the end of subtitle B of title X, add the following:

SEC. 1012. REPORT ON COUNTERNARCOTICS ASSISTANCE FOR THE GOVERNMENT OF HAITI.

(a) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this

Act, the President shall submit to Congress a report on counternarcotics assistance for the Government of Haiti.

(b) MATTERS TO BE INCLUDED.—The report required by subsection (a) shall include the following:

(1) A description and assessment of the counternarcotics assistance provided to the Government of Haiti by each of the Department of Defense, the Department of State, the Department of Homeland Security, and the Department of Justice.

(2) A description and assessment of any impediments to increasing counternarcotics assistance to the Government of Haiti, including corruption and lack of entities available to partner with in Haiti.

(3) An assessment of the feasability and advisability of providing additional counternarcotics assistance to the Government of Haiti, including an extension and expansion to the Government of Haiti of Department of Defense authority to provide support for counter-drug activities of certain foreign governments.

(4) An assessment of the potential for counternarcotics assistance for the Government of Haiti through the United Nations Stabilization Mission in Haiti.

(c) FORM.—The report required by subsection (a) shall be submitted in unclassified form, but may include a classified annex.

AMENDMENT NO. 2216

(Purpose: Relating to satisfaction by members of the National Guard and Reserve on active duty of applicable professional licensure and certification requirements)

At the end of subtitle C of title V, add the following:

SEC. 536. SATISFACTION OF PROFESSIONAL LICENSURE AND CERTIFICATION REQUIREMENTS BY MEMBERS OF THE NATIONAL GUARD AND RESERVE ON ACTIVE DUTY.

(a) ADDITIONAL PERIOD BEFORE RE-TRAINING OF NURSE AIDES IS REQUIRED UNDER THE MEDICARE AND MEDICAID PROGRAMS.—For purposes of subparagraph (D) of sections 1819(b)(5) and 1919(b)(5) of the Social Security Act (42 U.S.C. 1395i–3(b)(5), 1396r(b)(5)), if, since an individual's most recent completion of a training and competency evaluation program described in subparagraph (A) of such sections, the individual was ordered to active duty in the Armed Forces for a period of at least 12 months, and the individual completes such active duty service during the period beginning on July 1, 2007, and ending on September 30, 2008, the 24-consecutive-month period described subparagraph (D) of such sections with respect to the individual shall begin on the date on which the individual completes such active duty service. The preceding sentence shall not apply to an individual who had already reached such 24-consecutive-month period on the date on which such individual was ordered to such active duty service.

(b) REPORT ON RELIEF FROM REQUIREMENTS FOR NATIONAL GUARD AND RESERVE ON LONG-TERM ACTIVE DUTY.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth recommendations for such legislative action as the Secretary considers appropriate (including amendments to the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.)) to provide for the exemption or tolling of professional or other licensure or certification requirements for the conduct or practice of a profession, trade, or occupation with respect to members of the National Guard and Reserve who are on active duty in the Armed Forces for an extended period of time.

AMENDMENT NO. 2309

(Purpose: To require a report on the airfield in Abeche, Chad, and other resources needed to provide stability in the Darfur region)

At the end of subtitle C of title XII, add the following:

SEC. 1234. REPORT ON THE AIRFIELD IN ABECHE, CHAD, AND OTHER RESOURCES NEEDED TO PROVIDE STABILITY IN THE DARFUR REGION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the airfield located in Abeche, Republic of Chad, could play a significant role in potential United Nations, African Union, or North Atlantic Treaty Organization humanitarian, peacekeeping, or other military operations in Darfur, Sudan, or the surrounding region; and

(2) the capacity of that airfield to serve as a substantial link in such operations should be assessed, along with the projected costs and specific upgrades that would be necessary for its expanded use, should the Government of Chad agree to its improvement and use for such purposes.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall, in coordination with the Secretary of State, submit to the appropriate committees of Congress a report on the matters as follows:

(1) The current capacity of the existing airfield in Abeche, Republic of Chad, including the scope of its current use by the international community in response to the crisis in the Darfur region.

(2) The upgrades, and their associated costs, necessary to enable the airfield in Abeche, Republic of Chad, to be improved to be fully capable of accommodating a humanitarian, peacekeeping, or other force deployment of the size foreseen by the recent United Nations resolutions calling for a United Nations deployment to Chad and a hybrid force of the United Nations and African Union operating under Chapter VII of the United Nations Charter for Sudan.

(3) The force size and composition of an international effort estimated to be necessary to provide protection to those Darfur civilian populations currently displaced in the Darfur region.

(4) The force size and composition of an international effort estimated to be necessary to provide broader stability within the Darfur region.

AMENDMENT NO. 2308

(Purpose: To authorize, with an offset, an additional $162,800,000 for Drug Interdiction and Counter-Drug Activities, Defense-wide, to combat the growth of popies in Afghanistan, to eliminate the production and trade of opium and heroin, and to prevent terrorists from using the proceeds for terrorist activities in Afghanistan, Iraq, and elsewhere)

On page 395, between lines 14 and 15, insert the following:

SEC. 1405A. ADDITIONAL AMOUNT FOR DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES WITH RESPECT TO AFGHANISTAN.

(a) ADDITIONAL AMOUNT FOR DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE-WIDE.—The amount authorized to be appropriated by section 1405 for Drug Interdiction and Counter-Drug Activities, Defense-wide, is hereby increased by $162,800,000.

(b) AVAILABILITY.—Of the amount authorized to be appropriated by section 1405 for Drug Interdiction and Counter-Drug Activities, Defense-wide, as increased by subsection (a), $162,800,000 may be available for drug interdiction and counterdrug activities with respect to Afghanistan.

(c) SUPPLEMENT NOT SUPPLANT.—The amount available under subsection (b) for the purpose specified in that paragraph is in addition to any other amounts available under this Act for that purpose.

(d) OFFSET.—The amount authorized to be appropriated by section 1509 for Drug Interdiction and Counter-Drug Activities, Defense-wide, for Operation Iraqi Freedom and Operation Enduring Freedom is hereby decreased by $162,800,000.

AMENDMENT NO 2310

(Purpose: To express the sense of Congress regarding Department of Defense actions, to address the encroachment of military installations)

At the end of title XXVIII, add the following:

SEC. 2864. SENSE OF CONGRESS ON DEPARTMENT OF DEFENSE ACTIONS TO ADDRESS ENCROACHMENT OF MILITARY INSTALLATIONS.

(a) FINDINGS.—In light of the initial report of the Department of Defense submitted pursuant to section 2684a(g) of title 10, United States Code, and of the RAND Corporation report entitled ''The Thin Green Line: An Assessment of DoD's Readiness and Environmental Protection Initiative to Buffer Installation Encroachment'', Congress makes the following findings:

(1) Development and loss of habitat in the vicinity of, or in areas ecologically related to, military installations, ranges, and airspace pose a continuing and significant threat to the readiness of the Armed Forces.

(2) The Range Sustainability Program (RSP) of the Department of Defense, and in particular the Readiness and Environmental Protection Initiative (REPI) involving agreements pursuant to section 2684a of title 10, United States Code, have been effective in addressing this threat to readiness with regard to a number of important installations, ranges, and airspace.

(3) The opportunities to take effective action to protect installations, ranges, and airspace from encroachment is in many cases transient, and delay in taking action will result in either higher costs or permanent loss of the opportunity effectively to address encroachment.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Department of Defense should—

(1) develop additional policy guidance on the further implementation of the Range and Environmental Protection Initiative (REPI), to include additional emphasis on protecting biodiversity and on further refining procedures;

(2) give greater emphasis to effective cooperation and collaboration on matters of mutual concern with other Federal agencies charged with managing Federal land;

(3) ensure that each military department takes full advantage of the authorities provided by section 2684a of title 10, United States Code, in addressing encroachment adversely affecting, or threatening to adversely affect, the installations, ranges, and military airspace of the department; and

(4) provide significant additional resources to the program, to include dedicated staffing at the installation level and additional emphasis on outreach programs at all levels.

(c) REPORTING REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall review Chapter 6 of the initial report submitted to Congress under section 2684a(g) of title 10, United States Code, and report to the congressional defense committees on the specific steps, if any, that the Secretary plans to take, or recommends that Congress take, to address the issues raised in such chapter.

AMENDMENT NO. 2617

(Purpose: To provide further protection for contractor employees from reprisal for disclosure of certain information)

Beginning on page 223, strike line 20 and all that follows through page 227, line 19, and insert the following:

(2) by striking ''information relating to a substantial violation of law related to a contract (including the competition for or negotiation of a contract)'' and inserting ''information that the employee reasonably believes is evidence of gross mismanagement of a Department of Defense contract, grant, or direct payment if the United States Government provides any portion of the money or property which is requested or demanded, a gross waste of Department of Defense funds, a substantial and specific danger to public health or safety, or a violation of law related to a Department of Defense contract (including the competition for or negotiation of a contract), grant, or direct payment if the United States Government provides any portion of the money or property which is requested or demanded''.

(b) ACCELERATION OF SCHEDULE FOR DENYING RELIEF OR PROVIDING REMEDY.—Subsection (c) of such section is amended—

(1) in paragraph (1)—

(A) by inserting after ''(1)'' the following: ''Not later than 90 days after receiving an Inspector General report pursuant to subsection (b), the head of the agency concerned shall determine whether the contractor concerned has subjected the complainant to a reprisal prohibited under subsection (a).''; and

(B) by adding at the end the following new subparagraphs:

''(D) In the event the disclosure relates to a cost-plus contract, prohibit the contractor from receiving one or more award fee payments to which the contractor would otherwise be eligible until such time as the contractor takes the actions ordered by the head of the agency pursuant to subparagraphs (A) through (C).

''(E) Take the reprisal into consideration in any past performance evaluation of the contractor for the purpose of a contract award.'';

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph:

''(3)(A) In the case of a contract covered by subsection (f), an employee of a contractor who has been discharged, demoted, or otherwise discriminated against as a reprisal for a disclosure covered by subsection (a) or who is aggrieved by the determination made pursuant to paragraph (1) or by an action that the agency head has taken or failed to take pursuant to such determination may, after exhausting his or her administrative remedies, bring a de novo action at law or equity against the contractor to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury.

''(B) An employee shall be deemed to have exhausted his or her administrative remedies for the purpose of this paragraph—

''(i) 90 days after the receipt of a written determination under paragraph (1); or

''(ii) 15 months after a complaint is submitted under subsection (b), if a determination by an agency head has not been made by that time and such delay is not shown to be due to the bad faith of the complainant.''.

(c) LEGAL BURDEN OF PROOF.—Such section is further amended—

(1) by redesignating subsection (e) as subsection (g); and

(2) by inserting after subsection (d) the following new subsection:

''(e) LEGAL BURDEN OF PROOF.—The legal burdens of proof specified in section 1221(e) of title 5 shall be controlling for the purposes of any investigation conducted by an inspector general, decision by the head of an agency, or hearing to determine whether discrimination prohibited under this section has occurred.''.

(d) REQUIREMENT TO NOTIFY EMPLOYEES OF RIGHTS RELATED TO PROTECTION FROM REPRISAL.—Such section, as amended by subsection (c), is further amended by inserting after subsection (e) the following new subsection:

''(f) NOTICE OF RIGHTS RELATED TO PROTECTION FROM REPRISAL.—

''(1) IN GENERAL.—Each Department of Defense contract in excess of $5,000,000, other than a contract for the purchase of commercial items, shall include a clause requiring the contractor to ensure that all employees of the contractor who are working on Department of Defense contracts are notified of—

''(A) their rights under this section;

''(B) the fact that the restrictions imposed by any employee contract, employee agreement, or non-disclosure agreement may not supersede, conflict with, or otherwise alter the employee rights provided for under this section; and

''(C) the telephone number for the whistleblower hotline of the Inspector General of the Department of Defense.

''(2) FORM OF NOTICE.—The notice required by paragraph (1) shall be made by posting the required information at a prominent place in each workplace where employees working on the contract regularly work.''.

(e) DEFINITIONS.—Subsection (g) of such section, as redesignated by subsection (c)(1), is amended—

(1) in paragraph (4), by inserting after ''an agency'' the following: ''and includes any person receiving funds covered by the prohibition against reprisals in subsection (a)'';

(2) in paragraph (5), by inserting after ''1978'' the following: ''and any Inspector General that receives funding from or is under the jurisdiction of the Secretary of Defense''; and

(3) by adding at the end the following new paragraphs:

''(6) The term 'employee' means an individual (as defined by section 2105 of title 5) or any individual or organization performing services for a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded (including as an employee of an organization).

''(7) The term 'Department of Defense funds' includes funds controlled by the Department of Defense and funds for which the Department of Defense may be reasonably regarded as responsible to a third party.''.

AMENDMENT NO. 2313

(Purpose: To commend the founder and members of Project Compassion)

At the end of subtitle H of title X, add the following:

SEC. 1070. SENSE OF SENATE ON PROJECT COMPASSION.

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

(1) It is the responsibility of every citizen of the United States to honor the service and sacrifice of the veterans of the United States, especially those who have made the ultimate sacrifice.

(2) In the finest tradition of this sacred responsibility, Kaziah M. Hancock, an artist from central Utah, founded a nonprofit organization called Project Compassion, which endeavors to provide, without charge, to the family of a member of the Armed Forces who has fallen in active duty since the events of September 11, 2001, a museum-quality original oil portrait of that member.

(3) To date, Kaziah M. Hancock, four volunteer professional portrait artists, and those who have donated their time to support Project Compassion have presented over 700 paintings to the families of the fallen heroes of the United States.

(4) Kaziah M. Hancock and Project Compassion have been honored by the Veterans of Foreign Wars, the American Legion, the Disabled American Veterans, and other organizations with the highest public service awards on behalf of fallen members of the Armed Forces and their families.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) Kaziah M. Hancock and the members of Project Compassion have demonstrated, and continue to demonstrate, extraordinary patriotism and support for the Soldiers, Sailors, Airmen and Marines who have given their lives for the United States in Iraq and Afghanistan and have done so without any expectation of financial gain or recognition for these efforts;

(2) the people of the United States owe the deepest gratitude to Kaziah M. Hancock and the members of Project Compassion; and

(3) the Senate, on the behalf of the people of the United States, commends Kaziah M. Hancock, the four other Project Compassion volunteer professional portrait artists, and the entire Project Compassion organization for their tireless work in paying tribute to those members of the Armed Forces who have fallen in the service of the United States.

AMENDMENT NO. 2863

(Purpose: To express the sense of the Senate on collaborations between the Department of Defense and the Department of Veterans Affairs on health care for wounded warriors)

At the end of title VII, add the following:

SEC. 703. SENSE OF SENATE ON COLLABORATIONS BETWEEN THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF VETERANS AFFAIRS ON HEALTH CARE FOR WOUNDED WARRIORS.

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

(1) There have been recent collaborations between the Department of Defense, the Department of Veterans Affairs, and the civilian medical community for purposes of providing high quality medical care to America's wounded warriors. One such collaboration is occurring in Augusta, Georgia, between the Dwight D. Eisenhower Army Medical Center at Fort Gordon, the Augusta Department of Veterans Affairs Medical Center, the Medical College of Georgia, and local health care providers under the TRICARE program.

(2) Medical staff from the Dwight D. Eisenhower Army Medical Center and the Augusta Department of Veterans Affairs Medical Center have been meeting weekly to discuss future patient cases for the Active Duty Rehabilitation Unit (ADRU) within the Uptown Department of Veterans Affairs facility. The Active Duty Rehabilitation Unit, along with the Polytrauma Centers of the Department of Veterans Affairs, provide rehabilitation for members of the Armed Forces on active duty.

(3) Since 2004, 1,037 soldiers, sailors, airmen, and marines have received rehabilitation services at the Active Duty Rehabilitation Unit, 32 percent of whom served in Operation Iraqi Freedom or Operation Enduring Freedom.

(4) The Dwight D. Eisenhower Army Medical Center and the Augusta Department of Veterans Affairs Medical Center have combined their neurosurgery programs and have coordinated on critical brain injury and psychiatric care.

(5) The Department of Defense, the Army, and the Army Medical Command have recognized the need for expanded behavioral health care services for members of the Armed Forces returning from Operation Iraqi Freedom and Operation Enduring Freedom. These services are currently being provided by the Dwight D. Eisenhower Army Medical Center.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Department of Defense should encourage continuing collaboration between the Army and the Department of Veterans Affairs in treating America's wounded warriors and, when appropriate and available, provide additional support and resources for the development of such collaborations, including the current collaboration between the Active Duty Rehabilitation Unit at the Augusta Department of Veterans Affairs Medical Center, Georgia, and the behavioral health care services program at the Dwight D. Eisenhower Army Medical Center, Fort Gordon, Georgia.

AMENDMENT NO. 2282

(Purpose: To establish a National Guard yellow ribbon reintegration program)

At the end of subtitle F of title VI, add the following:

SEC. 683. NATIONAL GUARD YELLOW RIBBON REINTEGRATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Defense, shall establish a national combat veteran reintegration program to provide National Guard and Reserve members and their families with sufficient information, services, referral, and proactive outreach opportunities throughout the entire deployment cycle. This program shall be known as the Yellow Ribbon Reintegration Program.

(b) PURPOSE.—The Yellow Ribbon Reintegration Program shall consist of informational events and activities for Reserve Component members, their families, and community members to facilitate access to services supporting their health and well-being through the four phases of the deployment cycle:

(1) Pre-Deployment.

(2) Deployment.

(3) Demobilization.

(4) Post-Deployment-Reconstitution.

(d) ORGANIZATION.—

(1) EXECUTIVE AGENT.—The Secretary shall designate the OSD (P&R) as the Department of Defense executive agent for the Yellow Ribbon Reintegration Program.

(2) ESTABLISHMENT OF THE OFFICE FOR REINTEGRATION PROGRAMS.—

(A) IN GENERAL.—The OSD (P&R) shall establish the Office for Reintegration Programs within the OSD. The office shall administer all reintegration programs in coordination with State National Guard organizations. The office shall be responsible for coordination with existing National Guard and Reserve family and support programs. The Directors of the Army National Guard and Air National Guard and the Chiefs of the Army Reserve, Marine Corps Reserve, Navy Reserves and Air Force Reserves may appoint liaison officers to coordinate with the permanent office staff. The Center may also enter into partnerships with other public entities, including, but not limited to, the U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, for access to necessary substance abuse and mental health treatment services from local State-licensed service providers.

(B) ESTABLISHMENT OF A CENTER FOR EXCELLENCE IN REINTEGRATION.—The Office for Reintegration Programs shall establish a Center for Excellence in Reintegration within the office. The Center shall collect and analyze ''lessons learned'' and suggestions from State National Guard and Reserve organizations with existing or developing reintegration programs. The Center shall also assist in developing training aids and briefing materials and training representatives from State National Guard and Reserve organizations.

(3) ADVISORY BOARD.—

(A) APPOINTMENT.—The Secretary of Defense shall appoint an advisory board to analyze and report areas of success and areas for necessary improvements. The advisory board shall include, but is not limited to, the Director of the Army National Guard, the Director of the Air National Guard, Chiefs of the Army Reserve, Marine Corps Reserve, Navy Reserve, and Air Force Reserve. The Assistant Secretary of Defense for Reserve Affairs, an Adjutant General on a rotational basis as determined by the Chief of the National Guard Bureau, and any other Department of Defense, Federal Government agency, or outside organization as determined by the Secretary of Defense. The members of the advisory board may designate representatives in their stead.

(B) SCHEDULE.—The advisory board shall meet on a schedule as determined by the Secretary of Defense.

(C) INITIAL REPORTING REQUIREMENT.—The advisory board shall issue internal reports as necessary and shall submit an initial report to the Committees on Armed Services not later than 180 days after the end of a one-year period from establishment of the Office for Reintegration Programs. This report shall contain—

(i) an evaluation of the reintegration program's implementation by State National Guard and Reserve organizations;

(ii) an assessment of any unmet resource requirements;

(iii) recommendations regarding closer coordination between the Office of Reintegration Programs and State National Guard and Reserve organizations.

(D) ANNUAL REPORTS.—The advisory board shall submit annual reports to the Committees on Armed Services of the Senate and the House of Representatives following the initial report by the first week in March of subsequent years following the initial report.

(e) PROGRAM.—

(1) IN GENERAL.—The Office for Reintegration Programs shall analyze the demographics, placement of State Family Assistance Centers (FAC), and FAC resources before a mobilization alert is issued to affected State National Guard and Reserve organizations. The Office of Reintegration Programs shall consult with affected State National Guard and Reserve organizations following the issuance of a mobilization alert and implement the reintegration events in accordance with the Reintegration Program phase model.

(2) PRE-DEPLOYMENT PHASE.—The Pre-Deployment Phase shall constitute the time from first notification of mobilization until deployment of the mobilized National Guard or Reserve unit. Events and activities shall focus on providing education and ensuring the readiness of service members, families, and communities for the rigors of a combat deployment.

(3) DEPLOYMENT PHASE.—The Deployment Phase shall constitute the period from deployment of the mobilized National Guard or Reserve unit until the unit arrives at a demobilization station inside the continental United States. Events and services provided shall focus on the challenges and stress associated with separation and having a member in a combat zone. Information sessions shall utilize State National Guard and Reserve resources in coordination with the Employer Support of Guard and Reserve Office, Transition Assistance Advisors, and the State Family Programs Director.

(4) DEMOBILIZATION PHASE.—

(A) IN GENERAL.—The Demobilization Phase shall constitute the period from arrival of the National Guard or Reserve unit at the demobilization station until its departure for home station. In the interest of returning members as soon as possible to their home stations, reintegration briefings during the Demobilization Phase shall be minimized. State Deployment Cycle Support Teams are encouraged, however, to assist demobilizing members in enrolling in the Department of Veterans Affairs system using Form 1010EZ during the Demobilization Phase. State Deployment Cycle Support Teams may provide other events from the Initial Reintegration Activity as determined by the State National Guard or Reserve organizations. Remaining events shall be conducted during the Post-Deployment-Reconstitution Phase.

(B) INITIAL REINTEGRATION ACTIVITY.—The purpose of this reintegration program is to educate service members about the resources that are available to them and to connect members to service providers who can assist them in overcoming the challenges of reintegration.

(5) POST-DEPLOYMENT-RECONSTITUTION PHASE.—

(A) IN GENERAL.—The Post-Deployment-Reconstitution Phase shall constitute the period from arrival at home station until 180 days following demobilization. Activities and services provided shall focus on reconnecting service members with their families and communities and providing resources and information necessary for successful reintegration. Reintegration events shall begin with elements of the Initial Reintegration Activity program that were not completed during the Demobilization Phase.

(B) 30-DAY, 60-DAY, AND 90-DAY REINTEGRATION ACTIVITIES.—The State National Guard and Reserve organizations shall hold reintegration activities at the 30-day, 60-day, and 90-day interval following demobilization. These activities shall focus on reconnecting service members and family members with the service providers from Initial Reintegration Activity to ensure service members and their families understand what benefits they are entitled to and what resources are available to help them overcome the challenges of reintegration. The Reintegration Activities shall also provide a forum for service members and families to address negative behaviors related to combat stress and transition.

(C) SERVICE MEMBER PAY.—Service members shall receive appropriate pay for days spent attending the Reintegration Activities at the 30-day, 60-day, and 90-day intervals.

(D) MONTHLY INDIVIDUAL REINTEGRATION PROGRAM.—The Office for Reintegration Programs, in coordination with State National Guard and Reserve organizations, shall offer a monthly reintegration program for individual service members released from active duty or formerly in a medical hold status. The program shall focus on the special needs of this service member subset and the Office for Reintegration Programs shall develop an appropriate program of services and information.

AMENDMENT NO. 2210

(Purpose: To modify a reporting requirement)

At the end of title XXXI, add the following:

SEC. 3126. MODIFICATION OF REPORTING REQUIREMENT.

Section 3111 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3539) is amended—

(1) in subsection (b), by striking ''March 1, 2007'' and inserting ''March 1 of 2007, 2009, 2011, and 2013'';

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(3) by inserting after subsection (b) the following new subsection (c):

''(c) FORM.—The report required by subsection (b) to be submitted not later than March 1 of 2009, 2011, or 2013, shall be submitted in classified form, and shall include a detailed unclassified summary.''; and

(4) in subsection (e), as redesignated, by striking ''(c)'' and inserting ''(d)''.

AMENDMENT NO. 2291

(Purpose: To require a report on the search and rescue capabilities of the Air Force in the northwestern United States)

At the end of title III, add the following:

SEC. 358. REPORT ON SEARCH AND RESCUE CAPABILITIES OF AIR FORCE IN NORTHWESTERN UNITED STATES.

(a) REPORT.—Not later than April 1, 2008, the Secretary of the Air Force shall submit to the appropriate congressional committees a report on the search and rescue capabilities of the Air Force in the northwestern United States.

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

(1) An assessment of the search and rescue capabilities required to support Air Force operations and training.

(2) A description of the compliance of the Air Force with the 1999 United States National Search and Rescue Plan (NSRP) for Washington, Oregon, Idaho, and Montana.

(3) An inventory and description of search and rescue assets of the Air Force that are available to meet such requirements.

(4) A description of the utilization during the previous three years of such search and rescue assets.

(5) The plans of the Air Force to meet current and future search and rescue requirements in the northwestern United States, including with respect to risk assessment services for Air Force missions and compliance with the NSRP.

(c) USE OF REPORT FOR PURPOSES OF CERTIFICATION REGARDING SEARCH AND RESCUE CAPABILITIES.—Section 1085 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 113 note) is amended by striking ''unless the Secretary first certifies'' and inserting ''unless the Secretary, after reviewing the search and rescue capabilities report prepared by the Secretary of the Air Force under section 358 of the National Defense Authorization Act for Fiscal Year 2008, first certifies''.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means—

(1) the Committee on Armed Services, the Committee on Homeland Security and Governmental Affairs, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services, the Committee on Homeland Security, the Committee on Energy and Commerce, the Committee on Natural Resources, and the Committee on Appropriations of the House of Representatives.

AMENDMENT NO. 2096

(Purpose: To require a comprehensive accounting of the funding required to ensure that the plan for implementing for final recommendations of the 2005 Defense Base Closure and Realignment Commission remains on schedule)

On page 501, between lines 2 and 3, insert the following:

SEC. 2842. COMPREHENSIVE ACCOUNTING OF FUNDING REQUIRED TO ENSURE TIMELY IMPLEMENTATION OF 2005 DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION RECOMMENDATIONS.

The Secretary of Defense shall submit to Congress with the budget materials for fiscal year 2009 a comprehensive accounting of the funding required to ensure that the plan for implementing the final recommendations of the 2005 Defense Base Closure and Realignment Commission remains on schedule.

AMENDMENT NO. 2315

(Purpose: To authorize a land conveyance at the Lewis and Clark United States Army Reserve Center, Bismarck, North Dakota)

At the end of subtitle E of title XXVIII, add the following:

SEC. 2854. LAND CONVEYANCE, LEWIS AND CLARK UNITED STATES ARMY RESERVE CENTER, BISMARCK, NORTH DAKOTA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the United Tribes Technical College all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 2 acres located at the Lewis and Clark United States Army Reserve Center, 3319 University Drive, Bismarck, North Dakota, for the purpose of supporting Native American education and training.

(b) REVERSIONARY INTEREST.—

(1) IN GENERAL.—Subject to paragraph (2), if the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purposes of the conveyance specified in such subsection, all right, title, and interest in and to the property shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(2) EXPIRATION.—The reversionary interest under paragraph (1) shall expire upon satisfaction of the following conditions:

(A) The real property conveyed under subsection (a) is used in accordance with the purposes of the conveyance specified in such subsection for a period of not less than 30 years following the date of the conveyance.

(B) The United Tribes Technical College applies to the Secretary for the release of the reversionary interest.

(C) The Secretary certifies, in a manner that can be filed with the appropriate land recordation office, that the condition under subparagraph (A) has been satisfied.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the United Tribes Technical College to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the United Tribes Technical College in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the United Tribes Technical College.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursements under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT NO. 2176

(Purpose: To require the Comptroller General of the United States to review the application of certain authorities under the Defense Production Act of 1950, and for other purposes)

At the appropriate place, insert the following:

SEC. ____. GAO REVIEW OF USE OF AUTHORITY UNDER THE DEFENSE PRODUCTION ACT OF 1950.

(a) THOROUGH REVIEW REQUIRED.—The Comptroller General of the United States (in this section referred to as the ''Comptroller'') shall conduct a thorough review of the application of the Defense Production Act of 1950, since the date of enactment of the Defense Production Act Reauthorization of 2003 (Public Law 108-195), in light of amendments made by that Act.

(b) CONSIDERATIONS.—In conducting the review required by this section, the Comptroller shall examine—

(1) existing authorities under the Defense Production Act of 1950;

(2) whether and how such authorities should be statutorily modified to ensure preparedness of the United States and United States industry—

(A) to meet security challenges;

(B) to meet current and future defense requirements;

(C) to meet current and future energy requirements;

(D) to meet current and future domestic emergency and disaster response and recovery requirements;

(E) to reduce the interruption of critical infrastructure operations during a terrorist attack, natural catastrophe, or other similar national emergency; and

(F) to safeguard critical components of the United States industrial base, including American aerospace and shipbuilding industries;

(3) the effectiveness of amendments made by the Defense Production Act Reauthorization of 2003, and the implementation of such amendments;

(4) advantages and limitations of Defense Production Act of 1950-related capabilities, to ensure adaptation of the law to meet the security challenges of the 21st Century;

(5) the economic impact of foreign offset contracts and the efficacy of existing authority in mitigating such impact;

(6) the relative merit of developing rapid and standardized systems for use of the authority provided under the Defense Production Act of 1950, by any Federal agency; and

(7) such other issues as the Comptroller determines relevant.

(c) REPORT TO CONGRESS.—Not later than 120 days after the date of enactment of this Act, the Comptroller shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of the review conducted under this section, together with any legislative recommendations.

(d) RULES OF CONSTRUCTION ON PROTECTION OF INFORMATION.—Notwithstanding any other provision of law—

(1) the provisions of section 705(d) of the Defense Production Act of 1950 (50 U.S.C. App. 2155(d)) shall not apply to information sought or obtained by the Comptroller for purposes of the review required by this section; and

(2) provisions of law pertaining to the protection of classified information or proprietary information otherwise applicable to information sought or obtained by the Comptroller in carrying out this section shall not be affected by any provision of this section.

AMENDMENT NO. 2326

(Purpose: To grant a Federal charter to Korean War Veterans Association, Incorporated)

At the end of subtitle E of title X, add the following:

SEC. 1070. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

"CHAPTER 1201—[RESERVED]";

and

(2) by inserting after chapter 1103 the following new chapter:

"CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED

"Sec.

''120101. Organization.
''120102. Purposes.
''120103. Membership.
''120104. Governing body.
''120105. Powers.
''120106. Restrictions.
''120107. Tax-exempt status required as condition of charter.
''120108. Records and inspection.
''120109. Service of process.
''120110. Liability for acts of officers and agents.
''120111. Annual report.
''120112. Definition.

"§ 120101. Organization

''(a) FEDERAL CHARTER.—Korean War Veterans Association, Incorporated (in this chapter, the 'corporation'), a nonprofit organization that meets the requirements for a veterans service organization under section 501(c)(19) of the Internal Revenue Code of 1986 and that is organized under the laws of the State of New York, is a federally chartered corporation.

''(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) shall expire.

"§ 120102. Purposes

''The purposes of the corporation are those provided in the articles of incorporation of the corporation and shall include the following:

''(1) To organize as a veterans service organization in order to maintain a continuing interest in the welfare of veterans of the Korean War, and rehabilitation of the disabled veterans of the Korean War to include all that served during active hostilities and subsequently in defense of the Republic of Korea, and their families.

''(2) To establish facilities for the assistance of all veterans and to represent them in their claims before the Department of Veterans Affairs and other organizations without charge.

''(3) To perpetuate and preserve the comradeship and friendships born on the field of battle and nurtured by the common experience of service to the United States during the time of war and peace.

''(4) To honor the memory of the men and women who gave their lives so that the United States and the world might be free and live by the creation of living memorial, monuments, and other forms of additional educational, cultural, and recreational facilities.

''(5) To preserve for the people of the United States and posterity of such people the great and basic truths and enduring principles upon which the United States was founded.

"§ 120103. Membership

''Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

"§ 120104. Governing body

''(a) BOARD OF DIRECTORS.—The composition of the board of directors of the corporation, and the responsibilities of the board, are as provided in the articles of incorporation of the corporation.

''(b) OFFICERS.—The positions of officers of the corporation, and the election of the officers, are as provided in the articles of incorporation.

"§ 120105. Powers

''The corporation has only those powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 120106. Restrictions

''(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

''(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

''(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

''(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval, or the authority of the United States, for any activity of the corporation.

''(e) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

"§ 120107. Tax-exempt status required as condition of charter

''If the corporation fails to maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986, the charter granted under this chapter shall terminate.

"§ 120108. Records and inspection

''(a) RECORDS.—The corporation shall keep—

''(1) correct and complete records of account;

''(2) minutes of the proceedings of the members, board of directors, and committees of the corporation having any of the authority of the board of directors of the corporation; and

''(3) at the principal office of the corporation, a record of the names and addresses of the members of the corporation entitled to vote on matters relating to the corporation.

''(b) INSPECTION.—A member entitled to vote on any matter relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 120109. Service of process

''The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the corporation.

"§ 120110. Liability for acts of officers and agents

''The corporation is liable for any act of any officer or agent of the corporation acting within the scope of the authority of the corporation.

"§ 120111. Annual report

''The corporation shall submit to Congress an annual report on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101(b) of this title. The report may not be printed as a public document.

"§ 120112. Definition

''For purposes of this chapter, the term 'State' includes the District of Columbia and the territories and possessions of the United States.''.

(b) CLERICAL AMENDMENT.—The item relating to chapter 1201 in the table of chapters at the beginning of subtitle II of title 36, United States Code, is amended to read as follows:

"1201. Korean War Veterans Association, Incorporated ..... 120101".

AMENDMENT NO. 2263

(Purpose: To inhance the availability of rest and recuperation leave)

At the end of subtitle H of title V, add the following:

SEC. 594. ENHANCEMENT OF REST AND RECUPERATION LEAVE.

Section 705(b)(2) of title 10, United States Code, is amended by inserting ''for members whose qualifying tour of duty is 12 months or less, or for not more than 20 days for members whose qualifying tour of duty is longer than 12 months,'' after ''for not more than 15 days''.

AMENDMENT NO. 2294

(Purpose: To require the Secretary of Defense to submit a plan to ensure the appropriate size of the Department of Defense acquisition workforce)

At the end of section 844, insert the following:

(h) ACQUISITION WORKFORCE ASSESSMENT AND PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall develop an assessment and plan for addressing gaps in the acquisition workforce of the Department of Defense.

(2) CONTENT OF ASSESSMENT.—The assessment developed under paragraph (1) shall identify—

(A) the skills and competencies needed in the military and civilian workforce of the Department of Defense to effectively manage the acquisition programs and activities of the Department over the next decade;

(B) the skills and competencies of the existing military and civilian acquisition workforce of the Department and projected trends in that workforce based on expected losses due to retirement and other attrition; and

(C) gaps in the existing or projected military and civilian acquisition workforce that should be addressed to ensure that the Department has access to the skills and competencies identified pursuant to subparagraph (A).

(3) CONTENT OF PLAN.—The plan developed under paragraph (1) shall establish specific objectives for developing and reshaping the military and civilian acquisition workforce of the Department of Defense to address the gaps in skills and competencies identified under paragraph (2). The plan shall include—

(A) specific recruiting and retention goals; and

(B) specific strategies for developing, training, deploying, compensating, and motivating the military and civilian acquisition workforce of the Department to achieve such goals.

(4) ANNUAL UPDATES.—Not later than March 1 of each year from 2009 through 2012, the Secretary of Defense shall update the assessment and plan required by paragraph (1). Each update shall include the assessment of the Secretary of the progress the Department has made to date in implementing the plan.

(5) SPENDING OF AMOUNTS IN FUND IN ACCORDANCE WITH PLAN.—Beginning on October 1, 2008, amounts in the Fund shall be expended in accordance with the plan required under paragraph (1) and the annual updates required under paragraph (4).

(6) REPORTS.—Not later than 30 days after developing the assessment and plan required under paragraph (1) or preparing an annual update required under paragraph (4), the Secretary of Defense shall submit to the congressional defense committees a report on the assessment and plan or annual update, as the case may be.

AMENDMENT NO. 2277, AS MODIFIED

At the end of title XXVIII, add the following:

SEC. 2864. REPORT ON WATER CONSERVATION PROJECTS.

(a) REPORT REQUIRED.—Not later than April 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the funding and effectiveness of water conservation projects at Department of Defense facilities.

(b) CONTENT.—The report required under subsection (a) shall include—

(1) a description, by type, of the amounts invested or budgeted for water conservation projects by the Department of Defense in fiscal years 2006, 2007, and 2008;

(2) an assessment of the investment levels required to meet the water conservation requirements of the Department of Defense under Executive Order No. 13423 (January 24, 2007);

(3) an assessment of whether water conservation projects should continue to be funded within the Energy Conservation Investment Program or whether the water conservation efforts of the Department would be more effective if a separate water conservation investment program were established;

(4) an assessment of the demonstrated or potential reductions in water usage and return on investment of various types of water conservation projects, including the use of metering or control systems, xeriscaping, waterless urinals, utility system upgrades, and water efficiency standards for appliances used in Department of Defense facilities; and

(5) recommendations for any legislation, including any changes to the authority provided under section 2866 of title 10, United States Code, that would facilitate the water conservation goals of the Department, including the water conservation requirements of Executive Order No. 13423 and DoD Instruction 4170.11.

AMENDMENT NO. 2862

(Purpose: To authorize to be increased by up to $49,300,000 the amount authorized to be appropriated for the construction of munitions demilitarization facilities at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado, and to ensure the timely destruction of lethal chemical agents and munitions)

On page 470, after the table following line 22, add the following:

SEC. 2406. MUNITIONS DEMILITARIZATION FACILITIES, BLUE GRASS ARMY DEPOT, KENTUCKY, AND PUEBLO CHEMICAL ACTIVITY, COLORADO.

(a) AUTHORITY TO INCREASE AMOUNT FOR CONSTRUCTION OF MUNITIONS DEMILITARIZATION FACILITY, BLUE GRASS ARMY DEPOT, KENTUCKY.—Pursuant to the authority granted for this project by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 836), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107–107; 115 Stat. 1298) and section 2405 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), the amount authorized to be appropriated by section 2403(14) of this Act for the construction of increment 8 of a munitions demilitarization facility at Blue Grass Army Depot, Kentucky, may, subject to the approval of the Secretary of Defense, be increased by up to $17,300,000 using funds from the amounts authorized to be appropriated by section 2403(1) of this Act.

(b) AUTHORITY TO INCREASE AMOUNT FOR CONSTRUCTION OF MUNITIONS DEMILITARIZATION FACILITY, PUEBLO CHEMICAL ACTIVITY, COLORADO.—Pursuant to the authority granted for this project by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106–65; 113 Stat. 839) and section 2407 of the Military Construction Authorization Act for Fiscal Year 2003 (division B of Public Law 107–314; 116 Stat. 2698), the amount authorized to be appropriated by section 2403(14) of this Act for the construction of increment 9 of a munitions demilitarization facility at Pueblo Chemical Activity, Colorado may, subject to the approval of the Secretary of Defense, be increased by up to $32,000,000 using funds from the amounts authorized to be appropriated by section 2403(1) of this Act.

(c) CERTIFICATION REQUIREMENT.—Prior to exercising the authority provided in subsection (a) or (b), the Secretary of Defense shall provide to the congressional defense committees the following:

(1) Certification that the increase in the amount authorized to be appropriated—

(A) is in the best interest of national security; and

(B) will facilitate compliance with the deadline set forth in subsection (d)(1).

(2) A statement that the increased amount authorized to be appropriated will be used to carry out authorized military construction activities.

(3) A notification of the action in accordance with section 2811.

(d) DEADLINE FOR DESTRUCTION OF CHEMICAL AGENTS AND MUNITIONS STOCKPILE.—

(1) DEADLINE.—Notwithstanding any other provision of law, the Department of Defense shall complete work on the destruction of the entire United States stockpile of lethal chemical agents and munitions, including those stored at Blue Grass Army Depot, Kentucky, and Pueblo Chemical Depot, Colorado, by the deadline established by the Chemical Weapons Convention, and in no circumstances later than December 31, 2017.

(2) REPORT.—

(A) IN GENERAL.—Not later than December 31, 2007, and every 180 days thereafter, the Secretary of Defense shall submit to the parties described in paragraph (2) a report on the progress of the Department of Defense toward compliance with this subsection.

(B) PARTIES RECEIVING REPORT.—The parties referred to in paragraph (1) are the Speaker of the House of the Representatives, the Majority and Minority Leaders of the House of Representatives, the Majority and Minority Leaders of the Senate, and the congressional defense committees.

(C) CONTENT.—Each report submitted under subparagraph (A) shall include the updated and projected annual funding levels necessary to achieve full compliance with this subsection. The projected funding levels for each report shall include a detailed accounting of the complete life-cycle costs for each of the chemical disposal projects.

(3) CHEMICAL WEAPONS CONVENTION DEFINED.—In this subsection, the term ''Chemical Weapons Convention'' means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, with annexes, done at Paris, January 13, 1993, and entered into force April 29, 1997 (T. Doc. 103-21).

(4) APPLICABILITY; RULE OF CONSTRUCTION.—This subsection shall apply to fiscal year 2008 and each fiscal year thereafter, and shall not be modified or repealed by implication.

Mr. LEVIN. I thank the Presiding Officer.

Mr. WARNER. Mr. President, I move to reconsider the vote on the package of amendments.

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

The motion to lay on the table was agreed to.

ADMENDMENT NO. 2268

Mr. DURBIN. Mr. President, we are engaged in one of the longest conflicts in American history, and the need for qualified nurses in military medical facilities is increasing. Tragic stories of injured veterans returning from war and heart-wrenching images on television remind us that the military needs qualified nurses. Unfortunately, the military faces the same difficulty recruiting and retaining nurses that civilian medical facilities are facing.

Neither the Army nor the Air Force has met nurse recruitment goals since the 1990s. In 2004, the Navy Nurse Corps fell 32 percent below its recruitment target, while the Air Force missed its nurse recruitment target by 30 percent. At a Senate appropriations hearing earlier this year, Nurse Corps leaders pointed to a serious shortage of military nurses. The Army, Navy, and Air Force each have a 10-percent shortage of nurses, with shortages reaching nearly 40 percent in some critical specialties.

Civilian hospitals face similar challenges. According to the American College of Healthcare Executives, 72 percent of hospitals experienced a nursing shortage in 2004. The shortage is growing. The U.S. Department of Health and Human Services, HHS, found that in 2000 this country was 110,000 nurses short of the number, both civilian and

military, necessary to adequately provide quality health care. By 2005, the shortage had doubled to 219,000. By 2020, we will be more than 1 million nurses short of what we need for quality health care. This will create a problem for military health care as well as the Nation at large.

To avoid the vast shortage HHS is projecting, we have to improve the number of nurses graduating and entering the workforce each year. If we only were to replace the nurses who are retiring, we would need to increase student enrollment at nursing schools by 40 percent. But the baseline demand for nurses, however, continues to rise, while the supply falls. If we increased the number of graduates from nursing school by 90 percent by 2020, we would still fall short of the number needed for quality care.

One of the major factors contributing to the nursing shortage is the shortage of teachers at schools of nursing. Last year, nursing colleges across the Nation denied admission to over 40,000 qualified applicants because there were not enough faculty members to teach the students. Last year, approximately 2,000 qualified student applicants were rejected from Illinois nursing schools because there were not enough teachers.

And the shortage does not discriminate between rural or urban areas, city or countryside, large or small schools. For example, in 2006, the University of Illinois at Chicago, consistently recognized as one of the top ten nursing programs in the United States, was sixth in total NIH research and research training dollars, and in 2004, it was ranked eighth out of 142 schools of nursing by U.S. News & World Report. However, despite the nationwide prestige, the school turned away more than 500 qualified applicants last year. Northern Illinois University, a smaller school in DeKalb, IL, was forced to reject 233 qualified applicants as a result of a shortage of teachers and financial resources.

The American Association of Colleges of Nursing surveyed more than 400 schools of nursing last year. Seventy-one percent of the schools reported vacancies on their faculty. An additional 15 percent said they were fully staffed but still needed more faculty to handle the number of students who want to be trained.

Statistics paint a bleak picture for the availability of nursing faculty now and into the future. The median age of a doctorally prepared nursing faculty member is 52 years old. The average age of retirement for faculty at schools of nursing is 62.5 years. It is expected that 200 to 300 doctorally prepared faculty will be eligible for retirement each year from 2005 through 2012 , drastically reducing the number of available faculty—even though more than 1 million replacement nurses will be needed. The military recruits nurses from the same source as doctors and hospitals: civilian nursing schools. Unless we address the lack of faculty, the shortage of nurses will only worsen.

In 1994, the Department of Defense established a program called Troops to Teachers, which serves the dual purpose of helping relieve the shortages of math, science, and special education teachers in high-poverty schools while assisting military personnel in making successful transitions to second careers in teaching. As of January 2004, more than 6,000 former soldiers have been hired as teachers through the Troops to Teachers Program, and an additional 6,700 are now qualified teachers and looking for placements.

My amendment will set up a pilot program called Troops to Nurse Teachers to make it easier for military nurses, retiring nurses, or those leaving the military to pursue a career teaching the future nurse workforce. I am proud to have the support of my colleagues: Senators INOUYE, INHOFE, OBAMA, MENENDEZ, BIDEN, MIKULSKI, DOLE, REED, LIEBERMAN, and COLLINS. I thank the leadership of the Senate Armed Services Committee, Chairman LEVIN, Senator WARNER, for their support and willingness to accept the amendment.

The Troops to Nurse Teachers Program seeks to address the nursing shortage in the different branches of the military while tapping into the existing wealth of knowledge and expertise of military nurses to help address the nationwide shortage of nurses.

The goals of the Troops to Nurse Teachers program are two fold. First, the program intends to increase the number of nurse faculty members so nursing schools can expand enrollment and alleviate the ongoing shortage both in the civilian and military sectors. Second, the Troops to Nurse Teachers Program is meant to help military personnel make successful transitions to second careers in teaching, similar to Troops to Teachers. The program would achieve these goals by offering incentives to nurses transitioning from the military to become full-time nurse faculty members, while providing the military a new recruitment tool and advertising agent.

The Troops to Nurse Teachers Program will provide transitional assistance for servicemembers who already hold a master's or Ph.D. in nursing or a related field and are qualified to teach. Eligible servicemembers can receive career placement assistance, transitional stipends, and educational training from accredited schools of nursing to expedite their transition. Troops to Nurse Teachers will also establish a pilot scholarship program for officers of the Armed Forces who have been involved in nursing during their military service to help them obtain the education needed to become nurse educators. Tuition, stipends, and financing for other educational expenses would be provided. Recipients of scholarships must commit to teaching at an accredited school of nursing for 3 years in exchange for the educational support they receive.

In addition, the Troops to Nurse Teachers Program will provide active military nurses the opportunity to complete a 2-year tour of duty at a civilian nursing school to train the next generation of nurses. In exchange, the nurse officer will commit to additional time in the military or the College of Nursing will provide scholarships for nursing students that commit to enlisting in the military.

We have the support of over 20 nursing organizations, including the following: American Association of Colleges of Nursing, American Organization of Nurse Executives, American Nurses Association, Academy of Medical-Surgical Nurses, American Academy of Ambulatory Care Nursing, American College of Nurse Practitioners, American Association of Nurse Anesthetists, American Health Care Association, American Society of PeriAnesthesia Nurses, Association of Women's Health, Obstetric, and Neonatal Nurses, American Association of Occupational Health Nurses, Inc., American Radiological Nurses Association, Association of Perioperative Registered Nurses, Emergency Nurses Association, National Black Nurses Association, National Council of State Boards of Nursing, National Gerontological Nursing Association, National League for Nursing, National Nursing Centers Consortium, National Organization of Nurse Practitioner Faculties, Oncology Nursing Society, Society of Urologic Nurses & Associates.

In addition, the Office of the Secretary of Defense, both Personnel and Recruitment and Health Affairs, are in support of the amendment. We have also worked hard to secure the support and incorporate important feedback from the Nurse Corps of the Departments of the Army, Navy, and Air Force.

We must increase the number of teachers preparing tomorrow's nursing workforce. With the aging of the baby boom generation and the long-term needs of our growing number of wounded veterans, the military and civilian health care systems will need qualified nurses more than ever. The Troops to Nurse Teachers Program will help to alleviate the shortage of nurse faculty and ultimately help make more nurses available for both civilian and military medical facilities.

AMENDMENTS NOS. 2087, 2088, 2274, AND 2275 WITHDRAWN

Mr. LEVIN. Mr. President, I now ask unanimous consent that all pending amendments be withdrawn, with the exception of the Levin substitute amendment; that Senator LEAHY or his designee be recognized to offer a first-degree amendment on the subject of habeas corpus; that after the Leahy amendment is offered, Senator GRAHAM or his designee be recognized to offer a first-degree amendment to strike section 1023; that the offering of these amendments does not preclude further amendments on the subject matter of these amendments.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. No objection.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

AMENDMENT NO. 2022 TO AMENDMENT NO. 2011

Mr. LEVIN. Mr. President, on behalf of Senator LEAHY, I call up amendment No. 2022.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. SPECTER and Mr. LEAHY, proposes an amendment numbered 2022.

Mr. LEVIN. I ask unanimous consent that the reading of the amendment be dispensed with. No. 2022 is the amendment, and it is indeed the Specter-Leahy amendment. That is the amendment which was referred to in the unanimous consent agreement.

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

The amendment (No. 2022) is as follows:

AMENDMENT NO. 2022

(Purpose: To restore habeas corpus for those detained by the United States)

At the end of subtitle E of title X, add the following:

SEC. 1070. RESTORATION OF HABEAS CORPUS FOR THOSE DETAINED BY THE UNITED STATES.

(a) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by striking subsection (e).

(b) TITLE 10.—Section 950j of title 10, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) LIMITED REVIEW OF MILITARY COMMISSION PROCEDURES AND ACTIONS.—Except as otherwise provided in this chapter or in section 2241 of title 28 or any other habeas corpus provision, and notwithstanding any other provision of law, no court, justice, or judge shall have jurisdiction to hear or consider any claim or cause of action whatsoever, including any action pending on or filed after the date of the enactment of the Military Commissions Act of 2006, relating to the prosecution, trial, or judgment of a military commission under this chapter, including challenges to the lawfulness of procedures of military commissions under this chapter.''.

(c) EFFECTIVE DATE AND APPLICABILITY.—The amendments made by this section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to any case that is pending on or after the date of enactment of this Act.

AMENDMENT NO. 2064 TO AMENDMENT NO. 2011

Mr. WARNER. Mr. President, I call up amendment No. 2064 on behalf of Senator GRAHAM.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. GRAHAM, proposes an amendment numbered 2064.

Mr. WARNER. 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 (No. 2064) is as follows:

AMENDMENT NO. 2064

(Purpose: To strike section 1023, relating to the granting of civil rights to terror suspects)

Strike section 1023.

Mr. WARNER. Mr. President, it is my understanding that we do have these two first-degree amendments side by side for purposes of the debate, and at this time there are no time agreements.

Mr. LEVIN. Mr. President, Senator LEAHY has already debated this amendment. I assume he would want to debate this further, but that would, of course, be up to him. But this was the amendment Senator LEAHY was debating earlier this afternoon. Now that it is pending, it is open to debate.

Mr. WARNER. Mr. President, I have discussed this with the Senator from Arizona, who is here on the floor for purposes of that debate. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Arizona.

Mr. KYL. Mr. President, I thank the chairman and Senator WARNER. Let me read a portion of a letter from the Department of Justice first, and I will include it for the RECORD at the conclusion of its reading. This letter is addressed to Chairman PAT LEAHY of the Judiciary Committee. It begins by saying—it is dated June 6 of this year.

This letter presents the views of the Department of Justice on S. 185, the ''Habeas Corpus Restoration Act of 2007,'' as introduced in the U.S. Senate. If enacted, S. 185 would remove the habeas corpus restrictions included in the ''Military Commissions Act of 2006.''

After a full and open debate, a bipartisan majority of Congress passed the MCA just last fall. The MCA's restrictions on habeas corpus codified important and constitutional limits on captured enemies' access to our courts. The DC Circuit upheld MCA's habeas restrictions in—the name of the case is Boumediene v. Bush—I will omit the citation—decided in 2007.

The provision of S. 185 that seeks to remove these important limits ignores their history and their role in protecting our Nation's security. As the Supreme Court recognized in Johnson v. Eisentrager, a 1950 case, the extension of habeas corpus to alien combatants captured abroad ''would hamper the war effort and bring aid and comfort to the enemy,'' and the Constitution requires no such thing. The United States already provides alien enemy combatants detained at Guantanamo Bay, Cuba, with an unprecedented degree of process, which includes judicial review of decisions regarding their detention before the Federal appeals court in Washington, DC. Repealing the MCA's limitations on habeas would simply burden our courts with duplicative and unnecessary litigation. For this reason, and because repeal of the MCA's habeas provisions would delay and disrupt the vital work of bringing enemy combatants to justice, the President's senior advisors would recommend that he veto S. 185 if the bill is presented to him for signature.

There is more of the letter, but I will submit it for the RECORD at this point.

I note that the amendment offered by Senator LEAHY is virtually the same, if not the same, as the bill introduced. I am presuming that the President's senior advisers would, as a result, also recommend a veto of the bill if it included this provision.

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

JUNE 6, 2007.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter presents the views of the Department of Justice on S. 185, the ''Habeas Corpus Restoration Act of 2007,'' as introduced in the United States Senate. If enacted, S. 185 would remove the habeas corpus restrictions included in the ''Military Commissions Act of 2006'' (''MCA'').

After a full and open debate, a bipartisan majority of Congress passed the MCA just last fall. The MCA's restrictions on habeas corpus codified important and constitutional limits on captured enemies' access to our courts. The D.C. Circuit upheld the MCA's habeas restrictions in Boumediene v. Bush, 476 F.3d 981 (D.C. Cir. 2007), cert. denied, 127 S. Ct. 1478 (2007). The provision of S. 185 that seeks to remove these important limits ignores their history and their role in protecting our Nation's security. As the Supreme Court recognized in Johnson v. Eisentrager, 339 U.S. 763 (1950), the extension of habeas corpus to alien combatants captured abroad ''would hamper the war effort and bring aid and comfort to the enemy,'' id. at 779, and the Constitution requires no such thing, see id. at 780–81. The United States already provides alien enemy combatants detained at Guantanamo Bay, Cuba, with an unprecedented degree of process, which includes judicial review of decisions regarding their detention before the Federal appeals court in Washington, D.C. Repealing the MCA's limitations on habeas would simply burden our courts with duplicative and unnecessary litigation. For this reason, and because repeal of the MCA's habeas provisions would delay and disrupt the vital work of bringing enemy combatants to justice, the President's senior advisors would recommend that he veto S. 185 if the bill is presented to him for signature.

Thank you for your consideration of our views. If we may be of further assistance, please do not hesitate to contact us. The Office of Management and Budget has advised us that there is no objection to this letter from the perspective of the Administration's program and that enactment of S. 185 would not be in accord with the President's program.

Sincerely,

ALBERTO R. GONZALES,
Attorney General.

Mr. KYL. Now, the Defense authorization bill is extraordinarily important to our troops. To add a totally extraneous provision amending a different bill to the Defense authorization bill, especially one which carries the suggestion of a Presidential veto, would be the height of irresponsibility on the part of the Senate. The substantive arguments of the Department of Justice with respect to habeas are correct, and the Senate should not, therefore, seek to amend another statute in the Defense authorization bill, thus inviting a veto of the bill.

Related to the habeas corpus provision is the amendment that is now pending offered by Senator GRAHAM of

South Carolina. That amendment would strike a provision of the Defense authorization bill—section 1023—that also relates to the subject of treatment of detainees. Unfortunately, the way the committee bill was written, the bill that is before us right now, if we retain that language and we don't strike it, as the Graham amendment would do, we would essentially be returning to a law enforcement approach to terrorists that, frankly, failed us before 9/11 and obviously does not work in the post-9/11 context. We can't deal with all of the enemy combatants as criminal defendants. These people who are picked up on the battlefields of Iraq and Afghanistan cannot be dealt with in the same way as criminal defendants in our court system. Senator GRAHAM's amendment would strike these harmful provisions of the bill.

I wish to begin by reminding my colleagues of the evil nature of these terrorists and then go through the three particular parts of this provision that require removal.

First, a requirement that al-Qaida terrorists held in Iraq and Afghanistan be given lawyers—I mean, just imagine that; second, the authorization to demand discovery and compel testimony from servicemembers; and third, the requirement that al-Qaida and Taliban detainees be provided access to classified evidence. To state these three provisions of the bill is to recognize immediately why it is so harmful that they be included in this bill and why they need to be stricken, but focus for just a moment on the people we are talking about held at Guantanamo Bay and picked up in Iraq and Afghanistan.

At least 30 of the detainees released already from Guantanamo Bay have since returned to waging war against the United States and our allies. Of course, the provisions of section 21 are all designed to effectuate the release of some of these prisoners—some of these detainees. So 30 have already been released because we no longer deemed them to be a threat to the United States or our forces, but after their release, 12 of the released detainees have been killed in battle by U.S. forces or—well, by U.S. forces; others have been captured. In other words, we released them, they went right back to the battlefield, 12 of them have been killed in battle, others have been recaptured, 2 released detainees became regional commanders for Taliban forces, and 1 attacked U.S. and allies' soldiers in Afghanistan, killing 3 Afghan soldiers.

One released detainee killed an Afghan judge. One released detainee led a terrorist attack on a hotel in Pakistan and a kidnapping raid that resulted in the death of a Chinese civilian, and this former detainee recently told Pakistani journalists that he planned to "fight America and its allies until the very end."

Even under the procedures today, which give due process to these detainees and allow them to be released if we can no longer demonstrate they are a threat to U.S. forces—even under these provisions, at least 30 of the detainees have gone right back to the battlefield and are attacking us and our forces.

The provisions of section 1023 would make it very difficult, if not impossible, for the United States to detain committed terrorists such as this, people who have been captured while waging war against us. No nation in the history of armed conflict has imposed the kinds of limits this bill would impose on its ability to detain enemy war prisoners. War prisoners released in the middle of an ongoing conflict, such as members of al-Qaida, will return to waging war. That is the whole point of prisoners of war. In the war you capture people and hold them so they cannot return to the battlefield to kill your troops. We have already seen this happen 30 times with the detainees released from Guantanamo, as I said.

If section 1023 were to be enacted, we could expect more civilians and Afghans and Iraqis will be killed, and it may be inevitable that even our own soldiers will be killed by such released terrorists. This is a price our Nation should not be forced to bear.

I mentioned three specific general problems with section 1023. The first has to do with a requirement of the bill that al-Qaida terrorists who are held in Iraq and Afghanistan must be provided with lawyers. I cannot imagine that the details of this were known to the members of the committee when they put it into the bill. This could never be executed. It would require the release of the detainees; either they get lawyers or they have to be released. And here is why. The Defense bill requires that counsel be provided and trials be conducted for all unlawful enemy combatants held by the United States, including, for example, al-Qaida members captured and detained in Iraq and Afghanistan, if they are held for 2 years. We hold approximately 800 prisoners in Afghanistan and tens of thousands in Iraq. None are lawful combatants; all would arguably be entitled to a lawyer and a trial under this bill. This procedure would at least require a military judge, a prosecutor, and a defense attorney, as well as other legal professionals.

This scheme is totally unrealistic. The entire Army JAG Corps only consists of about 1,500 officers, and each is busy with their current duties. Moreover, under the bill, each detainee would be permitted to retain private or volunteer counsel. Our agreements with the Iraqi Government bar the United States from transferring Iraqi detainees out of Iraq. As a result, the bill would require the United States to train, transport, house, and protect potentially thousands, or tens of thousands, of private lawyers in the middle of a war zone during ongoing hostilities. That is impossible.

Think about this in the context of other conflicts, not just in Iraq or Afghanistan. In the context of World War II, anybody hearing this would think it is nuts. But the bill before us literally requires us to provide attorneys to these captured detainees in Iraq—tens of thousands of them. This proposal would likely force the United States to release thousands of these enemy combatants in Iraq, as I said, because there is no way you could provide all of the lawyers to them. Obviously, that would further jeopardize our military. By requiring a trial for each detainee, this provision would also require U.S. soldiers to offer statements to criminal investigators, needing later to prove their case after they captured someone. In other words, unlike today, when you are on the battlefield and you capture somebody and you hold them because they are a threat, but you are not putting them on trial, now you are going to put them on trial and you have to have the kind of evidence that would stand up in court. You have watched the TV shows with the clever defense lawyers. You know about, "I object, Your Honor; that is not relevant," or "that is hearsay." On the battlefield, who walks around with lawyers making sure Miranda rights are read and evidence is collected and statements are taken that will hold up in court when they are later tried? And they would need to carry evidence kits and cameras, means of identifying the person later on. Two years after you capture someone, the defense lawyer could say: Is that the person you captured? And if he says, "Well, those guys all kind of looked alike to me when they were shooting at me, so I cannot be sure," well, the case will get thrown out of court. Or was there a chain of custody of the evidence? You would have to do that with the evidence taken on the battlefield or it would be thrown out in court. They would need to spend hours after each trial writing after-action reports, which would need to be reviewed by commanders. Valuable time, in other words, would be taken from combat operations and soldiers' rest whenever they capture somebody on the battlefield.

A horrible precedent would be set for the future. Aside from the war in Iraq, this provision would make fighting a major war in the future simply impossible. In World War II, we detained over 2 million enemy prisoners of war. It would have been impossible for the United States to have conducted a trial and provided counsel to 2 million captured enemy combatants. The bottom line, with respect to this provision, section 1023, the requirement of counsel for these detainees held in Iraq and Afghanistan, is that it would be impossible to implement. It is patently absurd and, as a result, it should be stricken.

The second point is authorizing al-Qaida detainees to demand discovery and compel testimony from American soldiers. I alluded to that a second ago. The underlying bill would actually authorize unlawful enemy combatants, including al-Qaida detainees in Iraq and Afghanistan, to demand discovery

and compel testimony from witnesses, just as we do in our criminal courts in the United States. These witnesses would all be the U.S. soldiers who captured the prisoner. Under the bill, an American soldier could literally be recalled from his unit at the whim of an al-Qaida terrorist in order to be cross-examined by him, or his lawyer, or a judge.

Newspaper columnist Stuart Taylor describes the questions such a right would raise:

> Should a Marine sergeant be pulled out of combat in Afghanistan to testify at a detention hearing about when, where, how, and why he had captured the detainee? What if the northern alliance or some other ally made the capture? Should the military be ordered to deliver high-level al-Qaida prisoners to be cross-examined by other detainees and their lawyers?

It goes on and on. The questions abound. As the Supreme Court itself observed in Johnson v. Eisenstrager, which is the law on this subject:

> It would be difficult to devise a more effective fettering of a field commander than to allow the very enemies he is ordered to reduce to submission to call him to account in his own civil court and divert his efforts and attention from the military offensive abroad to the legal defensive at home.

This is the U.S. Supreme Court talking not long after World War II, when a question similar to this arose, and a Justice of the Supreme Court says it ''would be difficult to devise a more effective fettering of a field commander than to allow the very enemies he is ordered to reduce to submission to call him into account in his own civil court and divert his efforts and attention from the military offensive abroad to the legal defensive at home.''

It would be difficult to conceive of a process that would be more insulting to our soldiers.

In addition, many al-Qaida members captured in Afghanistan were captured by special operators whose identities are kept secret for obvious reasons. This would force them to reveal themselves to al-Qaida members and expose themselves, or simply forgo the prosecution of the individual, which is obviously more likely to happen. You simply could not do all of this, so you would have to forgo the prosecution and release the prisoner.

Clearly, Americans should not be subject to subpoena by al-Qaida. Think about that. That brings me to the last point—the requirement that al-Qaida and Taliban detainees be provided with access to classified evidence. You would have to give the enemy your classified evidence, the sources and methods of your intelligence operations, in order to prosecute them, which is what would be required by the bill.

Here is the exact language. The bill requires that detainees be provided with ''a sufficiently specific substitute of classified evidence'' and that detainees' private lawyers be given access to all relevant classified evidence.

When this bill was brought up in the Senate, some Members questioned whether this bill requires us to share classified information with al-Qaida detainees and their lawyers. I will direct this to specific pages and lines of the bill to show what it does.

On page 305, lines 16 through 21, the bill expressly provides that ''the detainee'' must be provided—I am quoting now—access to a ''sufficiently specific'' summary of ''the classified evidence that is submitted against the detainee.'' This language appears to mirror the Classified Information Procedures Act rules that apply to the use of classified information in Federal courts. Like CIPA, these procedures give a detainee a right to the substance of classified evidence. The Government might be able to redact some names or other information, but only if it still gives the detainee the substance of the evidence. And if the United States is not willing to compromise the evidence in this way, it cannot use the evidence.

Similarly, at page 305, line 5, the bill expressly requires that under its provisions, ''counsel for the detainee is provided access to the relevant classified evidence.'' I don't know how you can be any more specific than that. His lawyer gets to see relevant classified evidence.

Foreign and domestic intelligence agencies are already very hesitant to divulge classified evidence to the CSRT hearings we already conduct. These are part of the internal and nonadversarial military process today. Intelligence agencies will inevitably refuse to provide sensitive evidence to detainees and their lawyers. They will not risk compromising such information for the sake of detaining one individual terrorist.

In addition, the United States already has tenuous relations with some of the foreign governments, particularly in the Middle East, that have been our best sources of information about groups such as al-Qaida. If we give detainees a legal right to access such information, these foreign governments would simply, I presume, shut off all further supply of information to the United States. Why would they do otherwise? They don't want to expose their own sources, compromise their evidence, or expose even the fact that they have cooperated with the United States. By exposing our cooperation with these governments, the bill perversely applies a sort of ''stop snitching'' policy toward our Middle Eastern allies, which is likely to be as ruthlessly effective as when applied to criminal street gangs to potential witnesses to a crime in the United States.

Some of our best information is gained from foreign intelligence services who, like us, are trying to find out everything they can about these terrorists. Once they know we have to turn the information they gave us over to the terrorists, they are going to stop cooperating with us.

The argument I presented—that sharing classified evidence with al-Qaida detainees and their lawyers would badly damage America's efforts in the war with al-Qaida—was recently reinforced by several declarations that were recently introduced in the ongoing Bismullah litigation. These declarations were filed by the Director of National Intelligence, the Director of the CIA, and by the Director of the Federal Bureau of Investigation, our three top intelligence agencies. Together, these statements confirm that sharing classified information with detainees and their lawyers would not only inevitably lead to leaks of sensitive information, but that it would violate American intelligence agencies' agreements with foreign governments and with confidential human sources—violations that would inevitably undermine these organizations and individuals' willingness to cooperate with the United States in the future.

The final point is that we already know, from hard experience, that providing classified and other sensitive information to al-Qaida members is a bad idea. During the 1995 Federal prosecution in New York of the ''blind sheikh,'' Omar Rahman, prosecutors turned over the names of 200 unindicted coconspirators to the defense. They were required to do so under the civilian criminal justice system of discovery rules, which require that large amounts of evidence be turned over to the defense. The judge warned the defense that the information could only be used to prepare for trial and not for other purposes. Nevertheless, within 10 days of being turned over to the defense, the information found its way to Sudan and into the hands of Osama bin Laden. As the district judge who presided over the case said, ''That list was in downtown Khartoum within 10 days, and bin Laden was aware within 10 days that the Government was on his trail.''

That is what happens when you provide classified information in this context.

In another case tried in the civilian criminal justice system, testimony about the use of cell phones tipped off terrorists as to how the Government was monitoring their networks. According to the judge, ''There was a piece of innocuous testimony about the delivery of a battery for a cell phone.'' This testimony alerted terrorists to the Government surveillance and, as a result, their communication network shut down within days and intelligence was lost to the Government forever—intelligence that might have prevented who knows what.

This particular section of the bill, 1023, repeats the mistakes of the past. Treating the war with al-Qaida similar to a criminal justice investigation would force the United States to choose between compromising information that could be used to prevent further terrorist attacks on one hand and on the other letting captured terrorists go free. As I said before, this is not a choice our Nation should be required to make.

Let me read a couple of the quotations I alluded to earlier from the

Director of the Central Intelligence Agency, GEN Michael Hayden, relative to the damage that would be caused by requiring this classified information to be turned over to the defendant or his lawyers:

. . . [M]uch of the information that is potentially discoverable was provided to the CIA by foreign intelligence services or discloses the specific assistance provided by the CIA's global partners in the global war on terror. If the CIA is compelled to comply with the Court's decision, the CIA will be obligated to inform its foreign liaison partners that a court order requires that the CIA provide this information to the Court and detainee counsel. There is a high probability that certainly liaison services will decrease their cooperation with the CIA because of the extent that their information has become enmeshed in U.S. legal proceedings. . . .

He goes on:

[S]ome information discoverable under the Court's decision originated with, or pertains to, clandestine human intelligence sources. These individuals provide information or assistance to the CIA only upon the condition of absolute and lasting secrecy. Revealing this information—even to the Court or to cleared counsel—would expressly violate these agreements, and would irreparably harm the CIA's ability to utilize current sources and to recruit sources in the future. . . .

Let me read one other comment from General Hayden, the Director of the CIA:

. . . With over 300 detainees at Guantanamo Bay, Cuba, it appears that compliance with the Court's decision will require disclosure to several hundred—perhaps more than one thousand—private attorneys who are not employees of the U.S. Government and who are not trained in handling classified information. With so many untrained individuals allowed access to such sensitive information, I believe that unauthorized disclosures, even if inadvertent, are not only probable, but inevitable. The regulations controlling access to classified information recognize that limiting the number of people with access is a necessary step in safeguarding sensitive information. The Court's decision would eviscerate the U.S. Government's carefully conceived plan to keep its most highly sensitive information compartmentalized and would increase the likelihood of public disclosure.

I quote a comment from Robert Mueller, the Director of the Federal Bureau of Investigation, in his affidavit to the court in the case I mentioned:

Disseminating human source information could reasonably lead to the disclosure of their identities because often the information provided by human sources is singular in nature.

In other words, he is the only person who knows about it, so when the information is divulged, then the other side knows exactly where it came from.

Back to Director Mueller:

The disclosure of singular information could endanger the life of the source or his/her family or friends, or cause the source to suffer physical or economic harm or ostracism within the community. These consequences, and the inability of the FBI to protect the identities of its human sources, would make it exceptionally more difficult for the FBI and other U.S. intelligence agencies to recruit human sources in the future.

These are the kinds of irreparable harm that would result if the language of section 1023 remains in the bill. Not my words, but Director Mueller of the FBI, General Hayden, the Director of the CIA, and now I quote from the Director of National Intelligence, Michael McConnell. Admiral McConnell had this to say:

. . . [T]he Intelligence Community has many sources of information that must be protected. For example, much of the information at issue was provided by foreign intelligence services or would reveal the specific assistance provided by foreign partners in the global war on terror. Certain liaison services will likely decrease their cooperation with the U.S. Government if their information is caught up in U.S. court proceedings.

One final comment.

. . . Human sources also provide the Intelligence Community with critical information, but only upon the condition of absolute secrecy. Revealing this information would violate the sources of confidentiality we provide these sources and would likely result in their minimizing or ceasing altogether their cooperation. Such a disclosure would harm the Intelligence Community's ability to retain current sources and recruit new ones, and if we cannot recruit and retain sources, the Intelligence Community simply cannot conduct its business.

That is the point of Senator GRAHAM's amendment to strike these provisions from the bill. They would irreparably harm our intelligence collection capability, which is the first defense against these terrorists. That is why the Graham amendment striking section 1023 should be adopted.

We have already bent over backward to provide the detainees at Guantanamo the ability to contest their detention and to have their detention reviewed and eventually even have it reviewed in the U.S. Supreme Court, and before that the Circuit Court of Appeals.

This is a very fair system, more fair than has ever been provided by any other nation in any other circumstance and more than our Constitution requires. So we are treating the people we capture in a very fair way.

What we cannot do is to take those same kinds of protections and apply them anywhere we capture someone in the foreign theater. And as I said before, never in the history of warfare have they been subjected to the criminal justice system of our country. To take that system and try to transport it to the fields of Afghanistan and Iraq would obviously not only be breaking precedent but is a horrible idea for all the reasons I indicated.

I ask my colleagues to give careful attention to the dangerous return to the pre-9/11 notion that these terrorists are, after all, only common criminals and we have to treat them that way. They have made no secret that they are actually at war with us, and we ignore this point at our peril.

I remind my colleagues that the Statement of Administration Policy on this bill says the President will be advised to veto the bill if section 1023 remains in the bill and refer again to a similar statement from the Department of Justice with respect to the habeas corpus provisions that would be added to the bill in the amendment of Senator LEAHY.

I hope my colleagues will take all of this information into account when they consider voting on these amendments in this very important Defense authorization bill which we need to pass and the President will want to sign so we can do what is necessary to support our troops whom we have sent into harm's way.

I urge my colleagues to support the Graham amendment to strike section 1023 and not to support the additional habeas corpus rights to terrorists who attack our troops.

The PRESIDING OFFICER (Ms. STABENOW). The distinguished Senator from Connecticut.

Mr. DODD. Madam President, first, I want to commend Senator LEVIN and Senator WARNER for their leadership on this legislation. It is not news that they do a good job. They do it consistently year in and year out. This may be one of the last Defense authorization bills in which Senator WARNER is involved, having made his announcement about his decision to retire from the Senate. He has another year, next year, on the Defense authorization bill. I already sense the notion of missing him here. While he is not in the Chamber this evening, I commend Senator WARNER and Senator LEVIN for the fine work they do year in and year out on this very important issue.

I rise today to urge my colleagues to join in supporting the Specter-Leahy-Dodd amendment to restore the writ of habeas corpus for individuals held in U.S. custody. I am pleased to be an original cosponsor of this amendment and a cosponsor of the underlying bill from which it draws its strength, S. 185, the Habeas Corpus Restoration Act, also introduced by Senators SPECTER and LEAHY.

For over 700 years, the legal system has recognized the importance of habeas corpus, the right of an individual to question the legality of his or her detention.

The Military Commissions Act is perhaps the most disappointing and dangerous piece of legislation passed in the more than quarter-century I have been a Member of this body. Among its many troublesome provisions, the act eliminated habeas corpus for those individuals held by our Government as enemy combatants. By stripping these individuals of the right to petition the Government, we have undermined our Nation's longstanding commitment to the rule of law and human rights. Advocates of this provision argued that stripping away this fundamental right was necessary to protect our Nation's security. That is totally false, in my view. We can both effectively prosecute terrorists and remain true to our values. In fact, if we do otherwise, I strongly suggest that we jeopardize our security.

I stand on the floor of the Senate seeking to undo what Congress did last year when it summarily stripped habeas corpus rights with the enactment of the Military Commissions Act. Were our Founding Fathers alive today, I believe they would be seriously dismayed to realize how far our country has strayed from the values enshrined in our Constitution with the adoption of this measure.

Stripping of habeas corpus rights is just one of a number of egregious provisions included in the Military Commissions Act. That is why earlier this year I introduced S. 576, the Restoring the Constitution Act, to address these errors.

In addition to restoring habeas corpus rights, S. 576 would also require the United States to live up to its Geneva Convention obligations, provide detainees access to attorneys for trials, make inadmissible trial evidence gained through torture or coercion, empower military judges to exclude hearsay evidence they deem to be unreliable, and provide for the expedited judicial review of the Military Commissions Act of 2006 to determine the constitutionality of all of its provisions.

The Restoring the Constitution Act would undo the most damaging and unconstitutional aspects of the Military Commissions Act while providing the U.S. military a greater ability to bring our enemies to justice through military commissions.

I take a back seat to no one when it comes to defending our Nation's security. Let me be clear, I believe military commissions in very limited circumstances may be very effective in bringing combatants to justice. However, I see no reason why procedures based on the well-established, Uniform Military Code of Justice should be abandoned.

But there is a right way and a wrong way to win the fight we are in. Procedures that adhere to immediate bedrock legal principles, such as habeas corpus, abide by the Geneva Conventions, and exclude hearsay evidence or evidence obtained through torture, to name but a few, do not make us weaker. Quite the contrary. They demonstrate that no terrorist can destroy our way of life and our fundamental values that have guided our Nation for over two centuries.

During the debate on the Military Commissions Act last year, Senator SPECTER, Senator LEAHY, and I offered an amendment that would have retained the writ of habeas corpus. Unfortunately, our amendment was rejected by this body.

On September 28, 2006, I voted against the Military Commissions Act. Sadly, I was in the minority in doing so. I was and remain deeply disappointed that the Senate passed this misguided legislation. That day was a dark day in the history of this body. On that day, we abandoned our commitment not only to human rights, but also to the rule of law, commitments that separate us from our enemies, commitments that have been fundamental to American leadership since the end of World War II.

This issue has special resonance with me because of my father, Thomas Dodd, who sat in this very body at this very desk, as a member of the Senate from Connecticut. Years before, in 1945 and 1946, before becoming a Member of Congress, my father was a prosecutor working alongside Justice Robert Jackson at the Nuremberg war crimes trials in Germany. There the United States demonstrated to the world its profound commitment to the rule of law, due process, and human rights. Many of our allies did not see the need for trials for Nazis held by allied forces. Indeed, many of them called for summary executions. The Soviet Union wanted a show trial and then to shoot the defendants at Nuremberg. Winston Churchill, the former British Prime Minister, also advocated summary execution for the defendants at Nuremberg.

The United States, Judge Robert Jackson, Henry Stimson, the Republican Secretary of War under Franklin Roosevelt, Ben Rosen, Robert Jackson and my father argued, that, no, we were different. The United States was going to demonstrate to the world that civility and the rule of law was what was at stake in the war with Germany and Japan and that we would not succumb to the same kind of treatment they gave to their victims.

The opening statement made by Robert Jackson at Nuremberg, a statement which I put to memory a long time ago, indicates the difference we brought to this issue. Robert Jackson, speaking of the Soviet Union, the British, the French, and the United States, said on that occasion:

> That four great nations, flushed with victory and stung with injury stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the rule of law is one of the most significant tributes that power has ever paid to reason.

Instead, we gave the Nazis—members of the world's most barbaric regime—the protections and the rights of the rule of law.

The Nuremberg trials not only brought many of the Nazi war criminals to justice—most were executed—but helped to demonstrate to the world the importance of providing even the most heinous of criminals the protections of the rule of law. Doing so makes our Nation incalculably stronger, not weaker at all.

But I fear Congress has allowed the President to diminish our Nation's commitment to human rights and the rule of law. We have failed to stand up for our most cherished values. We let fear—the fear of being seen as weak—override our duty to protect the Constitution and the values of our Nation.

It is not too late to right the wrong of last year. We will have that opportunity in the next day or so. While I am hopeful the Federal courts will strike down many of the provisions of the Military Commissions Act, I believe a decision earlier this year by the U.S. Court of Appeals for the District of Columbia demonstrates the need for the amendment before us today by Senators LEAHY, SPECTER, myself, and others.

On February 20, 2007, the U.S. Court of Appeals for the District of Columbia upheld the provisions of the Military Commissions Act eliminating the writ of habeas corpus for enemy combatants. Despite two recent Supreme Court decisions suggesting that habeas rights cannot legislatively be stripped away, the split decision by the U.S. Court of Appeals for the District of Columbia underlines the need for this body to proactively act now to unambiguously restore habeas rights.

For more than 60 years, the United States has helped to lead the world through its commitment to human rights, democracy, and the rule of law. Last year, our Nation lost the moral high ground. This year, Congress must reassert to the Nation, the President, and the courts that we recognize the vital role of habeas corpus in our legal system.

I believe the Specter-Leahy-Dodd amendment is the first step in undoing the terrible damage the Military Commissions Act has done to our legal system and our international reputation. I implore my colleagues to begin today to undo the harm done to our Nation's reputation by voting to restore habeas rights, which have always been a core element of our jurisprudence, and once again restore the moral authority we captured more than 60 years ago at a place called Nuremberg. This generation bears no less a responsibility to protect those basic rights that are the foundation of our great Nation.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I was absent from the floor when my distinguished colleague was thoughtful enough to make a few comments about his old friend, but it is deeply appreciated, and I thank my dear colleague very much. We have done many things together, and I have more to go.

Mr. DODD. You bet.

Mr. WARNER. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Madam President, I, too, wanted to echo the comments of the distinguished Senator from Connecticut. I am sure Senator WARNER will be recognized many times between now and the time he finally takes his last vote in this Chamber, and as he pointed out, he has a long way to go before that time comes over the course of the next several months. But so many of us respect what he has done over the years as ranking member and chairman of the Armed Services Committee, and his work will, in fact, be greatly recognized.

Madam President, I wish to make one quick point in response to what the Senator from Connecticut pointed out, recalling his very famous father, somebody who served in this body and served our Nation well in other capacities, including at Nuremberg, and his friend, Justice Jackson, the same Justice Jackson whom I quoted.

The Senator wasn't on the floor, but I quoted Justice Jackson in the Eisentrager case to point out that nothing could fetter our commanders more than to require habeas corpus rights for the German prisoners of war or the prisoners who were at issue in the Johnson v. Eisentrager case. Justice Jackson himself recognized that the procedures that were awarded to the 50-some war criminals at Nuremberg were not the same kinds of procedures that were being sought in the Eisentrager case. And the habeas corpus rights that would be granted under the Leahy amendment are far different from the rights that were granted to the Nuremberg war crimes defendants.

I think one question that would be interesting to ask of the proponents of the legislation is, if we simply took the rights that were granted to the war criminals tried at Nuremberg and gave those rights to the detainees at issue here, would that be a satisfactory result? I suspect the answer would be no because they are nowhere near the rights that would be included in the amendment that is pending.

So to cite Justice Jackson is to refer back to what he said in Eisentrager and recognize that nothing, according to him—and I agree—would more fetter our commanders and our troops than granting habeas rights to prisoners or enemy detainees.

Madam President, I might make one further point. I am trying to recall how many defendants there were at Nuremberg. My recollection of the number tried for war crimes is that there were approximately 50. I may be off by a few on that number, but I think my point would still remain, which is that it is one thing to try 50 war criminals out of over 2 million POWs, and it is quite another to grant all 2 million the rights of war criminals. We have tried some of the detainees as the equivalent of war criminals in our courts—Padilla is one of them—but that is not to say we should hold the same criminal trials for all of the tens of thousands of detainees being held in Iraq or Afghanistan.

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

Mr. KYL. I will yield, yes.

Mr. SESSIONS. I had the distinct pleasure of visiting Carrollton, AL, in Pickens County, where they have a museum to maintain the history of a large German prisoner of war camp in the United States. The Senator mentioned that certain legal rights were accorded 50 or so prisoners. But those were prisoners tried in Nuremberg after the war—after the war—for war crimes.

Now, is the Senator aware of any instance in either the German camps or other prisoners who may have been held in the United States during wartime being provided habeas rights?

Mr. KYL. Madam President, that is a great question, and the answer is that there have never been, in the history of the world, habeas rights granted to enemy detainees or prisoners of war in order to challenge the fact of their detention by either the United States or by the other country from which the great writ came—England. They have never been granted. So the answer is there is no precedent whatsoever. That is why, when colleagues say we want to restore habeas rights, that is an incorrect characterization. Enemy combatants and POWs have never had habeas rights to challenge their detention as a matter of being provided by our Constitution. Never has our Constitution been interpreted as requiring those rights.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I wish to thank Senator KYL for his hard work on these important issues. He is a superb lawyer who is a senior member of the Judiciary Committee, on which I serve, and he has been a member of the Intelligence Committee. He understands these issues and, thanklessly, he devotes hours of his time to try to research and study Supreme Court cases to try to make sure we do the right thing here.

The most important thing for us to remember is this, and Senator KYL just said it, that the refrain we are hearing about restoring habeas rights to prisoners of war, even unlawful combatant detainees, is not so. We have not done that, and it is a matter that is quite clear.

The origin of the great writ—the writ of habeas corpus—can be traced back to the Magna Carta in the 13th century. It is truly a great writ. It is truly a powerful tool for any person who is being detained to demand that someone, somewhere come forward and tell the world why they are being detained. That is what totalitarian and Communist governments do all the time. These kinds of dictators and Communists and Nazis go out and grab people and put them in jail and never charge them, never announce where they are, even. So that is not what we want to do here. However, never in the history of the writ's existence has an English or American court granted habeas to enemy combatants held during a time of war. As early as 1793, the American courts—1793—recognized that foreign prisoners held by the military during armed conflict have no inherent right to judicial review of their detention. They have no inherent right to that. You do have an inherent right by writ of habeas corpus if you qualify and meet the criteria.

So that year, in 1793, a district court in Pennsylvania said:

> Courts will not grant a habeas corpus in the case of a prisoner of war because such a decision on this question is in another place being a part of the rights of sovereignty.

In other words, national power.

The Supreme Court of the United States reaffirmed that position in 1950 in a case called Johnson v. Eisentrager. In that case, the Supreme Court made expressly clear that U.S. constitutional protections do not apply to aliens who are detained outside the borders. It was the first case to deal with a habeas petition of enemy combatants detained outside the borders of the United States since the statute was originally enacted as part or the Judiciary Act of 1789. It is now codified as 28 U.S.C. Section 2241.

In that case, German nationals living in China during World War II, having never lived in the United States, were accused of violating the laws of war. They were tried by a U.S. military tribunal in China, convicted, and sent to Landsberg Prison in Germany, then an occupied sector of Germany, to serve their sentences. Some of the convicts, including Eisentrager, questioned the legality of their trials and filed for a writ of habeas corpus to the United States District Court for the District of Columbia, right here in DC, stating that the military's actions violated their rights as guaranteed by several portions of the U.S. Constitution, including article III of the fifth amendment. In denying habeas to these German nationals, the court expressly rejected the argument that enemy combatants detained overseas have a constitutional right to petition U.S. courts for habeas relief, noting that:

> Nothing in the text of our constitution extends such a right.

It rejected the view that the U.S. Constitution applies to enemy war prisoners held abroad. The court claimed:

> No decision of this court supports such a view. None of the learned commentators on our Constitution has ever hinted at it. The practice of every modern government is opposed to it.

Where do we keep coming up with this idea that habeas is applicable to prisoners of war? I am baffled. The Court explained emphatically that such a constitutional entitlement would hamper the war effort and bring aid and comfort to the enemy.

> Habeas proceedings would diminish the prestige of our commanders, not only with enemies but with wavering neutrals. It would be difficult to devise a more effective fettering of a field commander than to allow the very enemies he is ordered to reduce to submission to call him to account in his own civil courts and divert his efforts and attention from the military offensive abroad to the legal defensive at home.

That is a pretty clear statement. How could it be otherwise? Congress authorizes a state of hostilities. We fund it. The President, as the Commander in Chief, the military commanders execute it, and now we have it in our heads somehow that the persons

our commanders are charged with reducing to submission have a right to sue us.

The Court further held—this is in 1950—that the fifth amendment is inapplicable to aliens abroad and, in reasoning fully applicable to the suspension clause, explained ''extraterritorial application of organic law'' to aliens would be inconceivable.

Writing for the majority, Justice Jackson, who was referred to by Senator DODD and Senator KYL—a great Justice on the Court—stated:

> The Constitution does not confer a right of personal security or an immunity from military trial and punishment upon an alien enemy engaged in the hostile service of a government at war with the United States.

That is pretty plain language, wouldn't you say? I think that is the plain language of the Constitution. It does not give them immunity from military trial.

Even if, as opponents mistakenly argue, this amendment restores a statutory right to habeas, the Supreme Court has also held that Congress may freely repeal habeas jurisdiction if it affords an adequate and effective substitute or remedy. Essentially, if legislation strips habeas, according to the Supreme Court, the substitution of a collateral remedy which is neither inadequate nor ineffective to test the legality of a person's detention, does not constitute a suspension of the right of habeas corpus. In other words, if they provide some fair procedure for even prisoners of war that we decide is consistent with our military efforts and consistent with our sense of fairness, that does not confer and give a guaranteed right to a habeas corpus review.

The Military Commission Act of 2006 was drafted with these important Supreme Court precedents in mind. After careful negotiation among our Members and careful analysis of the Supreme Court's decision in Hamdan v. Rumsfeld, Congress went above and beyond what was required by the Constitution and the Geneva Conventions to ensure detainees, even terrorists, at Guantanamo Bay, had an adequate and effective substitute method to test the legality of their detention.

So we did that. We did not fail to respond. We did that. The MCA provides alien enemy combatants far more legal process than has ever been afforded by any country in the history of armed conflict.

I am not aware of a single country in the history of armed conflict that has provided more rights than our procedures that we have established under the Military Act that we passed and the President signed into law last October.

The Combatant Status Review Tribunal for detainees is more robust than those to which lawful combatants, honorable soldiers in organized militaries of a foreign nation, are entitled to under the Geneva Conventions.

Let me repeat that and drive home the importance of that concept. The Geneva Conventions were decided upon by a group of nations that came together and thought that during the course of military conflicts, too many things happened that are not justified and are not necessary and are damaging to people in ways that could not be justified. We wrote the conventions, the nations did, to try to ameliorate some of the problems in warfare. We said that if you have a lawful combatant, as part of the Geneva Conventions, a person who has signed up for his or her country, fighting for the country, who wears a uniform, who carries his weapons openly and does not act in a surreptitious manner, does not act in a terroristic manner but fight battles according to the laws of war—if captured, must be treated and afforded the protections of the Geneva Conventions.

That is a good standard of review and protection. Congress passed a law to provide for the people at Guantanamo, who are not lawful combatants but are unlawful enemy combatants and who have not historically been considered to have been covered by the Geneva Convention. We afforded them privileges that are not required even under the Geneva Conventions on how you handle detainees.

Let's talk about our present conflict, the war on terrorism. Former Attorney General John Ashcroft has made this point. If you think about it, it is worthy of our consideration. John Ashcroft is a great believer in American liberty, the rights of liberty, a key characteristic of the American people. But he points out we ought not to think about restraints that occur as some sort of a balancing test between liberty and control and domination. He says, when you engage in an action that is designed to protect us, the test should be not a balancing test, but the test should be: Does it improve liberty? In other words, if you go to the airport and have to go through one of those checking stations as I did today, the question is: Do you feel more free to fly, having had that inspection occur? Is your liberty to travel, is your liberty to fly safely and securely in an aircraft in America, enhanced because you take a couple of minutes to go through that line? Or not?

If it is, then that is a protection of liberty. We are indeed in a different world than we used to be, when threats fundamentally came from foreign nations. Now, even a few people with dedicated, malicious intent, with modern weapons of mass destruction and death can have tremendous impact on us. So what we are trying to do is execute lawful actions that improve our liberty, not deny liberty but to enhance liberty for all peace-loving and law-abiding American citizens.

I want to talk about Hamdi v. Rumsfeld. As part of the Judiciary Act of 1789, Congress conferred on the Federal courts jurisdiction to hear petitions for habeas corpus. Though the language has gone through minor changes since 1789, current law, now codified at 28 U.S.C. section 2241, is essentially the same grant of habeas corpus as originally enacted. The statutory language has never referred specifically to enemy combatants because such a grant was understood not to apply to those individuals detained during a time of war. Congress understood that detention of enemy combatants during time of war is strictly a military decision, since we do not allow enemy combatants to continue their war against us through the judiciary, through litigation.

Though the Supreme Court has repeatedly held that habeas corpus does not extend to alien enemy combatants detained outside the United States, some argue that Justice O'Connor's plurality decision in Hamdi v. Rumsfeld changed this precedent. In that decision, Justice O'Connor said:

> All agree that, absent suspension, habeas corpus remains available to every individual within the United States.

Proponents of this amendment that we are debating cite this statement by Justice O'Connor as proof that habeas relief is available to all those detained within the United States, regardless of whether they are an alien enemy combatant. Let me note that during World War II, there were 425,000 enemy combatants held within the United States, none of who were allowed relief through habeas petitions. Furthermore, reliance on that statement by Justice O'Connor is wrong, since the question in Hamdi was whether the executive had the authority to detain a U.S. citizen as an enemy combatant and whether that citizen detainee had habeas rights. Focusing on that narrow issue, the plurality referred specifically to the rights, in their opinion, the plurality opinion, of citizens, eight times in the opinion; and in the holding of the case—and the holding of the case is limited to the circumstances of the cases itself—Hamdi was, after all, a U.S. citizen.

Regardless, some advocates maintain that Justice O'Connor's otherwise inconsequential statement, too tenuous to constitute dicta, reversed years of settled precedent and for the first time granted habeas rights to illegal enemy combatants detained overseas. That proposition flies in the face of the commonsense interpretive rule that one does not hide elephants in mouseholes. Had the Hamdi Court intended to extend habeas rights to all individuals in the United States, not just citizens, including suspected foreign terrorists detained outside U.S. territory, it most assuredly would have articulated such a consequential ruling with more clarity. But Hamdi did not present that question and the Court did not resolve it. Moreover, as the Court aptly noted, quoting Eisentrager:

> Such extraterritorial application of organic law would have been so significant an innovation in the practice of government that, if intended or apprehended, it could scarcely have failed to excite contemporary comment.

Accordingly, had such a consequential holding been made in Eisentrager, it would have been met with prolific commentary from the legal community, from other Justices. It would have been an event, but that event did not occur—because it had no such meaning, of course, as evidenced by the lack of contemporary discussion. No decision subsequent to Eisentrager has reversed its holding that alien enemy combatants have no right to habeas protections guaranteed to American citizens by the U.S. Constitution.

Therefore, its holding remains governing law. Moreover, the issue now, if it ever could have been considered ambiguous, has been definitively resolved by the same judge who earlier granted Salim Ahmed Hamdan's habeas petition. Judge James Robertson, of the U.S. District Court for the District of Columbia, issued an opinion on December 13 in which he relied, in large part, on Eisentrager to justify his ruling that enemy alien combatants have no constitutional right to habeas corpus.

Judge Robertson, appointed to the bench by President Clinton, dismissed Hamdan's petition for habeas relief on the grounds that the MCA effectively denied his court's jurisdiction to hear the case; recognizing that Congress had removed Hamdan's statutory right to petition the D.C. Circuit Court for habeas relief.

Judge Robertson also held:

> Hamdan's connection to the United States lacked the geographical and volitional predicates necessary to claim a Constitutional right to habeas corpus.

Well, then, the Rasul case came along. Proponents of this amendment argue that they seek only to restore the right to habeas corpus as found by the Supreme Court in the 2004 case of Rasul v. Bush. Rasul took great pains to emphasize that its extension of habeas to Guantanamo Bay was based not on the Constitution, which clearly is a historic right we talked about on habeas, but it was based on some statute passed by Congress.

Some Justices may have wanted to make Rasul a constitutional holding, but there clearly was no majority for such a position. Supreme Court cases such as Eisentrager are still the governing law on the constitutional reach of habeas and the Congress's ability to limit its statutory application.

These precedents hold that aliens who are either held abroad or held here but who have no substantial connection to this country are not entitled to invoke the U.S. Constitution.

Rasul was an unprecedented decision which effectively and truthfully seemed to fly in the face of all previous Supreme Court and English case law. Several Justices in this case engaged in what I would submit to my colleagues is activism.

The Court extended the reach of the Federal habeas statute to Guantanamo Bay detainees. To my knowledge, this decision was the first time in recorded history that any court of any nation at war held that those whom its military had determined to be enemies had a right of access to its domestic courts and could sue the Commander in Chief to challenge their detention.

The Court based its analysis on the phrase, ''within their respective jurisdictions,'' as used in the Federal habeas statute and various decisions construing that particular provision.

Moreover, the Court expressly distinguished between the statutory and suspension clause holdings of Eisentrager and limited its analysis to only the statutory grant of habeas. The Court determined that the measure of the Guantanamo lease agreement between the United States and Cuba allows for the jurisdiction of habeas claims since the United States exercises plenary and exclusive jurisdiction over the land on which the naval base is situated, although it does not have ''ultimate authority.''

Furthermore, the majority, I think and others think, mischaracterized the congressional statute as meaning that the writ of habeas corpus could be issued if ''the custodian can be reached by service of process'' and not the detainee.

As Justice Scalia accurately pointed out in his dissent, the majority:

> springs a trap on the executive, subjecting Guantanamo Bay to the oversight of the Federal courts even though it has never before been thought to be within their jurisdictions and thus making it a foolish place to have housed alien wartime detainees.''

Furthermore, the decision opens a veritable Pandora's Box since it ''permits an alien captured in a foreign theater of active combat to bring a section 2241 petition against the Secretary of Defense.''

This case was a clear-cut example of, I believe, Supreme Court overreach. They seemed determined to do something about this. They wanted to do something about it. Apparently, they did not like it. So in straining to grant U.S. courts jurisdiction over terrorists held outside the United States, the Supreme Court determined, for the first time in history, that a simple lease agreement brought Guantanamo Bay within the jurisdiction of the court.

Read broadly, the majority opinion could be used to bring U.S. military bases and detention facilities across the world within the jurisdiction of the U.S. courts. Fortunately, in that opinion, Justice Kennedy did limit the application of the holding to Guantanamo Bay, Cuba.

Congress, however, addressed the issue because, remember, this was based on the Supreme Court's interpretation of a statute Congress passed and which Congress changed, not on the Constitution ratified by the American people.

So less than a year ago, Congress addressed the issue when it passed the Military Commissions Act, which precluded detainees from challenging their detention through habeas petitions.

Now, if the Court relied on the statute as we wrote it before, we can change that statute, and we did. In doing so, Congress adhered to Supreme Court precedent and created an effective and adequate substitute in the form of a Combatant Status Review Tribunals and allowing detainees an opportunity to challenge the determinations made by the tribunals, even in the district court in the District of Columbia.

So it set up a Combatant Status Review Tribunal so they can bring and make their argument, and if they do not like the military's determination on that, they can get to a Federal court. That is not habeas, but it is a pretty good procedure, more than ever has been given before to prisoners of war. So it seems we finally worked this thing out.

On February 20 of this year, the DC Circuit Court dismissed all pending habeas cases from the Guantanamo Bay detainees for lack of jurisdiction. Furthermore, on April 2 of this year, the Supreme Court denied a certiorari petition from the petitioners in Boumediene v. Bush and Al Odah v. United States, refusing to review their claims that the Military Commissions Act—that last year we passed—does not deprive courts of jurisdiction to hear their habeas corpus claims and that it would be unconstitutional to do so, for Congress to pass it. They rejected that.

The Court did not find it was unconstitutional, what Congress passed, and, in fact, found that Congress did what Congress intended to do, creating a substitute appellate process so prisoners could have a review of their detention but not give them the full panoply of habeas corpus rights provided to American citizens.

The Supreme Court, however, reversed itself on June 29 of this year and agreed to review both the Boumediene and Al Odah cases. This review could very well address the constitutionality of the habeas bars in the Military Commissions Act, and, much like this amendment, further undermine the executive's constitutional authority to detain enemy combatants in a time of war.

I hope the Supreme Court will not do that, but they have agreed to hear that case and give it one more final review. Certainly, as of this date, the case authority is clear, that the Constitution does not provide habeas protection to noncitizen enemy combatants on foreign territory not part of the United States.

I say that because people have come in on several points along the way and accused President Bush or the Attorney General or others of taking improper positions.

In most instances, the courts have ruled in favor of the executive in these cases, on a few cases they found those procedures not to be statutory or pass muster. But what I will say to you is, in these cases, in almost each instance

they have reversed previous law. So the executive branch and our military was operating under what they had every right to consider to be the settled law of the land.

So the Court comes in and changes that law. I do not believe our military should be condemned or criticized for taking action they felt, and had every right to believe, was legitimate when they took it.

Now, it is important to remember that the detainees at Guantanamo Bay are the most dangerous people who we have captured on the battlefield pursuant to executive war-making power. They have been determined to be ''alien enemy combatants'' and the courts have absolutely no role to play, in my view, in trying to second-guess the wartime decisions made by the executive branch, especially where Congress has given their stamp of approval to the process. It is not the Supreme Court's role to micromanage this war by making decisions that fall outside the scope of congressional authority.

The decisions made by the Supreme Court have long-lasting effect and are not easily undone. If we are unhappy with present foreign policy, Congress can cut off funds for the war or people can vote the President out of office. I would note President Bush was reelected on a promise to continue to pursue with vigor the war against terrorism and the war in Iraq.

Supreme Court Justices are appointed for life and are supposed to adjudicate the constitutionality of laws passed by Congress, not to legislate from the bench or to set foreign policy. This setting of foreign policy and conducting military operations are powers squarely within the purview of the executive branch not nine individuals with lifetime appointments sitting on a Court with black robes.

It is not within the court's jurisdiction to decide on war-making decisions but simply the constitutional power. It is important to note the Justices lack the knowledge, in many cases, to address the matter, or have any experience to make these decisions. Have any of them ever served on the frontlines during war, or if they have, have they ever served in a war on terrorism or been a JAG officer or been a company commander, someone who captured enemy prisoners?

A Court's opinion or personal views about this are not a matter that is impressive to me. We expect them to rule and to find Congress's statutes—we expect them to enforce the Constitution. But just to flip-flop around and try to decide that they do not like the way something is done at Guantanamo, and to issue an opinion, would be troubling to me. Hopefully, we will not get to that.

It has to be clear, as I have shown, that if we apprehend enemy combatants in the theater of war, it is within the executive branch's power to detain them until the hostilities are over. This is a separation of powers issue, and the courts should recognize that. Congress has already addressed what should be done with those detained at Guantanamo Bay. Last October, we granted those detainees unprecedented rights that have never before been provided to prisoners detained during war.

Under the current system that we have provided them, detainees have essentially five layers of protection when challenging detention or determinations made by the Government. All of this is already covered by current law. It was never the intent of Congress, however, to endow the statutory guarantee of habeas corpus to alien enemy combatants held during a time of war.

So if we proceed with the amendment that is before us, we are not restoring the right of habeas corpus; we are effectively overturning 800 years of legal authority and precedent in this area. To quote the distinguished ranking member of the Judiciary Committee, I submit that 800 years of American and English court history certainly constitutes ''super duper'' precedent.

Allowing terrorists to challenge their detention through habeas petitions filed in the DC Circuit courts would undermine military decisions made by the Executive and essentially put wartime decisions regarding the detention of those apprehended while engaged in hostilities toward this country in the hands of judges who are not qualified to make the decisions. They are not empowered to make the decisions. This is exactly why the Founders vested the Executive with this type of decision-making authority—decisiveness and ability to act quickly—and to undermine this power would be to trample on the Constitution we are sworn to defend.

Voting in favor of this amendment would be undermining the Executive authority in times of war by making it virtually impossible for the military to detain dangerous terrorists affiliated with al-Qaida and with the Taliban during the war on terror and allowing Federal judges to force the release of detainees whom the military have determined to be extremely dangerous. It is just that simple.

I am disappointed the Senate is proceeding forward with this amendment. I do not believe it is the right thing. It would result in an unprecedented grant of constitutional protection to those suspected of being terrorists.

This further indicates to me that our Congress is not in full comprehension of the seriousness of the war we are engaged in and the determination of those who are determined to kill us. It shows this body is, frankly, often unable to execute a military operation. We cannot get 535 people to execute a military operation and decide who ought to be detained and who ought not to.

The military could go out and conduct a raid, and a firefight could break out, and eight people be killed and eight people captured. Thirty seconds before, they could have killed all 16. Now, if we detain them, we have to bring soldiers from the war field, present evidence of some kind, gather evidence to try to justify the detention. We all know quite a large number of those who have been released from Guantanamo have reappeared and been captured again on the battlefield trying to kill us. That is a fact. We are not making that up.

I wish these people in Guantanamo were the kind of people who would not go back to the battle. I wish they were all wrongly held so we could let them go home. But what if their determination is to continue to attack American soldiers, and it is your son out there, your daughter out there on the battlefield, and somebody says in the U.S. Congress, ''We don't think you have enough evidence to hold them''? What do we know about what happened?

We have given that power to the executive branch to conduct the war. That is who is supposed to be making those decisions. That is who is required to preserve and protect the security of the American people. I do not think that makes sense. It is not a little matter. It will set a precedent for future times. We are eroding the ability of the leadership of this country to execute and carry out a military operation, which by its very nature involves death and destruction of an enemy.

So I have to say to my colleagues, we need to think this issue through. This may be a political deal now that we can use to beat up President Bush, but let me say to my colleagues, you had your victory in the last election, if not in 2004. We will have a new President soon. We need to get away from this personal and political perspective. We need to be thinking about the long-term history of the United States. We need to be thinking about other wars we may be involved in in the future. We need to be asking ourselves: Are we creating a circumstance in which a devious, skillful, malicious enemy can utilize our very laws to destroy us, place at risk our own soldiers, place at risk American citizens, place at risk our people serving in military bases around the world?

Let's be careful about that. We have provided them, by statute last year, a procedure to contest their detention. Large numbers of those who have been detained have already been released, and quite a number of those have been recaptured on the battlefield attempting to destroy America and what we stand for, attacking our own sons and daughters.

I urge my colleagues to be careful. To say we need to restore the right of habeas corpus is not correct. We have never provided habeas corpus to enemies of the United States, for heaven's sake. I share again the overall concept that we are in a difficult new world. The Constitution provides for reasonable searches and seizures and such things as that.

Our country is threatened, and our people's liberties are threatened. Liberty is important. Freedom is important. We in Congress do not need to be curtailing significantly liberty in America. We certainly do not need to be eroding constitutional protections that are provided to American citizens. We are not doing that. The Supreme Court has never held the Constitution provides protection in this fashion to enemy combatants. So we are not eroding the Constitution.

What we have come up with is a realistic process that will, in the end, provide more liberty, more freedom to American citizens than if we were subjected to a system by which we are releasing terrorists again and again who are out to kill and destroy us. That is all I would say on the fundamental question of liberty and freedom and law.

Let's get our thinking straight. Let's look at this issue carefully. Let's be sure we know that no country has ever provided such protections to enemy combatants. The fact that 50 out of 400,000 German prisoners who were tried after the war in Nuremberg had certain legal provisions and rights provided them in no way whatsoever should be construed to say we provided habeas rights to other prisoners during the course of a war. They were not provided to the 400,000 German prisoners held in the United States, that is for sure.

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

I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I understand some effort is being made to pursue the amendment offered by Senator SPECTER, which is very troubling to me because if it were to pass, it would reverse the Military Commissions Act of 2006 that we passed last September on final passage, 65 to 34. Passage of this amendment would result in a veto of the Defense authorization bill by the President of the United States.

The first amendment we have up that is being pushed to a vote against the pleas of people on this side would result in a veto of the Defense authorization bill. The second amendment may well raise the same issue, I understand. Not only that, we have very controversial amendments that are being made filed to this bill and that have been offered for a vote on this bill which are very controversial and are not related to the defense of America—for example, the hate crimes amendment. People have differing views on that. They have offered an amendment on hate crimes on this bill. There is also the amendment on the DREAM Act, which is an immigration amendment that would provide citizenship to people who come here in our education system at a certain age, and even though they are illegally in the country, they would be provided in-state tuition and student loans subsidized by the Federal Government. That is a very controversial matter too. So that is all going to be put on this piece of legislation, apparently.

It raises questions in my mind whether there is any serious desire on the part of the Democratic leadership to see the Defense authorization bill passed. The bill came out of the Armed Services Committee, of which I am a member, and it didn't have the reversal of the Military Commissions Act of 2006 and the grant of habeas corpus to illegal enemy combatants, noncitizens on foreign soil. It didn't have that or hate crimes or the DREAM Act.

I just say to my colleagues that we need to do the right thing for our soldiers, sailors, airmen, marines, and guardsmen who are serving our Nation now. They are in the field this very moment. They are out walking the streets somewhere in Iraq—160,000 of them—executing this very complex and very important and, so far, effective counterinsurgency strategy that was devised by General Petraeus. They are living with Iraqi soldiers and Iraqi police and doing the things they were asked to do. This bill has a pay raise for them and wounded warrior language that provides additional care for those who are wounded while serving our country. We owe them every single benefit we have to give them. We have military construction to make sure we are able to carry through on the BRAC process. It has acquisition reform. We need to do a better job with the money we spend in acquiring new weapons systems and aircraft and ships and all the things that go with it.

I just say to my colleagues, let's remember now that everything is not required to be placed on this bill. If we pass this amendment to provide habeas corpus protection to illegal enemy combatants, not citizens, not on American soil, not required by the Constitution of the United States, according to decided case authority of Federal courts, that is going to result in a Presidential veto even if it passes. Hopefully, we won't pass that. Why do we want to do that? We need to be spending our time thinking about how we can help those whom we have sent into harm's way to execute a policy that has been decided upon by the Congress of the United States. That is what we need to be doing—not creating more and more lawsuits, not engaging in more and more political flapdoodle and emotional arguments about restoring habeas corpus, when we have never provided habeas to prisoners of war in the history of the Republic, nor has any other advanced nation provided those kinds of rights.

I urge my colleagues to push back from this brink. Let's don't take action that could result in the failure of a defense authorization bill. It would be the first time we have failed to pass a defense authorization bill since 1961, 46 years ago. Let's don't break that record while we have soldiers in harm's way serving our national interests, attempting to execute the policies and assignments we have given to them. Let's don't do that. Let's don't pass a bill that is going to come back like a ball off of the wall because it will be vetoed by the President. What good is that? Why are we obsessed with this? It wasn't passed in the Armed Services Committee, and it doesn't need to be pushed now.

I urge my colleagues to become fully aware of the dangerous territory which we are entering. We are entering a circumstance in which, if we continue to pursue issues unrelated to the core responsibilities of the Congress to deal with the war we are confronting, we will have failed in our responsibilities and actually fail to pass this important legislation.

In addition, we need to finish up with the Defense bill and go on to the Defense appropriations bill. The fiscal year ends September 30. We need to pass the Defense authorization bill so that we can get to the Defense appropriations bill by next week. That needs to move. We do not need to still be arguing over the DREAM Act, arguing over hate crimes, arguing over providing habeas corpus rights to illegal enemy combatants held somewhere around the world by the American military, a privilege that has never been provided by any nation to people it captures on the battlefield. That is not the right way for us to go. This Congress, if it is a responsible Congress, should move forward this week on the authorization bill and do the appropriations bill next week.

What are the core issues? We have some core issues we ought to debate about the defense of America and our military. Let's stay on those issues, not on extraneous issues.

There is no doubt that we have heard the report of GEN Jimmy Jones's commission, the Government Accountability Office report the week before last, and then last week we heard from General Petraeus and Ambassador Crocker. We need to have time to discuss seriously—and this side has certainly agreed to that and it is contemplated that we will have a generous time to discuss our commitment in Iraq, what it is, what our goals are, how we can achieve those goals, what the troop levels should be, how they are going to be drawn down, are they being drawn down fast enough, and what other issues are relevant. Those are legitimate issues on which we should spend time.

I am very concerned these other issues will be distracting us from those issues, that we will be utilizing time that ought to be on the core issues of

defense of this country, and I hope those leaders, particularly our Democratic leadership, are not going to put us in a position where we will not meet our responsibilities.

For the past 46 years, we have passed a Defense authorization bill. At the rate we are headed, even if we pass it, it is going to be vetoed because of amendments wholly unrelated to the Defense of this country. We need to pass a Defense appropriations bill, and we need to get on that quickly because the fiscal year is ending. For my colleagues' information, we are going to have to do something to continue to fund defense because if we do not pass a Defense authorization bill, the fact is that no money can be spent in the whole Department of Defense unless we are being attacked. It is very troubling, and it could have tremendous disruptive impacts throughout the entirety of our defense establishment.

Under the Antideficiency Act, if Congress does not appropriate money, the executive branch cannot spend it. It cannot spend what has not been appropriated. That is the Constitution, and that is what the Antideficiency Act says. The budget and last year's appropriations end September 30. We need to pass a new bill so we can go forward into next year.

We have a pretty good bill that came out of committee. There will be some disagreement here, there, and on a few other matters. We will bring those up, and good people will disagree. I certainly understand that point. We need to be working on those issues, not being distracted on matters unrelated to the core of defending America in this time of terrorism.

I share those thoughts and hopefully our colleagues in the leadership can continue to work and some way we can avoid the end toward which it appears we are heading.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. Mr. President, I heard one of my friends on the other side of the aisle come here this afternoon and talk about why we aren't getting more things done here; why are we doing the Defense authorization bill now; when are we going to do the Defense appropriations bill. Maybe they should have thought of that before they did 45 different filibusters here in the Senate. The Republican minority has stopped the work of this country. We have fought back with the very slim majority we have.

I will remind everyone within the sound of my voice that Senator JOHNSON has been ill. He is back now, thank goodness. He is back. He overcame a tremendous illness, and he is back with us. My majority was 50 to 49—that is, the Democratic majority—and we have had to fight, that little majority has had to fight everything that we have done. Everything. We had to file cloture on things they agreed with us on, just eating up valuable time here in the Senate. I am going to have to file cloture again tonight on another matter. This will be the third time we have worked on the Defense authorization bill. I am not going to belabor the point except to say this is the wrong thing to be talking about here: Why aren't we moving more quickly?

In spite of all the obstacles—procedural in nature—they have thrown up against us, we have done some remarkable things.

We passed an increase in the minimum wage for the first time in 10 years.

The President was forced to sign, even though he didn't like it—and he said so—the most sweeping ethics and lobbying reform in the history of this country.

We passed the 9/11 Commission recommendations that the President held up for years. And those he tried to implement, he got D's and F's on, but they are now law. We have done that.

Disaster relief for farmers and ranchers—we have done that for them. They waited years to get that done. Our slim majority was able to get that done.

We forced upon the President money to fight the wildfires which swept the West, fires caused by global warming.

A budget. We passed a balanced budget. Our majority was 50 to 49, and we passed a budget. The Republicans, with the huge majority they had, couldn't get a budget done. We got one done.

So, Mr. President, we have done some really good things here in spite of all these obstacles. I haven't mentioned all of them but just given an idea of what we have done working really hard. So I repeat: Don't come to the floor and lecture us on not getting things done here.

Mr. President, I call for regular order with respect to the Specter-Leahy amendment.

The PRESIDING OFFICER. The amendment is now pending.

CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on amendment No. 2022, regarding restoration of habeas corpus, top H.R. 1585, the Department of Defense Authorization bill.

Harry Reid, Dick Durbin, Carl Levin, Christopher Dodd, Jeff Bingaman, Barack Obama, Robert C. Byrd, Ken Salazar, Debbie Stabenow, Dianne Feinstein, Patrick Leahy, Sheldon Whitehouse, Daniel K. Akaka, Russell D. Feingold, Amy Klobuchar, Bill Nelson.

Mr. REID. Mr. President, I would also add to the remarks I just made.

In addition to what I outlined earlier, look at what we have done on Iraq. We forced the President to debate this issue, to talk to us about this issue. The Republicans had to debate us. This war went on for years, and there wasn't even a congressional oversight hearing held. We have held hearings, and they have been opened up to this country. We helped uncover the scandal of Walter Reed, just to mention a few of the things we have done on Iraq, plus forcing on the President money to get body armor for the troops so the parents no longer had to buy them and up-armoring of vehicles we have forced upon the President.

MORNING BUSINESS

Mr. REID. I ask unanimous consent there now be a period for morning business, with Senators allowed to speak for a period not to exceed 10 minutes each.

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

NEW ATTORNEY GENERAL NOMINATION

Mr. LEAHY. Mr. President, earlier today, the President announced his intention that he will, at some appropriate time, send the nomination of Judge Michael Mukasey to the Hill to be the next Attorney General. When that nomination arrives, with the appropriate FBI clearance and all, the Judiciary Committee will approach consideration of this nomination in a serious and deliberate fashion.

The administration, of course, took many months in determining that a change in leadership was needed at the Department of Justice. Then after they made the determination they had to change the leadership, the President spent several weeks before making his nomination public. It wasn't until Saturday of this past weekend that I was told by the press whom he was going to nominate. Our focus now, of course, will be on securing the relevant information the committee needs to proceed to scheduling fair and thorough hearings, and we will do that.

I am not in any way critical of the President for taking so many weeks in deciding whom he wanted. In fact, I would compliment him on his decision not to go with some of the names that apparently were presented to him. I tried to stress to the President and others at the White House, with all the problems at the Department of Justice, that choosing a person who would be there solely for political purposes would not be a wise thing to do. I know the President had a number of names that would have fallen into that category, and to his credit, those names that would have created the greatest political problems were rejected.

Now, I have also been in discussion with White House officials about some of the committee's outstanding requests, and I let them know that cooperation with the White House would be central in determining that schedule. In this regard, I wish to compliment the President's counsel, Mr. Fielding. Mr. Fielding called me yesterday evening. Without going into the details of that conversation, I believe he understands there are certain materials that we have requested from the White House—requested for some time now—that will be necessary so that we can engage in thorough deliberations. I take him at his word that we will try to work out a way to get us some of those materials. It will make it far easier for both Republicans and Democratic members of the Senate Judiciary Committee to ask appropriate questions.

This is a big job, being Attorney General. It becomes even bigger now, as the next Attorney General must regain the public trust and begin the process of restoring the Department of Justice to its proper mission, and also replacing a very large number of key members of the Department of Justice who have resigned and whose replacements, themselves, will require confirmation by the Senate. So I am hopeful that once we obtain the information we need, once we have had the opportunity to consider this nomination, we will be able to make progress in this regard.

As I told the White House last night, I stand ready to work with them in the coming weeks to get the material we need, and then once that material is available, to find an appropriate time to schedule a hearing.

I look forward to meeting with Judge Mukasey in the coming days. We will meet briefly tomorrow and then at greater length once his background check has been completed. I wish to learn more about his record, but I also wish to learn about his ideas on improving the relationship between Congress and this administration so we can conduct more effective oversight and take the steps toward rebuilding the Justice Department to be worthy of its name.

In the meantime, I have told Judge Mukasey he will have a lot on his plate in the coming days. I complimented him and his family for being willing to be considered for this nomination and urged him, even as busy as he may be, to spend time with his family. I understand he has a wonderful family—grandchildren and so forth—and I am sure he will do so.

I again urge the White House that we do not need to have all kinds of press comments about the date for hearings. I think what would be more important to do would be to work, as we have in the past, will to get the information necessary; and in the fullness of time, we will have an appropriate hearing. I will do it—working, of course, with Senator SPECTER—and, as I think we have demonstrated before, we will have a hearing that will make the Senate proud. Both Republicans and Democrats, with the complete record before them, then will be able to ask all the appropriate questions, the questions of course that the American public wants and deserves to have us ask.

THE DISTRICT OF COLUMBIA VOTING RIGHTS ACT OF 2007

Mr. LEAHY. Mr. President, in 2005, President Bush praised the Iraqi people for exercising the Democratic right to vote. He noted that by participating in free elections, the Iraqi people firmly rejected the anti-democratic ideology of the terrorists, and they demonstrated the kind of courage that is always the foundation of self-government. Similar to President Bush, I applaud when anyone has the right to vote and the right to determine where they will go with that right to vote. I wish, though, the President would speak as enthusiastically about voting rights for the American citizens who live literally in his backyard, in the same city where he resides in the White House. It is disappointing that the Bush administration has threatened to veto legislation that would give a vote to the Member of the House of Representatives from the District of Columbia.

I also understand the opponents of this voting rights bill are considering a filibuster to prevent its passage. In a recent column in the Washington Times, former Maryland Governor Michael Steele and former Congressman J.C. Watts, two Republicans, reminded us that the last time a voting rights bill was filibustered was 50 years ago. I was much too young to even vote, but I do remember that filibuster. Despite Senator Thurmond's record-setting effort, the Senate rightfully passed the Civil Rights Act in 1957. It followed up with the Civil Rights and Voting Rights Acts in 1960, 1964 and 1965. I hope the Senate does not return to the days when it filibustered voting rights, especially for its African-American citizens.

The city of the District of Columbia has approximately the same number of people as the State of Vermont. We are the 14th State in the Union. We have had the right to vote, for Senators and Representatives, for over 200 years. The distinguished Presiding Officer, of course, represents one of the very first States of this Union. In fact, he can proudly represent a State whose forefathers did much to design the United States of America and has provided President after President but especially laid the cornerstone of a great nation. It made it possible for the State of Vermont to be the first State admitted after the original 13.

There is no way I could go back to my State of Vermont and say that the District of Columbia, with almost exactly the same number of people, does not have a voting Member in the House of Representatives. Back in my State, they would say we have two Senators, but at least let us take this step. Let us vote it up or down. Let's not go back to the shameful days of 1957 when such rights were filibustered.

We have had hearings on this in the Senate Judiciary Committee. We have heard compelling testimony.

This month the Judiciary Committee marked the 50th anniversary of the Civil Rights Act of 1957 with a hearing. Congressman JOHN LEWIS, a courageous leader during those transformational struggles only decades ago, gave moving testimony reminding us that ''we in Congress must do all we can to inspire a new generation to fulfill the mission of equal justice.'' While we are observing this golden anniversary, it is fitting that the Senate turn to this important voting rights measure, the District of Columbia House Voting Rights Act.

I am a cosponsor of this bipartisan legislation to end the unfair treatment of District of Columbia residents and give them full representation in the House of Representatives. I thank the majority leader, Senator REID, for bringing this timely issue to the Senate for consideration.

In April, the House of Representatives worked in a bipartisan manner to pass their version of a voting rights bill for the District of Columbia, led by Congresswoman ELEANOR HOLMES NORTON. As a young lawyer, she worked for civil rights and voting rights around the country. It is a cruel irony that upon her return to the District of Columbia and election to the House of Representatives she does not yet have the right to vote on behalf of the people of the District of Columbia who elected her. She is a strong voice in Congress but the people of the District of Columbia deserve a vote, as well.

This is not the time for further delay. It is the Senate's turn to do what is right. The Senate bill would give the District of Columbia delegate a full vote in the House. To attract Republican support, the bill offsets that vote for DC by according Utah an additional Representative in the House, as well. This is an effort to provide political balance. With it or without it, I support representation for the District of Columbia.

I believe that the legislation that we are considering today is within Congress's powers as provided in the Constitution. I agree with Congressman LEWIS, Congresswoman NORTON and numerous other civil rights leaders and constitutional scholars that we should extend the basic right of voting representation to the hundreds of thousands of Americans residing in our Nation's Capital. They pay Federal taxes, defend our country in the military and serve on Federal juries. They are citizens no less than the citizens of any State. Their votes should count. They should be represented.

In May the Senate Judiciary Committee held a hearing on this legislation. We heard compelling testimony.

Retired Chief Judge Patricia Wald testified that this legislation is constitutional and highlighted the fact that Congress's greater power in accordance with the Constitution to confer full statehood on the District certainly contains the lesser power to grant District residents voting rights in the House of Representatives. She also reminded us that Congress has exercised this authority in the past without a rigid adherence to the constitutional text when it granted voting rights to Americans abroad in their last State of residence regardless of whether they are citizens of that State, pay taxes to that State, or have any intent to return to that State. Her former colleague on the DC Circuit, Ken Starr, echoed her conclusion that this legislation is constitutional.

Congress has repeatedly treated the District of Columbia as a ''State'' for various purposes. Congresswoman Eleanor Holmes Norton testified that although ''the District is not a State,'' the ''Congress has not had the slightest difficulty in treating the District as a State, with its laws, its treaties, and for constitutional purposes.'' Examples of these actions include a revision of the Judiciary Act of 1789 that broadened article III diversity jurisdiction to include citizens of the District even though the Constitution only provides that Federal courts may hear cases ''between citizens of different States.'' Congress has also treated the District as a ''State'' for purposes of congressional power to regulate commerce ''among the several States.'' The 16th amendment grants Congress the power to directly tax incomes ''without apportionment among the several States.'' That constitutional provision has been interpreted also to apply to residents of the District. In fact, the District of Columbia pays the second-highest Federal taxes per capita, yet has no vote in connection with how those dollars are spent. The local license plates say a good deal and remind us of our heritage when they say ''Taxation without Representation.''

As I said, in 2005, President Bush praised the Iraqi people for exercising their democratic right to vote, and he noted that ''by participating in free elections, the Iraqi people have firmly rejected the antidemocratic ideology of the terrorists [a]nd they have demonstrated the kind of courage that is always the foundation of self-government.'' Unfortunately, the President does not speak so enthusiastically about voting rights for the American citizens living literally in his backyard. It is disappointing that the Bush administration has threatened to veto this legislation.

FOREIGN OPERATIONS APPROPRIATIONS

MEPI SCHOLARSHIP PROGRAM

Mr. SUNUNU. Mr. President, I commend the senior Senators from Vermont and New Hampshire for the fine work that they did last week in managing H.R. 2764, the fiscal year 2008 State Department, Foreign Operations and Related Programs Appropriations Act. Given how busy they were, I regret that we did not have a chance to clarify a scholarship program funded in that Act through the Middle East Partnership Initiative, MEPI.

In Senate Report 110–128, the committee provides $55,000,000 for MEPI, and recommends $9,000,000 of those funds for scholarship programs for students from countries with significant Muslim populations at not-for-profit U.S. educational institutions in the Middle East.

In prior year foreign aid bills, eligibility criteria for scholarship programs included those students from countries with significant Muslim populations at not-for-profit institutions of basic and higher education in the Middle East which are accredited by an accrediting agency recognized by the Secretary of Education, and that are not controlled by the government of the country in which the institution is located.

Those who manage the MEPI program at the State Department added additional criteria, namely that American schools in the Middle East would be eligible only if U.S. Government dependents were enrolled in respective institutions, and only for students in the seventh through twelfth grades. I would ask the senior Senators from Vermont and New Hampshire if the State Department consulted with the committee prior to establishing additional criteria for the scholarship program.

Mr. LEAHY. I would say to my colleague from New Hampshire that my staff informs me that they were not consulted by the State Department on this matter.

Mr. GREGG. I would say to my friend from New Hampshire that my staff informs me that they, too, were not consulted on MEPI-added criteria.

Mr. SUNUNU. I fear that the State Department is severely limiting the scope of the scholarship program, including to conflict countries such as Lebanon that remain unaccompanied posts for State Department employees. To put that another way, no U.S. Government dependents are enrolled in schools in Lebanon. Moreover, I would like to suggest that the committee consider allocating $7 million for scholarships at higher education institutions, and $2 million for secondary schools.

Mr. GREGG. I appreciate your bringing these matters to my attention. My staff will request a briefing from the State Department on the scholarship program, and if needed, we will seek additional clarification during conference on this matter with the House.

HONORING OUR ARMED FORCES

SPECIALIST ERIC M. HOLKE

Mr. NELSON of Nebraska. Mr. President, I rise today to honor Army SPC Eric M. Holke, of Riverside, CA.

Specialist Holke's father describes him as an avid outdoorsman, a committed student of history, and someone with a keen eye for the arts. From a young age, Specialist Holke pursued his hobbies with zeal. His passion for the outdoors was matched only by his passion for film, which he discovered after he took a class on sports photography at Rim of the World High School in Lake Arrowhead, CA, where he was a graduate. After high school, he continued his studies in film and photography, and also worked at radio and television stations at San Bernadino Valley College.

Ready for a new challenge, Specialist Holke left San Bernadino Valley College to join the California Conservation Corps, where he spent the next 2 years backpacking through the wilderness of California. When he returned from this service, he became active in Renaissance fairs, where his specialty was demonstrating how the German military lived in the 1400s through 1600s, according to Pat Long, a cousin and producer of Renaissance fairs. Those who watched his performances remembered them for his passion and his enthusiasm.

Specialist Holke enlisted in the Army in 2000 in order to learn new skills as well as to save money to return to school. He served with the 82nd Airborne, like one of his grandfathers, a much-decorated World War II veteran. He went to Afghanistan, then to Iraq before being honorably discharged from the Army in 2005. He returned to Riverside, CA, where he became active again with the San Bernadino Valley College, performing re-enactments as well as studying film and business there. He also enlisted in the California National Guard at this time.

Specialist Holke and his wife Cassidhe were married in January of 2007. He was eager to earn his degree in business so he could start a new life in the film industry with his wife and their 16-year-old son, Steven.

In June of 2007, Specialist Holke began serving his second tour of duty in Iraq. He was serving with the 1st Battalion, 160th Infantry, California Army National Guard stationed in Kuwait. On July 15, 2007, Specialist Holke passed away in a noncombat-related incident in Talil. At his funeral, he was posthumously awarded five medals, including the Bronze Star. He was 31 years old.

In addition to his wife Cassidhe and son Steven, both of Riverside, CA, he is survived by his mother Monika Holke of Lincoln, NE, and father Jack Holke, of Las Vegas, NV. Today, I join all Americans in mourning the loss of a talented soldier, an active outdoorsman, and a loving husband, father, and son. He made the ultimate sacrifice through his service to our country. He will be remembered for his hunger for adventure. His memory will be honored by future generations of soldiers and civilians alike.

EXPLOSIVE ORDINANCE DISPOSALMAN 1ST CLASS JEFFREY CHANEY

Mr. President, I also rise today to honor Navy Explosive Ordinance Disposalman First Class Jeffrey Chaney of Omaha.

Petty Officer Chaney was a 1990 graduate from Bellevue West High School. In 1993, he joined the Navy. His first ambition was to be a Navy SEAL; however, due to eyesight problems, he worked instead as a recruiter for the Navy. His success as a recruiter was a direct result of his enthusiasm and his dedication to his work, evidenced also by his brother Jim, whom he helped recruit. His sister April describes commitment to his work: ''[He] loved the Navy; he just loved everything about his job. He was always talking about it,'' she said.

Before his tour in Iraq, Chaney served in the Secret Service, where he had the opportunity to meet President George H.W. Bush, as well as Mikhail Gorbachev while he was on security detail at the President's 80th birthday party. His sister recalls that while that was a momentous occasion in his life, his proudest moment was the birth of his daughter Brianna, now 14.

Chaney was assigned to Explosive Ordinance Disposal Mobile Unit 11, stationed in Whidbey Island, WA. On July 17, 2007, after serving in Iraq for about 2 months, ED01 Chaney passed away during combat operations in Salahuddin Province. He was 35 years old.

In addition to his brother and sister, he is survived by his daughter Brianna Chaney, 14, of Omaha; his mother Connie Chaney also of Omaha, his father Jim Eckert of Oakland, IA and another brother Jim Eckert, also of Oakland. Today, I join all Americans in mourning the loss of a truly great sailor, proud father, and loving son. His service and his sacrifice will be remembered for generations to come.

SERGEANT JACOB SCHMUECKER

Mr. President, I rise today to honor Nebraska Army National Guard Sergeant Jacob Schmuecker of Atkinson, NE.

Sergeant Schmuecker was a 1999 graduate of West Holt High School in Atkinson, NE, and attended Northeast Community College in Norfolk. He joined the Nebraska Army National Guard in 2001, after serving the city of Atkinson as a police officer.

He and his wife Lisa were married for more than 4 years, and lived in Norfolk with their three children; Dylan, 4, Kierstan, 3, and Bryce, 19 months. Lisa describes her husband as someone who was deeply committed to his service, and someone who volunteered for a mission to make the world a safer place for his children. She knows her children will remember their father for being a loving husband to her, a dedicated father, and an outstanding soldier.

A member of the 755th chemical company based out of O'Neill, NE, Sergeant Schmuecker had proudly served in the Army National Guard for 6 years. Having previously served in Afghanistan, he was 10 months into his first tour in Iraq when he passed away in Balad, after an improvised explosive device detonated near his armored vehicle. He was 27 years old.

In addition to his wife, Sergeant Schmuecker is survived by his parents Rodney and Patricia of Atkinson, and his brother Chris Shepperd of Norfolk. Today, I mourn the loss of a true American patriot, a devoted husband, and a loving father of three. He and his family have made the ultimate sacrifice to make our country a safer place to live.

CORPORAL RYAN A. WOODWARD

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave soldier from Fort Wayne. Ryan Woodward, 22 years old, was killed on September 8 in Balad, Iraq, from injuries sustained by small arms fire during combat operations near Baghdad. With an optimistic future before him, Ryan risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Ryan graduated from Carroll High School in 2003 and joined the Army in 2006. It was concern for his country's welfare that drove him to enlist as his grandfather and uncle had before him. Ryan was hugely proud to follow in their footsteps. Excelling in his service, Ryan was awarded the Bronze Star, the Purple Heart, the National Defense Service Medal, the Iraq Campaign Medal, the Global War on Terrorism Service Medal, the Army Service Ribbon, the Overseas Service Ribbon, the Combat Infantryman's Badge and the Parachutist's Badge.

Ryan was killed while serving his country in Operation Iraqi Freedom. He was assigned to A Troop, 1st Squadron, 73rd Cavalry Regiment, 82nd Airborne Division from Fort Bragg, NC. Ryan is survived by his parents Michael and Sue Woodward, his sisters Tasha and Brooke, and his brother Ben. Those who knew him best describe an adventurous young man who enjoyed life and cared deeply about his family and friends. He will be remembered as a loving son, brother, and friend.

Today, I join Ryan's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Ryan, a memory that will burn brightly during these continuing days of conflict and grief.

Ryan was known for his dedication to his family and his love of country. Today and always, Ryan will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Ryan's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Ryan's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Ryan A. Woodward in the RECORD of the Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Ryan's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Ryan.

PRIVATE FIRST CLASS SHAWN D. HENSEL

Mr. President, I also rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Logansport. Shawn Hensel, 20 years old, was killed on August 12 while deployed in West Baghdad, Iraq, of injuries sustained from rocket-propelled grenade and small arms fire. With his entire life before him, Shawn risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Shawn attended Logansport High School, and was known as a class clown who followed his own path instead of the crowd. His teacher, John Morgan, said, ''Shawn was his own person. He would do just what he wanted to do. He wanted to experience life.'' After receiving his general equivalency degree in 2006, Shawn joined the Army. Friends say he knew he wanted to join the military since he was 13 years old.

Shawn was killed while serving his country in Operation Iraqi Freedom. He was assigned to B Company, 2nd Battalion, 23rd Infantry Regiment, 2nd Infantry Division in Fort Lewis, WA. He is survived by his wife Laci N. Harmon, whom he married on December 28, 2006, his parents David and Elizabeth Ann Hensel, his sisters Autumn M. Vail and Angela R. Hensel, as well as his in-laws and extended family. Shawn will be remembered as a loving husband, son, and brother.

Today, I join Shawn's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his

courage and strength of character that people will remember when they think of Shawn, a memory that will burn brightly during these continuing days of conflict and grief.

Shawn was known for his daredevil streak, a tough exterior and a passion for the outdoors, especially kayaking. Those who knew him best will remember him for the devotion he had to his family and his love of country. Today and always, Shawn will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Shawn's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Shawn's actions will live on far longer that any record of these words.

It is my sad duty to enter the name of Shawn D. Hensel in the RECORD of the Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Shawn's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Shawn.

SERGEANT NICHOLAS J. PATTERSON

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave soldier from Rochester. Nick Patterson, 24 years old, was killed on September 10 in Baghdad, Iraq, from injuries sustained when his vehicle rolled over returning from a raid. With an optimistic future before him, Nick risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Nick graduated from Rochester High School in 2001 where he excelled in basketball and baseball. His senior year, Nick was the leading scorer on the basketball team. He was known for being a star athlete that brought huge energy into sports and a hard-working student. His teacher, Linda Brenna, said, ''He had such a great sense of humor and could make a tense moment light.'' Those who knew Nick respected him for his strong work ethic and his humor.

Nick was killed while serving his country in Operation Iraqi Freedom. He was assigned to the 1st Squadron, 73rd Cavalry Regiment, 82nd Airborne Division in Fort Bragg, NC. Nick is survived by his wife Jayme Saner Patterson, his 4-year-old son Reilley, and his parents James and Virginia Patterson. He will be remembered as a loving husband, father, son, and friend.

Today, I join Nick's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Nick, a memory that will burn brightly during these continuing days of conflict and grief.

Nick was known for his dedication to his family and his love of country. Today and always, Nick will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Nick's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: ''We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.'' This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Nick's actions will live on far longer that any record of these words.

It is my sad duty to enter the name of Nicholas J. Patterson in the RECORD of the Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Nick's can find comfort in the words of the prophet Isaiah who said, ''He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.''

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Nick.

THE COLLEGE COST REDUCTION ACT

Mrs. LINCOLN. Mr. President, I was absent for the vote on September 7 on final passage of the College Cost Reduction Act of 2007 due to an official trip that I took to Iraq with the Senate Foreign Relations Committee. Had I been in Washington during the vote on final passage, I would have supported this important piece of legislation as I did when the Senate passed its version in July.

The rising costs of a college education have significantly increased the financial burden on college students and their families in recent years. The largest increase in higher education aid since the G.I. bill, the College Cost Reduction Act will increase student aid to low-and middle-income students by $17.4 billion over the next 5 years. It also increases the maximum Pell grant by $500 to $4,810 next year and incrementally increases it until it caps at $5,400 in 2012. Further, the bill will help students manage their debt by capping student loan payments at 15 percent of their monthly income and reducing the student loan interest rate from 6.8 percent to 3.4 percent. In addition, the legislation will create a pilot program that reduces the amount of federal subsidies paid to student lending institutions and redirects the funds directly to students. The result will save students real dollars, save taxpayers money, and inject competition into the loan program.

Increasing the number of college graduates is one of the best investments that we as a nation can make, and I am proud that this Congress has worked to make college a reality for more Americans. The improvements contained in this legislation will expand the options students have to attend college and pay for higher education for years to come. Moreover, it will improve the quality of life for our citizens and our economy by preparing our workforce for the demands of an increasingly competitive marketplace.

Mr. KERRY. Mr. President, too many young people, from all walks of life, are either struggling to pay for college or flatout can't afford it. Those who aren't able to incur such steep costs are not only losing out on a degree, but setting themselves up to face a lifetime of lost opportunities, as study after study shows college graduates are the most attractive candidates for the fastest growing and best paying jobs of tomorrow. Greater college access and financial assistance is critical to making the American dream a reality for all. This bill strengthens educational resources for low-income students, giving every child the chance to succeed. It will mark the largest increase in student aid since the Montgomery GI bill and ensures that college is within the reach of children all over the country.

Today, families in New England with students in a community college spend 17 percent of their annual income to cover the cost of college for 1 year, while families nationally spend 13 percent. According to an analysis by the Massachusetts Board of Higher Education released last year, more than two thirds of families in Massachusetts last year still required approximately $6,300 beyond financial aid to afford a college education. Faced with such a hardship, many Massachusetts students drop out, saying the costs are too steep. Those who do complete their degrees are often saddled with thousands of dollars in student loans—which can take years, often decades, to pay off.

The conference report cuts roughly $20 billion from lender subsidies and

uses the funds to increase aid to college students and reduce the interest rates they must pay on their loans. It halves interest rates on subsidized student loans, from 6.8 percent to 3.4 percent, over 4 years and increases the Pell grant by $1,090 increase in the maximum Pell grant award over 5 years. It also allows for a flexible repayment option and loan forgiveness after 10 years for certain public-sector employees.

I am also proud that the conference report included language to fund key Massachusetts Upward Bound programs. Upward Bound provides fundamental support and college preparation for low-income students and has a strong record of increasing the rate at which low-income students graduate from institutions of higher learning. Once the President signs this legislation into law, 187 new and existing Upward Bound programs that scored above a 70 in the most recent grant competition will be funded from fiscal year 2008 to fiscal year 2011. As a result, Upward Bound services will be provided for an additional 12,000 students. I want to congratulate all of the new and refunded Upward Bound programs in my State—Holyoke Community College, North Shore Community College, Massachusetts Institute of Technology, Suffolk University and Wheelock College. Thank you for providing these necessary services to Massachusetts students and I urge you to keep up the good work.

This legislation is absolutely vital to securing the opportunity of higher education for all and making our country more competitive. I thank Senator KENNEDY for his hard work and vision and I wholeheartedly support this legislation.

MATTHEW SHEPARD ACT

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On the night of September 1, 2007, Josie Smith-Malave, her sister Julie Smith, and her friend Emily Durwood, were attacked outside a Long Island bar for being gay. The three women had been at the bar that night, and, as they left, they were followed outside by three women and about nine men. The group of about a dozen young adults began to crowd around the three women, shouting antigay slurs, throwing sticks and cups at them and spitting on them. The group then began to punch and kick the three women. One of the victims suffered a head injury, another suffered a knee injury, and all three were badly bruised as a result of the attack. The attackers fled the scene before police arrived, but one man was arrested 4 days later for his alleged involvement in the assault, which included stealing a camera from and injuring one of the women. He is charged with a hate-biased crime.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Matthew Shepard 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.

TRIBUTE TO DONNA PAGANO MURRAY

Ms. MURKOWSKI. Mr. President, I rise today to bid farewell to one of the longest tenured members of my Senate staff, Mrs. Donna Pagano Murray. Donna retired from the Senate on September 5, 2007, after 28 years of exceptional service to the citizens of this country and to the residents of the State of Alaska.

Donna was born in New York City and studied at Monmouth University and the University of Maryland. She served as my executive assistant and was responsible for all legislative issues relating to domestic aviation and transportation security since I entered the Senate in 2002. She is an expert in Alaska aviation issues and a champion for the Age 60 pilot age extension bill. Donna served as my Chief of Staff for the past year, leading a great team working for Alaska.

Prior to working for me, she worked for Senator Frank Murkowski for 12 years. Among other duties in that office, including those I just mentioned, she was the principal liaison between his Washington, DC and five state offices.

She left the Senate in 1989 and worked at the Department of Commerce for five years during the Administration of former President George H.W. Bush. She handled issues such as clean water and air, fisheries management, weather services and appropriations issues for the Department.

I also want to mention that during her tenure in the Senate, she worked on the Senate Committee on Labor and Human Services and the Senate Veterans' Affairs Committee. She has volunteered for several campaigns and Inaugural ceremonies as well.

Donna started her career as a high school teacher, and is looking forward to being a substitute teacher in her post-Senate life. This says a lot about her—that she is returning to the classroom to help children in this area. Rather than seeking a high-paying private sector job, which she certainly is qualified for given her abilities and experiences, she is going to be a substitute school teacher for a local district. She represents the real spirit of public service by giving back some of her knowledge, wisdom and experience gained from decades in government service to the youngsters of this area. I know that the students will learn a lot from Donna.

While I am sorry to lose one of my staff leaders, I am delighted that Donna will be able to more fully enjoy time with her husband Danny. Danny had a heart transplant last year and I know that they are looking forward to spending more time with each other, traveling together and enjoying their grandchildren.

I will miss Donna's cheerfulness, wonderful smile, straightforward manner, vast knowledge, and her dedication to the Senate. She is a hard worker, indeed. It has been a pleasure to have her on my staff. I wish her and her husband Danny the very best and know that Alaskans will benefit for decades to come from her efforts to help the State. I also know that future generations will benefit from her return to the classroom.

Donna, thank you for your service to Alaska and this country.

THE PASSING OF PRESIDENT JAMES FAUST

Mr. HATCH. Mr. President, I rise to pay tribute to a revered Utahn who was taken from us a little more than a month ago during our summer recess: President James Esdras Faust, second counselor in the First Presidency of The Church of Jesus Christ of Latter-day Saints. On August 10, President Faust peacefully passed away, called home by the God whom he had served for 87 years. He left behind a legacy of faith and service, an example to which we should all strive for in our own lives.

President Faust was a wonderful leader for the LDS Church and a tremendous counselor to its President, Gordon B. Hinckley. He was a great friend and guide to Elaine and me, and our entire family, and to millions of others around the world. He was a person of great dimension, wide-ranging abilities, and deeply spiritual capacities. He was the consummate gentleman and treated both Elaine and me with kindness unfeigned. We pray that everyone in the Faust family will be comforted in the days and months ahead with peace through their memories of this great man.

Beyond his day-to-day duties as a church leader, President Faust led opposition to gambling initiatives in Utah, oversaw construction of the BYU Jerusalem Center, managed an improved public relations strategy for the church, and enhanced relationships with foreign officials. During his ministry, he saw the Latter-day Saint faith move from primarily one of the western United States to a truly worldwide religion.

His kindness was not limited to those of his own faith, nor was his service limited to that which he performed inside his church. Before President Hinckley extended him a call to serve 35 years ago as a senior, full-time

church leader, Faust served his country in the military, served his community as an attorney, served his State as a legislator, and served his family as a devoted husband and father.

A native of a small town in Utah's west desert, Delta, President Faust studied at the University of Utah, eventually receiving both a bachelor's degree and a law degree. But he interrupted his studies when he was called to his country's defense in World War II, honorably serving in the U.S. Army Air Force and earning the rank of first lieutenant while opposing the tyranny of the Axis.

Beyond his service to America, President Faust also gave 2 years of his youth in service to his church as a missionary in Brazil. He was one of the first Mormon missionaries to that nation and by sharing his testimony of the Lord gently moved the first pebbles of what has become a mighty avalanche of faith—today Brazil is home to nearly 1 million Latter-day Saints. Later in life, anytime his church service took him to Brazil he was extremely happy to be reunited with his friends there. In 1998, Faust was named an honorary citizen of Sao Paulo in honor of his lifelong ties to the city and the nation. Only two other men have received this recognition—Pope John Paul II and the Dalai Lama—which puts President Faust in very good company.

During a short period of leave from the Air Force in the spring of 1943, President Faust married his high school sweetheart, Ruth Wright, in the Salt Lake Temple. The sunrise and the sunset to all his happiness, Ruth walked hand in hand with him for almost 65 years. Together they raised five children: James H. Faust, Janna R. Coombs, Marcus G. Faust, Lisa A. Smith, and Robert P. Faust. They were the proud grandparents of 25 grandchildren and 28 great-grandchildren.

While practicing law, President Faust made time to serve as a member of the Utah legislature, an adviser to the American Bar Journal, and as president of the Utah Bar Association. Fellow church leader Elder M. Russell Ballard said of Faust that he ''loved America, the state of Utah and Salt Lake City.'' He was always examining issues and events ''for what was right and what needed to be done to see that we were working for the benefit and blessing of the people.''

We have lost a friend, we have lost a leader. But we look forward to a time when we can see his smiling, optimistic face again and hear his soothing, uplifting voice. To President James Esdras Faust the people of Utah would like to say, ''Thank you for your time among us. It was not nearly long enough. God be with you, till we meet again.''

ADDITIONAL STATEMENTS

TRIBUTE TO JIM BILLINGTON

• Mr. KENNEDY. Mr. President, I congratulate Jim Billington on two decades of service as Librarian of Congress. For 20 years, he has presided over this prestigious institution that serves Congress so well but is truly America's national library. It houses documents and artifacts that date to the earliest days of our democracy and, at the same time, manages the U.S. Copyright Office that maintains an ongoing record of America's creative heritage.

Jim Billington had a brilliant career in the academic world before beginning his responsibilities at the Library of Congress. He was highly respected at Harvard, at Princeton and, immediately before becoming Librarian of Congress, as director of the Woodrow Wilson Center.

Throughout his career, Jim Billington has brought a dynamic integrity to the scholarly world. Under his leadership, the Library of Congress was not a dormant collection of books and artifacts. He undertook a new initiative to digitize its collections and make them more accessible and more permanent. He also established the Madison Council to bring outside support and wise counsel to the Library, and created a center for advanced scholars in the humanities.

His tenure as Librarian is noteworthy for his many achievements and innovations, his dedication to the historic role of the Library and its unique relationship to Congress, and, most importantly, his extraordinary vision of what the Library could become. Through his work, Jim has made unparalleled contributions to enhance the role that American culture plays in our national life.

On this special anniversary, I commend him for all that he has accomplished. I am especially grateful for the support and wise counsel he has given to the Kennedy Center for the Performing Arts. As Librarian of Congress, he has served as a member of the board of trustees for the center for two decades, and has been a source of consistent leadership and guidance throughout that time.

All of us in Congress owe Jim Billington an immense debt of gratitude for his outstanding public service, and we look forward to many more years of his leadership. On this 20th anniversary of his becoming Librarian of Congress, I join my colleagues in extending my warmest congratulations and deepest appreciation for his achievements.•

TRIBUTE TO HOWRIGAN FARM

• Mr. LEAHY. Mr. President, I am pleased to take this opportunity to commend longtime friends, Harold and Anne Howrigan and their sons of Fairfield, VT, whose farm was recently named 2007 Vermont Dairy Farm of the Year.

Harold, his wife Anne and their sons operate two farms comprised of more than 500 head of holstein cattle and some 1,800 acres of cropland and forest, including a significant maple sugaring operation. The Howrigan farm was selected by University of Vermont Extension and the Vermont Dairy Industry Association, who described it as an excellent, well managed dairy operation which consistently produces high-quality milk. With some of the farm acreage in the family since the mid 19th Century, the Howrigan family indeed exemplifies a long-term commitment to agriculture.

As much as he loves the home farm, over the years Harold has spent considerable time away from the farm serving Vermont agriculture. He has served as president of the Green Mountain Dairy Farmers Federation of Cooperatives and as a director with both the Vermont Maple Sugar Makers Association and the Vermont Dairy Promotion Council. Harold has served on the St. Albans Cooperative board of directors since 1981 and as president from 1988 until stepping down in 2005.

At one time or another, Harold was chairperson of the Vermont Northeast Interstate Dairy Compact Commission, chair of the Council of Northeast Farmer Cooperatives and chair of the National Dairy Promotion and Research Board. He also served on the U.S. Dairy Export Council and the National Milk Producers Federation.

With this level of engagement in the interest of dairy farmers and their industry, it is a tribute to Harold, Anne and their sons to earn this distinguished award. I join my fellow Vermonters in recognizing a Vermont dairy farm—and family—with its tradition of hard work, common sense and love of agriculture as the 2007 Vermont Dairy Farm of the Year.•

CONGRATULATING THE GLADSTONE ALL-STAR GIRLS SOFTBALL TEAM

• Mr. LEVIN. Mr. President, I would like to take a moment to congratulate the Gladstone All-Star 11–12 Girls Softball Team on placing third in the Little League Softball World Series. Their determined and focused efforts throughout the postseason, which began in early July with the district tournament in Escanaba, have brought a lot of joy and pride to the Gladstone community. I am happy to have this opportunity to recognize this impressive achievement.

Gladstone capped a marvelous season with a thrilling come-from-behind 5–2 victory over an excellent team from Waterford, CT. The game was tightly contested throughout and was not decided until the first extra inning when Gladstone rallied to score the deciding three runs in the top of the seventh inning to secure a hard fought win. Gladstone displayed resilience in recovering from a loss the previous day to the eventual runner-up from Elgin, TX, to record this victory. It takes poise, determination, and teamwork to achieve this level of success, and I congratulate each member of the team on the way

they competed throughout the summer. Gladstone now enjoys the distinction of being the third team from Delta County to reach the Little League Softball World Series.

Girls Little League Softball, which began in 1974, has provided countless young women an opportunity to compete at a high level. Through the instruction they receive on and off the field, these young women gain valuable skills that will help them achieve success throughout their lifetime. The 2007 Gladstone All-Star 11–12 year-old Girls Softball Team includes Jordan Schwartz, Ashley Hough, Jammie Botruff, Heather Sanderson, Jordan Kowalski, Nicole Sharon, Shannon Wolf, Neena Brockway, Alison Austin, Nikki Barteld, Averi Kanyuh. The coaching staff includes Manager Andrew Schwartz and Assistant Coach John Nevala.

This is a summer these young women will certainly never forget. I know I am joined by their family, friends and supporters, as well as my colleagues in the Senate, in congratulating the entire team on a highly successful and memorable season. I look forward to hearing about many more successes from these young ladies in the future.●

TRIBUTE TO CURTIS H. SYKES

● Mrs. LINCOLN. Mr. President, I rise to honor the life of a great Arkansan, Curtis H. Sykes, who passed away last week.

As a member of the Special Task Force to Study the History and Contributions of Slave Laborers in the Construction of the U.S. Capitol, Mr. Sykes made valuable contributions to the important and challenging work that the task force conducted. As its name indicates, the purpose of the task force is to recognize and preserve the contributions that African Americans made to the construction of the Capitol complex. The task force has served as a working memorial to pay tribute to those who made an enormous sacrifice to help build the greatest symbol of our Nation's freedom. I was pleased that the task force was developed to include citizen representation, and Curtis Sykes was an integral part of helping us examine those contributions.

In addition to his work on the task force, Curtis Sykes was also an accomplished historian and respected community leader in Arkansas. Mr. Sykes served as chairman of the Arkansas Black History Committee since 1993 and was the first African-American member of the North Little Rock History Commission. He brought a wealth of experience to the study of our great State's history and was an advocate for equality, fairness, and justice.

Shortly after his graduation from the segregated Scipio A. Jones High School, located in his hometown of North Little Rock, in 1947, Curtis served our Nation in the U.S. Army from 1950 to 1952. He then pursued a lifelong career in education.

Prior to retiring in 1985, Curtis worked for 33 years in education as a teacher, football coach, assistant principal and principal. He was one of the first African-American principals in the Little Rock school district during the 1960s, and after his life in education, he led the fight to pass legislation in the Arkansas General Assembly which established a Black history curriculum in Arkansas schools.

He also continued to pursue his passion to help young children learn and succeed after retirement through his work in a number of civic and community organizations. His activities included offices in the Arkansas Chapter of the NAACP, the Young YMCA/COPE of Central Arkansas and Headstart of Pulaski County.

Mr. Sykes earned his bachelor's degree from Arkansas Baptist College in Little Rock, Arkansas; a master's from Texas College in Tyler, Texas; and his master's in education from Harding University in Searcy, AR. In fact, he became the first African American to receive a degree from Harding in 1962.

In addition, Mr. Sykes received a number of honors and awards during his lifetime. He was the recipient of the Salute to Greatness Award from the Martin Luther King, Jr. Commission for his outstanding record of community service. He was also recognized by the city of North Little Rock when Mayor Patrick Hays declared a Curtis Sykes Day in 1992 to honor his many contributions to the city.

Curtis H. Sykes will be greatly missed by communities all across Arkansas, as well as those he worked with here in Washington, DC. He had an impact on thousands of people from all walks of life, and his death will leave a void throughout Arkansas.

He will not be forgotten, however. The Arkansas History Commission contains the Curtis H. Sykes Collection which includes Scipio High yearbooks, past Arkansas Teacher Association journals, and other North Little Rock memorabilia and documents which will enable future generations to learn about his life and legacy.

In the weeks and months ahead, our thoughts and prayers will be with friends and family of the Sykes as they grieve the loss of a true Arkansas pioneer.●

HONORING MARY AND BILL KIRCHNER

● Mr. ISAKSON. Mr. President, I honor two of my constituents on a very special and rare milestone. Later this month, Mary and Bill Kirchner of Atlanta will celebrate their 50th wedding anniversary.

Mary and Bill were married on September 28, 1957, in Grosse Pointe, MI, bringing together two of that city's longtime families—the Fitzsimons and the Kirchners. The next 50 years took Mary and Bill from Michigan to South Carolina and finally to Georgia, where they have lived since 1988.

Bill was a homebuilder in Michigan and on Hilton Head Island, SC, and later started his own property rental business on the island. Mary started her own successful business on Hilton Head called The Welcome Mat, then switched careers and put her salesmanship to good use selling real estate. When they moved to Atlanta, Mary and Bill decided to try an entirely new business venture by opening an antique consignment shop. Sixteen years later, Now & Again remains a beautiful and popular shop in Buckhead. In fact, my wife Dianne has been a customer. Although they have certainly earned the right to retire, Mary and Bill still run their shop 6 days a week with the help of a great staff.

While their professional lives have been an adventure, Mary and Bill made their biggest life-changing decision early on in their marriage. On a chilly February day in 1964, a nervous Mary and Bill arrived at an adoption agency in Michigan hoping to hear that they would be allowed to adopt a baby. Instead, the agency asked if Mary and Bill would like to go home with 6-month-old twin girls. The shocked couple said yes and forever changed the lives of those twins, Sarah and Joan, for the better.

Their daughter Sarah is now married to Stephen Midas and works as a stay-at-home mom to four children in Chesapeake, VA, and also does some bookkeeping for Mary and Bill's shop. Their daughter Joan and her daughter live in Washington, DC, and Joan has gone from covering politics as an AP reporter in Atlanta to now working for some of those same elected officials she used to cover. I happen to be one of those, and Joan now serves on my staff in Washington. I know Mary and Bill are very proud of both their daughters.

I join with Joan, Sarah, Stephen and their children—Alex, Ben, Anna, Josie and Isabel—in congratulating Mary and Bill Kirchner on reaching their golden anniversary. Their marriage and their commitment to each other is an inspiration to us all.●

REPORT RELATIVE TO THE STATUS OF EACH OF THE 18 IRAQI BENCHMARKS, AS RECEIVED DURING RECESS OF THE SENATE ON SEPTEMBER 14, 2007—PM 25

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Consistent with section 1314 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28) (the ''Act''), attached is a report that assesses the status of each of the 18 Iraqi benchmarks contained in the Act and declares whether satisfactory progress toward meeting these

benchmarks is, or is not, being achieved.

The second of two reports submitted consistent with the Act, it has been prepared in consultation with the Secretaries of State and Defense; the Commander, Multi-National Force-Iraq; the United States Ambassador to Iraq; and the Commander, United States Central Command.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 14, 2007*.

MEASURES DISCHARGED

The following measure was discharged from the Committee on Environment and Public Works by unanimous consent, and referred as indicated:

S. 2006. A bill to provide for disaster assistance for power transmission and distribution facilities, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–196. A resolution adopted by the California-Pacific Annual Conference of the United Methodist Church relative to the repeal of discriminatory laws; to the Committee on Armed Services.

POM–197. A resolution adopted by the Commission of the City of Hollywood, Florida, supporting the Energy Efficiency Promotion Act; to the Committee on Energy and Natural Resources.

POM–198. A resolution adopted by the Council of the Town of Bay Harbor Islands, Florida, supporting resolution number 2007–430 of the governing board of the South Florida Water Management District; to the Committee on Environment and Public Works.

POM–199. A resolution adopted by the Commission of the City of Pompano Beach, Florida, urging Congress to appropriate funds necessary to bring the Herbert Hoover Dike into compliance with current levee protection safety standards; to the Committee on Environment and Public Works.

POM–200. A resolution adopted by the Council of the Town of Davie, Florida, urging Congress to appropriate funds necessary to bring the Herbert Hoover Dike into compliance with current levee protection safety standards; to the Committee on Environment and Public Works.

POM–201. A resolution adopted by the Council of the City of Long Beach, California, urging Congress to enact the Employee Free Choice Act; to the Committee on Health, Education, Labor, and Pensions.

POM–202. A concurrent resolution adopted by the Legislature of the State of Texas urging Congress to provide drought relief to Texas; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE CONCURRENT RESOLUTION NO. 67

Whereas, the State of Texas continues to endure substantial economic losses due to a prolonged drought that has crippled the state for nearly two years; the loss of crops and livestock and drought-induced fires have left the state's farmers and ranchers in desperate need of continued federal assistance to offset the losses suffered as a result of this natural disaster; and

Whereas, the drought has cost the state nearly $2.5 billion in total crop loss, more than $1 billion of which is attributed to a decrease in the cotton harvest, the state's number one cash crop; in addition, the latest forecasts for 2006 show the state's wheat harvest has decreased by more than 60 percent, corn production is down by 26 percent, soybean production has decreased by more than 30 percent, and the state's production of peanuts and sorghum is expected to be down by 40 percent; and

Whereas, an estimated $1.6 billion in livestock losses, as well as the rising cost of hay and supplemental feed, have forced any ranchers to sell their cattle earlier than anticipated, which will undoubtedly cause a decrease in the beef supply for several years; all told, the total agricultural loss to the state stands at more than $4 billion; and

Whereas, this dire economic impact is shared by the businesses that support the agriculture community, specifically those in rural areas, where projections estimate the loss to be nearly $8 billion; the businesses affected include those that provide equipment or machinery, supplies, feed, and professional services such as veterinarians; and

Whereas, adding insult to injury, the drought has resulted in more than 21,000 fires, burning in excess of two million acres between January and November, 2006, and contributing to the loss of 5,000 miles of fence and 5,000 cattle in the Panhandle alone; the fires 1n the northern regions of the state have certainly contributed to the diminution in hay production, and the United States Department of Agriculture (USDA) estimates that 77 percent of Texas' hay production was lost during the same period; and

Whereas, to alleviate this financial burden, the Texas Department of Agriculture will administer a total of $16.1 million in assistance received from the USDA to eligible livestock producers in 216 drought-stressed counties, but with more than $12 billion in total economic loss as a direct result of the drought, more assistance is needed; the devastation to crops and livestock in the number two agricultural state in the nation has put a financial strain on Texas farmers and ranchers, and it is imperative that the federal government continue to assist the individuals and families that have suffered during this time; now, therefore, be it

Resolved, That the 80th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to provide further drought relief to Texas; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all the members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–203. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to require the Department of Agriculture to conduct a study and report on the nutritional value of the country's school lunches; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE RESOLUTION NO. 11

Whereas, we, as a people, must not feed our children fatty and sugary foods on a daily basis because it leads to obesity and diabetes; therefore, be it

Resolved, by the House of Representatives of the Ninety-Fifth General Assembly of the State of Illinois, That State Representative Monique D. Davis and the rest of the House of Representatives urge the Congress of the United States of America to require the United States Department of Agriculture to conduct a study and report on the nutritional value of the country's school lunches; and be it further

Resolved, That suitable copies of this resolution be delivered to the President pro tempore of the U.S. Senate, the Speaker of the U.S. House of Representatives, and each member of the Illinois congressional delegation.

POM–204. A resolution adopted by the House of Representatives of the State of Illinois urging the federal government to meet all of the financial obligations of the GI Bill; to the Committee on Armed Services.

HOUSE RESOLUTION NO. 123

Whereas, on June 22, 1944, President Franklin D. Roosevelt signed the ''Servicemen's Readjustment Act of 1944'', better known as the ''GI Bill of Rights''; and

Whereas, the bill at first was the subject of intense debate and parliamentary maneuvering, but has since been recognized as one of Congress' most important acts; and

Whereas, during the past five decades, the law has made possible the investment of billions of dollars in education and training for millions of veterans, and the nation has in return earned many times that investment in increased taxes and a dramatically changed society; and

Whereas, the law also made possible the loan of billions of dollars to purchase homes for millions of veterans and helped to transform the majority of Americans from renters to homeowners; and

Whereas, the 1944 GI Bill provided six benefits: education and training; loan guarantees for a home, farm, or business; unemployment pay; job-finding assistance; top priority for building materials for VA hospitals; and military review of dishonorable discharges; the home loan program is the only feature of the original bill that is still in force; and

Whereas, the original GI Bill ended in 1956, but subsequent GI Bills have continued the original bill's education and training benefits; the bill currently in effect is the Montgomery GI Bill, which provides benefits for veterans who served after July 1, 1985, and for military reservists; and

Whereas, in signing the original GI Bill, President Roosevelt stated that the Bill ''gives emphatic notice to the men and women in our armed forces that the American people do not intend to let them down''; and

Whereas, our servicemen and women have sacrificed much for our country, and continued funding of GI Bill benefits is imperative to ensure that they are treated with the respect they deserve: Therefore be it

Resolved, by the House of Representatives of the Ninety-Fifth General Assembly of the State of Illinois, that we urge the federal government to meet all of the financial obligations of the GI Bill; and be it further

Resolved, That copies of this resolution be sent to President George W. Bush, federal Secretary of Veterans Affairs Jim Nicholson, each member of the Illinois Congressional delegation, and the Director of the Illinois Department of Veterans' Affairs.

POM–205. A resolution adopted by the Senate of the State of Michigan urging Congress to enact H.R. 2927; to the Committee on Commerce, Science, and Transportation.

SENATE RESOLUTION NO. 89

Whereas, H.R. 2927 sets tough fuel economy standards without off ramps or loopholes, by requiring separate car and truck standards to meet a total fleet fuel economy between 32 and 35 mpg by 2022—an increase of as much as 40 percent over current fuel economy standards—and requires vehicle fuel

economy to be increased to the maximum feasible level in the years leading up to 2022; and

Whereas, H.R. 2927, while challenging, will provide automakers more reasonable lead time to implement technology changes in both the near and long term. Model year 2008 vehicles are already available today, and product and manufacturing planning is done through model year 2012. H.R. 2927 recognizes the critical need for engineering lead times necessary for manufacturers to make significant changes to their fleets; and

Whereas, H.R. 2927 respects consumer choice by protecting the important functional differences between passenger cars and light trucks/SUVs. Last year, 2006, was the sixth year in a row that Americans bought more trucks, minivans, and SUVs than passenger cars because they value attributes such as passenger and cargo load capacity, four-wheel drive, and towing capability that most cars are not designed to provide; and

Whereas, While some would like fuel economy increases to be much more aggressive and be implemented with much less lead time, Corporate Average Fuel Economy (CAFE) standards must be set at levels and in time frames that do not impose economic harm on the manufacturers, suppliers, dealers, and others in the auto industry; and

Whereas, Proponents of unrealistic and unattainable CAFE standards cite Europe's 35 mpg fuel economy, without ever mentioning Europe's $6 per gallon gasoline prices, the high sales of diesel vehicles, the high proportion of Europeans driving manual transmission vehicles (80 percent in Europe vs. 8 percent in the U.S.), the significant differences in the size mix of vehicles, or that trucks and SUVs are virtually nonexistent among Europe households; and

Whereas, Proponents of unreasonable CAFE standards claim they will save consumers billions, but they neglect to talk about the upfront costs of such changes to the manufacturers of meeting unduly strict CAFE standards—more than $100 billion, according to the National Highway Traffic Safety Administration—which will lead to vehicle price increases of several thousand dollars; and

Whereas, Proponents of unrealistic CAFE standards ignore the potential safety impacts of downsized vehicles on America's highways and overlook the historical role and critical importance of manufacturing plants to our national and economic security. They seem unconcerned about threats to the 7.5 million jobs that are directly and indirectly dependent on a vibrant auto industry in the United States; and

Whereas, H.R. 2927 is a reasonable bill that balances a number of important public policy concerns. The bill represents a tough but fair compromise that deserves serious consideration and support: Now, therefore, be it

Resolved by the Senate, That we memorialize the United States Congress to enact H.R. 2927, which responsibly balances achievable fuel economy increases with important economic and social concerns, including consumer demand; 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–206. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to support funding for the Urban Park and Recreation Recovery Program; to the Committee on Energy and Natural Resources.

HOUSE RESOLUTION NO. 395

Whereas, the Urban Park and Recreation Recovery Program (UPARR) is a matching federal grant program administered by the National Park Service of the Department of the Interior; and

Whereas, the purpose of the program is to provide funding for the rehabilitation of parks and recreation areas in cities and urban communities; and

Whereas, since the establishment of the program in 1978, approximately 1500 individual grants totaling more than $270,000,000 have been made to eligible cities and counties; and

Whereas, no funds have been appropriated under UPARR for the past 5 years; and

Whereas, urban park development is essential for economic revitalization, environmental stewardship, and public recreation; therefore, be it

Resolved, by the House of Representatives of the Ninety-Fifth General Assembly of the State of Illinois, That we urge the Congress of the United States of America to support funding for the Urban Park and Recreation Recovery Program; and be it further

Resolved, That suitable copies of this resolution be delivered to the President pro tempore of the U.S. Senate, the Speaker of the U.S. House of Representatives, and each member of the Illinois congressional delegation.

POM–207. A joint resolution adopted by the Senate of the State of California urging Congress to reauthorize and fund the federal Secure Rural Schools and Community Self-Determination Act of 2000; to the Committee on Energy and Natural Resources.

SENATE JOINT RESOLUTION NO. 3

Whereas, from 1908 to 2000, counties in the United States received 25 percent of the revenues generated on national forest lands in lieu of lost tax revenues that could have been generated had these lands remained in private hands; and

Whereas, in the 1990s, the volume and value of timber harvested on national forest lands was dramatically reduced, which led Congress to enact the federal Secure Rural Schools and Community Self-Determination Act of 2000, which provided a six-year guarantee payment option that was independent of the revenue generated on the national forest lands; and

Whereas, the Secure Rural Schools and Community Self-Determination Act of 2000, as extended by the United States Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28), will expire on September 30, 2007, which would create a lapse in funding to critical programs in schools and counties across the United States, including California, in the coming years; and

Whereas, rural schools are dependent on federal revenue-sharing programs, including federal forest payments, for maintaining vital educational services and programs, and to ensure an equitable education for all students; and

Whereas, many of California's county public works programs will be crippled without stable, predictable, long-term funding from the act, causing the local road network to suffer long-term degradation and putting communities at risk for public safety emergencies due to cuts in staffing and operational activities; and

Whereas, a number of efforts are being made in both the Untied States House of Representatives and the United States Senate to fully reauthorize the act through 2011, and the Legislature strongly supports these efforts; 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 respectfully urges the 110th Congress to reauthorize and fund the federal Secure Rural Schools and Community Self-Determination Act of 2000 to provide a long-term, stable source of funding for schools and counties to maintain vital programs prior to September 30, 2007, to avoid any interruption in county services and school operations; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Speaker of the House of Representatives, to the Majority Leader of the Senate, and to each Senator and Representative from California in the Congress of the United States.

POM–208. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to support and pass the Great Lakes Water Protection Act; to the Committee on Environment and Public Works.

HOUSE RESOLUTION NO. 602

Whereas, the Great Lakes are the World's single largest source of fresh surface water and contain about 90% of the water supply for the United States; and

Whereas, fresh water is limited in quantity and highly susceptible to contamination; and

Whereas, an estimated 24,000,000,000 gallons of sewage are dumped into the Great Lakes each year due to city sewer overflow; and

Whereas, water pollution contributes to elevated levels of E. coli bacteria and can result in contaminated drinking water and unsafe beach conditions; and

Whereas, the United States Environmental Protection Agency estimates that each year between 1,800,000 and 2,500,000 Americans become sick from drinking polluted water; and

Whereas, measures exist to eliminate sewage dumping into the Lakes and the City of Chicago has already taken steps to reduce the amount of sewage reaching Lake Michigan by creating a system of tunnels to direct sewer overflow to large storage reservoirs; and

Whereas, the Great Lakes Water Protection Act, introduced in the U.S. House of Representatives as H.R. 2907, would increase fines for sewage dumping, use penalty revenues to fund habitat and wetland projects, and increase public disclosure of dumping incidents; therefore, be it

Resolved, by the House of Representatives of the Ninety-Fifth General Assembly of the State of Illinois, That we urge the U.S. Congress to support and pass the Great Lakes Water Protection Act in an effort to clean up the Great Lakes; and be it further

Resolved, That suitable copies of this resolution be delivered to the President pro tempore of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Illinois congressional delegation.

POM–209. A concurrent resolution adopted by the Senate of the State of Michigan urging Congress to provide funding for the Saginaw Bay Coastal Initiative; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 10

Whereas, communities surrounding Saginaw Bay face significant environmental and economic challenges. Saginaw Bay is one of the most polluted areas in the Great Lakes. Historic and ongoing inputs of excessive nutrients, toxic contaminants, and overabundant sediments exacerbated by low water levels have led to the proliferation of undesirable nuisance plants and algae, degradation of shoreline areas, loss of fishery habitant, and impairment of fish and wildlife populations; and

Whereas, Saginaw Bay remains a vital resource for about 500,000 residents who use its waters and shoreline for recreation, drinking water, and other activities. The public health and safety of these residents and the economic vitality of local communities are threatened by the ongoing environmental problems facing Saginaw Bay. Increased coordination and partnerships with local leaders and citizens directly affected by Saginaw Bay's health are needed to restore the bay and realize its full potential as a vibrant coastal area; and

Whereas, the Saginaw Bay Coastal Initiative (SBCI) will support innovative regional approaches for enhancing resource protection, improving environmental quality, and expanding local tourism and economic development within the Saginaw Bay coastal area. With appropriate funding, the initiative will create new partnerships among federal, state, and local groups and enhance local participation and responsibility in resolving environmental and economic challenges and determining the future of Saginaw Bay; 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 Saginaw Bay Coastal Initiative; 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–210. A concurrent resolution adopted by the Legislature of the State of Texas urging Congress to enact legislation to eliminate the 24-month Medicare waiting period for participants in Social Security Disability Insurance; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 35

Whereas, created in 1965, the federal Medicare program provides health insurance coverage for more than 40 million Americans; although most of those enrolled in Medicare are senior citizens, approximately six million enrollees under the age of 65 have qualified because of permanent and severe disability, such as spinal cord injuries, multiple sclerosis, cardiovascular disease, cancer, or other illness or disorder; and

Whereas, despite the physical and financial hardships wrought by these conditions and the fact that Social Security Disability Insurance (SSDI) is designed for individuals with a work history who paid into the social security system before the onset of their disability, federal law mandates a 24-month waiting period from the time a disabled individual first receives SSDI benefits to the time Medicare coverage begins; a prerequisite to Medicare, the SSDI program itself delays benefits for five months while the person's disability is determined—effectively creating a 29-month waiting period for Medicare; and

Whereas, this restriction affects a significant number of Americans in need; as of January 2002, there were approximately 1.2 million disabled individuals who qualified for SSDI and were awaiting Medicare coverage, many of whom were unemployed because of their disability; consequently, under these conditions, by the time Medicare began, an estimated 77 percent of those individuals would be poor or nearly poor, 45 percent would have incomes below the federal poverty line, and close to 40 percent would be enrolled in state Medicaid programs; and

Whereas, furthermore, it has been estimated that as many as one-third of the individuals currently awaiting coverage may be uninsured and likely to incur significant medical care expenses during the two-year waiting period, often with devastating consequences; studies indicate that the uninsured are likely to delay or forgo needed care, leading to worsening health and even premature death, and the American Medical Association has determined that death rates among SSDI recipients are highest in the first 24 months of enrollment; and

Whereas, eliminating the 24-month waiting period not only would prevent worsening illness and disability for SSDI beneficiaries, thereby reducing more costly future medical needs and potential long-term reliance on public health care programs, but could also save the Medicaid program as much as $4.3 billion at 2002 program levels, including nearly $1.8 billion in savings to states and $2.5 billion in federal savings that would help offset a substantial portion of the accompanying increase in Medicare expenditures; and

Whereas, recognizing the consequences of the waiting period to those suffering from amyotrophic lateral sclerosis (ALS), or Lou Gehrig's disease, the 106th United States Congress passed H.R. 5661 in 2000 and eliminated the requirement for enrollees diagnosed with the disease; in passing H.R. 5661, the Congress acknowledged the enormous difficulties faced by those diagnosed with severe disabilities and established precedent for the exception to be extended to all the disabled on the Medicare waiting list; now, therefore, be it

Resolved, That the 80th Legislature of the State of Texas hereby respectfully urge the United States Congress to enact legislation to eliminate the 24-month Medicare waiting period for participants in Social Security Disability Insurance; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the President of the United States, the Speaker of the House of Representatives and the president of the Senate of the United States Congress, and all the members of the Texas delegation to the Congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America.

POM–211. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to pass H.R. 1279; to the Committee on Finance.

HOUSE RESOLUTION NO. 480

Whereas, according to U.S. Census Bureau data for 2004, 18%, or 51,200,000 people in the U.S. are persons with disabilities; and

Whereas, according to data from the 2004 American Community Survey, 12.4%, or 1,400,000 people in Illinois are persons with disabilities; and

Whereas, by 2030, 1,200,000 individuals nationwide with developmental disabilities will be over the age of 60; and

Whereas, in the U.S., 35% of people with a mental illness or developmental disability live with caregivers between ages of 40–60, and 25% live with caregivers over the age of 60; and

Whereas, 1 in 6 people provide care for a chronically ill, older adult, friend or relative with a disability without public funds; and

Whereas, currently more than 50% of all direct support positions, often known as caregivers, personal assistants or homecare aides, turn over every year in the U.S.; in Illinois, turnover in residential and vocational settings is nearly 70%, with an estimated cost ranging from $2,000 to $5,000 to replace a direct support worker; the high turnover results in vacancies, puts unfair demands on remaining workers and, most importantly, negatively impacts the quality and consistency of support to people with disabilities and mental illness; and

Whereas, poor wages and heavy job demands have caused this crisis; in 2005, a report by the Illinois Direct Support Professional Workforce Initiative, using data from multiple studies, found that the average annual income for direct support professionals in residential settings, vocational settings, and in-home and respite settings ranged from $18,366 to $22,651; the current federal poverty level for a family of four is $20,650; and

Whereas, it is essential that people with disabilities and mental illness have access to support that allows them to live and work in the communities of their choice; and

Whereas, in order to stabilize and increase the number of direct support professionals in the workforce, the wages and benefits of direct support professionals must be improved and made equitable among long term support options; and

Whereas, Medicaid is the single-largest payor of long-term support and services for people with disabilities; enhanced Federal Medicaid matching funds should be available to assist states committed to addressing wage differentials among direct support professionals by increasing the wages of direct support professionals and supporting and improving the stability of the direct support professional workforce; and

Whereas, the Direct Support Professionals Fairness and Security Act of 2007, as introduced in the U.S. House of Representatives in H.R. 1279, would provide a voluntary option to states to receive additional Medicaid funding to reimburse community-based organizations to raise the wages of direct support professionals; therefore, be it

Resolved, by the House of Representatives of the Ninety-Fifth General Assembly of the State of Illinois, That we urge the Congress of the United States to support and pass H.R. 1279 so that states will have additional options to raise the wages of direct support professionals; and be it further

Resolved, That we encourage the State of Illinois to take advantage of this option should it become available; and be it further

Resolved, That suitable copies of this resolution be sent to George W. Bush and each member of the Illinois delegation.

POM–212. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to pass the Savings for Working Families Act; to the Committee on Finance.

HOUSE JOINT RESOLUTION NO. 51

Whereas, for the second year in a row, the national personal savings rate remains below zero; and

Whereas, a negative savings rate in the United States has not occurred since the Great Depression; and

Whereas, nationally, one in five families have a negative net worth; about one-third of low-income households and more than one-tenth of moderate-income households report having no financial assets at all; and

Whereas, the United States Congress has reintroduced legislation in the 110th Congress creating the Savings for Working Families Act that would ensure that our nation's savings and ownership policies assist working-poor families by enabling them to save, build wealth, and enter the financial mainstream through the use of Individual Development Accounts; and

Whereas, Individual Development Accounts help low-income families build assets for buying a first home, receiving post-secondary education, or starting or expanding a small business; and

Whereas, the President of the United States included funding for 900,000 Individual

Development Accounts in his 2007 budget request, and, meanwhile, the Congress, in a bipartisan effort, gathered 68 co-sponsors (35 Democrats and 33 Republicans) on the bill; and

Whereas, the Savings for Working Families Act creates a tax credit for financial institutions that match the savings of the working poor through Individual Development Accounts; and

Whereas, financial institutions offering Individual Development Accounts will be reimbursed through a federal tax credit for all matching funds, up to $500 per year for four years, and receive a tax credit of $50 per account per year for account management; and

Whereas, those who save in an Individual Development Account must complete financial education from a nonprofit organization prior to the asset purchase; therefore be it

Resolved, by The House of Representatives of the Ninety-Fifth General Assembly of the State of Illinois, the Senate Concurring Herein,

That the Illinois General Assembly urges the members of the Illinois delegation to the United States Congress to give full consideration to the passage of the Savings for Working Families Act as represented in House Resolution 1514; and be it further

Resolved, That a suitable copy of this resolution be sent to each member of the Illinois congressional delegation.

POM–213. A resolution adopted by the Senate of the Commonwealth of Puerto Rico expressing its support of the financing of the State Children's Health Insurance Program through available federal funds; to the Committee on Finance.

SENATE RESOLUTION NO. 3259

The State Children's Health Insurance Program (SCHIP), Public Law 105–33, as amended, and known as the Balanced Budget Act of 1997, provides block grants to states for health care insurance coverage for uninsured children under 18 years of age and who fall on or below 200% of the poverty level established by the Federal Government (FPL) or as established by the state governments. The states may provide this coverage by expanding Medicaid benefits, by expanding or creating a children's health insurance program or by a combination of both.

In June 1998, the Health Care Finance Administration (HCFA), presently known as the Centers for Medicare and Medicaid Services (CMS), authorized the implementation of the State Children's Health Insurance Program (SCHIP) in Puerto Rico. This new program constitutes an expansion of the Medical Assistance Program (MEDICAID), which originally established the Program for a ten (10) year period, which concludes in August 2007.

The Children's Health Insurance Program provides coverage to children between the ages of 0–18 who fall below 200% of the poverty level and not eligible for Medicaid and who do not have private medical insurance because their parents' income does not allow for it.

The Children's Health Insurance Program provides preventive service, hospitalization services, medical services, surgical services, mental health services, diagnostic tests, clinical laboratory tests, outpatient rehabilitation services, dental services, pharmacy services and ambulance services. It also offers childcare services from birth to 18 years of age, including vaccinations according to their age. It further provides physical, mental, dental health and nutrition education and counseling. The Medical Assistance Program of the Department of Health of Puerto Rico receives a grant through legislation of the United States Congress that is matched in fifty percent with state funds; from the total funds, an amount of up to 15 percent may be used for the administration of the Program and the remainder is distributed for the payment of direct services to patients.

The SCHIP must be reauthorized by the Federal Government on or before September 2007, in order for it to be able to continue operating and providing services to millions of children in the United States, including those of Puerto Rico. It further provides $48.1 million in benefits (a 23% increase since 2006) to low income children who do not meet the Medicaid requirements. Although Puerto Rico does not receive parity, as the other states do, these funds have benefited low income children.

The Senate of Puerto Rico recognizes the importance of the SCHIP in Puerto Rico for the welfare of children, for the prevention and treatment of childhood diseases, and for reducing the general costs of health care. It also exhorts the Government of Puerto Rico to use all resources available so that the children of our Island who are under the poverty level may have access to these health services.

BE IT RESOLVED BY THE SENATE OF PUERTO RICO:

Section 1.—To express the support of the Senate of Puerto Rico to the financing of the State Children's Health Insurance Program (SCHIP) through available federal funds, and to exhort the United States Congress to assure an increase in federal funds for the SCHIP, including the territories, as well as Puerto Rico.

Section 2.—A copy of this Resolution translated into English, shall be remitted to the President of the United States, to the Leaders of the Minority and Majority in both Chambers of Congress, to the Governor of the Commonwealth of Puerto Rico and to the Resident Commissioner in Washington.

Section 3.—This Resolution shall take effect immediately after its approval.

POM–214. A joint resolution adopted by the House of Representatives of the State of Illinois urging Congress to reauthorize the State Children's Health Insurance Program; to the Committee on Finance.

HOUSE JOINT RESOLUTION NO. 26

Whereas, the Legislature of the State of Illinois regards the health of our children to be of paramount importance to families in our State; and

Whereas, the Legislature of the State of Illinois regards poor child health as a threat to the educational achievement and social and psychological well-being of the children of our State; and

Whereas, the Legislature of the State of Illinois considers protecting the health of our children to be essential to the well-being of our youngest citizens and the quality of life in our State; and

Whereas, the Legislature considers the All Kids Program, which is currently providing health coverage to approximately 160,000 children, to be an integral part of the arrangements for health benefits for the children of the State of Illinois; and

Whereas, the Legislature recognizes the value of the All Kids Program in preserving child wellness, preventing and treating childhood disease, improving health outcomes, and reducing overall health costs; and

Whereas, the Legislature of the State of Illinois considers the federal funding available for the All Kids Program to be indispensable to providing health benefits for children of modest means: Therefore, be it

Resolved, by the House of Representatives of the Ninety-fifth General Assembly of the State of Illinois, the Senate concurring herein, That we urge the members of the Illinois delegation to the United States Congress to ensure that the Congress timely reauthorizes the State Children's Health Insurance Program (SCHIP) to ensure federal funding for the All Kids Program; and be it further

Resolved, That the Legislature proclaims that all components of State government should work together with educators, health care providers, social workers, and parents to ensure that all available public and private assistance for providing health benefits to uninsured children in this State be used to the maximum extent possible; and be it further

Resolved, That a suitable copy of this solution be sent to each member of the Illinois Congressional delegation.

POM–215. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to enact legislation to repeal the Government Pension Offset and the Windfall Elimination Provision from the Social Security Act; to the Committee on Finance.

HOUSE RESOLUTION NO. 134

Whereas, the federal Social Security Act includes two provisions, the Government Pension Offset and the Windfall Elimination Provision, that reduce the Social Security benefits payable to persons who are entitled to benefits under the public retirement systems of the State under certain conditions; and

Whereas, these provisions penalize individuals who dedicate the majority of their productive years to public service to the State of Illinois, including educators, police officers, and firefighters; and

Whereas, these provisions take away benefits that public employees or their spouses have earned by paying into the Social Security system; and

Whereas, these provisions often leave public employees facing poverty in their retirement; and

Whereas, the State of Illinois is benefited by the recruitment of the best and most able individuals for public employment, but is hindered from doing so because of the offset penalties; and

Whereas, these provisions discourage individuals from moving from private sector employment into positions of public employment: Therefore, be it

Resolved, by the House of Representatives of the Ninety-fifth General Assembly of the State of Illinois, That we encourage and support action by the Congress of the United States to enact legislation to repeal the Government Pension Offset and the Windfall Elimination Provision from the Social Security Act, or reduce the effects thereof; and be it further

Resolved, That copies of this resolution be sent to President George W. Bush and to each member of the Illinois congressional delegation.

POM–216. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to repeal the Government Pension Offset and the Windfall Elimination Provision from the Social Security Act; to the Committee on Finance.

HOUSE RESOLUTION NO. 0134

Whereas, The Federal Social Security Act includes two provisions, the Government Pension Offset and the Windfall Elimination Provision, that reduce the Social Security benefits payable to persons who are entitled to benefits under the public retirement systems of the State under certain conditions; and

Whereas, These provisions penalize individuals who dedicate the majority of their productive years to public service to the State

of Illinois, including educators, police officers, and firefighters; and

Whereas, These provisions take away benefits that public employees or their spouses have earned by paying into the Social Security system; and

Whereas, These provisions often leave public employees facing poverty in their retirement; and

Whereas, The State of Illinois is benefited by the recruitment of the best and most able individuals for public employment, but is hindered from doing so because of the offset penalties; and

Whereas, These provisions discourage individuals from moving from private sector employment into positions of public employment: Therefore be it

Resolved, by the House of Representatives of the Ninety-fifth General Assembly of the State of Illinois, That we encourage and support action by the Congress of the United States to enact legislation to repeal the Government Pension Offset and the Windfall Elimination Provision from the Social Security Act, or reduce the effects thereof; and be it further

Resolved, That copies of this resolution be sent to President George W. Bush and to each member of the Illinois congressional delegation.

POM–217. A resolution adopted by the House of Representatives of the State of Michigan urging Congress to increase efforts to provide assistance in the Darfur region of Sudan; to the Committee on Foreign Relations.

HOUSE RESOLUTION NO. 59

Whereas, over the past few years, the government of Sudan and the government-backed militia have carried out a campaign of murder, rape, and terror in the Darfur region. More than 1.5 million people are estimated to have been displaced from their homes, while tens of thousands of civilians have been killed or pushed into disease and malnutrition. A 2004 cease-fire agreement has proven ineffective, and the conditions for those who have been displaced can only be described as a nightmare; and

Whereas, the United States, the United Nations, the African Union, and other nations and organizations have largely ignored the grave human rights violations and suffering that are taking place. The situation in the Darfur region is acknowledged to be ethnic cleansing and may amount to genocide; and

Whereas, while the United States and other countries have tried to bring a halt to the suffering, a greater sense of urgency needs to be brought to these efforts. Our country must do all it can to influence the leadership of the United Nations to increase the number of troops on the ground to protect civilians and to bring pressure on the Sudanese government to halt its illegal and immoral acts. Clearly, the United States must play a leadership role in working with other nations, the United Nations, and the African Union in the effort to bring relief to this region of sorrows: Now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States and the United States State Department to increase efforts to halt the violence and to provide humanitarian assistance to the victims of the atrocities in the Darfur region of Sudan; and be it further

Resolved, That copies of this resolution be transmitted to the Office of the President of the United States, the United States Secretary of State, 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–218. A resolution adopted by the House of Representatives of the State of Michigan urging Congress to enact legislation to prohibit federal funds from going to any business or entity that works with the Sudanese government; to the Committee on Foreign Relations.

HOUSE RESOLUTION NO. 63

Whereas, with casualties running in the hundreds of thousands and millions displaced, the humanitarian crisis in the Darfur region of the Sudan has defied solution for many years. The heartbreaking atrocities being carried out by the Sudanese government and the Janjaweed militia, which were acknowledged to be genocide by the Bush administration in 2004, clearly cannot be brought to a halt by diplomatic means or by the weight of criticism from around the world; and

Whereas, with each report of tribal massacre, rape, and unspeakable cruelty, the need for effective action grows. Many are reminded of the pressures that were brought to bear upon the South African system of apartheid a generation ago by a rising tide of economic sanctions from the United States and other countries; and

Whereas, it is long past time for the United States to put in place formal measures to halt the flow of American dollars to any entity or business that works with the Sudanese government in any capacity other than those that are purely humanitarian or peacekeeping in nature. Government contracts and pension funds must not be going to businesses or entities operating in the Sudan. American businesses dealing with the Sudanese government should disclose their actions. It is a moral imperative that we must make every possible effort to stop the atrocities so that a long-term solution to the region's problems can be found: Now, therefore, be it

Resolved by the House of Representatives, That we memorialize the Congress of the United States to enact legislation to prohibit federal funds from going to any business or entity that works with the Sudanese government in any capacity other than solely humanitarian or peacekeeping efforts; 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–219. A resolution adopted by the House of Representatives of the State of Rhode Island urging Congress to fulfill its funding commitments under the Individuals with Disabilities Education Act; to the Committee on Health, Education, Labor, and Pensions.

HOUSE RESOLUTION NO. 5227

Whereas, more than thirty years ago, the Congress of the United States enacted the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) with a commitment of forty percent (40%) federal funding for the costs to local school districts and states to carry out the mandates of the Individuals with Disabilities Education Act (''IDEA''); and

Whereas, in 1994, the Congress of the United States recognized their ''commitment of forty percent (40%) federal funding'' was not being met, and states were only being federally funded at a rate of eight percent (8%).

Whereas, the federal appropriation of 10 billion dollars for the 2004 federal fiscal year funded only eighteen and sixty-five hundredths percent (18.65%), and the 10.6 billion dollars for FY 2005 covers only about nineteen percent (19%) of the special education tab. For FY 2006, funding was only at seventeen and eight-tenths percent (17.8%) of the national average per pupil expenditure, still well below the forty percent (40%) federal contribution commitment; and

Whereas, local school districts in Rhode Island and throughout the United States are mandated to meet the spiraling costs of carrying out the provisions of IDEA; and

Whereas, the failure of the Congress of the United States to fully fund its original commitment of forty percent (40%) federal funding has placed a severe burden upon local school districts to meet the costs of the federal mandate, resulting in an insufferable burden upon local taxpayers and diversion of funds from other education programs, thus lessening the quality of education; and

Whereas, more than thirty years after the enactment of IDEA, it is time that the Congress of the United States appropriate the funds necessary to fully fund its original commitment to provide forty percent (40%) federal funding of the costs incurred carrying out the provisions of IDEA: Now, therefore be it

Resolved, That this House of Representatives of the State of Rhode Island and Providence Plantations hereby memorializes the Congress of the United States to fulfill the original commitment of the Congress of the United States to provide for forty percent (40%) federal funding to local school districts to carry out the mandates of the Individuals with Disabilities Education Act; 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: (1) each member of the Rhode Island delegation in the Congress of the United States; (2) the President of the United States; (3) the President of the Senate in the Congress of the United States; (4) the Speaker of the House of Representatives in the Congress of the United States; (5) the Chairmen of the Health, Education, Labor and Pensions Committees in the Senate in the Congress of the United States; and (6) the Chairmen of the Education and the Workforce Committees in the House of Representatives in the Congress of the United States.

POM–220. A joint resolution adopted by the Senate of the State of California urging Congress to renew the Special Statutory Funding Program for Type I Diabetes Research; to the Committee on Health, Education, Labor, and Pensions.

SENATE JOINT RESOLUTION NO. 8

Whereas, diabetes is a chronic, debilitating disease affecting every organ system; and

Whereas, Type 1 diabetes is an autoimmune disease in which a person's pancreas stops producing insulin, a hormone that enables people to get energy from food; and

Whereas, Type 1 diabetes is a nonpreventable and so far incurable chronic disease that is one of the most prevalent diseases affecting children; and

Whereas, Type 2 diabetes is a metabolic disorder in which a person's body still produces insulin but is unable to use it effectively; and

Whereas, Type 2 diabetes disproportionately affects the African-American, Latino, Native American, and Pacific Islander communities; and

Whereas, diabetes affects nearly 21 million American and over two million Californians and is on the rise; and

Whereas, diabetes is the most costly chronic disease, costing the California health care system over 12 billion per year; and

Whereas, the complications from diabetes have devastating effects, such as kidney failure, blindness, nerve damage, amputation, heart attack and stroke; and

Whereas, diabetes is the seventh leading cause of death in California; and

Whereas, caring for diabetic students in public schools has further complicated the lives of parents, students, and school staff alike; and

Whereas, diabetes has significant indirect economic costs in lost production estimated over $37 billion nationwide; and

Whereas, researching a cure for type 1 diabetes will assist in curing type 2 diabetes and many other autoimmune diseases; and

Whereas, finding a cure for diabetes will be far more cost effective than life-long treatment and will improve the quality of life and life expectancy of millions of Americans; and

Whereas, funding for the federal Special Statutory Funding Program for Type 1 Diabetes Research, as mandated by Section 330B of the Public Health Service Act, ends with the 2008 fiscal year; and

Whereas, funding for the Special Diabetes Program for Indians, as mandated by Section 330C of the Public Health Service Act, ends with the 2008 fiscal year: 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 proclaims its intention to develop a state-funded program for diabetes research; and be it further

Resolved, That the Legislature of the State of California urges the President and Congress of the United States to renew the Special Statutory Funding Program for Type 1 Diabetes Research and the Special Diabetes Program for Indians; 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, and each Senator and Representative from California in the Congress of the United States.

POM–221. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to consider certain issues while contemplating reauthorization of the No Child Left Behind Act of 2001; to the Committee on Health, Education, Labor, and Pensions.

HOUSE RESOLUTION NO. 396

Whereas, the federal No Child Left Behind Act of 2001 (NCLB) requires reauthorization in 2007: Therefore be it

Resolved by the House of Representatives of the Ninety-fifth General Assembly of the State of Illinois, That we urge the United States Congress to address the following concerns when considering the reauthorization of NCLB:

(1) allow states the flexibility to use growth model assessment models to enhance existing measures of student progress;

(2) provide flexibility in program implementation with respect to varying student and teacher needs related to diversity of geography, wealth, and background;

(3) revise assessment guidelines for special needs students so that such students are more fairly assessed considering their specific individualized education programs and, therefore, better served;

(4) resolve other contradictions between NCLB and the Individuals with Disabilities Education Act (IDEA);

(5) address issues arising from students who are counted in multiple groups when determining adequate yearly progress;

(6) allow schools to offer, and provide full funding for, important supplemental education services before schools are forced to offer choice;

(7) provide greater flexibility when determining the sizes of groups regarding assessment subgroups;

(8) school improvement grants must be funded so that the sanctions placed on schools will result in improved student achievement and the reversal of negative trends;

(9) seek greater consistency in state certification criteria and the federal ''highly qualified'' designation;

(10) the highly qualified teacher provisions of NCLB require clarification, greater flexibility regarding alignment with state certification, and appropriate, specific, technical assistance in order to ensure compliance; and

(11) resident school districts of special needs students attending private schools must pay for IDEA services delivered at a private school; and be it further

Resolved, That suitable copies of this resolution be delivered to President of the United States George W. Bush, United States Secretary of Education Margaret Spellings, and each member of the Illinois congressional delegation.

POM–222. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to pass legislation that would allow not-for-profit organizations and family members to mail without charge on two days of every month; to the Committee on Homeland Security and Governmental Affairs.

HOUSE RESOLUTION NO. 622

Whereas, legislation has been introduced in previous years to provide free mailing privileges for letters and packages to American troops overseas; two bills have been introduced into the 109th Congress—H.R. 923 and H.R. 2874 (H.R. 2874 supersedes H.R. 887, a very similar bill introduced by former Representative Harold Ford on February 17, 2005); and

Whereas, H.R. 923, the Mailing Support to Troops Act of 2005 (introduced on February 17, 2005 by Representative Fossella, with 71 current cosponsors), in its original form would allow family members of service personnel to mail letters and packages free of charge to active members of the military serving in Afghanistan or Iraq and to servicemen and women hospitalized as a result of disease or injury suffered in Afghanistan or Iraq; mailers would need only to write on the envelope or box, ''Free Matter for Member of the Armed Forces of the United States'', or words to that effect specified by the Postal Service (USPS); mail matter that contains any advertising would specifically be excluded; H.R. 923 would authorize appropriations to reimburse USPS for its extra expenses in transporting such mail; H.R. 923 was referred to the Committee on Government Reform; and

Whereas, H.R. 2874, the Supply Our Soldiers Act of 2005, was introduced by Representative Ford on June 14, 2005, and had 31 cosponsors; it would attempt to make it easier for families and charities to ship letters and packages to soldiers serving in combat zones; soldiers mobilizing for overseas duty would be given an allotment of special stamps (equivalent in value to $150 per calendar quarter) that they can send to their loved ones, or to selected charities, to allow them to send letters and packages without further postage to the service members; there would be a 10-pound limit on packages sent to individuals; the Postal Service would be reimbursed by the Defense Department for providing this service, and Section 3 of the bill would authorize appropriations to the Defense Department for this purpose and for any other expenses it incurs; by putting individual service men and women into the authorization chain for the mail they receive this bill would avoid the problem of subsidizing unsolicited mail to the troops; additionally, by capping the allotment per service member, it would mitigate potential stress on the military postal system; H.R. 2874 was referred to the Committees on Armed Services and Government Reform; and

Whereas, on September 29, 2005, the House Committee on Government Reform marked up H.R. 923, and in doing so, accepted an amendment in the nature of a substitute that adopted the core concept, as well as the title, of H.R. 2874; as amended and ordered to be reported by voice vote of the Committee, H.R. 923 requires the Department of Defense, in consultation with the Postal Service, to establish a one-year program under which qualified members of the armed services would receive a monthly voucher that can be redeemed, by their families or friends, to pay the postal expenses of sending one letter or parcel (weighing up to 15 pounds) to the service member; the Department of Defense would reimburse the Postal Service for the postal benefits provided by the vouchers; Committee Chairman Tom Davis said that the substitute language had the approval of Representative Fossella, the Committee on Armed Services, and the Postal Service; the Congressional Budget Office estimated that nearly all of the about 145,000 American service personnel who would be eligible for the postage benefit would take advantage of it, and assigned it a budget cost of $30 million over fiscal years 2006 and 2007; and

Whereas, the language of H.R. 923 was added by the House Armed Services Committee as Sections 575, 576 (''Funding''), and 577 (''Duration'') to H.R. 5122, the Sonny Montgomery National Defense Authorization Act for fiscal Year 2007; H.R. 5122 was passed by the House on May 11, 2006; on June 22, 2006, the Senate substituted its own defense authorization language for the House language and passed H.R. 5122; the Senate version does not contain the postal benefits authorized in the House bill, so whether the language survives is now a matter to be decided by the conference committee; therefore, be it

Resolved, by the House of Representatives of the Ninety-Fifth General Assembly of the State of Illinois, That we urge the Congress of the United States to pass legislation that would allow not-for-profit organizations and family members to mail without charge, twice per month, on the first and 15th day of each month, letters and packages to members of the U.S. Armed Services in combat zones; and be it further

Resolved, That suitable copies of this resolution be delivered to the President pro tempore of the U.S. Senate, the Speaker of the U.S. House of Representatives, and each member of the Illinois congressional delegation.

POM–223. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to support a constitutional amendment to allow foreign-born citizens to run for President; to the Committee on the Judiciary.

HOUSE RESOLUTION NO. 71

Whereas, many Americans adopt children from countries and raise them in the United States; and

Whereas, these foreign-born children automatically become United States citizens upon adoption; and

Whereas, we tell these children that we live in a free society where men and women have equal rights and equal worth, that they control their own destinies, and that their opportunities are limitless; then these children are denied the ability to seek the highest office in the land, because of the circumstances of their birth; therefore, be it

Resolved, by the House of Representatives of the Ninety-Fifth General Assembly of the State of Illinois, That we urge the United States Congress to support a constitutional amendment to allow foreign-born citizens to run for President of the United States; and be it further

Resolved, That a suitable copy of this resolution be presented to the Majority Leader of the United States Senate, the Minority Leader of the Senate, the Speaker of the United States House of Representatives, the Minority Leader of the House of Representatives, and to each member of the Illinois congressional delegation.

POM–224. A resolution adopted by the House of Representatives of the State of Missouri urging Congress to repeal the REAL ID Act; to the Committee on the Judiciary.

HOUSE CONCURRENT RESOLUTION NO. 20

Whereas in May 2005, the United States Congress enacted the REAL ID Act of 2005 as part of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief Act (PL 109–13), which was signed by President Bush on May 11, 2005, and which becomes effective May 11, 2008; and

Whereas some of the requirements of the REAL ID Act are that states shall:

(1) Issue a driver's license or state identification card in a uniform format, containing uniform information, as prescribed by the federal Department of Homeland Security;

(2) Verify the issuance, validity, and completeness of all primary documents used to issue a driver's license, such as those showing that the bearer is a United States citizen or a lawful alien, a lawful refugee, or a person holding a valid visa;

(3) Provide for secure storage of all primary documents that are used to issue a federally approved driver's license or state identification card;

(4) Provide fraudulent document recognition training to all persons engaged in issuing driver's licenses or state identification cards; and

(5) Issue a driver's license or state identification card in a prescribed format if it is a license or card that does not meet the criteria provided for a federally approved license or identification card; and

Whereas use of the federal minimum standards for state driver's licenses and state-issued identification cards will be necessary for any type of federally regulated activity for which an identification card must be displayed, including flying in a commercial airplane, making transactions with a federally licensed bank, entering building, or making application for federally supported public assistance benefits, including Social Security; and

Whereas some of the intended privacy requirements of the REAL ID Act, such as the use of common machine-readable technology and state maintenance of a database that can be shared with the United States government and agencies of other states, may actually make it more likely that a federally required driver's license or state identification card, or the information about the bearer on which the license or card is based, will be stolen, sold, or otherwise used for purposes that were never intended or that are criminally related than if the REAL ID Act had not been enacted; and

Whereas these potential breaches in privacy that could result directly from compliance with the REAL ID Act may violate the right to privacy secured in the Missouri Constitution, for thousands of residents of Missouri; and

Whereas the American Association of Motor Vehicle Administrators, the National Governors' Association, and the National Conference of State Legislatures have estimated, in an impact analysis dated September 2006, that the cost to the states to implement the REAL ID Act will be more than $11 billion over 5 years, and it is estimated that the implementation of the REAL ID Act will cost Missouri millions to fully implement the Act, none of such costs being paid for by the federal government; and

Whereas for all of these reasons, the American Association of Motor Vehicle Administrators, the National Governors' Association, and the National Conference of State Legislatures, in a letter dated March 17, 2005, to the majority and minority leaders of the United States Senate, opposed the adoption of the REAL ID Act, but the opposition of those groups, and the groups' request that Congress rely on driver's license security provisions already passed by Congress in the Intelligence Reform and Terrorism Prevention Act of 2004, was largely ignored by Congress; and

Whereas the regulations that are to be adopted by the U.S. Department of Homeland Security to implement the requirements of the REAL ID Act have yet to be adopted and, in reality, will probably not become effective until the Spring of 2007, effectively giving the states only one year in which to become familiar with the implementing regulations and comply with those regulations and the requirements of the REAL ID Act; and

Whereas the mandate to the states, through federal legislation that provides no funding for its requirements, to issue what is, in effect, a national identification card appears to be an attempt to ''commandeer'' the political machinery of the states and to require the states to be agents of the federal government, in violation of the principles of federalism contained in the Tenth Amendment to the United States Constitution, as interpreted by the United States Supreme Court in New York v. United States, 488 U.S. 1041 (1992), United States v. Lopez, 514 U.S. 549 (1995), and Priniz v. United States, 521 U.S. 898 (1997):

Whereas state legislatures in Georgia, Massachusetts, Montana, New Mexico, New Hampshire, and Washington, have, through legislation or resolutions, opposed the implementation of the REAL ID Act; and

Whereas the Missouri General Assembly affirms its abhorrence of and opposition to global terrorism, and affirms its commitment to protecting the civil rights and civil liberties of all Missouri residents and opposes any measures, including the REAL ID Act, that unconstitutionally infringe upon those civil rights and civil liberties: now therefore, be it

Resolved, That the members of the House of Representatives, Ninety-Fourth General Assembly, First Regular Session, the Senate concurring therein, hereby calls on Congress to repeal the REAL ID Act; and be it further

Resolved, That the Chief Clerk of the Missouri House of Representatives be instructed to prepare properly inscribed copies of this resolution and be immediately transmitted to the Honorable George W. Bush, President of the United States; the President of the United States Senate; the Speaker of the House of Representatives; and each member of Congress from the State of Missouri.

POM–225. A joint resolution adopted by the House of Representatives of the State of Illinois supporting the campaign against terrorism; to the Committee on the Judiciary.

JOINT RESOLUTION NO. 27

Whereas, the State of Illinois recognizes the Constitution of the United States as our charter of liberty and that the Bill of Rights enshrines the fundamental and inalienable rights of Americans, including the freedoms of privacy and from unreasonable searches; and

Whereas, each of Illinois' duly elected public servants has sworn to defend and uphold the United States Constitution and the Constitution of the State of Illinois; and

Whereas, the State of Illinois denounces and condemns all acts of terrorism by any entity, wherever the acts occur; and

Whereas, terrorist attacks against Americans, such as those that occurred on September 11, 2001, have necessitated the crafting of effective laws to protect citizens of the United States and others from terrorist attacks; and

Whereas, any new security measures of federal, state, and local governments should be carefully designed and employed to enhance public safety without infringing on the civil liberties and rights of innocent citizens of Illinois and the United States; and

Whereas, the federal Real ID Act of 2005 creates a national identification card by requiring uniform information be placed on every state drivers' license, requiring this information to be machine-readable in a standard format and requiring this card for any federal purpose including air travel; and

Whereas, Real ID will be a costly unfunded mandate on the State with the National Governors' Association, the National Conference of State Legislators, and the American Association of Motor Vehicle Administrators estimating that Real ID will cost at least $11 billion nationally over the next 5 years; and

Whereas, Real ID requires the creation of a massive public sector database containing the drivers' license information on every American, accessible to every state motor vehicle employee and state and federal law enforcement officer; and

Whereas, Real ID enables the creation of an additional massive private sector database of drivers' license information gained from scanning the machine-readable information contained on every driver's license; and

Whereas, these public and private databases are certain to contain numerous errors and false information, creating significant hardship for Americans attempting to verify their identity in order to fly, open a bank account, or perform any of the numerous functions required to live in the United States today; and

Whereas, the Federal Trade Commission estimates that 10 million Americans are victims of identity theft annually and these thieves are increasingly targeting motor vehicle departments, Real ID will enable the crime of identity theft by making the personal information of all Americans including name, date of birth, gender, driver's license or identification card number, digital photograph, address, and signature accessible from tens of thousands of locations; and

Whereas, Real ID requires the drivers' licenses to contain actual home addresses in all cases and makes no provision for securing personal information for individuals in potential danger such as undercover police officers and victims of stalking or criminal harassment; and

Whereas, Real ID contains no exemption for religion, limits religious liberty, and tramples the beliefs of groups such as the Amish and some Evangelical Christians; and

Whereas, Real ID contains onerous record verification and retention provisions that place unreasonable burdens on both state Driver Services offices and on third parties required to verify records; and

Whereas, Real ID will likely place enormous burdens on consumers seeking a new driver's license including longer lines, higher costs, increased document requests, and a waiting period; and

Whereas, Real ID will put under-resourced motor vehicle administration staff on the front lines of immigration enforcement by forcing them to determine citizenship status, increasing the potential for discrimination based on race and ethnicity, and placing an excessive burden on foreign-born license applicants and motor vehicle staff; and

Whereas, Real ID was passed without sufficient deliberation by Congress and never received a hearing by any Congressional committee or any vote solely on its own merits; and

Whereas, Real ID eliminated a process of negotiated rulemaking initiated under the Intelligence Reform and Terrorism Prevention Act of 2004, which had convened federal, state, and local policy makers, privacy advocates, and industry experts to solve the problem of misuse in identity documents; and

Whereas, more than 600 organizations opposed the passage of Real ID including the American Civil Liberties Union of Illinois; and

Whereas, Real ID would provide little security benefit and still leave identification systems open to insider fraud, counterfeit documentation, and database failures: Therefore be it

Resolved, by the House of Representatives of the Ninety-Fifth General Assembly of the State of Illinois, the Senate concurring herein, That the Illinois General Assembly supports the Government of the United States in its campaign against terrorism and affirms the commitment of the United States that the campaign not be waged at the expense of essential civil rights and liberties of citizens of this country that are protected in the United States Constitution and the Bill of Rights; and be it further

Resolved, That the members of the Illinois General Assembly oppose any portion of the Real ID Act that violates the rights and liberties guaranteed under the Illinois Constitution or the United States Constitution, including the Bill of Rights; and be it further

Resolved, That the Illinois General Assembly urges the Illinois Congressional delegation in the United States Congress to support measures to repeal the Real ID Act of 2005; and be it further

Resolved, That a copy of this resolution be delivered to President George W. Bush, Attorney General Alberto R. Gonzales, Governor Rod R. Blagojevich, Senator Richard Durbin, Senator Barack Obama, and each of the members of the Illinois Congressional delegation.

POM–226. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to enact legislation making each federal election day a national holiday; to the Committee on the Judiciary.

HOUSE RESOLUTION NO. 50

Whereas, citizen participation in the electoral process is the cornerstone of our American democracy; and

Whereas, unfortunately, the rate of voter turnout for elections in this country has declined over the years and is lower than the rate enjoyed by some other democracies around the world; and

Whereas, Germany and Italy, for instance, have experienced a growth in their percentages of voter participation since making their election days national holidays; and

Whereas, making each federal election day a national holiday in the United States would make it easier for Americans to get to the polls, and election authorities would find a greater number of election workers and accessible buildings available; therefore, be it

Resolved, by the House of Representatives of the Ninety-Fifth General Assembly of the State of Illinois, That we urge the United States Congress to enact, and the President to approve, legislation making each federal election day a national holiday; and be it further

Resolved, That copies of this resolution be presented to the President of the United States, the Speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate, and each member of the Illinois congressional delegation.

POM–227. A resolution adopted by the House of Representatives of the State of Illinois urging Congress to do what is necessary to ensure that returning veterans get the best in healthcare; to the Committee on Veterans' Affairs.

HOUSE RESOLUTION NO. 375

Whereas, a significant growth in Post-Traumatic Stress Disorder (PTSD) has been identified over the past few years with the escalation of combat veterans returning home from the Iraq and Afghanistan conflicts; nation-wide calls for more assistance for those returning with mental issues as a result of combat have been growing, and this resolution is in response to those calls; and

Whereas, as of January 2007, more than 1.6 million U.S. service men and women had served in Afghanistan and Iraq; and

Whereas, in October 2005, the U.S. Department of Veterans Affairs reported that more than 430,000 U.S. soldiers have been discharged from the military following service in Afghanistan and Iraq; more than 119,000 have sought help for medical or mental health issues from the Department of Veterans Affairs to date; and

Whereas, in January 2006, the Journal of the American Medical Association reported that 35% of Iraq Veterans have already sought help for mental health concerns; a 2003 New England Journal of Medicine Study found that more than 60% of Operation Iraqi Freedom/Operation Enduring Freedom veterans showing symptoms of PTSD were unlikely to seek help due to fears of stigmatization or loss of career advancement opportunities; and

Whereas, in 2005, the Department of Veterans Affairs reported that 18% of Afghanistan Veterans and 20% of Iraq Veterans in their care were suffering from some type of service-connected psychological disorder; and

Whereas, the Department of Veterans Affairs has seen a tenfold increase in PTSD cases in 2006; according to the VA, more than 37,000 Vets of Iraq and Afghanistan are suffering from mental health disorders, and more than 16,000 have already been diagnosed with PTSD; and

Whereas, according to the Army, since March 2003, at least 45 U.S. soldiers and 9 Marines have committed suicide in Iraq; at least 20 soldiers and 23 Marines have committed suicide since returning home, though exact numbers are not available; and

Whereas, the United States Congress is currently considering H.R. 612, H.R. 1538, S. 713, and H.R. 1268, which address the tragic Post-Traumatic Stress Disorder situation among our returning veterans; therefore, be it

Resolved, by the House of Representatives of the Ninety-Fifth General Assembly of the State of Illinois, That our returning veterans deserve the very best in healthcare, including mental care, and that both the Federal Government and State Governments must work together to provide this healthcare; and be it further

Resolved, That the State of Illinois wishes to be a model State for the medical care that we offer to our returning soldiers in joint partnership with the Federal Government; and be it further

Resolved, That we urge Congress to act on H.R. 612, H.R. 1538, S. 713, and H.R. 1268 for the safety and well-being of our returning veterans who face mental illness caused by their fulfillment of their duties; and be it further

Resolved, That suitable copies of this resolution be sent to the Majority Leader and the Minority Leader of the U.S. Senate, the Speaker and the Minority Leader of the U.S. House of Representatives, the Illinois Congressional Delegation, and the Director of the Illinois Department of Veterans' Affairs.

POM–228. A concurrent resolution adopted by the Legislature of the State of Texas urging Congress to support the Belated Thank You to the Merchant Mariners of World War II Act of 2005; to the Committee on Veterans' Affairs.

HOUSE CONCURRENT RESOLUTION NO. 16

Whereas, the United States Merchant Marine is made up of a fleet of ships used for commercial transport during peace time and as an auxiliary to the United States Navy during times of war; and

Whereas, the members of the U.S. Merchant Marine served the United States bravely in World War II, suffering the highest casualty rate of any branch of the military; in spite of their dedicated and heroic service, these men and women are not considered veterans under the Social Security Act, thereby denying them the financial support in their later years that is afforded to those whom they served alongside in war time; and

Whereas, merchant mariners are considered military personnel in times of war and have an illustrious history of defending this country that started with contributing to American independence by disrupting the British supply chain during the Revolutionary War; and

Whereas, the Merchant Marine ranks during World War II were filled through campaigns by the War Shipping Administration and military recruiters, served under the auspices of the military, included transferred members from other branches of the military, and instructed by their commanders about the critical, patriotic importance of service on troop and supply ships; and

Whereas, the delivery of tanks, aircraft, jeeps, gasoline, medicine, and food rations by the Merchant Marine to troops in every theater of World War II was integral to the Allies' victory; and

Whereas, despite accolades from then General Dwight D. Eisenhower and President Franklin D. Roosevelt for the vital military contribution and service in every invasion from Normandy to Okinawa, the merchant mariners were excluded from the GI Bill of Rights enacted in 1945, and for 43 years the U.S. government denied them benefits ranging from housing to health care until Congress awarded them veterans' status in 1988—too late for 125,000 mariners to benefit, roughly half of those who had served; moreover, these merchant mariners continue to be denied veterans' benefits under the Social Security Act; and

Whereas, the Belated Thank You to the Merchant Mariners of World War II Act of 2005 appropriately honors the service of World War II merchant mariners and attempts to rectify the previous denial of financial benefits by providing a monthly monetary benefit, from the U.S. Department of Veterans Affairs, for each Merchant Marine World War II veteran, or surviving spouse, and bestowing veteran status upon them under the Social Security Act, qualifying these brave individuals for Social Security veterans' benefits: Now, therefore, be it

Resolved, That the 80th Legislature of the State of Texas hereby respectfully urge the Congress of the United States to support the

Belated Thank You to the Merchant Mariners of World War II Act of 2005; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the president of the United States, to the speaker of the house of representatives and the president of the senate of the United States Congress, and to all the members of the Texas delegation to the congress with the request that this resolution be officially entered in the CONGRESSIONAL RECORD as a memorial to the Congress of the United States of America.

REPORTS OF COMMITTEES DURING ADJOURNMENT OF THE SENATE

Under the authority of the order of the Senate of January 4, 2007, the following reports of committees were submitted on September 14, 2007.

By Mr. BYRD (for Mr. INOUYE), from the Committee on Appropriations, with an amendment in the nature of a substitute.

H.R. 3222. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2008, and for other purposes (Rept. No. 110–155).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with amendments:

S. 471. A bill to authorize the Secretary of the Interior to convey to The Missouri River Basin Lewis and Clark Interpretive Trail and Visitor Center Foundation, Inc. certain Federal land associated with the Lewis and Clark National Historic Trail in Nebraska, to be used as an historical interpretive site along the trail (Rept. No. 110–156).

S. 637. A bill to direct the Secretary of the Interior to study the suitability and feasibility of establishing the Chattahoochee Trace National Heritage Corridor in Alabama and Georgia, and for other purposes (Rept. No. 110–157).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 645. A bill to amend the Energy Policy Act of 2005 to provide an alternate sulfur dioxide removal measurement for certain coal gasification project goals (Rept. No. 110–158).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1182. A bill to amend the Quinebaug and Shetucket Rivers Valley National Heritage Corridor Act of 1994 to increase the authorization of appropriations and modify the date on which the authority of the Secretary of the Interior terminates under the Act (Rept. No. 110–159).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

S. 1203. A bill to enhance the management of electricity programs at the Department of Energy (Rept. No. 110–160).

S. 1728. A bill to amend the National Parks and Recreation Act of 1978 to reauthorize the Na Hoa Pili O Kaloko-Honokohau Advisory Commission (Rept. No. 110–161).

H.R. 85. A bill to provide for the establishment of centers to encourage demonstration and commercial application of advanced energy methods and technologies (Rept. No. 110–162).

H.R. 247. A bill to designate a Forest Service trail at Waldo Lake in the Willamette National Forest in the State of Oregon as a national recreation trail in honor of Jim Weaver, a former Member of the House of Representatives (Rept. No. 110–163).

H.R. 407. A bill to direct the Secretary of the Interior to conduct a study to determine the feasibility of establishing the Columbia-Pacific National Heritage Area in the States of Washington and Oregon, and for other purposes (Rept. No. 110–164).

H.R. 995. A bill to amend Public Law 106–348 to extend the authorization for establishing a memorial in the District of Columbia or its environs to honor veterans who became disabled while serving in the Armed Forces of the United States (Rept. No. 110–165).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment and with a preamble:

H. Con. Res. 116. A concurrent resolution expressing the sense of Congress that the National Museum of Wildlife Art, located in Jackson, Wyoming, shall be designated as the ''National Museum of Wildlife Art of the United States'' (Rept. No. 110–166).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 169. A bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the majority of the trails in the System, and for other purposes (Rept. No. 110–167).

S. 278. A bill to establish a program and criteria for National Heritage Areas in the United States, and for other purposes (Rept. No. 110–168).

S. 289. A bill to establish the Journey Through Hallowed Ground National Heritage Area, and for other purposes (Rept. No. 110–169).

S. 443. A bill to establish the Sangre de Cristo National Heritage Area in the State of Colorado, and for other purposes (Rept. No. 110–170).

S. 444. A bill to establish the South Park National Heritage Area in the State of Colorado, and for other purposes (Rept. No. 110–171).

S. 647. A bill to designate certain land in the State of Oregon as wilderness, and for other purposes (Rept. No. 110–172).

S. 722. A bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona (Rept. No. 110–173).

S. 800. A bill to establish the Niagara Falls National Heritage Area in the State of New York, and for other purposes (Rept. No. 110–174).

S. 817. A bill to amend the Omnibus Parks and Public Lands Management Act of 1996 to provide additional authorizations for certain National Heritage Areas, and for other purposes (Rept. No. 110–175).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 838. A bill to authorize funding for eligible joint ventures between United States and Israeli businesses and academic persons, to establish the International Energy Advisory Board, and for other purposes (Rept. No. 110–176).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 955. A bill to establish the Abraham Lincoln National Heritage Area, and for other purposes (Rept. No. 110–177).

S. 1089. A bill to amend the Alaska Natural Gas Pipeline Act to allow the Federal Coordinator for Alaska Natural Gas Transportation Projects to hire employees more efficiently, and for other purposes (Rept. No. 110–178).

S. 1148. A bill to establish the Champlain Quadricentennial Commemoration Commission and the Hudson-Fulton 400th Commemoration Commission, and for other purposes (Rept. No. 110–179).

By Mr. BINGAMAN, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1100. A bill to revise the boundary of the Carl Sandburg Home National Historic Site in the State of North Carolina, and for other purposes (Rept. No. 110–180).

H.R. 1126. A bill to reauthorize the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Rept. No. 110–181).

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. CONRAD (for himself and Ms. COLLINS):

S. 2051. A bill to amend the small rural school achievement program and the rural and low-income school program under part B of title VI of the Elementary and Secondary Education Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. FEINSTEIN (for herself, Mr. SPECTER, and Mr. FEINGOLD):

S. 2052. A bill to allow for certiorari review of certain cases denied relief or review by the United States Court of Appeals for the Armed Forces; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself and Mr. LEAHY):

S. 2053. A bill to amend part A of title I of the Elementary and Secondary Education Act of 1965 to improve elementary and secondary education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for Mrs. CLINTON):

S. 2054. A bill to authorize the Secretary of Housing and Urban Development to make grants to assist cities with a vacant housing problem, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD:

S. 2055. A bill for the relief of Alejandro Gomez and Juan Sebastian Gomez; to the Committee on the Judiciary.

By Mr. ROCKEFELLER (for himself, Mr. KYL, Mrs. MCCASKILL, Mr. VITTER, Ms. SNOWE, Mr. COBURN, Mrs. DOLE, Mr. DOMENICI, Mr. INHOFE, Mr. COLEMAN, Mr. CORNYN, Mr. MARTINEZ, Mr. HAGEL, Mr. COCHRAN, and Mr. LOTT):

S. 2056. A bill to amend title XVIII of the Social Security Act to restore financial stability to Medicare anesthesiology teaching programs for resident physicians; to the Committee on Finance.

By Mr. AKAKA:

S. 2057. A bill to reauthorize the Merit Systems Protection Board and the Office of Special Counsel, to modify the procedures of the Merit Systems Protection Board and the Office of Special Counsel, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEVIN:

S. 2058. A bill to amend the Commodity Exchange Act to close the Enron loophole, prevent price manipulation and excessive speculation in the trading of energy commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CARDIN (for himself and Mr. CORNYN):

S. Con. Res. 45. A concurrent resolution commending the Ed Block Courage Award Foundation for its work in aiding children and families affected by child abuse, and designating November 2007 as National Courage Month; to the Committee on the Judiciary.

By Mr. OBAMA:

S. Con. Res. 46. A concurrent resolution supporting the goals and ideals of Sickle Cell Disease Awareness Month; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 29

At the request of Mr. VITTER, his name was added as a cosponsor of S. 29, a bill to clarify the tax treatment of certain payments made to homeowners by the Louisiana Recovery Authority and the Mississippi Development Authority.

S. 36

At the request of Mr. THUNE, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 36, a bill to amend the Farm Security and Rural Investment Act to establish a biofuels promotion program to promote sustainable production of biofuels and biomass, and for other purposes.

S. 65

At the request of Mr. INHOFE, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 65, a bill to modify the age-60 standard for certain pilots and for other purposes.

S. 154

At the request of Mr. BARRASSO, his name was added as a cosponsor of S. 154, a bill to promote coal-to-liquid fuel activities.

S. 155

At the request of Mr. BARRASSO, his name was added as a cosponsor of S. 155, a bill to promote coal-to-liquid fuel activities.

S. 283

At the request of Mr. BINGAMAN, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 283, a bill to amend the Compact of Free Association Amendments Act of 2003, and for other purposes.

S. 380

At the request of Mr. WYDEN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 380, a bill to reauthorize the Secure Rural Schools and Community Self-Determination Act of 2000, and for other purposes.

S. 469

At the request of Mr. BAUCUS, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 469, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 613

At the request of Mr. LUGAR, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 613, a bill to enhance the overseas stabilization and reconstruction capabilities of the United States Government, and for other purposes.

S. 626

At the request of Mr. KENNEDY, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 626, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 644

At the request of Mrs. LINCOLN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 644, a bill to amend title 38, United States Code, to recodify as part of that title certain educational assistance programs for members of the reserve components of the Armed Forces, to improve such programs, and for other purposes.

S. 645

At the request of Mr. BARRASSO, his name was added as a cosponsor of S. 645, a bill to amend the Energy Policy Act of 2005 to provide an alternate sulfur dioxide removal measurement for certain coal gasification project goals.

S. 648

At the request of Mr. CHAMBLISS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 648, a bill to amend title 10, United States Code, to reduce the eligibility age for receipt of non-regular military service retired pay for members of the Ready Reserve in active federal status or on active duty for significant periods.

S. 667

At the request of Mrs. CLINTON, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 667, a bill to expand programs of early childhood home visitation that increase school readiness, child abuse and neglect prevention, and early identification of developmental and health delays, including potential mental health concerns, and for other purposes.

S. 721

At the request of Mr. ENZI, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 721, a bill to allow travel between the United States and Cuba.

S. 773

At the request of Mr. WARNER, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from Texas (Mr. CORNYN) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 773, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 803

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 803, a bill to repeal a provision enacted to end Federal matching of State spending of child support incentive payments.

S. 805

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 805, a bill to amend the Foreign Assistance Act of 1961 to assist countries in sub-Saharan Africa in the effort to achieve internationally recognized goals in the treatment and prevention of HIV/AIDS and other major diseases and the reduction of maternal and child mortality by improving human health care capacity and improving retention of medical health professionals in sub-Saharan Africa, and for other purposes.

S. 819

At the request of Mr. DORGAN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 819, a bill to amend the Internal Revenue Code of 1986 to expand tax-free distributions from individual retirement accounts for charitable purposes.

S. 908

At the request of Mr. COLEMAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 908, a bill to establish a Consortium on the Impact of Technology in Aging Health Services.

S. 935

At the request of Mr. NELSON of Florida, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 935, a bill to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 962

At the request of Mr. BARRASSO, his name was added as a cosponsor of S. 962, a bill to amend the Energy Policy Act of 2005 to reauthorize and improve the carbon capture and storage research, development, and demonstration program of the Department of Energy and for other purposes.

S. 969

At the request of Mr. CARDIN, his name was added as a cosponsor of S. 969, a bill to amend the National Labor Relations Act to modify the definition of supervisor.

S. 1015

At the request of Mr. COCHRAN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 1015, a bill to reauthorize the National Writing Project.

S. 1159

At the request of Mr. HAGEL, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1159, a bill to amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part.

S. 1160

At the request of Ms. STABENOW, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1160, a bill 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 United States-grown specialty crops.

S. 1172

At the request of Mr. DURBIN, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1172, a bill to reduce hunger in the United States.

S. 1175

At the request of Mr. DURBIN, the names of the Senator from Illinois (Mr. OBAMA) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 1175, a bill to end the use of child soldiers in hostilities around the world, and for other purposes.

S. 1190

At the request of Mr. DURBIN, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 1190, a bill to promote the deployment and adoption of telecommunications services and information technologies, and for other purposes.

S. 1257

At the request of Mr. LIEBERMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1257, a bill to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives.

S. 1261

At the request of Ms. CANTWELL, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1261, a bill to amend title 10 and 38, United States Code, to repeal the 10-year limit on use of Montgomery GI Bill educational assistance benefits, and for other purposes.

S. 1267

At the request of Mr. LUGAR, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1267, a bill to maintain the free flow of information to the public by providing conditions for the federally compelled disclosure of information by certain persons connected with the news media.

S. 1443

At the request of Mr. BARRASSO, his name was added as a cosponsor of S. 1443, a bill to provide standards for renewable fuels and coal-derived fuels.

S. 1451

At the request of Mr. WHITEHOUSE, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1451, a bill to encourage the development of coordinated quality reforms to improve health care delivery and reduce the cost of care in the health care system.

S. 1545

At the request of Mr. SALAZAR, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1545, a bill to implement the recommendations of the Iraq Study Group.

S. 1638

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1638, a bill to adjust the salaries of Federal justices and judges, and for other purposes.

S. 1669

At the request of Ms. STABENOW, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1669, a bill to amend titles XIX and XXI of the Social Security Act to ensure payment under Medicaid and the State Children's Health Insurance Program (SCHIP) for covered items and services furnished by school-based health clinics.

S. 1718

At the request of Mr. BROWN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1718, a bill to amend the Servicemembers Civil Relief Act to provide for reimbursement to servicemembers of tuition for programs of education interrupted by military service, for deferment of student loans and reduced interest rates for servicemembers during periods of military service, and for other purposes.

S. 1760

At the request of Mr. BROWN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1760, a bill to amend the Public Health Service Act with respect to the Healthy Start Initiative.

S. 1800

At the request of Mrs. CLINTON, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1800, a bill to amend title 10, United States Code, to require emergency contraception to be available at all military health care treatment facilities.

S. 1827

At the request of Mr. COCHRAN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1827, a bill to amend title XVIII of the Social Security Act to require prompt payment to pharmacies under part D, to restrict pharmacy co-branding on prescription drug cards issued under such part, and to provide guidelines for Medication Therapy Management Services programs offered by prescription drug plans and MA–PD plans under such part.

S. 1842

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1842, a bill to amend title XVIII of the Social Security Act to provide for patient protection by limiting the number of mandatory overtime hours a nurse may be required to work in certain providers of services to which payments are made under the Medicare Program.

S. 1848

At the request of Mr. BAUCUS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1848, a bill to amend the Trade Act of 1974 to address the impact of globalization, to reauthorize trade adjustment assistance, to extend trade adjustment assistance to service workers, communities, firms, and farmers, and for other purposes.

S. 1885

At the request of Mr. OBAMA, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1885, a bill to provide certain employment protections for family members who are caring for members of the Armed Forces recovering from illnesses and injuries incurred on active duty.

S. 1895

At the request of Mr. REED, the names of the Senator from New Jersey (Mr. MENENDEZ), the Senator from Minnesota (Mr. COLEMAN), the Senator from New York (Mrs. CLINTON) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 1895, a bill to aid and support pediatric involvement in reading and education.

S. 1905

At the request of Ms. KLOBUCHAR, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Texas (Mrs. HUTCHISON) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 1905, a bill to provide for a rotating schedule for regional selection of delegates to a national Presidential nominating convention, and for other purposes.

S. 1930

At the request of Mr. WYDEN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 1930, a bill to amend the Lacey Act Amendments of 1981 to prevent illegal logging practices, and for other purposes.

S. 1944

At the request of Mr. LAUTENBERG, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 1944, a bill to provide justice for victims of state-sponsored terrorism.

S. 1951

At the request of Mr. BAUCUS, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from New Jersey (Mr. MENENDEZ), the Senator from Illinois (Mr. DURBIN), the Senator from Vermont (Mr. SANDERS), the Senator from North Dakota (Mr. DORGAN), the Senator from Minnesota (Mr. COLEMAN) and the Senator from Ohio (Mr. BROWN) were added as cosponsors of S. 1951, a bill to amend title XIX of the Social Security Act to ensure that individuals eligible for medical assistance under the Medicaid program continue to have access to prescription drugs, and for other purposes.

S. 1954

At the request of Mr. BAUCUS, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1954, a bill to amend title XVIII of the Social Security Act to improve access to pharmacies under part D.

S. 1971

At the request of Mr. KERRY, the name of the Senator from Missouri (Mrs. MCCASKILL) was added as a cosponsor of S. 1971, a bill to authorize a competitive grant program to assist members of the National Guard and Reserve and former and current members of the Armed Forces in securing employment in the private sector, and for other purposes.

S. 1998

At the request of Mr. DURBIN, the names of the Senator from California (Mrs. BOXER) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1998, a bill to reduce child marriage, and for other purposes.

S. 2017

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 2017, a bill to amend the Energy Policy and Conservation Act to provide for national energy efficiency standards for general service incandescent lamps, and for other purposes.

S. 2020

At the request of Mr. LUGAR, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 2020, a bill to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2010, to rename the Tropical Forest Conservation Act of 1998 as the ''Tropical Forest and Coral Conservation Act of 2007'', and for other purposes.

S.J. RES. 13

At the request of Mr. LEAHY, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S.J. Res. 13, a joint resolution granting the consent of Congress to the International Emergency Management Assistance Memorandum of Understanding.

S. CON. RES. 39

At the request of Mr. DODD, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Con. Res. 39, a concurrent resolution supporting the goals and ideals of a world day of remembrance for road crash victims.

S. RES. 201

At the request of Mr. CHAMBLISS, the names of the Senator from New Hampshire (Mr. SUNUNU) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. Res. 201, a resolution supporting the goals and ideals of ''National Life Insurance Awareness Month''.

S. RES. 222

At the request of Mrs. CLINTON, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Res. 222, a resolution supporting the goals and ideals of Pancreatic Cancer Awareness Month.

S. RES. 224

At the request of Mrs. FEINSTEIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 224, a resolution expressing the sense of the Senate regarding the Israeli-Palestinian peace process.

AMENDMENT NO. 2000

At the request of Mr. NELSON of Nebraska, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Iowa (Mr. HARKIN), the Senator from Alabama (Mr. SESSIONS), the Senator from Connecticut (Mr. DODD) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of amendment No. 2000 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2049

At the request of Mr. CHAMBLISS, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of amendment No. 2049 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2067

At the request of Mr. KENNEDY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of amendment No. 2067 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2072

At the request of Mrs. LINCOLN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of amendment No. 2072 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2074

At the request of Mrs. LINCOLN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of amendment No. 2074 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2086

At the request of Mr. OBAMA, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 2086 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. FEINSTEIN (for herself, Mr. SPECTER, and Mr. FEINGOLD):

S. 2052. A bill to allow for certiorari review of certain cases denied relief or review by the United States Court of Appeals for the Armed Forces; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, today I am pleased to join with Senators SPECTER and FEINGOLD in introducing the Equal Justice for U.S. Service Members Act. The act would eliminate an inequity in current law by allowing all court-martialed U.S. service-members who face dismissal, discharge or confinement for a year or more to petition the U.S. Supreme Court for discretionary review through a writ of certiorari.

The bill is a simple one, and would do the following: It would allow a writ of certiorari to be filed in any case in which the U.S. Court of Appeals for the Armed Forces has denied review; and it would allow a writ of certiorari to be filed in any case in which the U.S. Court of Appeals for the Armed Forces has denied a petition for extraordinary relief.

All persons convicted of a crime in U.S. civilian courts today, including illegal aliens, and regardless of the crime they may have committed, have an absolute right to petition the U.S. Supreme Court for discretionary review if they lose in the court of appeals. By contrast, however, our men and women in uniform do not share this same right as their civilian counterparts. Our military personnel can apply to our highest court on direct appeal for a writ of certiorari only if the U.S. Court of Appeals for the Armed Forces actually conducts a review of their case, or grants a petition for extraordinary relief. That happens only about 10 percent of the time.

In other words, the other 90 percent of the time, our U.S. servicemembers are precluded from ever seeking or obtaining direct review from the highest court of the country that they fight and die for.

A disparity not only exists between our civilian and military court systems. A similar disparity exists even within our military court system itself. The Government routinely has

the opportunity to petition the Supreme Court for review of adverse court-martial rulings in any case where the charges are severe enough to make a punitive discharge possible. But our military personnel do not share these same rights to petition the Supreme Court as their opponents, even on the other side of the same case.

That is wrong, and this inequity was recently noted by the American Bar Association. At its annual meeting in August 2006, the ABA House of Delegates passed a resolution calling on Congress to fix this long-standing ''disparity in our laws governing procedural due process.''

That is perhaps reason enough to fix this problem, but I also must note that this existing disparity has only become more acute now that Congress has enacted the Military Commission Act. Section 950g(d) of that law, which Congress passed last September, gives the Supreme Court the ability to review by writ of certiorari any final judgment issued by the U.S. Court of Appeals for the D.C. Circuit, in an appeal filed by terrorists and war criminals who get convicted by U.S. military commissions.

So the worst of the worst at Guantanamo will have a right to petition our Supreme Court to hear their case. Yet unless we act, those same Supreme Court doors will continue to be closed to almost all of our U.S. service personnel who would seek direct review in their own highest Court. Even servicemembers who apprehended those same terrorists, or served in judgment on their military commissions, or who guard them at Guantanamo, will continue to be treated as second-class citizens, deprived of the opportunity to seek Supreme Court review if they ever need it themselves.

Our U.S. service personnel regularly place their lives on the line in defense of American rights. It is simply unacceptable for us to continue to routinely deprive our men and women in uniform of one of those basic rights, the ability to petition their Nation's highest court for direct relief, that is given to all convicted persons in our civilian courts, that is given to their prosecutorial adversaries in our military courts, and that we have now given even to the terrorists we expect to prosecute as war criminals in our upcoming military commission process.

It is time to give equal justice to our U.S. servicemembers. That is what this act does.

I urge my colleagues to support this legislation.

I ask unanimous consent 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. 2052

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 ''Equal Justice for United States Military Personnel Act of 2007''.

SEC. 2. CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.

(a) IN GENERAL.—Section 1259 of title 28, United States Code, is amended—

(1) in paragraph (3), by inserting ''or denied'' after ''granted''; and

(2) in paragraph (4), by inserting ''or denied'' after ''granted''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 867a(a) of title 10, United States Code, is amended by striking ''The Supreme Court may not review by a writ of certiorari under this section any action of the Court of Appeals for the Armed Forces in refusing to grant a petition for review.''.

By Mr. FEINGOLD (for himself and Mr. LEAHY):

S. 2053. A bill to amend part A of title I of the Elementary and Secondary Education Act of 1965 to improve elementary and secondary education; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, this month millions of American schoolchildren are returning to classrooms to begin the new school year, making this a time of hope and possibilities. Students in my State of Wisconsin and around the country are meeting new teachers, getting reacquainted with old friends, joining clubs or athletic teams, and embarking on the next step in their educational careers. Teachers and administrators around the country are starting a new school year with fresh lesson plans and high goals for all the students in their schools. And many educators, parents, and school officials are continuing to work diligently toward the goal of closing the achievement gap that continues to exist throughout many communities across the country.

These students, teachers, and administrators will also face their sixth year under the Federal No Child Left Behind Act, NCLB, the centerpiece of President Bush's domestic agenda. NCLB, which is 2001–2002 reauthorization of the Elementary and Secondary Education Act, ESEA, requires that students be tested annually in reading and math, and starting this school year, in science. The law is up for reauthorization this year and it remains unknown how much change students, teachers, parents, and administrators can expect as Congress works to reauthorize the law.

I voted against No Child Left Behind in 2001 in large part because of the law's new Federal testing mandate. The comments that I heard from Wisconsinites during the 2001 debate and that I continue to hear 6 years later have been almost universally negative. While Wisconsinites support holding their schools accountable for results and closing the achievement gap, they are concerned about the Federal law's primary focus on standardized testing.

Let me make clear at the outset that this country has a long way to go toward ensuring that all students, regardless of their backgrounds, have a chance to get a good education. I remain troubled by the inequality in funding and resources provided to our Nation's schools and by the persistent segregation that schools around the country, including those in Wisconsin, continue to face. Moreover, I am deeply concerned that NCLB's testing and sanctions approach has forced some schools, particularly those in our inner cities and rural areas, to become places where students are not taught, but are drilled with workbooks and test-taking strategies, while in wealthy suburban schools, these tests do not greatly impact school curriculums rich in social studies, civics, arts, music, and other important subjects.

All levels of government—local, State, and Federal—need to act to ensure that equal educational opportunities are afforded to every student in our country.

I do not necessarily oppose the use of standardized testing in our Nation's schools. I agree that some tests are needed to ensure that our children are keeping pace and that schools, districts, and States are held accountable for closing the persistent achievement gap that continues to exist among different groups of students, including among students in Wisconsin. But the Federal one-size-fits-all testing-and-punishment approach that NCLB takes is not providing an equal education for all, eradicating the achievement gap that exists in our country or ensuring that each student reaches his or her full potential.

Rather, the reauthorized ESEA needs to recognize that States and local communities have the primary responsibility for providing a good public education to our students. The reauthorized ESEA should also encourage States and local districts to pursue innovative reform efforts including utilizing more robust accountability systems that can measure student academic growth from year to year and measure student academic growth using multiple forms of assessment, rather than just standardized tests.

Today, I am introducing the Improving Student Testing Act to overhaul the Federal testing mandate and provide States and local districts flexibility to determine the frequency and use of standardized testing in their accountability systems. My legislation is fully offset, while providing approximately $200 million in deficit reduction over the next 5 years.

Nothing in my legislation would force States to alter their accountability systems in recognition of the fact that different States are at different stages of their education reform efforts and may wish to maintain their current assessment systems. However, my legislation says that for Federal accountability purposes, States can choose to test once in grades 3 to 5, 6 to 9, and 10 to 12 rather than the current Federal requirement for annual testing in grades 3 through 8 and once in high school.

For States that choose to test in grade spans instead of annually, my

legislation encourages them to use more than high-stakes standardized tests in their accountability systems. By removing the Federal requirement to test annually, Congress can encourage States and local districts to lead innovative school reform efforts, including developing more robust assessment systems that use a range of academic assessments, such as valid and reliable performance-based assessments, formative assessments that provide meaningful and timely feedback to both students and teachers, and portfolio assessments that allow students to accumulate a broad range of student work and assess their own learning as they progress through school.

I have heard from a number of teachers and administrators who are concerned about the testing burden NCLB imposed on our Nation's educational system. The Federal mandate to test annually has strapped State and local districts' financial resources. Congress promised States specific funding levels for Title I, part A in NCLB, but Congress has failed to live up to those promised resources every year since NCLB was enacted. Despite the lack of adequate resources, our schools continue to be forced to test and to ratchet up the consequences associated with these tests.

NCLB's testing mandates have also led to a substantial demand for increased numbers of standardized tests and I have heard from some Wisconsinites concerned that the testing industry cannot keep up with this demand. There have been stories coming in from around the country documenting the burden faced by the testing industry, including incorrectly scored tests, test scores arriving much later than expected, and schools given incorrect testing booklets and supplies by the testing companies.

My legislation would help alleviate this testing burden by providing States with the option to reduce the number of grades tested for Federal accountability purposes. Eighteen States would then be able to dedicate more of their critical Title I dollars toward efforts that will help close the achievement including improving teacher quality through professional development and providing more targeted instruction to disadvantaged students in critical subject areas.

Some may say that with a Federal requirement to test in grade spans and not every year, the students in the nontested years will be ignored. I have more faith in Wisconsin's teachers and other dedicated teachers around the country than to assume that because there is no external, federally required test, teachers will not teach their kids or ensure that their students make academic progress. Effective schools contain teachers who work collaboratively within grade levels and across grades to raise the academic achievement of every student. Good teachers know that they are responsible for ensuring all their students make substantial academic progress in a given year regardless of whether those students must take a federally imposed standardized test.

My legislation also provides States with the flexibility and resources to develop high-quality assessments that can be used to give a more accurate picture of student achievement. I have heard a number of criticisms of the standardized tests used in Wisconsin and around the country—namely, that they may not measure higher–order thinking skills and that the results are returned to teachers too late in the school year, preventing teachers from receiving feedback that could help inform their instructional techniques to increase student learning. It is important that Congress listen to the feedback provided by teachers and administrators from around the country and provide States and local districts with the flexibility to develop and use other types of assessments in their accountability systems.

My bill authorizes a competitive grant program to help States and local districts develop multiple forms of high-quality assessments, including formative assessments, performance-based assessments, and portfolio assessments. These assessments can give a more accurate and detailed picture of student achievement than a single standardized test. These assessments can also be designed to provide more immediate feedback to teachers and students than the statewide standardized tests used for Federal accountability purposes. By incorporating these richer assessments, teachers can better assess student learning throughout the school year and continuously modify their instruction to ensure all students continue to learn.

These high-quality, multiple measures can be more expensive for States to develop and my bill recognizes that cost by authorizing a competitive grant program to assist States in developing these assessments. States and local districts can use these funds for a variety of purposes, including training teachers in how to use these assessments, creating the assessments, aligning the assessments with State standards, and collaborating with other States to share information about assessment creation.

My legislation makes clear that these funds are not to be used for the purchase of additional test preparation materials. I have long been concerned that NCLB could result in a generation of students who know how to take tests, but who do not have the skills necessary to become successful adults. This grant program will help innovative States develop higher quality assessments to better ensure that the students in their State are prepared for careers in the 21st century, including the ability to think critically, analyze new situations, and work collaboratively with others.

My legislation also makes clear that these multiple forms of assessment are not a loophole for States and local districts to avoid accountability. Rather, my legislation recognizes that these multiple measures can provide a more accurate and more complete picture of student achievement. My legislation makes clear that these assessments must: be aligned with States' academic and content standards, be peer reviewed by the Federal Department of Education, produce timely evidence about student learning and achievement, and provide teachers with meaningful feedback so that teachers can modify and improve their classroom instruction to address specific student needs.

Congress also needs to reform NCLB's accountability provisions during the reauthorization process, including providing credit to schools that demonstrate their students have made substantial growth from year to year. Right now, NCLB measures students' achievement based primarily on reading and math tests, and students either achieve the cut score on the NCLB tests or they do not. A number of teachers and parents in Wisconsin have expressed concerned that NCLB's current approach leads schools to focus on students who are closest to achieving the cut score on tests so as to continue to boost the number of kids passing the test each year. As a result, parents and teachers are concern that the lowest achieving students who are not yet proficient and the highest performing students who are already proficient may be ignored in the effort to meet AYP each year.

My legislation seeks to address this concern by providing flexibility for States that maintain annual testing to develop accountability models capable of tracking student growth from year to year to better ensure that every student, regardless of his or her current academic level, continues to make academic progress. States seeking to use growth models in their accountability systems would have to prove that such growth models meet a number of minimum technical requirements, including ensuring the growth model: is of sufficient technical capacity to function fairly and accurately for all students, uses valid, reliable, and accurate measures, has a statewide privacy-protected data system capable of tracking student growth, does not set performance measures based on a student's background, and is capable of tracking student progress in at least reading and math. I am pleased there is substantial agreement in Congress that growth models should be part of a reauthorized ESEA, and I will work with my colleagues to ensure that any growth models included in the ESEA can be fairly implemented and are flexible enough for States and local districts to utilize in their accountability systems.

NCLB set the ambitious goal that all children will be proficient on State reading and math tests by the year 2014. I have heard from a number of

educators and administrators in Wisconsin and around the country who are concerned that very few States will be able to meet NCLB's 2014 deadline. I understand their concern, particularly in light of the fact that Congress has failed to provide the promised financial resources to meet NCLB's mandates. Our Nation needs to have high academic expectations for all of our students, but if Congress is going to set such ambitious goals for our schools to meet, we need to provide our schools with the resources to meet those goals.

So far, the Federal Government has not lived up to the funding promises it made when Congess passed NCLB in late 2001. The appropriated levels for title I, part A have failed to match the authorized levels for title I, part A every year from 2002 to 2007, resulting in an underfunding of title I, part A by over $40 billion since 2002. It is one thing to set ambitious targets for our Nation's schools with adequate resources provided to reach those targets. It is something entirely different to hold our schools accountable for ensuring all students are proficient by 2014 and providing our schools with less resources than were promised to them when NCLB passed. My legislation includes a funding trigger that will waive the 2014 deadline unless Congress fully funds title I, part A from now until 2014. If Congress maintains the 2014 deadline and does not provide additional resources to our Nation's schools, we are only setting our schools up for further failure as we approach 2014.

My legislation also reforms the peer-review provisions of NCLB to ensure that there is more transparency and consistency in the peer-review process. States are currently required to submit their State plans for approval by the Department of Education, and I have heard a number of concerns from my State and others that States do not receive consistent or timely information from the Department of Education during peer review. States have also voiced concern about their inability to speak directly with peer reviewers during the peer-review process in order to clarify reviewers' comments made about their State plans.

My bill would amend the peer-review language to ensure that the peer-review teams contain balanced representation from State education agencies, local education agencies, and practicing educators. My legislation also includes language that requires the Secretary to provide consistency in peer-review decisions among the States and requires the Department's inspector general to conduct independent evaluations every 2 years to ensure consistency of approval and denial decisions by the Department of Education from State to State. My bill would also require the Secretary to ensure that States are given the opportunity to receive timely feedback from peer-review teams as well as directly interact with peer-review panels on issues that need clarification during the peer-review process.

Despite my concerns regarding the testing provisions of NCLB, there are other provisions of the law that I continue to support. I have consistently heard from educators and other interested parties in my State of Wisconsin in favor of NCLB's requirement to disaggregate data by specific groups of children, including students from major racial and ethnic groups, students with disabilities, economically disadvantaged students, and English language learners. Teachers have told me that these provisions have added more transparency to school data and help to ensure that schools continue to remain focused on closing the achievement gap among these various groups of students and remain attentive to the academic needs of all students. My legislation builds on the requirement to disaggregate data by also requiring States to disaggregate high school graduation rates on the State report cards required under NCLB.

Justice Louis Brandeis once said, ''sunlight is said to be the best of disinfectants,'' and I think his statement can be properly applied to NCLB's requirement to disaggregate and report academic data by student subgroups. Information about the achievement gaps that exist throughout our Nation's schools, whether they are gaps in academic achievement or graduation rates, can help parents, educators, local school board members, and others continue to advocate for education reform at the local level. Some States already have the ability to disaggregate graduation rates by NCLB's subgroups, and my legislation provides funding to all States to comply with this public reporting requirement.

Tracking students' achievement and disaggregating student data are fundamental components of No Child Left Behind and require States to maintain large data systems containing detailed information about students. The bill that I am introducing will also ensure that these data systems are maintained in a way that safeguards individual privacy. Use of the data by educational entities, as well as disclosures of student-level data to third parties, will be carefully limited, and individuals will have a right to know who is inspecting their information and for what purpose.

My legislation also provides additional funding for States to build additional infrastructure at the State and local level in order to improve their educational accountability systems. States and local districts will have to secure additional resources in order to implement growth models or utilize multiple forms of assessment in their accountability systems. My bill creates a competitive and flexible grant program to help ensure the Federal Government does its part in assisting States in accessing these resourses.

States have varying capacity needs and funds under this program can help States build their privacy-protected educational databases, train individuals in how to use multiple measures of student achievement in State accountability systems, and provide additional professional development opportunities for both state education agency and local education agency staff members. I have heard from a number of State and local administrators who are trying diligently to reconcile increased Federal and State mandates with less financial resources. Providing additional resources will help build State and local educational infrastructure and will help encourage States to move to accountability systems that can measure student growth and use more than standardized test scores when making decisions about students and schools.

There are a number of other issues that we need to address in the NCLB reauthorization. My bill seeks to address some of the top concerns I have heard about from constituents around the State related to testing. During the reauthorization process, we need to examine and modify NCLB sanctions structure to address implementation problems that rural and large urban districts have faced. We also need to recognize that every school and every school district is different and the rigid sanctions of NCLB may not allow States and local districts the opportunity to implement a variety of other innvative school reform efforts.

We also need to address the diverse learning needs of students with disabilities and English language learners. We need to ensure that NCLB works in concert with the Individuals with Disabilities Education Act, IDEA, and that students with disabilities are provided with proper modifications on assessments without holding lower academic expectations for these students. I have long supported full funding for IDEA and strongly support high academic expectations for students with disabilities. I was disappointed the final NCLB conference report in 2001 dropped the Senate language on full funding of the Federal share of IDEA, and I hope we can be successful during this reauthorization process in efforts to fully fund IDEA.

The number of English language learners is growing around the country, including in my State of Wisconsin. I have heard concerns from educators around Wisconsin that NCLB does not properly address the unique learning needs of English language learners. Teachers are concerned about the lack of valid and reliable assessments for English language learners and the unfairness of testing these students when they may not yet have learned English well enough to take standardized tests in English. During the reauthorization, we need to ensure that additional resources are provided to develop valid and reliable assessments for English language learners so that these students are fairly assessed while learning the English language.

There are many issues that need to be addressed during the reauthorization process, and my bill seeks to address some of the issues related to testing under NCLB. I am pleased this bill is cosponsored by my friend and colleague, Senator PATRICK LEAHY, and that it has the support of the American Association of School Administrators, the National Education Association, the National Association of Elementary School Principals, the School Social Work Association of America, the Wisconsin Department of Public Instruction, the Wisconsin Education Association Council, the Milwaukee Teachers Education Association, the Wisconsin National Board Network of Wisconsin National Board Certified Teachers, and the Wisconsin School Administrator's Alliance, which includes the Association of Wisconsin School Administrators, the Wisconsin Association of School District Administrators, the Wisconsin Association of School Business Officials, and the Wisconsin Council of Administrators of Special Services.

The Elementary and Secondary Education Act of 1965 is the key Federal law impacting our nation's schools, and I have long supported the law's commitment to improving the quality of education provided to our Nation's most disadvantaged students. I strongly support holding schools accountable for both providing equal educational opportunities to all our students and for continuing to work to close the achievement gaps that exist in our Nation's schools.

I also strongly support ensuring that classroom teachers, local school districts, and States have the primary responsibility for making decisions regarding day-to-day classroom instruction. Unfortunately, under NCLB, too much of the activity in classrooms is being dictated by the Federal one-size-fits-all testing mandates and accountability provisions. The Federal Government should leave decisions about the frequency of standardized testing up to the States and local school districts that a bear the responsibility for educating our children. While standardized testing does have a role to play in measuring and improving student achievement, one high-stakes test alone cannot accurately or responsibly measure our students or our schools.

NCLB was based on a flawed premise—that the way to hold schools accountable and close the achievement gap was for the Federal Government to pile on more tests and use the tests as the primary tool to evaluate schools. Now, 5 years into the law's implementation, we have evidence showing the need to reduce NCLB's burden on schools, by providing real support for students and teachers and by providing flexibility to Sates to use more than standardized tests to measure the achievement of students. This country has a long way to go before the opportunity for an equal education is afforded to all of America's students and Congress can take a step toward helping to ensure that opportunity by substantially reforming the mandates of NCLB. It is time to fix No Child Left Behind, and to get back to learning—not just testing—in all of our Nation's public schools.

By Mr. DODD:

S. 2055. A bill for the relief of Alejandro Gomez and Juan Sebastian Gomez; to the Committee on the Judiciary.

Mr. DODD. Mr. President, today I send to the desk a private relief bill to provide permanent resident status to Juan and Alejandro Gomez, and ask that it be appropriately referred.

Juan, 18, and Alejandro, 20, are natives of Colombia who came to the U.S. with their parents in August 1990 on B–2 visitors visas. They currently reside in Miami, FL with their parents. They are now the subjects of an October 14, 2007, voluntary departure date under an order of deportation. The date of their departure has been extended from September 14, 2007. Juan and Alejandro have lived continuously in the U.S. for the last 17 years. They have both graduated from Miami Killian High School and are currently enrolled in Miami Dade Community College. They have the strong support of their community. It would be an extreme hardship to uproot Juan and Alejandro from their community, which has wholeheartedly embraced them, to send them back to Colombia where there lives could be in serious danger.

We all know that the circumstances of Juan and Alejandro aren't unique. Just like many other children here illegally, they had no control over their parents' decision to overstay their visas a number of years ago. Most of these young people work hard to complete school and contribute to their communities. Cases like Juan's and Alejandro's are the reason why the so called DREAM Act was attached to the comprehensive immigration reform legislation that the Senate attempted to pass earlier this year, only to face a filibuster from opponents of any comprehensive immigration reform proposal.

The DREAM Act has broad partisan support and is not the reason that the immigration bill has stalled in the Senate. I would hope that consideration could be given to de-linking the DREAM Act from the larger bill so that we can put in place a legal framework for dealing with young people who are caught in this unfortunate immigration status. But that is not likely to happen soon enough to address the problems confronting Juan and Alejandro.

That is why I have decided to introduce a private bill on their behalf. I will also be writing to Senator EDWARD KENNEDY, Chairman of the Subcommittee on Immigration to request, pursuant to the Subcommittee's Rules of Procedure, that the Subcommittee formally request an expedited departmental report from the Bureau of Citizenship and Immigration Services regarding the Gomez brothers so that the Subcommittee can then move forward to give consideration to this bill as soon as possible.

I had an opportunity to meet Juan and Alejandro recently. They believe that America is their home. They love our country and want to have an opportunity to fulfill their dreams of becoming full participants in this country. Passage of the private bill would give them that opportunity. I look forward to working with the Subcommittee to facilitate its passage.

By Mr. ROCKEFELLER (for himself, Mr. KYL, Mrs. MCCASKILL, Mr. VITTER, Ms. SNOWE, Mr. COBURN, Mrs. DOLE, Mr. DOMENICI, Mr. INHOFE, Mr. COLEMAN, Mr. CORNYN, Mr. MARTINEZ, Mr. HAGEL, Mr. COCHRAN, and Mr. LOTT):

S. 2056. A bill to amend title XVIII of the Social Security Act to restore financial stability to Medicare anesthesiology teaching programs for resident physicians; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I rise today with Senators KYL and MCCASKILL, as well as 12 original cosponsors, to introduce an important piece of legislation, the Medicare Teaching Anesthesiology Funding Restoration Act of 2007. This legislation would restore equitable Medicare reimbursement for teaching anesthesiologists and address our nation's growing shortage of trained anesthesiologists.

As many of my colleagues are aware, in 1991, the Centers for Medicare & Medicaid Services, CMS, rolled out a new rule that singled out academic anesthesiology programs for a 50 percent reduction in Medicare reimbursement when teaching anesthesiologists supervise residents in two concurrent cases. The rule took effect in 1994. No other medical specialties or nonphysician providers were affected by this policy change. In fact, payments to non-anesthesiology teaching physicians continue to be paid using the conventional Medicare Physician Fee Schedule. All teaching physicians, except anesthesiologists, can collect the full Medicare fee for working with one resident and also collect an additional full Medicare fee for working with a second resident on an overlapping case as long as the teaching physician is present during the ''critical and key'' portions of each procedure and is immediately available to return to a case when not physically present.

This arbitrary and unfair payment reduction has had a devastating impact on the training of anesthesiologists across the country, anesthesiologists who we rely on daily for safe surgical procedures, cesarean deliveries during childbirth, emergency and critical care procedures, pain management, and care of our wounded warriors. Because of this policy change, teaching hospitals

receive only half the cost of anesthesiology treatment for Medicare patients. This shortchanges academic anesthesiology programs an average of $400,000 annually, with some programs losing more than $1 million per year. As a result, academic anesthesiology programs have experienced increased difficulty filling faculty appointments and sustaining vital research and development programs. But even more disturbing is the fact that this inconsistent and arbitrary payment policy has forced 28 academic anesthesiology programs to close since 1994, leaving only 129 programs nationwide.

In my home State, we have only one academic anesthesiology program, at the West Virginia University in Morgantown. This program is losing nearly $700,000 per year because of this unfair Medicare payment policy. When you take into account the fact that many private insurance companies follow Medicare's lead on reimbursement, the final dollar impact is even greater. Other departments within the medical school are being called upon to subsidize these losses instead of using their resources to advance important research initiatives or recruit highly qualified faculty.

West Virginia students interested in studying anesthesiology are also at risk. Because this is the only academic anesthesiology program in the State, far fewer West Virginians will have the opportunity to enter the specialty of anesthesiology if this program is forced to close. This will have a direct impact on our State's health care infrastructure because the majority of graduates from West Virginia University's anesthesiology residency program stay in West Virginia. If this program closes, the number of qualified anesthesiologists in West Virginia could plummet, leaving residents with severe access problems for surgery, emergency care, and other high risk procedures.

This is not just a West Virginia problem. This is a national problem with severe implications in every community. Academic anesthesiology programs treat the sickest of the sick, patients with multiple diagnoses, unusual conditions and/or in need of highly complex and sophisticated surgeries. The arbitrary Medicare payment reductions for teaching anesthesiologists could mean that patients of all ages and in all communities could see increased anesthesiology shortages in operating rooms, pain clinics, the military, critical care units, labor and delivery rooms, and emergency rooms.

In order to address this problem, the Medicare Anesthesiology Teaching Funding Restoration Act eliminates the Medicare payment inequity for physicians who teach anesthesiology. It restores Medicare reimbursement for academic anesthesiology programs to the level in existence before 1994 and subjects teaching anesthesiologists to the same ''critical and key'' portion rule as other physicians under Medicare. This payment restoration will provide physician residents with sufficient opportunities to pursue the specialty of anesthesiology. It will also provide patients, especially high risk patients, with continued access to quality anesthesia care when they need it. And, finally, this vital legislation will allow academic anesthesiology programs to continue making advances in patient safety through research and development.

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. 2056

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Medicare Anesthesiology Teaching Funding Restoration Act of 2007''.

SEC. 2. SPECIAL PAYMENT RULE FOR TEACHING ANESTHESIOLOGISTS.

Section 1848(a) of the Social Security Act (42 U.S.C. 1395w–4(a)) is amended—

(1) in paragraph (4)(A), by inserting ''except as provided in paragraph (5),'' after ''anesthesia cases,''; and

(2) by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR TEACHING ANESTHESIOLOGISTS.—With respect to physicians' services furnished on or after January 1, 2008, in the case of teaching anesthesiologists involved in the training of physician residents in a single anesthesia case or two concurrent anesthesia cases, the fee schedule amount to be applied shall be 100 percent of the fee schedule amount otherwise applicable under this section if the anesthesia services were personally performed by the teaching anesthesiologist alone and paragraph (4) shall not apply if—

''(A) the teaching anesthesiologist is present during all critical or key portions of the anesthesia service or procedure involved; and

''(B) the teaching anesthesiologist (or another anesthesiologist with whom the teaching anesthesiologist has entered into an arrangement) is immediately available to furnish anesthesia services during the entire procedure.''.

Mr. KYL. Mr. President, today Senator ROCKEFELLER and I introduce the Medicare Anesthesiology Teaching Funding Restoration Act of 2007.

I want to thank Senator ROCKEFELLER for his leadership, as well as Senator VITTER who introduced a similar bill last Congress.

As my colleagues may be aware, Arizona is the Nation's fastest growing State, and as its population grows, so does the demand for health care services. Yet Arizona suffers from a critical shortage of health care professionals.

Inadequate Medicare reimbursement exacerbates physician shortages and disrupts patient access to care. In fact, each year Medicare shortchanges academic anesthesiology programs nearly $40 million.

Currently, a teaching physician may receive the full Medicare fee schedule if he or she is involved in two concurrent cases with residents.

In 1994 the Centers for Medicare and Medicaid Services, CMS, singled out anesthesiology teaching programs and implemented a payment change. The payment change required that teaching anesthesiologists receive only 50 percent of the Medicare fee schedule if he or she is involved in two concurrent cases with residents.

As a result, 28 academic anesthesiology programs have closed, leaving 129 academic anesthesiology programs in existence today.

As one of the remaining teaching programs, the University of Arizona loses over $300,000 each year.

This is likely a conservative estimate as private payers are increasingly adopting Medicare's payment policy, compounding a teaching program's total financial loss. Medicare's policy challenges a teaching program's ability to fill vacant faculty positions, retain expert faculty, and train residents, particularly in rural and underserved communities.

Additionally, and perhaps most importantly, as training I programs close, patients will increasingly encounter anesthesiologist shortages.

In Arizona alone, the Health Resources and Services Administration, HRSA, projects that between 2000 and 2020 the State's population will grow 18 percent and the population 65 and older will grow 72 percent.

The Medicare Anesthesiology Teaching Funding Restoration Act of 2007 repeals the 1994 payment change and restores Medicare payment to teaching anesthesiologists.

Under this bill, the clear winners are patients. Restoring funding helps preserve patient access to safe, quality health care and alleviate growing health professional shortages.

I urge my colleagues to cosponsor this critical legislation.

By Mr. AKAKA:

S. 2057. A bill to reauthorize the Merit Sytems Protection Board and the Office of Special Counsel, to modify the procedures of the Merit Systems Protection Board and the Office of Special Counsel, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

• Mr. AKAKA. Mr. President, today I rise to introduce the Federal Merit System Reauthorization Act of 2007 to reauthorize the Office of Special Counsel, OSC, and the Merit Systems Protection Board, MSPB, and make other changes to improve the performance of both agencies. I am pleased to note that Representative DANNY DAVIS, Chairman of the House Federal Workforce Subcommittee, is introducing companion legislation today as well.

Both MSPB and OSC were created by the Civil Service Reform Act of 1978 to safeguard the merit system principles and to help ensure that federal employees are free from discriminatory, arbitrary, and retaliatory actions, especially against those who step forward to disclose government waste, fraud,

and abuse. These protections are essential so that employees can perform their duties in the best interests of the American public, which, in turn, helps ensure that the federal government is an employer of choice.

MSPB is charged with monitoring the Federal Government's merit-based system of employment by hearing and deciding appeals from Federal employees regarding job removal and other major personnel actions. The board also reviews regulations of the Office of Personnel Management, OPM, and conducts studies of the merit systems.

OSC is charged with protecting Federal employees and job applicants from reprisal for whistleblowing and other prohibited personnel practices. OSC is to serve as a safe and secure channel for Federal workers who wish to disclose violations of law, gross mismanagement or waste of funds, abuse of authority, and a specific danger to the public health and safety. In addition, OSC enforces the Hatch Act, which restricts the political activities of Federal employees, and the Uniformed Services Employment and Reemployment Rights Act of 1994.

OSC and MSPB are to be the stalwarts of the merit system. However, both agencies have been criticized for failing to live up to their mission.

For example, as the author of the Federal Employee Protection of Disclosures Act, S. 274, I am deeply concerned by the fact that no Federal whistleblower has won on the merits of their claim before the Board since 2003. At the Federal Circuit Court of Appeals, whistleblowers have won on the merits twice since October 1994, when Congress last strengthened the Whistleblower Protection Act.

In addition, testimony provided at the House and Senate reauthorization hearings earlier this year raised several concerns about the structure of the MPSB and the rights and responsibilities of the Chairman of the MSPB compared to the other Members. This raises concerns about the structure of the MSPB and warrants a closer review.

At OSC, the most recent Federal employee satisfaction survey shows that less than five percent of the respondents reported any degree of satisfaction with the results obtained by OSC while over 92 percent were dissatisfied. Moreover, in the past few years, OSC has become subject to numerous allegations by employees, good government groups, and employee unions who allege that OSC is acting counter to its mission by: ignoring whistleblower complaints, failing to protect employees subjected to sexual orientation discrimination, and retaliating against whistleblowers at OSC.

If true, these practices violate OSC's legal responsibility to be the protector of civil service employees. Given the fact that OSC employees could not make their disclosure to the Special Counsel, the alleged individual who engaged in the wrongdoing and retaliated against them, the employees and stakeholders filed a complaint with the President's Council on Integrity and Efficiency, PCIE. Unfortunately, the investigation is still ongoing.

As such, the Federal Merit System Reauthorization Act would reauthorize OSC and MSPB for a period of three years instead of the 5 years requested by both agencies in order to give Congress a chance to take a closer review of the two agencies. The bill would also legislatively establish a process for OSC employees to bring allegations of retaliation against the Special Counsel or the Deputy Special Counsel to the PCIE and clarify that Federal employees are protected from discrimination based on their sexual orientation. Finally the bill would make procedural changes at OSC and MSPB to improve agency operations and customer service and impose new reporting requirements on both agencies.

Both OSC and MSPB must be free from allegations of wrongdoing and the appearance of any activity that would question their independence. I believe that the provisions in this bill will make needed improvements in both agencies to build trust in the Federal workforce and the American people. 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. 2057

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 ''Federal Merit System Reauthorization Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Authorization of appropriations.
Sec. 3. Allegations of wrongdoing against Special Counsel or Deputy Special Counsel.
Sec. 4. Discrimination on the basis of sexual orientation prohibited.
Sec. 5. Procedures of the Merit Systems Protection Board.
Sec. 6. Procedures of the Office of Special Counsel.
Sec. 7. Reporting requirements.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) MERIT SYSTEMS PROTECTION BOARD.—Section 8(a)(1) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note) is amended by striking ''2003, 2004, 2005, 2006, and 2007'' and inserting ''2008, 2009, and 2010''.

(b) OFFICE OF SPECIAL COUNSEL.—Section 8(a)(2) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note) is amended by striking ''2003, 2004, 2005, 2006, and 2007'' and inserting ''2008, 2009, and 2010''.

(c) EFFECTIVE DATE.—This section shall take effect as of October 1, 2007.

SEC. 3. ALLEGATIONS OF WRONGDOING AGAINST SPECIAL COUNSEL OR DEPUTY SPECIAL COUNSEL.

(a) DEFINITIONS.—In this section—

(1) the term ''Special Counsel'' refers to the Special Counsel appointed under section 1211(b) of title 5, United States Code;

(2) the term ''Integrity Committee'' refers to the Integrity Committee described in Executive Order 12993 (relating to administrative allegations against inspectors general) or its successor in function (as identified by the President); and

(3) the terms ''wrongdoing'' and ''Inspector General'' have the same respective meanings as under the Executive order cited in paragraph (2).

(b) AUTHORITY OF INTEGRITY COMMITTEE.—

(1) IN GENERAL.—An allegation of wrongdoing against the Special Counsel (or the Deputy Special Counsel) may be received, reviewed, and referred for investigation by the Integrity Committee to the same extent and in the same manner as in the case of an allegation against an Inspector General (or a member of the staff of an Office of Inspector General), subject to the requirement that the Special Counsel recuse himself or herself from the consideration of any allegation brought under this subsection.

(2) COORDINATION WITH EXISTING PROVISIONS OF LAW.—This section does not eliminate access to the Merit Systems Protection Board for review under section 7701 of title 5, United States Code. To the extent that an allegation brought under this subsection involves section 2302(b)(8) of such title, a failure to obtain corrective action within 120 days after the date on which that allegation is received by the Integrity Committee shall, for purposes of section 1221 of such title, be considered to satisfy section 1214(a)(3)(B) of such title.

(c) REGULATIONS.—The Integrity Committee may prescribe any rules or regulations necessary to carry out this section, subject to such consultation or other requirements as might otherwise apply.

SEC. 4. DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION PROHIBITED.

(a) REPUDIATION.—In order to dispel any public confusion, Congress repudiates any assertion that Federal employees are not protected from discrimination on the basis of sexual orientation.

(b) AFFIRMATION.—It is the sense of Congress that, in the absence of the amendment made by subsection (c), discrimination against Federal employees and applicants for Federal employment on the basis of sexual orientation is prohibited by section 2302(b)(10) of title 5, United States Code.

(c) DISCRIMINATION BASED ON SEXUAL ORIENTATION PROHIBITED.—Section 2302(b)(1) of title 5, United States Code, is amended—

(1) in subparagraph (D), by striking ''or'' at the end;

(2) in subparagraph (E), by inserting ''or'' at the end; and

(3) by adding at the end the following:

''(F) on the basis of sexual orientation;''.

SEC. 5. PROCEDURES OF THE MERIT SYSTEMS PROTECTION BOARD.

(a) PROOF OF EXHAUSTION FOR INDIVIDUAL RIGHT OF ACTION.—Section 1221(a) of title 5, United States Code, is amended—

(1) by striking ''(a)'' and inserting ''(a)(1)''; and

(2) by adding at the end the following:

''(2) For purposes of paragraph (1), an employee, former employee, or applicant for employment may demonstrate compliance with section 1214(a)(3)(B) by—

''(A) submitting a copy of the complaint or other pleading pursuant to which such employee, former employee, or applicant sought corrective action from the Special Counsel with respect to the personnel action involved; and

''(B) certifying that the Special Counsel did not provide notice of intent to seek such corrective action to such employee, former employee, or applicant within the 120-day period described in such section 1214(a)(3)(B).''.

(b) INDIVIDUAL REQUESTS FOR STAYS.—Section 1221(c) of title 5, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2) Any stay requested under paragraph (1) shall be granted within 10 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date the request is made, if the Board determines that the employee, former employee, or applicant has demonstrated that protected activity described under section 2302(b)(8) was a contributing factor to the personnel action involved. If the stay request is denied, the employee, former employee, or applicant may submit an interlocutory appeal for expedited review by the Board.''.

(c) JOINING SUBSEQUENT AND RELATED CLAIMS WITH PENDING LITIGATION.—

(1) IN GENERAL.—Section 1221 of title 5, United States Code, is amended—

(A) by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively; and

(B) inserting after subsection (g) the following:

''(h) During a pending proceeding, subsequent personnel actions may be joined if the employee, former employee, or applicant for employment demonstrates that retaliation for protected activity at issue in the pending proceeding was a contributing factor to subsequent alleged prohibited personnel practices.''.

(2) CONFORMING AMENDMENT.—Section 1222 of title 5, United States Code, is amended by striking ''section 1221(i)'' and inserting ''section 1221(j)''.

(d) PROCEDURAL DUE PROCESS.—Section 1204(b)(1) of title 5, United States Code, is amended by inserting ''in accordance with regulations consistent with the Federal Rules of Civil Procedure, so far as practicable'' before the period.

(e) ATTORNEY FEES.—Section 7701(g)(1) of title 5, United States Code, is amended by striking ''if the employee or applicant is the prevailing party and'' and inserting ''if the claim or claims raised by the employee or applicant were not frivolous, unreasonable, or groundless; the case was a substantial or significant factor in the agency's action providing some relief or benefit to the employee or applicant; and''.

SEC. 6. PROCEDURES OF THE OFFICE OF SPECIAL COUNSEL.

(a) INVESTIGATIONS OF ALLEGED PROHIBITED PERSONNEL PRACTICES.—Section 1212(e) of title 5, United States Code, is amended by striking ''may prescribe such regulations as may be necessary to perform the functions'' and inserting ''shall prescribe such regulations as may be necessary to carry out subsection (a)(2) and may prescribe any regulations necessary to carry out any of the other functions''.

(b) MANDATORY COMMUNICATIONS WITH COMPLAINANTS.—

(1) CONTACT INFORMATION.—Section 1214(a)(1)(B) of title 5, United States Code, is amended by striking clause (ii) and inserting the following:

''(ii) shall include the name and contact information of a person at the Office of Special Counsel who—

''(I) shall be responsible for interviewing the complainant and making recommendations to the Special Counsel regarding the allegations of the complainant; and

''(II) shall be available to respond to reasonable questions from the complainant regarding the investigation or review conducted by the Special Counsel, the relevant facts ascertained by the Special Counsel, and the law applicable to the allegations of the complainant.''.

(2) STATEMENT AFTER TERMINATION OF INVESTIGATION.—Section 1214(a)(2)(A)(iv) of title 5, United States Code, is amended by striking ''a response'' and inserting ''specific responses''.

(c) QUALIFICATIONS OF SPECIAL COUNSEL.—The third sentence of section 1211(b) of title 5, United States Code, is amended by striking ''position.'' and inserting ''position and has professional experience that demonstrates an understanding of and a commitment to protecting the merit based civil service.''.

(d) ALTERNATIVE DISPUTE RESOLUTION PROGRAM OF THE OFFICE OF SPECIAL COUNSEL.—Section 1212 of title 5, United States Code, is amended by adding at the end the following:

''(h) The Office of Special Counsel shall by regulation provide for one or more alternative methods for settling matters subject to the jurisdiction of the Office which shall be applicable at the election of an employee, former employee, or applicant for employment or at the direction of the Special Counsel with the consent of the employee, former employee, or applicant concerned. In order to carry out this subsection, the Special Counsel shall provide for appropriate offices in the District of Columbia and other appropriate locations.''.

(e) SUBSTANTIAL LIKELIHOOD DETERMINATIONS.—Section 1213 of title 5, United States Code, is amended—

(1) in subsection (b), by striking ''15 days'' and inserting ''45 days''; and

(2) in subsection (c)(1), by inserting '', after consulting with the person who made the disclosure on how to characterize the issues,'' after ''appropriate agency head''.

(f) DETERMINATION OF STATUTORY REQUIREMENTS MET.—Section 1213(e) of title 5, United States Code, is amended—

(1) in paragraph (3), by striking ''subsection (e)(1)'' and inserting ''paragraph (1)'';

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following:

''(3) Upon receipt of any report of the head of an agency required under subsection (c), if the Special Counsel is unable to make a determination under paragraph (2)(A) or (B), the Special Counsel shall require the agency head to submit any additional information necessary for the Special Counsel to make such determinations before any information is transmitted under paragraph (4).''.

(g) PUBLIC AND INTERNET ACCESS FOR AGENCY INVESTIGATIONS.—Section 1219 of title 5, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

''(a) The Special Counsel shall maintain and make available to the public (including on the website of the Office of Special Counsel)—

''(1) a list of noncriminal matters referred to heads of agencies under subsection (c) of section 1213, together with—

''(A) reports from heads of agencies under subsection (c)(1)(B) of such section relating to such matters;

''(B) comments submitted under subsection (e)(1) of such section relating to such matters, if the person making the disclosure consents; and

''(C) comments or recommendations by the Special Counsel under subsection (e)(4) of such section relating to such matters;

''(2) a list of matters referred to heads of agencies under section 1215(c)(2);

''(3) a list of matters referred to heads of agencies under subsection (e) of section 1214, together with certifications from heads of agencies under such subsection; and

''(4) reports from heads of agencies under section 1213(g)(1).

''(b) The Special Counsel shall take steps to ensure that any list or report made available to the public or placed on the website of the Office of Special Counsel under this section does not contain any information the disclosure of which is prohibited by law or by Executive order requiring that information be kept secret in the interest of national defense or the conduct of foreign affairs.''.

SEC. 7. REPORTING REQUIREMENTS.

(a) MERIT SYSTEMS PROTECTION BOARD.—Each annual report submitted by the Merit Systems Protection Board under section 1206 of title 5, United States Code, shall, with respect to the period covered by such report, include—

(1) the number of cases and alleged violations of section 2302 of such title 5 filed with the Board for each agency, itemized for each prohibited personnel practice;

(2) the number of cases and alleged violations of section 2302 of such title 5 that the Board determines for each agency, itemized for each prohibited personnel practice and compared to the total number of cases and allegations filed with the Board for each, both with respect to the initial decisions by administrative judges and final Board decisions;

(3) the number of cases and allegations in which corrective action was provided, compared to the total number of cases and allegations filed with the Board for each, itemized separately for settlements and final Board decisions; and

(4) with respect to paragraphs (8) and (9) of section 2302 (b) of such title 5, the number of cases in which the Board has ruled in favor of the employee on the merits of the claim compared to the total number of cases and allegations filed with the Board for each, where findings of fact and conclusions of law were issued on whether those provisions were violated, independent from cases disposed by procedural determinations, including a separate itemization of both initial decisions by administrative judges and final Board decisions for each category.

(b) OFFICE OF SPECIAL COUNSEL.—Each annual report submitted under section 1218 of title 5, United States Code, by the Special Counsel or an employee designated by the Special Counsel shall, with respect to the period covered by such report, include—

(1) the number of cases and allegations for each prohibited personnel practice, delineated by type of prohibited personnel practice;

(2) for each type of prohibited personnel practice, the number of cases and allegations as to which the Office of Special Counsel found reasonable grounds to believe section 2302 of such title 5 had been violated;

(3) for each type of prohibited personnel practice, the number of cases and allegations as to which the Office of Special Counsel referred the complaint for full field investigation;

(4) for each prohibited personnel practice, the number of cases and allegations as to which the Office of Special Counsel recommended corrective action;

(5) for each prohibited personnel practice, the number of cases and allegations as to which the Office of Special Counsel conducted a mediation or other form of alternative dispute resolution, with statistics and illustrative examples describing the results with particularity;

(6) the number of instances in which the Office of Special Counsel referred disclosures submitted under section 1213 of such title 5 to an agency head, without any finding under subsection (c) or (g) of such section;

(7) a statistical tabulation of results for each customer satisfaction survey question, both with respect to allegations of prohibited personnel practice submitted under section 1214 of such title 5 and disclosures submitted under section 1213 of such title; and

(8) for each provision under section 1216(a)(1) through (5) and (c) of such title 5, the number of cases and allegations, the number of field investigations opened, the number of instances in which corrective action was sought, and the number of instances in which corrective action was obtained.

(c) ANNUAL SURVEY.—Section 13(a) of the Act entitled ''An Act to reauthorize the Office of Special Counsel, and for other purposes'', approved October 29, 1994 (5 U.S.C. 1212 note; Public Law 103–424) is amended in the first sentence by inserting '', including individuals who disclose information to the Office of Special Counsel under section 1213'' before the period.

By Mr. LEVIN:

S. 2058. A bill to amend the Commodity Exchange Act to close the Enron loophole, prevent price manipulation and excessive speculation in the trading of energy commodities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LEVIN. Mr. President, today I am introducing the Close the Enron Loophole Act to help prevent price manipulation and dampen the excessive speculation that have unfairly increased the cost of energy in the U.S.

This legislation is the product of more than 4 years of work examining U.S. energy commodity markets by the Senate Permanent Subcommittee on Investigations, which I chair. That work has shown that U.S. market prices for crude oil, natural gas, jet fuel, diesel fuel and other energy commodities are more unpredictable and variable than ever before, and too often are imposing huge cost increases on the backs of working American families and businesses. The legislation I am introducing today is essential to help ensure that our energy markets provide prices that reflect the fundamentals of supply and demand for energy instead of prices boosted by manipulation or excessive speculation. It is also essential to close an egregious loophole in the law that was championed by Enron and other large energy traders in the heyday of deregulation and that continues to haunt our energy markets and harm American consumers through inflated and distorted energy prices.

The ''Enron loophole'' is a provision that was inserted at the last-minute, without opportunity for debate, into commodity legislation that was attached to an omnibus appropriations bill and passed by Congress in late December 2000, in the waning hours of the 106 Congress. This loophole exempted from U.S. Government regulation the electronic trading of energy commodities by large traders. The loophole has helped foster the explosive growth of trading on unregulated electronic energy exchanges. It has also rendered U.S. energy markets more vulnerable to price manipulation and excessive speculation with resulting price distortions. This legislation is necessary to close the Enron loophole and reduce our vulnerability to manipulation and excessive speculation by providing for regulation of the electronic trading of energy commodities by large traders.

A stable and affordable supply of energy is vital to the national and economic security of the United States. We need energy to heat and cool our homes and offices, to generate electricity for lighting, manufacturing, and vital services, and to power our transportation sector—automobiles, trucks, boats, and airplanes.

Over 80 percent of our energy comes from fossil fuels—oil, natural gas, and coal. About 50 percent is from oil and natural gas. The U.S. consumes around 20 million barrels of crude oil each day, over half of which is imported. About 90 percent of this oil is refined into products such as gasoline, home heating oil, jet fuel, and diesel fuel.

The crude oil market is the largest commodity market in the world, and hundreds of millions of barrels are traded daily in the various crude oil futures, over-the-counter, and spot markets. The world's leading exchanges for crude oil futures contracts are the New York Mercantile Exchange, NYMEX, and the Intercontinental Exchange, known as ICE Futures in London. Futures contracts for gasoline, heating oil, and diesel fuel are also traded on these exchanges. Presently, regulatory authority over the U.S. crude oil market is split between British and U.S. regulators.

Natural gas heats the majority of American homes, is used to harvest crops, powers 20 percent of our electrical plants, and plays a critical role in many industries, including manufacturers of fertilizers, paints, medicines, and chemicals. It is one of the cleanest fuels we have, and we produce most of it ourselves with only 15 percent being imported, primarily from Canada. In 2005 alone, U.S. consumers and businesses spent about $200 billion on natural gas.

Only part of the natural gas futures market is regulated. Natural gas produced in the United States is traded on NYMEX and on an unregulated ICE electronic trading platform located in Georgia. The price of natural gas in both the futures market and in the spot or physical market depends on the prices on both of these U.S. exchanges.

Trading abuses plague existing energy markets. The key federal regulator, the Commodity Futures Trading Commission, CFTC, reports that overall in recent years it has issued several hundred million dollars in fines for trading abuses in the energy markets. Several major enforcement actions are pending.

Since 2001, the Senate Permanent Subcommittee on Investigations has been examining the vulnerability of U.S. energy markets to price manipulation and excessive speculation due to the lack of regulation of electronic energy exchanges under the so called ''Enron loophole.'' Although the CFTC and Federal Energy Regulatory Commission have brought a number of enforcement cases against energy traders, the CFTC's ability to prevent abuses before they occur is severely hampered by its lack of regulatory authority over key energy markets.

The Subcommittee first documented the weaknesses in the regulation of our energy markets in a 2003 staff report I initiated called, ''U.S. Strategic Petroleum Reserve: Recent Policy Has Increased Costs to Consumers But Not Overall U.S. Energy Security.'' The report found that crude oil prices were ''affected by trading not only regulated exchanges like the NYMEX, but also on unregulated 'over-the-counter', OTC, markets which have become major trading centers for energy contracts and derivatives. The lack of information on prices and large positions in these OTC markets makes it difficult in many instances, if not impossible in practice, to determine whether traders have manipulated crude oil prices.''

In June 2006, the Subcommittee issued a staff report entitled, ''The Role of Market Speculation in Rising Oil and Gas Prices: A Need To Put the Cop Back on the Beat.'' This bipartisan staff report analyzed the extent to which the increasing amount of financial speculation in energy markets had contributed to the steep rise in energy prices over the past few years. The report concluded that ''[s]peculation has contributed to rising U.S. energy prices,'' and endorsed the estimate of various analysts that the influx of speculative investments into crude oil futures accounted for approximately $20 of the then-prevailing crude oil price of approximately $70 per barrel.

The 2006 report recommended that the CFTC be provided with the same authority to regulate and monitor electronic energy exchanges, such as ICE, as it has with respect to the fully regulated futures markets, such as NYMEX, to ensure that excessive speculation in the energy markets did not adversely effect the availability and affordability of vital energy commodities through unwarranted price increases.

In June 2007, the Subcommittee released another report, ''Excessive Speculation in the Natural Gas Market.'' Our report found that a single hedge fund named Amaranth dominated the natural gas market during the spring and summer of 2006, and Amaranth's large-scale trading significantly distorted natural gas prices from their fundamental values based on supply and demand.

The report concluded that the current regulatory system was unable to prevent these distortions because much of Amaranth's trading took place on an unregulated electronic market. The report recommended that Congress close the ''Enron loophole'' that exempted such markets from regulation.

The Subcommittee's Report describes how Amaranth used the major unregulated electronic market, ICE, to amass huge positions in natural gas contracts, outside regulatory scrutiny, and beyond any regulatory authority. During the spring and summer of 2006, Amaranth held by far the largest positions of any trader in the natural gas market. According to traders interviewed by the Subcommittee, during this period natural gas prices for the following winter were ''clearly out of whack,'' at ''ridiculous levels,'' and unrelated to supply and demand. At the

Subcommittee's hearing in June of this year, natural gas purchasers, such as the American Public Gas Association and the Industrial Energy Consumers of America, explained how these price distortions increased the cost of hedging for natural gas consumers, which ultimately led to increased costs for American industries and households. The Municipal Gas Authority of Georgia calculated that Amaranth's excesses increased the cost of their winter gas purchases by $18 million.

Finally, when Amaranth's positions on the regulated futures market, NYMEX, became so large that NYMEX directed Amaranth to reduce the size of its positions on NYMEX, Amaranth simply switched those positions to ICE, an unregulated market that is beyond the reach of the CFTC. In other words, in response to NYMEX's order, Amaranth did not reduce its size; it merely moved it from a regulated market to an unregulated market.

This regulatory system makes no sense. It is as if a cop on the beat tells a liquor store owner that he must obey the law and stop selling liquor to minors, yet the store owner is allowed to move his store across the street and sell to whomever he wants because the cop has no jurisdiction on the other side of the street and none of the same laws apply. The Amaranth case history shows it is clearly time to put the cop on the beat in all of our energy exchanges.

The Subcommittee held two days of hearings relating to issues covered in its 2007 report. Both of the major energy exchanges, NYMEX and ICE, testified that they would support a change in the law that would eliminate the current exemption from regulation for electronic energy markets, in order to reduce the potential for manipulation and excessive speculation. Consumers and users of natural gas and other energy commodities—the American Public Gas Association, the New England Fuel Institute, the Petroleum Marketers Association of America, and the Industrial Energy Consumers of America—also testified in favor of closing the Enron loophole.

The legislation I am introducing today is intended to end the exemption from regulation that electronic energy trading facilities now have. The bill includes suggestions made by the exchanges, the CFTC, and natural gas users, and I will continue to seek their input as the legislative process moves forward.

Essentially, this bill would restore the CFTC's ability to police all U.S. energy exchanges to prevent price manipulation and excessive speculation from hiking energy prices. In particular, it would restore CFTC oversight of large-trader energy exchanges that were exempted from regulation in the 2000 Commodity Futures Modernization Act by means of the Enron loophole. The bill would require the CFTC to oversee these facilities in the same manner and according to the same standards that currently apply to futures exchanges like NYMEX. Because these energy exchanges currently restrict trading to large traders, however, the bill would not require them to comply with rules applicable to retail trading or trading by brokers on behalf of smaller traders. In all other respects, however, including the rules that create position limits and accountability levels to stop price manipulation and excessive speculation, the bill would apply the same rules to energy exchanges like ICE as currently apply to futures exchanges like NYMEX.

The bill also would require large trades in U.S. energy commodities conducted from within the United States on a foreign board of trade to be reported to the CFTC. This provision is intended to ensure that the CFTC has a more complete view of the positions of U.S. energy traders buying or selling energy commodities for delivery in the United States. This provision could be waived by the CFTC if the CFTC reaches agreement with the foreign board of trade to obtain the same information.

Preventing price manipulation and excessive speculation in U.S. energy markets is not an easy undertaking. I welcome good-faith comments on how this bill can be improved. I want to make it clear, however, that in my opinion the Enron loophole has got to be closed. Recent cases have shown us that market abuses and failures did not stop with the fall of Enron. They are still with us. We cannot afford to let the current situation continue, allowing energy traders to use unregulated markets to avoid regulated markets. It's time to put the cop back on the beat in all U.S. energy markets. The stakes for our energy security and for competition in the market place are too high to do otherwise.

I ask unanimous consent that the text of the bill, a bill summary, and a section-by-section analysis be printed in the RECORD.

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

S. 2058

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 ''Close the Enron Loophole Act''.

SEC. 2. ENERGY TRADING FACILITIES.

(a) DEFINITIONS.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended by redesignating paragraphs (13) through (33) as paragraphs (15) through (35), respectively, and by inserting after paragraph (12) the following:

''(13) ENERGY COMMODITY.—The term 'energy commodity' means a commodity (other than an excluded commodity, a metal, or an agricultural commodity) that is—

''(A) used as a source of energy, including but not limited to—

''(i) crude oil;

''(ii) gasoline, diesel fuel, heating oil, and any other product derived or refined from crude oil;

''(iii) natural gas, including methane, propane, and any other gas or liquid derived from natural gas; and

''(iv) electricity; or

''(B) results from the burning of fossil fuels to produce energy, including but not limited to carbon dioxide and sulfur dioxide.

''(14) ENERGY TRADING FACILITY.—The term 'energy trading facility' means a trading facility that—

''(A) is not a designated contract market; and

''(B) facilitates the execution or trading of agreements, contracts, or transactions in an energy commodity that are not spot sales of a cash commodity or sales of a cash commodity for deferred shipment or delivery, and that are entered into on a principal-to-principal basis solely between persons that are eligible commercial entities at the time the persons enter into the agreement, contract, or transaction; and

''(i) facilitates the clearance and settlement of such agreements, contracts, or transactions; or

''(ii) the Commission determines performs a significant price discovery function in relation to an energy commodity listed for trading on a trading facility or in the cash market for the energy commodity. In making a determination whether a trading facility performs a significant price discovery function the Commission may consider, as appropriate—

''(I) the extent to which the price of an agreement, contract, or transaction traded or executed on the trading facility is derived from or linked to the price of a contract in an energy commodity listed for trading on a designated contract market;

''(II) the extent to which cash market bids, offers, or transactions in an energy commodity are directly based on, or quoted at a differential to, the prices generated by agreements, contracts, or transactions in the same energy commodity being traded or executed on the trading facility;

''(III) the volume of agreements, contracts, or transactions in the energy commodity being traded on the trading facility;

''(IV) the extent to which data regarding completed transactions are posted, disseminated, or made available immediately after completion of such transactions, with or without a fee, to other market participants and other persons;

''(V) the extent to which an arbitrage market exists between the agreements, contracts, or transactions traded or executed on the trading facility and a contract in an energy commodity listed for trading on a designated contract market; and

''(VI) such other factors as the Commission determines appropriate.''.

(b) COMMISSION OVERSIGHT OF ENERGY TRADING FACILITIES.—Section 2(h) of the Commodity Exchange Act (7 U.S.C. 2(h)) is amended—

(1) in paragraph (3)(B) after ''an electronic trading facility'' by inserting ''that is not an energy trading facility''; and

(2) by adding at the end the following:

''(7) ENERGY TRADING FACILITIES.—Notwithstanding any other provision of this Act, an energy trading facility shall be subject to the provisions of section 2(j) of this Act.''.

(c) STANDARDS APPLICABLE TO ENERGY TRADING FACILITIES.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by adding the following new subsection:

''(j) REGISTRATION OF ENERGY TRADING FACILITIES.—

''(1) IN GENERAL.—It shall be unlawful for any person to enter into an agreement, contract, or transaction for future delivery of an energy commodity that is not a spot sale of a cash commodity or a sale of a cash commodity for deferred shipment or delivery, on

or through an energy trading facility unless such facility is registered with the Commission as an energy trading facility.

''(2) APPLICATIONS.—Any trading facility applying to the Commission for registration as an energy trading facility shall submit an application to the Commission that includes any relevant materials and records, consistent with the Act, that the Commission may require.

''(3) COMMISSION ACTION.—The Commission shall make a determination whether to approve an application for registration as an energy trading facility within 120 days after such application is submitted.

''(4) CRITERIA FOR REGISTRATION.—To be registered as an energy trading facility, the applicant shall demonstrate to the Commission that the trading facility meets the criteria specified in this paragraph.

''(A) PREVENTION OF PRICE MANIPULATION AND EXCESSIVE SPECULATION.—The trading facility shall have the capacity to prevent price manipulation, excessive speculation, price distortion, and disruption of the delivery or cash-settlement process through market surveillance, compliance, and enforcement practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

''(B) MONITORING OF TRADING.—The trading facility shall monitor trading to prevent price manipulation, excessive speculation, price distortion, and disruption of the delivery or cash-settlement process.

''(C) CONTRACTS NOT READILY SUSCEPTIBLE TO MANIPULATION.—The trading facility shall list for trading only contracts that are not readily susceptible to manipulation.

''(D) FINANCIAL INTEGRITY OF TRANSACTIONS.—A trading facility that facilitates the clearance and settlement of agreements, contracts, or transactions by a derivatives clearing organization shall establish and enforce rules and procedures for ensuring the financial integrity of such agreements, contracts, and transactions.

''(E) ABILITY TO OBTAIN INFORMATION.—The trading facility shall establish and enforce rules that will allow the trading facility to obtain any necessary information to perform any of the functions described in this subsection, including the capacity to carry out such international information-sharing agreements as the Commission may require.

''(F) POSITION LIMITS OR ACCOUNTABILITY LEVELS.—To reduce the threat of price manipulation, excessive speculation, price distortion, or disruption of the delivery or cash-settlement process, the trading facility shall adopt position limits or position accountability levels for speculators, where necessary and appropriate.

''(G) EMERGENCY AUTHORITY.—The trading facility shall adopt rules to provide for the exercise of emergency authority, in consultation and cooperation with the Commission, where necessary and appropriate, including the authority to—

''(i) liquidate open positions in any contract;

''(ii) suspend or curtail trading in any contract; and

''(iii) require market participants in any contract to meet special margin requirements.

''(H) DAILY PUBLICATION OF TRADING INFORMATION.—The trading facility shall make public daily information on settlement prices, volume, open interest, and opening and closing ranges for actively traded contracts on the facility.

''(I) DETERRENCE OF ABUSES.—The trading facility shall establish and enforce trading and participation rules that will deter abuses and shall have the capacity to detect, investigate violations of, and enforce those rules, including means to—

''(i) obtain information necessary to perform the functions required under this section; or

''(ii) use technological means to capture information that may be used in establishing whether rule violations have occurred.

''(J) TRADE INFORMATION.—The trading facility shall maintain rules and procedures to provide for the recording and safe storage of all identifying trade information in a manner that enables the facility to use the information for the purposes of assisting in the prevention of price manipulation, excessive speculation, price distortion, or disruption of the delivery or cash-settlement process, and providing evidence of any violations of the rules of the facility.

''(K) TRADING PROCEDURES.—The trading facility shall establish and enforce rules or terms and conditions defining, or specifications detailing, trading procedures to be used in entering and executing orders traded on the facility, including procedures to provide participants with impartial access to the trading facility.

''(L) COMPLIANCE WITH RULES.—The trading facility shall monitor and enforce the rules of the facility, including any terms and conditions of any contracts traded on or through the facility and any limitations on access to the facility.

''(M) DISCLOSURE OF GENERAL INFORMATION.—The trading facility shall disclose publicly and to the Commission information concerning—

''(i) contract terms and conditions;

''(ii) trading conventions, mechanisms, and practices;

''(iii) financial integrity protections; and

''(iv) other information relevant to participation in trading on the facility.

''(N) FITNESS STANDARDS.—The trading facility shall establish and enforce appropriate fitness standards for directors, members of any disciplinary committee, and any other persons with direct access to the facility, including any parties affiliated with any of the persons described in this paragraph.

''(O) CONFLICTS OF INTEREST.—The trading facility shall establish and enforce rules to minimize conflicts of interest in the decision making process of the facility and establish a process for resolving such conflicts of interest.

''(P) RECORDKEEPING.—The trading facility shall maintain records of all activities related to the business of the facility in a form and manner acceptable to the Commission for a period of 5 years.

''(Q) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, the trading facility shall endeavor to avoid—

''(i) adopting any rules or taking any actions that result in any unreasonable restraint of trade; or

''(ii) imposing any material anticompetitive burden on trading on the facility.

''(5) CRITERIA FOR ENERGY TRADING FACILITIES.—To maintain the registration as an energy trading facility, the trading facility shall comply with all of the criteria in paragraph (4). Failure to comply with any of these criteria shall constitute a violation of this Act. The trading facility shall have reasonable discretion in establishing the manner in which it complies with the criteria in paragraph (4).

''(6) POSITION LIMITS AND ACCOUNTABILITY LEVELS.—

''(A) DUTY OF COMMISSION.—The Commission shall ensure that the position limits and accountability levels applicable to contracts in an energy commodity listed for trading on a designated contract market and the position limits and accountability levels applicable to similar contracts in the same energy commodity listed for trading on an energy trading facility—

''(i) appropriately prevent price manipulation, excessive speculation, price distortion, and disruption of the delivery or cash-settlement process; and

''(ii) are on a parity with each other and applied in a functionally equivalent manner.

''(B) COMMISSION REVIEW.—Upon learning that a person has exceeded an applicable position limit or accountability level in an energy commodity, the Commission shall obtain such information as it determines to be necessary and appropriate regarding all of the positions held by such person in such energy commodity and take such action as may be necessary and appropriate, in addition to any action taken by an energy trading facility or a designated contract market, to require, or direct an energy trading facility or a designated contract market to require, such person to limit, reduce, or liquidate any position to prevent or reduce the threat of price manipulation, excessive speculation, price distortion, or disruption of the delivery or cash-settlement process.

''(C) INFORMATION TO COMMISSION.—In order to make any determination required under this section, the Commission may request all relevant information regarding all of the positions held by any person in the energy commodity for which the person has exceeded a position limit or accountability level, including positions held or controlled or transactions executed on or through a designated contract market, an energy trading facility, an exempt commercial markets operating pursuant to sections 2(h)(3) through paragraph (5) of this Act, an exempt board of trade operating pursuant to section 5d of this Act, a derivative transaction execution facility, a foreign board of trade, over-the-counter pursuant to sections 2(g), or 2(h)(1) and (2) of this Act, and in the cash market for the commodity. Any person entering into or executing an agreement, contract, or transaction with respect to an energy commodity on a designated contract market or on an energy trading facility shall retain such books and records as the Commission may require in order to provide such information upon request, and upon request shall promptly provide such information to the Commission or the Department of Justice. Notwithstanding this requirement to retain and provide position information, the Commission may alternatively choose to obtain any of the position information specified in this paragraph from the trading facility at which such positions are maintained.

''(D) CRITERIA FOR COMMISSION DETERMINATION.—In making any determination to require a limitation, reduction, or liquidation of any position with respect to an energy commodity, the Commission may consider, as appropriate—

''(i) the person's open interest in a contract, agreement, or transaction involving an energy commodity relative to the total open interest in such contracts, agreements, or transactions;

''(ii) the daily volume of trading in such contracts, agreements or transactions;

''(iii) the person's overall position in related contracts, including options, and the overall open interest or liquidity in such related contracts and options;

''(iv) the potential for such positions to cause or allow price manipulation, excessive speculation, price distortion, or disruption of the delivery or cash-settlement process;

''(v) the person's record of compliance with rules, regulations, and orders of the Commission, a designated contract market, or an energy trading facility, as appropriate;

''(vi) the person's financial ability to support such positions on an ongoing basis;

''(vii) any justification provided by the person for such positions; and

''(viii) other such factors determined to be appropriate by the Commission.''.

(d) INFORMATION FOR PRICE DISCOVERY DETERMINATION.—

(1) Section 2(h)(5)(B) of the Commodity Exchange Act (7 U.S.C. 2(h)(5)(B)) is amended by adding the following new clause:

''(iv) to the extent that the electronic trading facility provides for the trading of agreements, contracts, or transactions in an energy commodity, provide the Commission with such information as the Commission determines necessary to evaluate whether the energy trading facility performs a significant price discovery function in relation to a contract in an energy commodity listed for trading on a trading facility or in the cash market for the energy commodity, including the provision of such requested information on a continuous basis.''.

(2) Section 5a(b) of the Commodity Exchange Act (7 U.S.C. 7a(b)) is amended by adding the following new paragraph:

''(5) PRICE DISCOVERY FOR ENERGY COMMODITY.—A registered derivatives transaction execution facility shall, to the extent that it provides for the trading of any contract of sale of a commodity for future delivery (or option on such contract) based on an energy commodity, provide the Commission with such information as the Commission determines necessary to evaluate whether the registered derivatives transaction execution facility performs a significant price discovery function in relation to a contract in an energy commodity listed for trading on a trading facility or in the cash market for the energy commodity, including the provision of such requested information on a continuous basis.''.

(e) CONFORMING AMENDMENTS.—The Commodity Exchange Act is amended—

(1) in paragraph 29 of section 1a (7 U.S.C. 1a)—

(A) in subparagraph (C) by deleting ''and'';

(B) in subparagraph (D) by deleting the period and inserting ''; and'';

(C) by adding at the end the following:

''(E) an energy trading facility registered under section 2(j).'';

(2) in subsection (a) of section 4 (7 U.S.C. 6(a))—

(A) in paragraph (1) by inserting ''registered energy trading facility or a'' after ''subject to the rules of a''; and

(B) in paragraph (2) by inserting ''or energy trading facility'' after ''derivatives transaction execution facility'';

(3) in subsection (c) of section 4 (7 U.S.C. 6(c)), by inserting ''registered energy trading facility or'' in the parenthetical after ''including any'';

(4) in subsection (a) of section 4a (7 U.S.C. 6a)—

(A) in the first sentence by inserting ''or energy trading facilities'' after ''derivatives transaction execution facilities''; and

(B) in the second sentence by inserting ''or energy trading facility'' after ''derivatives transaction execution facility'';

(5) in subsection (b) of section 4a (7 U.S.C. 6a), by inserting ''or energy trading facility'' after ''derivatives transaction execution facility'' wherever it appears;

(6) in subsection (e) of section 4a (7 U.S.C. 6a)—

(A) in the first sentence—

(i) by inserting ''or by any energy trading facility'' after ''registered by the Commission'';

(ii) by inserting ''or energy trading facility'' after ''derivatives transaction execution facility'' the second time it appears;

(iii) by inserting ''energy trading facility'' before ''or such board of trade'' each time it appears; and

(B) in the second sentence, by inserting ''or energy trading facility'' after ''registered by the Commission'';

(7) in section 4e (7 U.S.C. 6e), by inserting ''or energy trading facility'' after ''or derivatives transaction execution facility'';

(8) in section 4i (7 U.S.C. 6i), by inserting ''or energy trading facility'' after ''derivatives transaction execution facility'';

(9) in section 4l (7 U.S.C. 6l), by inserting ''or energy trading facilities'' after ''derivatives transaction execution facilities'' wherever it appears in paragraphs (2) and (3);

(10) in section 5c(b) (7 U.S.C. 7a–2(b)), by inserting ''or energy trading facility'' after ''derivatives transaction execution facility'' wherever it appears in paragraphs (1), (2), and (3);

(11) in section 6(b) (7 U.S.C. 8(b))—

(A) by inserting ''or energy trading facility'' after ''derivatives transaction execution facility'' wherever it appears; and

(B) by inserting ''section 2(j) or'' before ''sections 5 through 5b''; and

(12) in section 6d(1) (7 U.S.C. 13a–2(1)), by inserting ''energy trading facility'' after ''derivatives transaction execution facility''.

SEC. 3. REPORTING OF U.S. ENERGY TRADES.

Section 2 of the Commodity Exchange Act (7 U.S.C. 1a) is amended by adding at the end the following:

''(k) DOMESTIC ENERGY TRADES ON A FOREIGN BOARD OF TRADE.—

''(1) DEFINITIONS.—In this subsection:

''(A) DOMESTIC TERMINAL.—The term 'domestic terminal' means a technology, software, or other means of providing electronic access within the United States to a contract, agreement, or transaction traded on a foreign board of trade.

''(B) REPORTABLE CONTRACT.—The term 'reportable contract' means a contract, agreement, or transaction for future delivery of an energy commodity (or option thereon), or an option on an energy commodity, for which the underlying commodity has a physical delivery point within the United States and that is executed through a domestic terminal.

''(2) RECORD KEEPING.—The Commission, by rule, shall require any person holding, maintaining, or controlling any position in any reportable contract under this section—

''(A) to maintain such records as directed by the Commission for a period of 5 years, or longer, if directed by the Commission; and

''(B) to provide such records upon request to the Commission or the Department of Justice.

''(3) REPORTING.—The Commission shall prescribe rules requiring such regular or continuous reporting of positions in a reportable contract in accordance with such requirements regarding size limits for reportable contracts and the form, timing, and manner of filing such reports under this paragraph, as the Commission shall determine.

''(4) EQUIVALENT MEANS OF OBTAINING INFORMATION.—The Commission may waive the requirement under paragraph (3) if the Commission determines that the foreign board of trade is providing the Commission with equivalent information in a usable format pursuant to an agreement between the Commission and the foreign board of trade or a foreign futures authority, department or agency of a foreign government, or political subdivision thereof.

''(5) OTHER RULES NOT AFFECTED.—

''(A) IN GENERAL.—Except as provided in clause (ii), this paragraph does not prohibit or impair the adoption by any board of trade or energy trading facility licensed, designated, or registered by the Commission of any bylaw, rule, regulation, or resolution requiring reports of positions in any agreement, contract, or transaction for future delivery of an energy commodity (or option thereon), or option on an energy commodity, including any bylaw, rule, regulation, or resolution pertaining to filing or recordkeeping, which may be held by any person subject to the rules of the board of trade or energy trading facility.

''(B) EXCEPTION.—Any bylaw, rule, regulation, or resolution established by a board of trade or energy trading facility described in clause (i) shall not be inconsistent with any requirement prescribed by the Commission under this paragraph.''.

SEC. 4. ANTIFRAUD AUTHORITY.

Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by striking ''**SEC. 4b.**'' and all that follows through the end of subsection (a) and inserting the following:

''SEC. 4b. CONTRACTS DESIGNED TO DEFRAUD OR MISLEAD.

''(a) UNLAWFUL ACTIONS.—It shall be unlawful—

''(1) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity in interstate commerce or for future delivery that is made, or to be made, on or subject to the rules of a designated contract market, for or on behalf of any other person; or

''(2) for any person, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery, or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g), that is made, or to be made, for or on behalf of, or with, any other person, other than on or subject to the rules of a designated contract market—

''(A) to cheat or defraud or attempt to cheat or defraud the other person;

''(B) willfully to make or cause to be made to the other person any false report or statement or willfully to enter or cause to be entered for the other person any false record;

''(C) willfully to deceive or attempt to deceive the other person by any means whatsoever in regard to any order or contract or the disposition or execution of any order or contract, or in regard to any act of agency performed, with respect to any order or contract for or, in the case of paragraph (2), with the other person; or

''(D)(i) to bucket an order if the order is represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market; or

''(ii) to fill an order by offset against the order or orders of any other person, or willfully and knowingly and without the prior consent of the other person to become the buyer in respect to any selling order of the other person, or become the seller in respect to any buying order of the other person, if the order is represented by the person as an order to be executed, or is required to be executed, on or subject to the rules of a designated contract market unless the order is executed in accordance with the rules of the designated contract market.

''(b) CLARIFICATION.—Subsection (a)(2) of this section shall not obligate any person, in or in connection with a transaction in a contract of sale of a commodity for future delivery, or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g), with another person, to disclose to the other person nonpublic information that may be material to the market price, rate, or level of the commodity or transaction, except as necessary to make any statement made to the other person in or in connection with the transaction, not misleading in any material respect.''.

SEC. 5. COMMISSION RULEMAKING.

Not later than 180 days after the date of enactment of this Act, the Commission shall issue a proposed rule regarding the requirements for an application for registration for an energy trading facility, and not later than 270 days after the date of enactment of this Act, shall issue a final rule.

SEC. 6. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in this section, this Act shall become effective immediately upon enactment.

(b) TRADING FACILITIES.—With respect to any trading facility operating on the date of enactment of this Act in reliance upon the exemption set forth in section 2(h)(3) of the Commodity Exchange Act with respect to an energy commodity, the prohibition in section 2(j)(1) of the Commodity Exchange Act, as added by this Act, shall not apply, if the trading facility submits an application to the Commission for registration as an energy trading facility within 180 days after the Commission promulgates a final rule regarding the requirements for an application for registration for an energy trading facility, prior to a determination by the Commission on whether to approve such application.

(c) EXTENSIONS.—(1) At the time the Commission approves an application by a trading facility operating on the date of enactment of this Act in reliance on the exemption set forth in section 2(h)(3) of the Commodity Exchange Act for registration as an energy trading facility, the Commission shall, upon the written request of the facility, grant an extension of up to 180 days to fully implement a requirement applicable under this Act to an energy trading facility.

(2) The Commission may in its discretion, upon the written request of the facility and for good cause, grant an additional extension of up to 6 months to fully implement a requirement for which an initial extension has been granted under paragraph (1).

(3) The Commission may not grant any extension under paragraphs (1) or (2) for any information reporting or recordkeeping requirement.

(d) DOMESTIC TRADING ON FOREIGN BOARDS OF TRADE.—Section 3 of this Act shall take effect 180 days after the date of the enactment of this Act.

SUMMARY OF THE CLOSE THE ENRON LOOPHOLE ACT

Closes the ''Enron Loophole.'' The bill would close the Enron loophole and require government oversight of the trading of energy commodities by large traders to prevent price manipulation and excessive speculation.

Since 2000, the ''Enron loophole'' in §2(h)(3) of the Commodity Exchange Act has exempted from oversight the electronic trading of energy commodities by large traders. As a hedge fund known as Amaranth Advisors demonstrated in the natural gas market in 2006, the Enron loophole makes it impossible to prevent traders from distorting energy prices through large trades on these unregulated exchanges. Under this bill, a trading facility that functions as an energy exchange would be subject to Commodity Futures Trading Commission (CFTC) oversight to prevent price manipulation and excessive speculation. The bill would:

Require oversight of Energy Trading Facilities (ETFs). ETFs would have to comply with the same standards that apply to futures exchanges, like NYMEX, to prevent price manipulation and excessive speculation. The only difference would be that regulatory provisions governing retail trading and brokers on a futures exchange would not apply because trading on an ETF is restricted to large traders trading amongst themselves. ETFs would function as self-regulatory organizations under CFTC oversight in the same manner as futures exchanges.

Require ETFs to establish trading limits on traders, such as position limits or accountability levels, to prevent price manipulation and excessive speculation, subject to CFTC approval, in the same manner as futures exchanges. Position limits set a ceiling on the number of contracts that a trader can hold at one time on a trading facility; accountability levels, when exceeded, trigger a review by regulators of a trader's holdings in order to prevent price manipulation and excessive speculation. The CFTC would ensure that position limits and accountability levels for similar contracts on different exchanges are on parity with each other and applied in a functionally equivalent manner. The CFTC would also ensure that a trader's positions on multiple exchanges and other markets, when combined, are not excessive.

Define ''energy commodity'' as a commodity used as a source of energy, including crude oil, gasoline, heating oil, diesel fuel, natural gas, and electricity, or results from the burning of fossil fuels, including carbon dioxide and sulfur dioxide.

Define ''energy trading facility'' as a trading facility that trades contracts in an energy commodity (other than in the cash or spot market) between large traders (''eligible commercial entities''), and provides either for the clearing of those contracts or a price discovery function in the futures or cash market for that energy commodity. Clearing services, which are already subject to CFTC oversight, generally guarantee the performance of a contract, and facilitate the trading of those contracts. A trading facility performs a price discovery function when the price of transactions are publicly disseminated and can affect the prices of subsequent transactions.

Require large-trader reporting for domestic trades on foreign exchanges. Large trades of U.S. energy commodities taking place from the United States on foreign exchanges would have to be reported to the CFTC. Traders would be relieved of this reporting requirement if the CFTC reached agreement with a foreign board of trade to obtain the same information.

CLOSE THE ENRON LOOPHOLE ACT SECTION-BY-SECTION ANALYSIS

Section 1. Short Title

The title of this bill is the ''Close the Enron Loophole Act''.

Sec. 2. Energy trading facilities

This section amends the Commodity Exchange Act (CEA) to regulate energy trading facilities that are currently exempt from Commodity Futures Trading Commission (CFTC) oversight under section 2(h)(3) of the CEA. After defining the terms ''energy commodity'' and ''energy trading facility,'' this section delineates the criteria required for an energy trading facility to be registered with the CFTC. The specified criteria are based upon existing criteria in the CEA for futures markets (designated contract markets) and derivatives transaction execution facilities so that energy trading facilities will operate under a comparable degree of self-regulation and CFTC oversight as current facilities, taking into account certain differences between the types of markets.

Section 2(a). Definitions. This section defines the terms ''energy commodity'' and ''energy trading facility.''

The term ''energy commodity'' means a commodity (other than an excluded commodity, a metal, or an agricultural commodity) that is used as a source of energy or that results from the burning of fossil fuels to produce energy. Examples of energy commodities that are used as a source of energy include crude oil; gasoline, heating oil and other products refined from crude oil; natural gas; and electricity. Examples of energy commodities that result from the burning of fossil fuels to produce energy include carbon dioxide and sulfur dioxide.

The term ''energy trading facility'' means a trading facility (as defined in section la(33) of the CEA) that: (A) is not a designated contract market (DCM); and (B) facilitates the trading of energy commodities between eligible commercial entities (essentially large, sophisticated traders); and either (i) provides a clearing service for products traded on the facility or (ii) the CFTC determines that trading on the facility provides a price discovery function on a trading facility or in the cash market for an energy commodity.

The definition of ''energy trading facility'' represents a subset of trading facilities that would otherwise qualify as ''exempt commercial markets'' under current law. In essence, it requires the regulation of energy trading facilities that exhibit the key attributes of a futures exchange—the trading of standardized and cleared contracts for future delivery of a commodity having a finite supply.

The definition of ''energy trading facility'' excludes the trading of energy commodities that are ''spot sales of a cash commodity or sales of a cash commodity for deferred shipment or delivery,'' since the bill is not intended to apply to the cash market for energy commodities. This exclusion, however, does not encompass contracts that are commonly referred to as ''swaps,'' since swaps are not spot sales of a cash commodity or sales of a cash commodity for deferred shipment or delivery. Because swaps in the energy market are economically and functionally equivalent to futures contracts for energy commodities, this bill ensures that they will be regulated in a functionally equivalent manner.

The definition restricts the bill's application to energy trading facilities that allow only ''exempt commercial entities'' (ECEs) to participate, meaning large sophisticated traders who trade with each other on a principal-to-principal basis. This restriction is identical to the restriction in current law for trading facilities that qualify as exempt commercial markets under section 2(h)(3). A trading facility that permits brokered or intermediated transactions or participation by persons other than ECEs would not qualify as an energy trading facility subject to the type of regulation provided under this bill. Instead, as is the case under current law, a facility that allows the trading of futures contracts by persons other than ECEs must register with and be designated by the CFTC as a contract market subject to the regulations that apply to a DCM.

The definition also addresses the concern that, despite the advantages and widespread use of clearing services to facilitate trading, if the presence of a clearing function triggers regulatory oversight, then alternative trading platforms may develop that do not provide clearing services in order to avoid the reporting and monitoring requirements essential to an effective regulatory system. To address this concern, the bill provides that a trading facility that does not provide clearing services still may qualify as an energy trading facility subject to regulation if the CFTC determines the facility ''performs a significant price discovery function in relation to an energy commodity listed for trading on a trading facility or in the cash market for the energy commodity.'' Factors for the CFTC to consider in determining whether a trading facility performs such a significant price discovery function include the extent to which the prices of contracts traded on the facility are linked to or derived from

the prices of futures contracts traded on a DCM, the volume of trading on the facility, whether prices of completed transactions are immediately posted or disseminated, and the extent to which traders engage in arbitrage trading between the contracts traded on the facility and those traded on a regulated market.

Section 2(b). Oversight of Energy Trading Facilities. This section specifies that an energy trading facility, and any agreement, contract, or transaction traded on that facility, shall be subject to the regulatory requirements established in a new CEA section 2(j).

Section 2(b)(1) amends CEA section 2(h)(3) to exclude energy trading facilities from qualifying as an exempt commercial market in order to make it clear that those facilities must instead comply with the new CEA section 2(j).

Section 2(b)(2) adds a new section 2(h)(7) to the CEA. This new section provides that notwithstanding any other provision of the CEA, an energy trading facility and persons trading on an energy trading facility are subject to the new CEA section 2(j). This clarifying provision means, for example, that a trading facility that meets the criteria for an energy trading facility could not operate as a derivatives transaction execution facility (DTEF) under another provision of the CEA.

Section 2(c). Standards Applicable to Energy Trading Facilities. This section adds a new section 2(j) to the CEA, specifying the standards that an applicant must meet to register with the CFTC as an energy trading facility.

Commission Approval of Energy Trading Facilities. A new section 2(j)(1) makes it illegal for any person to enter into an agreement, contract, or transaction on an energy trading facility unless such facility has been registered with the Commission as an energy trading facility. Section 6 of this bill provides a timeline for facilities in operation on the date of enactment of this Act under CEA section 2(h)(3) to submit an application, obtain registration, and comply with these requirements.

Applications for Operation as Energy Trading Facility. New section 2(j)(2) provides that a facility must submit an application to the Commission for operation as an energy trading facility in order to register as an energy trading facility. The Commission is authorized to establish such application requirements as it deems appropriate. New section 2(j)(3) provides that the Commission shall make a determination on any such application within 120 days after receiving it.

Criteria for Approval of Applications. New section 2(j)(4) specifies the criteria that an applicant must meet for registration as an energy trading facility. Because an energy trading facility may trade instruments that possess the same characteristics as futures contracts traded on a designated contract market, several of the criteria, particularly those regarding prevention of price manipulation, excessive speculation, and price distortion, are identical to the criteria applicable to a designated contract market (DCM). Other DCM criteria are not used, such as those applicable to intermediated or brokered transactions, since those types of transactions are not permitted on an energy trading facility. In addition, because energy trading facilities conduct all trading on a principal-to-principal basis, a number of the criteria applicable to a derivatives transaction execution facility are included in the section. The criteria are as follows.

New section 2(j)(4)(A): PREVENTION OF PRICE MANIPULATION AND EXCESSIVE SPECULATION.—This section requires the facility to have the capacity to prevent price manipulation, excessive speculation, price distortion, and disruption through market surveillance, compliance, and enforcement practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions. The term ''excessive speculation'' as used in this bill has the same meaning as the term ''excessive speculation'' in section 4a(a) of the Act as ''causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity.'' [Equivalent to DCM Criteria: Prevention of Market Manipulation, CEA §5(b)(2)].

New Section 2(j)(4)(B): MONITORING OF TRADING.—This section requires the facility to monitor trading to prevent price manipulation, excessive speculation, price distortion, and disruption of the delivery or cash-settlement process. [Equivalent to DCM Core Principles: Monitoring of Trading, CEA §5(d)(4); see also DTEF Core Principles: Monitoring of Trading, CEA §5a(d)(3)].

New Section 2(j)(4)(C): CONTRACTS NOT READILY SUSCEPTIBLE TO MANIPULATION.—This section requires the facility to list for trading only contracts that are not readily susceptible to manipulation. [Equivalent to DCM Core Principles: Contracts Not Readily Susceptible to Manipulation, CEA §5(d)(3)].

New Section 2(j)(4)(D): FINANCIAL INTEGRITY OF TRANSACTIONS.—This section requires the facility to establish and enforce rules and procedures for ensuring the financial integrity of transactions cleared and settled through the facilities of the energy trading facility. [Based on DCM Criteria: Financial Integrity of Transactions, CEA §5(b)(5); and DTEF Registration Criteria: Transactional Financial Integrity, CEA §5a(c)(4)].

New Section 2(j)(4)(E): ABILITY TO OBTAIN INFORMATION.—This section requires the facility to establish and enforce rules that will allow the facility to obtain any necessary information to perform any of the functions described in this subsection, including the capacity to carry out such international information-sharing agreements as the Commission may require. [Equivalent to DCM Criteria: Ability to Obtain Information, CEA §5(b)(8)].

New Section 2(j)(4)(F): POSITION LIMITS OR ACCOUNTABILITY LEVELS.—This section requires the facility to reduce the potential threat of price manipulation, excessive speculation, price distortion, or disruption of the delivery or cash-settlement process, by adopting position limits or position accountability levels for speculators, where necessary and appropriate. [Equivalent to DCM Core Principles: Position Limitation or Accountability, CEA §5(d)(5)].

New Section 2(j)(4)(G): EMERGENCY AUTHORITY.—This section requires the facility to adopt rules to provide for the exercise of emergency authority to liquidate or transfer open positions in any contract, suspend or curtail trading in any contract, and require market participants in any contract to meet special margin requirements. [Equivalent to DCM Core Principles: Emergency Authority, CEA §5(d)(6)].

New Section 2(j)(4)(H): DAILY PUBLICATION OF TRADING INFORMATION.—This section requires the facility to make public daily information on settlement prices, volume, open interest, and opening and closing ranges for actively traded contracts on the facility. [Equivalent to DCM Core Principle: Daily Publication of Trading Information; CEA §5(d)(8); see also DTEF Core Principles: Daily Publication of Trading Information, CEA §5a(d)(5)].

New Section 2(j)(4)(I): DETERRENCE OF ABUSES.—This section requires the facility to establish and enforce trading and participation rules that will deter abuses and to maintain the capacity to detect, investigate, and enforce those rules. [Based on DTEF Registration Criteria: Deterrence of Abuses, CEA §5a(c)(2)].

New Section 2(j)(4)(J): TRADE INFORMATION.—This section requires the facility to maintain rules and procedures to provide for the recording and safe storage of all identifying trade information in a manner that enables the facility to use the information for the purposes of assisting in the prevention of price manipulation, excessive speculation, price distortion, or disruption of the delivery or cash-settlement process, and providing evidence of any violations of the rules of the facility. [Based on DCM Core Principles: Trade Information, CEA §5(d)(10)].

New Section 2(j)(4)(K): TRADING PROCEDURES.—This section requires the facility to establish and enforce rules or terms and conditions defining, or specifications detailing, trading procedures to be used in entering and executing orders traded on the facility. [Based on DTEF Registration Criteria: Trading Procedures, CEA §5a(c)(3); see also DCM Criteria: Trade Execution Facility, CEA §5(b)(4)].

New Section 2(j)(4)(L): COMPLIANCE WITH RULES.—This section requires the facility to monitor and enforce the rules of the facility, including any terms and conditions of any contracts traded on or through the facility and any limitations on access to the facility. [Equivalent to DTEF Core Principles: Compliance with Rules, CEA §5a(d)(2); see also DCM Core Principles: Compliance with Rules, CEA §5(d)(2)].

New Section 2(j)(4)(M): DISCLOSURE OF GENERAL INFORMATION.—This section requires the facility to disclose publicly and to the Commission information concerning: (i) contract terms and conditions; (ii) trading conventions, mechanisms, and practices; (iii) financial integrity protections; and (iv) other information relevant to participation in trading on the facility. [Equivalent to DTEF Core Principles: Disclosure of General Information, CEA §5a(d)(4); see also DCM Core Principles: Availability of General Information, CEA §5(d)(7)].

New Section 2(j)(4)(N): FITNESS STANDARDS.—This section requires the facility to establish and enforce appropriate fitness standards for directors, members of any disciplinary committee, and any other persons with direct access to the facility, including any parties affiliated with any of the persons described in this paragraph. [Equivalent to DTEF Core Principles: Fitness Standards, CEA §5a(d)(6); see also DCM Core Principles: Governance Fitness Standards, CEA §5(d)(14)].

New Section 2(j)(4)(O): CONFLICTS OF INTEREST.—This section requires the facility to establish and enforce rules to minimize conflicts of interest in the decision making process of the facility and establish a process for resolving such conflicts of interest. [Equivalent to DTEF Core Principles: Conflicts of Interest, CEA §5a(d)(7); and DCM Core Principles: Conflicts of Interest, CEA §5(d)(15)].

New Section 2(j)(4)(P): RECORDKEEPING.—This section requires the facility to maintain business records for a period of 5 years. [Equivalent to DTEF Core Principles: Recordkeeping, CEA §5a(d)(8); and DCM Core Principles: Recordkeeping, CEA §5(d)(17)].

New Section 2(j)(4)(Q): ANTITRUST CONSIDERATIONS.—This section requires the facility to endeavor to avoid: (i) adopting rules or taking any actions that result in any unreasonable restraint of trade; or (ii) imposing any material anticompetitive burden on trading on the facility. [Equivalent to DTEF Core Principles: Antitrust Considerations, CEA §5a(d)(9); and DCM Core Principles: Antitrust Considerations, CEA §5(d)(18)].

Compliance with Criteria. New section 2(j)(5) provides that an energy trading facility must continue to comply with all of the criteria in section 2(j)(4) to continue operation, and that violation of any of the criteria shall constitute a violation of the Commodity Exchange Act. The trading facility shall have reasonable discretion in establishing the manner in which it complies with these criteria.

Position Limits and Accountability Levels. New section 2(j)(6) directs the Commission to ensure that the position limits and accountability levels that are established for energy trading facilities are on a parity with the position limits and accountability levels established for similar contracts traded on a designated contract market and applied in a functionally equivalent manner. This provision is designed to ensure that there is no regulatory advantage to trading on an energy trading facility compared to a designated contract market, or vice versa.

Additionally, once a trader's position exceeds a position limit or an accountability level on a particular trading facility, this section directs the Commission to take such action as may be necessary and appropriate, in light of the trader's overall positions in that commodity, to reduce the potential threat of price manipulation, excessive speculation, price distortion, or disruption of the delivery or cash-settlement process.

Such a comprehensive approach may have to be undertaken by the CFTC, since it may be beyond the authority of a particular trading facility to obtain information about or limit a trader's relevant positions when those positions are outside of the exchange itself. The Commission may direct a trader, or direct a trading facility to direct a trader, to limit, reduce or liquidate any position in any market, as the Commission determines necessary to reduce the potential threat of price manipulation, excessive speculation, price distortion or disruption of the delivery or cash-settlement process.

In order to make a determination on the appropriate action to take, the Commission is authorized to obtain from a trader information regarding all of the trader's exchange and off-exchange positions in that commodity. The Commission will be receiving on a regular basis, through its large trader reporting system, information regarding any trader's positions on a designated contract market or an energy trading facility that exceed the levels for reportable positions; the Commission may choose to request additional information on other positions in the commodity held by the trader if the Commission determines this additional information is necessary to make any determinations required by this section. The authority to obtain this position information parallels the Commission's existing authority under CEA sections 3(b), 4i, and 8a(5) to require traders to retain transaction records for commodities traded on CFTC-regulated facilities and provide them to the Commission upon request. The Commission recently described this authority in its proposed rulemaking ''Maintenance of Books, Records and Reports by Traders,'' 72 Fed. Reg. 34413 (June 22, 2007). The information specified to be provided to the Commission under the new section 2(j)(5)(C) is identical to the information specified to be provided to the Commission in that proposed rulemaking.

The Commission's review of a trader's entire position does not relieve an individual exchange of the authority and responsibility to review a trader's position on that exchange once a position limit or accountability level on that exchange has been exceeded. Rather, it is anticipated that the Commission's comprehensive review of the trader's entire position in a commodity will be undertaken in addition to the review conducted by the individual exchange on which the trader has taken a position in excess of an accountability level or position limit. Based on this comprehensive review, the Commission will then determine whether any additional action, beyond that initially taken by the exchange, is necessary to limit, reduce or liquidate the trader's position to reduce the potential threat of price manipulation, excessive speculation, price distortion, or disruption of the delivery or cash-settlement process. In making or implementing any such determinations, the Commission should continue to work in consultation and cooperation with the affected exchanges.

New section 2(j)(6)(D) specifies criteria the Commission or an exchange may consider when determining whether to require a trader to limit, reduce, or liquidate a position in an energy commodity in excess of an accountability level. In making any such determination with respect to an energy commodity, the Commission, a designated contract market, or an energy trading facility should consider, as appropriate: (i) the person's open interest in a contract, agreement, or transaction involving an energy commodity relative to the total open interest in such contracts, agreements or transactions; (ii) the daily volume of trading such contracts, agreements or transactions; (iii) the person's overall position in related contracts, including options, and the overall open interest or liquidity in such related contracts and options; (iv) the potential for such positions to cause or allow price manipulation, excessive speculation, price distortion, or disruption of the delivery or cash-settlement process; (v) the person's record of compliance with rules, regulations, and orders of the Commission, a designated contract market, or an energy trading facility, as appropriate; (vi) any justification provided by the person for such positions; and (vii) other such factors determined to be appropriate by the Commission.

The criteria specified in this section are not intended to be the exclusive criteria that may be applied, but are set forth to provide additional guidance to the Commission, the exchanges, and persons trading on the exchanges in addition to the general language pertaining to ''excessive speculation'' in section 4 of the CEA.

Section 2(d). Information for Price Discovery Determination. This section provides the Commission with the authority to obtain from an electronic trading facility or a derivatives transaction execution facility any information the Commission determines is necessary for the Commission to evaluate whether such a facility performs a price discovery function in relation to a contract in an energy commodity under the definition of energy trading facility.

Section 2(e). Conforming Amendments. This section amends the CEA in a variety of sections to provide the Commission with a comparable degree of authority over the operation of an energy trading facility that it possesses with respect to a designated contract market or a derivatives transaction execution facility.

Sec. 3. Reporting of Energy Trades

Section 3 of the bill adds a new CEA section 2(k) to require persons that trade from within the United States on a foreign board of trade a contract for future delivery of an energy commodity that has a physical delivery point within the United States to keep records of such trades and to report large trades in such contracts to the Commission. The Commission is authorized to waive the reporting requirement if the Commission determines that a foreign board of trade is providing the Commission with equivalent information in a usable format pursuant to an agreement between the Commission and the foreign board of trade. The purpose of this provision is to ensure that U.S. commodity regulators have full access to trading information from U.S. traders conducting transactions from U.S. locations involving U.S. energy commodities such as crude oil and gasoline.

Sec. 4. Antifraud authority

Section 4 of the bill amends Section 4b of the CEA, the CFTC's main anti-fraud authority. Section 4b is revised to clarify the CFTC's authority to bring fraud actions in off-exchange principal-to-principal futures transactions. In November 2000, the Seventh Circuit Court of Appeals ruled that the CFTC could only use Section 4b in intermediated transactions—those involving a broker. Commodity Trend Service, Inc. v. CFTC, 233 F.3d 981, 991–992 (7th Cir. 2000). As subsequently amended by the CFMA, the CEA now permits off-exchange futures and options transactions that are done on a principal-to-principal basis, such as energy transactions pursuant to CEA Sections 2(h)(1) and 2(h)(3).

Subsection 4b(a)(2) is amended by adding the words 'or with' to address the principal-to-principal transactions. This new language clarifies that the CFTC has the authority to bring anti-fraud actions in off-exchange principal-to-principal futures transactions, including exempt commodity transactions in energy under Section 2(h) as well as all transactions conducted on derivatives transaction execution facilities. The new Section 4b clarifies that market participants in these transactions are not required to disclose information that may be material to the market price, rate or level of the commodity in such off-exchange transactions. It also codifies existing law that prohibits market participants from using half-truths in negotiations and solicitations by requiring a person to disclose all necessary information to make any statement they have made not misleading in any material respect. The prohibitions in subparagraphs (A) through (D) of the new Section 4b(a) would apply to all transactions covered by paragraphs (1) and (2). Derivatives clearing organizations (DCOs) are not subject to fraud actions under Section 4b in connection with their clearing activities.

The amendments to Section 4b(a) of the CEA regarding transactions currently prohibited under subparagraph (iv) (found in paragraph 2(D) of this bill) are not intended to affect in any way the CFTC's historical ability to prosecute cases of indirect bucketing of orders executed on designated contract markets. See, e.g., Reddy v. CFTC, 191 F.3d 109 (2nd Cir. 1999); In re DeFrancesco, et al., CFTC Docket No. 02–09 (CFTC May 22, 2003) (Order Making Findings and Imposing Remedial Sanctions as to Respondent Brian Thornton).

This language clarifying the Commission's anti-fraud authority was included in bills in the previous Congress to reauthorize the Commodity Exchange Act, one of which was passed by the House of Representatives (H.R. 4473, passed by the House on Dec. 14, 2005) and the other of which was reported to the full Senate by the Senate Committee on Agriculture, Nutrition, and Forestry (S. 1566, S. Rpt. No. 109–119; 109th Cong., 1st Sess.).

Sec. 5. Commission rulemaking

Section 5 of the bill requires the CFTC, within 180 days after enactment of this Act, to issue a proposed rule setting forth the process for submitting an application for registration as an energy trading facility. The section requires the CFTC, within 270 days after the date of enactment, to finalize this rule.

Sec. 6. Effective date

Section 6(a) of the bill provides that it shall be immediately effective upon enactment, with several exceptions.

Existing trading facilities. The first exception applies to existing trading facilities. Section 6(b) provides that a trading facility operating under the exemption in CEA section 2(h)(3) on the date of enactment shall have 180 days after the Commission issues a final rule on registration applications to submit such an application. Section 5 of the bill authorizes the Commission to take 270 days to issue this rule. During this period (270 days plus 180 days), the prohibition on trading in the new section 2(j)(1) shall not apply. For any such facility in operation on the date of enactment of this Act that submits an application to the Commission for operation as an energy trading facility within the 180-day period, the suspension of the prohibition in section 2(j)(1) is extended until the Commission makes a determination on whether to approve that application.

Subsection (c) provides that if the Commission approves the registration as an energy trading facility of a facility operating under the exemption under CEA section 2(h)(3) on the date of enactment of this Act, the facility may submit a written request to the Commission for a 6-month extension to fully implement any requirement made applicable by this Act—other than an information reporting or recordkeeping requirement—and that the Commission shall grant any such request. The Commission, in its discretion, may grant an additional 6-month extension. The Commission may not grant any extension for any information reporting or recordkeeping requirement. This section is intended to ensure that facilities currently in operation that must register as an energy trading facility will have sufficient time to come into compliance with the new requirements of this Act, and that the operations of those facilities will not be disrupted during the transition period. Altogether, this section effectively provides existing trading facilities with over two years to come into compliance with the Act.

Requirements applicable to domestic use of a foreign board of trade. Section 6(d) of the bill states that the reporting requirements applicable to trades from domestic terminals on a foreign board of trade are effective 180 days after enactment.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 45—COMMENDING THE ED BLOCK COURAGE AWARD FOUNDATION FOR ITS WORK IN AIDING CHILDREN AND FAMILIES AFFECTED BY CHILD ABUSE, AND DESIGNATING NOVEMBER 2007 AS NATIONAL COURAGE MONTH

Mr. CARDIN (for himself and Mr. CORNYN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 45

Whereas the Ed Block Courage Award was established by Sam Lamantia in 1978 in honor of Ed Block, the head athletic trainer of the Baltimore Colts and a respected humanitarian;

Whereas each year in Baltimore, Maryland, the Foundation honors recipients from the National Football League who have been chosen by their teammates as exemplifying sportsmanship and courage;

Whereas the Ed Block Courage Award has become one of the most esteemed honors bestowed upon players in the NFL;

Whereas the Ed Block Courage Award Foundation has grown from a Baltimore-based local charity to the Courage House National Support Network for Kids operated in partnership with 17 NFL teams in their respective cities; and

Whereas Courage Houses are facilities that provide support and care for abused children and their families in these 17 locations across the country: Baltimore, Maryland, Pittsburgh, Pennsylvania, Chicago, Illinois, Miami, Florida, Detroit, Michigan, Dallas, Texas, Westchester County, New York, Oakland, California, Seattle, Washington, Charlotte, North Carolina, Cleveland, Ohio, Atlanta, Georgia, St. Louis, Missouri, Indianapolis, Indiana, Buffalo, New York, San Francisco, California, and Minneapolis, Minnesota: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) National Courage Month provides an opportunity to educate the people of the United States about the positive role that professional athletes can play as inspirations for America's youth; and

(2) the Ed Block Courage Award Foundation should be recognized for its outstanding contributions toward helping those affected by child abuse.

SENATE CONCURRENT RESOLUTION 46—SUPPORTING THE GOALS AND IDEALS OF SICKLE CELL DISEASE AWARENESS MONTH

Mr. OBAMA submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 46

Whereas Sickle Cell Disease is an inherited blood disorder that is a major health problem in the United States, primarily affecting African Americans;

Whereas Sickle Cell Disease causes the rapid destruction of sickle cells, which results in multiple medical complications, including anemia, jaundice, gallstones, strokes, and restricted blood flow, damaging tissue in the liver, spleen, and kidneys, and death;

Whereas Sickle Cell Disease causes episodes of considerable pain in one's arms, legs, chest, and abdomen;

Whereas Sickle Cell Disease affects over 70,000 Americans;

Whereas approximately 1,000 babies are born with Sickle Cell Disease each year in the United States, with the disease occurring in approximately 1 in 300 newborn African American infants;

Whereas more than 2,000,000 Americans have the sickle cell trait, and 1 in 12 African Americans carry the trait;

Whereas there is a 1 in 4 chance that a child born to parents who both have the sickle cell trait will have the disease;

Whereas the life expectancy of a person with Sickle Cell Disease is severely limited, with an average life span for an adult being 45 years;

Whereas, though researchers have yet to identify a cure for this painful disease, advances in treating the associated complications have occurred;

Whereas researchers are hopeful that in less than two decades, Sickle Cell Disease may join the ranks of chronic illnesses that, when properly treated, do not interfere with the activity, growth, or mental development of affected children;

Whereas Congress recognized the importance of researching, preventing, and treating Sickle Cell Disease by authorizing treatment centers to provide medical intervention, education, and other services and by permitting the Medicaid program to cover some primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease;

Whereas the Sickle Cell Disease Association of America, Inc. remains the preeminent advocacy organization that serves the sickle cell community by focusing its efforts on public policy, research funding, patient services, public awareness, and education related to developing effective treatments and a cure for Sickle Cell Disease; and

Whereas the Sickle Cell Disease Association of America, Inc. has requested that the Congress designate September as Sickle Cell Disease Awareness Month in order to educate communities across the Nation about sickle cell and the need for research funding, early detection methods, effective treatments, and prevention programs: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress supports the goals and ideals of Sickle Cell Disease Awareness Month.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2864. Mr. NELSON of Nebraska (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 2865. Mr. NELSON of Nebraska (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2866. Mr. NELSON of Nebraska (for himself, Mr. GRAHAM, and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2867. Mr. NELSON of Nebraska (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2868. Mr. NELSON of Nebraska (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2869. Mr. NELSON of Nebraska (for himself, Mr. GRAHAM, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2870. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2871. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2872. Mr. KENNEDY (for himself, Mr. SMITH, Mr. LIEBERMAN, Mr. BROWNBACK, Mr. BIDEN, Mr. HAGEL, Mr. LEAHY, Ms. SNOWE, Mr. DURBIN, Mrs . FEINSTEIN, Mr. OBAMA, Mr. MENENDEZ, Mr. LEVIN, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2873. Mrs. FEINSTEIN (for herself, Mr. SPECTER, and Mr. FEINGOLD) submitted an amendment intended to be proposed by her to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2874. Mr. LUGAR (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2875. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2876. Mr. KERRY (for himself, Mr. DOMENICI, Mr. TESTER, Mr. HAGEL, and Mr. OBAMA) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2877. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2878. Mr. HATCH (for himself and Mr. BENNETT) submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2879. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2880. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2881. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2882. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2883. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2884. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2885. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2886. Mrs. FEINSTEIN (for herself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2864. Mr. NELSON of Nebraska (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 96, line 6, insert after ''commissioned service'' the following: ''or on the fifth anniversary of the date of the officer's appointment in the grade of lieutenant general or vice admiral, whichever is later''.

SA 2865. Mr. NELSON of Nebraska (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

SEC. 703. AUTHORITY FOR EXPANSION OF PERSONS ELIGIBLE FOR CONTINUED HEALTH BENEFITS COVERAGE.

(a) AUTHORITY TO SPECIFY ADDITIONAL ELIGIBLE PERSONS.—Subsection (b) of section 1078a of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(4) Any other person specified in regulations prescribed by the Secretary of Defense for purposes of this paragraph who loses entitlement to health care services under this chapter or section 1145 of this title, subject to such terms and conditions as the Secretary shall prescribe in the regulations.''.

(b) ELECTION OF COVERAGE.—Subsection (d) of such section is amended by adding at the end the following new paragraph:

''(4) In the case of a person described in subsection (b)(4), by such date as the Secretary shall prescribe in the regulations required for purposes of that subsection.''.

(c) PERIOD OF COVERAGE.—Subsection (g)(1) of such section is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ''; and ''; and

(3) by adding at the end the following new subparagraph:

''(D) in the case of a person described in subsection (b)(4), the date that is 36 months after the date on which the person loses entitlement to health care services as described in that subsection.''.

SA 2866. Mr. NELSON of Nebraska (for himself, Mr. GRAHAM, and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title V, add the following:

SEC. 594. DEMONSTRATION PROJECTS ON THE PROVISION OF SERVICES TO MILITARY DEPENDENT CHILDREN WITH AUTISM.

(a) DEMONSTRATION PROJECTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Defense may conduct one or more demonstration projects to evaluate improved approaches to the provision of education and treatment services to military dependent children with autism.

(2) PURPOSE.—The purpose of any demonstration project carried out under this section shall be to evaluate strategies for integrated treatment and case manager services that include early intervention and diagnosis, medical care, parent involvement, special education services, intensive behavioral intervention, and language, communications, and other interventions considered appropriate by the Secretary.

(b) REVIEW OF BEST PRACTICES.—In carrying out demonstration projects under this section, the Secretary of Defense shall, in coordination with the Secretary of Education, conduct a review of best practices in the United States in the provision of education and treatment services for children with autism, including an assessment of Federal and State education and treatment services for children with autism in each State, with an emphasis on locations where members of the Armed Forces who qualify for enrollment in the Exceptional Family Member Program of the Department of Defense are assigned.

(c) ELEMENTS.—

(1) ENROLLMENT IN EXCEPTIONAL FAMILY MEMBER PROGRAM.—Military dependent children may participate in a demonstration project under this section only if their military sponsor is enrolled in the Exceptional Family Member Program of the Department of Defense.

(2) CASE MANAGERS.—Each demonstration project shall include the assignment of both medical and special education services case managers which shall be required under the Exceptional Family Member Program pursuant to the policy established by the Secretary of Defense.

(3) INDIVIDUALIZED SERVICES PLAN.—Each demonstration project shall provide for the voluntary development for military dependent children with autism participating in such demonstration project of individualized autism services plans for use by Department of Defense medical and special education services case managers, caregivers, and families to ensure continuity of services throughout the active military service of their military sponsor.

(4) SUPERVISORY LEVEL PROVIDERS.—The Secretary of Defense may utilize for purposes of the demonstration projects personnel who are professionals with a level (as determined by the Secretary) of post-secondary education that is appropriate for the provision of safe and effective services for autism and who are from an accredited educational facility in the mental health, human development, social work, or education field to act as supervisory level providers of behavioral intervention services for autism. In so acting, such personnel may be authorized—

(A) to develop and monitor intensive behavior intervention plans for military dependent children with autism who are participating in the demonstration projects; and

(B) to provide appropriate training in the provision of approved services to such children.

(5) SERVICES UNDER CORPORATE SERVICES PROVIDER MODEL.—(A) In carrying out the demonstration projects, the Secretary may utilize a corporate services provider model.

(B) Employees of a provider under a model referred to in subparagraph (A) shall include personnel who implement special educational and behavioral intervention plans for military dependent children with autism that are developed, reviewed, and maintained by supervisory level providers approved by the Secretary.

(C) In authorizing such a model, the. Secretary shall establish—

(i) minimum education, training, and experience criteria required to be met by employees who provide services to military dependent children with autism;

(ii) requirements for supervisory personnel and supervision, including requirements for supervisor credentials and for the frequency and intensity of supervision; and

(iii) such other requirements as the Secretary considers appropriate to ensure safety

and the protection of the children who receive services from such employees under the demonstration projects.

(6) CONSTRUCTION WITH OTHER SERVICES.—Services provided to military dependent children with autism under the demonstration projects under this section shall be in addition to any other publicly-funded special education services available in a location in which their military sponsor resides.

(d) PERIOD.—

(1) COMMENCEMENT.—If the Secretary determines to conduct demonstration projects under this section, the Secretary shall commence any such demonstration projects not later than 180 days after the date of the enactment of this Act.

(2) MINIMUM PERIOD.—Any demonstration projects conducted under this section shall be conducted for not less than two years.

(e) EVALUATION.—

(1) IN GENERAL.—The Secretary shall conduct an evaluation of each demonstration project conducted under this section.

(2) ELEMENTS.—The evaluation of a demonstration project under this subsection shall include the following:

(A) An assessment of the extent to which the activities under the demonstration project contributed to positive outcomes for military dependent children with autism and their families.

(B) An assessment of the extent to which the activities under the demonstration project led to improvements in services and continuity of care for children with autism.

(C) An assessment of the extent to which the activities under the demonstration project improved military family readiness and enhanced military retention.

(f) REPORTS.—Not later than 30 months after the commencement of any demonstration project authorized by this section, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on such demonstration project. The report on a demonstration project shall include a description of such project, the results of the evaluation under subsection (e) with respect to such project, and a description of plans for the further provision of services for military dependent children with autism under such project.

SA 2867. Mr. NELSON of Nebraska (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, add the following:

SEC. 1107. REPEAL OF AUTHORITY FOR PAYMENT OF UNIFORM ALLOWANCE TO CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) REPEAL.—Section 1593 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81 of such title is amended by striking the item relating to section 1593.

SA 2868. Mr. NELSON of Nebraska (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

SEC. 703. CONTINUATION OF ELIGIBILITY FOR TRICARE STANDARD COVERAGE FOR CERTAIN MEMBERS OF THE SELECTED RESERVE.

(a) IN GENERAL.—Section 706(f) of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2282; 10 U.S.C. 1076d note) is amended—

(1) by striking ''Enrollments'' and inserting ''(1) Except as provided in paragraph (2), enrollments''; and

(2) by adding at the end the following new paragraph:

''(2) The enrollment of a member in TRICARE Standard that is in effect on the day before health care under TRICARE Standard is provided pursuant to the effective date in subsection (g) shall not be terminated by operation of the exclusion of eligibility under subsection (a)(2) of such section 1076d, as so amended, for the duration of the eligibility of the member under TRICARE Standard as in effect on October 16, 2006.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2007.

SA 2869. Mr. NELSON of Nebraska (for himself, Mr. GRAHAM, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, add the following:

SEC. 1107. AUTHORIZATION FOR INCREASED COMPENSATION FOR FACULTY AND STAFF OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

Section 2113(f) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking ''so as'' and inserting ''after consideration of the compensation necessary''; and

(B) by striking ''within the vicinity of the District of Columbia'' and inserting ''identified by the Secretary for purposes of this paragraph''; and

(2) in paragraph (4)—

(A) by striking ''section 5373'' and inserting ''sections 5307 and 5373''; and

(B) by adding at the end the following new sentence: ''In no case may the total amount of compensation paid under paragraph (1) in any year exceed the total amount of annual compensation (excluding expenses) specified in section 102 of title 3.''.

SA 2870. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1044. ANNUAL REPORT ON CASES REVIEWED BY NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE.

Section 4332 of title 38, United States Code, is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), and (6) as paragraphs (3), (4), (5), (6), and (7) respectively;

(2) by inserting after paragraph (1) the following new paragraph (2):

''(2) The number of cases reviewed by the Secretary of Defense under the National Committee for Employer Support of the Guard and Reserve of the Department of Defense during the fiscal year for which the report is made.''; and

(3) in paragraph (5), as so redesignated, by striking ''(2), or (3)'' and inserting ''(2), (3), or (4)''.

SA 2871. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FLEXIBILITY IN PAYING ANNUITIES TO CERTAIN FEDERAL RETIREES WHO RETURN TO WORK.

(a) IN GENERAL.—Section 9902(j) of title 5, United States Code, is amended to read as follows:

''(j) PROVISIONS RELATING TO REEMPLOYMENT.—

''(1) Except as provided under paragraph (2), if an annuitant receiving an annuity from the Civil Service Retirement and Disability Fund becomes employed in a position within the Department of Defense, his annuity shall continue. An annuitant so reemployed shall not be considered an employee for purposes of chapter 83 or 84.

''(2)(A) An annuitant receiving an annuity from the Civil Service Retirement and Disability Fund who becomes employed in a position within the Department of Defense following retirement under section 8336(d)(1) or 8414(b)(1)(A) shall be subject to section 8344 or 8468.

''(B) The Secretary of Defense may, under procedures and criteria prescribed under subparagraph (C), waive the application of the provisions of section 8344 or 8468 on a case-by-case or group basis, for employment of an annuitant referred to in subparagraph (A) in a position in the Department of Defense.

''(C) The Secretary shall prescribe procedures for the exercise of any authority under this paragraph, including criteria for any exercise of authority and procedures for a delegation of authority.

''(D) An employee as to whom a waiver under this paragraph is in effect shall not be considered an employee for purposes of subchapter III of chapter 83 or chapter 84.

''(3)(A) An annuitant retired under section 8336(d)(1) or 8414(b)(1)(A) receiving an annuity from the Civil Service Retirement and Disability Fund, who is employed in a position within the Department of Defense after the date of enactment of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136), may elect to begin coverage under paragraph (2) of this subsection.

''(B) An election for coverage under this paragraph shall be filed not later than the

later of 90 days after the date the Department of Defense—

''(i) prescribes regulations to carry out this subsection; or

''(ii) takes reasonable actions to notify employees who may file an election.

''(C) If an employee files an election under this paragraph, coverage shall be effective beginning on the date of the filing of the election.

''(D) Paragraph (1) shall apply to an individual who is eligible to file an election under subparagraph (A) of this paragraph and does not file a timely election under subparagraph (B) of this paragraph.''.

(b) REGULATIONS.—Not later than 60 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations to carry out the amendment made by this section.

SA 2872. Mr. KENNEDY (for himself, Mr. SMITH, Mr. LIEBERMAN, Mr. BROWNBACK, Mr. BIDEN, Mr. HAGEL, Mr. LEAHY, Ms. SNOWE, Mr. DURBIN, Mrs. FEINSTEIN, Mr. OBAMA, Mr. MENENDEZ, Mr. LEVIN, and Mr. VOINOVICH) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end title VI, insert the following:

Subtitle D—Iraq Refugee Crisis

SEC. 1541. SHORT TITLE.

This subtitle may be cited as the ''Refugee Crisis in Iraq Act''.

SEC. 1542. PROCESSING MECHANISMS.

(a) IN GENERAL.—The Secretary of State shall establish processing mechanisms in Iraq and in countries in the region in which—

(1) aliens described in section 1543 may apply and interview for admission to the United States as refugees; and

(2) aliens described in section 1544(b) may apply and interview for admission to the United States as special immigrants.

(b) REPORT.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Homeland Security, shall submit a report that contains the plans and assessment described in paragraph (2) to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on Foreign Relations of the Senate;

(C) the Committee on the Judiciary of the House of Representatives; and

(D) the Committee on Foreign Affairs of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall—

(A) describe the Secretary's plans to establish the processing mechanisms described in subsection (a); and

(B) contain an assessment of in-country processing that makes use of videoconferencing.

SEC. 1543. UNITED STATES REFUGEE PROGRAM PRIORITIES.

(a) IN GENERAL.—Priority 2 refugees of special humanitarian concern under the refugee resettlement priority system shall include—

(1) Iraqis who were employed by, or worked for or directly with the United States Government, in Iraq;

(2) Iraqis who were employed in Iraq by—

(A) a media or nongovernmental organization headquartered in the United States; or

(B) an organization or entity that has received United States Government funding through an official and documented contract, award, grant, or cooperative agreement;

(3) spouses, children, sons, daughters, siblings, and parents of aliens described in paragraph (1) or section 1544(b)(1); and

(4) Iraqis who are members of a religious or minority community, have been identified by the Department of State as a persecuted group, and have close family members (as described in section 201(b)(2)(A)(i) or 203(a) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i) and 1153(a))) in the United States.

(b) IDENTIFICATION OF OTHER PERSECUTED GROUPS.—The Secretary of State is authorized to identify other Priority 2 groups in Iraq.

(c) INELIGIBLE ORGANIZATIONS AND ENTITIES.—Organizations and entities described in section 1543 shall not include any that appear on the Department of the Treasury's list of Specially Designated Nationals.

(d) SECURITY.—An alien is not eligible to participate in the program authorized under this section if the alien is otherwise inadmissible to the United States under section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)).

SEC. 1544. SPECIAL IMMIGRANT STATUS FOR CERTAIN IRAQIS.

(a) IN GENERAL.—Subject to subsection (c)(1) and notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Secretary of Homeland Security may provide an alien described in subsection (b) with the status of a special immigrant under section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)), if the alien—

(1) or an agent acting on behalf of the alien, submits to the Secretary a petition under section 204 of such Act (8 U.S.C. 1154) for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4));

(2) is otherwise eligible to receive an immigrant visa; and

(3) is otherwise admissible to the United States for permanent residence (excluding the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)).

(b) ALIENS DESCRIBED.—

(1) PRINCIPAL ALIENS.—An alien is described in this subsection if the alien—

(A) is a national of Iraq;

(B) was employed by, or worked for or directly with the United States Government in Iraq, in or after 2003, for an aggregate period of not less than 1 year; and

(C) provided faithful service to the United States Government, which is documented in a positive recommendation or evaluation.

(2) SPOUSES AND CHILDREN.—An alien is described in this subsection if the alien is—

(A) the spouse or child of a principal alien described in paragraph (1); and

(B) is following or accompanying to join the principal alien in the United States.

(c) NUMERICAL LIMITATIONS AND BENEFITS.—

(1) IN GENERAL.—The total number of principal aliens who may be provided special immigrant status under this section may not exceed 5,000 per year for each of the 5 fiscal years beginning after the date of the enactment of this Act.

(2) EXCLUSION FROM NUMERICAL LIMITATIONS.—Aliens provided special immigrant status under this section shall not be counted against any numerical limitation under sections 201(d), 202(a), or 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1151(d), 1152(a), and 1153(b)(4)).

(3) BENEFITS.—Aliens provided special immigrant status under this section shall be eligible for the same resettlement assistance, entitlement programs, and other benefits as refugees admitted under section 207 of the Immigration and Naturalization Act (8 U.S.C. 1157).

(4) CARRY FORWARD.—If the numerical limitation under paragraph (1) is not reached during a given fiscal year, the numerical limitation under paragraph (1) for the following fiscal year shall be increased by a number equal to the difference between—

(A) the number of visas authorized under paragraph (1) for the given fiscal year; and

(B) the number of principal aliens provided special immigrant status under this section during the given fiscal year.

(d) VISA AND PASSPORT ISSUANCE AND FEES.—Neither the Secretary of State nor the Secretary of Homeland Security may charge an alien described in subsection (b) any fee in connection with an application for, or issuance of, a special immigrant visa. The Secretary of State shall ensure that aliens described in this section who are issued special immigrant visas are provided with the appropriate series Iraqi passport necessary to enter the United States.

(e) PROTECTION OF ALIENS.—The Secretary of State, in consultation with other relevant Federal agencies, shall provide an alien described in this section who is applying for a special immigrant visa with protection or the immediate removal from Iraq of such alien if the Secretary determines that such alien is in imminent danger.

(f) SECURITY.—An alien is not eligible to participate in the program authorized under this section if the alien is otherwise inadmissible to the United States under section 212(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)).

(g) DEFINITIONS.—The terms defined in subsections (a) and (b) of section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) have the same meanings when used in this section.

(h) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall promulgate regulations to carry out the provisions of this section, including requirements for background checks.

(i) SAVINGS PROVISION.—Nothing in this section may be construed to affect the authority of the Secretary of Homeland Security under section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163).

SEC. 1545. MINISTER COUNSELORS FOR IRAQI REFUGEES AND INTERNALLY DISPLACED PERSONS.

(a) IN GENERAL.—The Secretary of State shall establish in the embassy of the United States located in Baghdad, Iraq, a Minister Counselor for Iraqi Refugees and Internally Displaced Persons (referred to in this section as the ''Minister Counselor for Iraq'').

(b) DUTIES.—The Minister Counselor for Iraq shall be responsible for the oversight of processing for resettlement of persons considered Priority 2 refugees of special humanitarian concern, special immigrant visa programs in Iraq, and the development and implementation of other appropriate policies and programs concerning Iraqi refugees and internally displaced persons. The Minister Counselor for Iraq shall have the authority to refer persons to the United States refugee resettlement program.

(c) DESIGNATION OF MINISTER COUNSELORS.—The Secretary of State shall designate in the embassies of the United States located in Cairo, Egypt; Amman, Jordan; Damascus, Syria; and Beirut, Lebanon a Minister Counselor to oversee resettlement to

the United States of persons considered Priority 2 refugees of special humanitarian concern in those countries to ensure their applications to the United States refugee resettlement program are processed in an orderly manner and without delay.

SEC. 1546. COUNTRIES WITH SIGNIFICANT POPULATIONS OF DISPLACED IRAQIS.

(a) IN GENERAL.—With respect to each country with a significant population of displaced Iraqis, including Iraq, Jordan, Egypt, Syria, Turkey, and Lebanon, the Secretary of State shall—

(1) as appropriate, consult with other countries regarding resettlement of the most vulnerable members of such refugee populations; and

(2) as appropriate, except where otherwise prohibited by the laws of the United States, develop mechanisms in and provide assistance to countries with a significant population of displaced Iraqis to ensure the well-being and safety of such populations in their host environments.

(b) NUMERICAL LIMITATIONS.—In determining the number of Iraqi refugees who should be resettled in the United States under sections (a) and (b) of section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), the President shall consult nongovernmental organizations that have a presence in Iraq or experience in assessing the problems faced by Iraqi refugees.

(c) ELIGIBILITY FOR ADMISSION AS REFUGEE.—Section 207(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(1)) is amended by adding at the end the following: ''No alien shall be denied the opportunity to apply for admission under this section solely because such alien qualifies as an immediate relative or is eligible for classification as a special immigrant.''.

SEC. 1547. DENIAL OR TERMINATION OF ASYLUM.

Section 208(b) of the Immigration and Nationality Act (8 U.S.C. 1158) is amended by adding at the end the following:

''(4) CHANGED COUNTRY CONDITIONS.—An applicant for asylum or withholding of removal, whose claim was denied by an immigration judge solely on the basis of changed country conditions on or after March 1, 2003, may file a motion to reopen to reconsider his or her claim not later than 6 months after the date of the enactment of the Refugee Crisis in Iraq Act if the applicant—

''(A) is a national of Iraq; and

''(B) remained in the United States on such date of enactment.''.

SEC. 1548. REPORTS.

(a) SECRETARY OF HOMELAND SECURITY.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report containing plans to expedite the processing of Iraqi refugees for resettlement to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on Foreign Relations of the Senate;

(C) the Committee on the Judiciary of the House of Representatives; and

(D) the Committee on Foreign Affairs of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall—

(A) detail the plans of the Secretary for expediting the processing of Iraqi refugees for resettlement including through temporary expansion of the Refugee Corps of United States Citizenship and Immigration Services; and

(B) describe the plans of the Secretary for enhancing existing systems for conducting background and security checks of persons applying for Special Immigrant Visas and of persons considered Priority 2 refugees of special humanitarian concern under this subtitle, which enhancements shall support immigration security and provide for the orderly processing of such applications without delay.

(b) PRESIDENT.—Not later than 90 days after the date of the enactment of this Act, and annually thereafter, the President shall submit to Congress an unclassified report, with a classified annex if necessary, which includes—

(1) an assessment of the financial, security, and personnel considerations and resources necessary to carry out the provisions of this subtitle;

(2) the number of aliens described in section 1543(1);

(3) the number of such aliens who have applied for special immigrant visas;

(4) the date of such applications; and

(5) in the case of applications pending for more than 6 months, the reasons that visas have not been expeditiously processed.

(c) REPORT ON IRAQI NATIONALS EMPLOYED BY THE UNITED STATES GOVERNMENT AND FEDERAL CONTRACTORS IN IRAQ.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, the Secretary of State, the Administrator of the United States Agency for International Development, the Secretary of the Treasury, and the Secretary of Homeland Security shall—

(A) review internal records and databases of their respective agencies for information that can be used to verify employment of Iraqi nationals by the United States Government; and

(B) solicit from each prime contractor or grantee that has performed work in Iraq since March 2003 under a contract, grant, or cooperative agreement with their respective agencies that is valued in excess of $25,000 information that can be used to verify the employment of Iraqi nationals by such contractor or grantee.

(2) INFORMATION REQUIRED.—To the extent data is available, the information referred to in paragraph (1) shall include the name and dates of employment of, biometric data for, and other data that can be used to verify the employment of, each Iraqi national that has performed work in Iraq since March 2003 under a contract, grant, or cooperative agreement with an executive agency.

(3) EXECUTIVE AGENCY DEFINED.—In this subsection, the term ''executive agency'' has the meaning given the term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(d) REPORT ON ESTABLISHMENT OF DATABASE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of State, the Administrator of the United States Agency for International Development, the Secretary of the Treasury, and the Secretary of Homeland Security, shall submit to Congress a report examining the options for establishing a unified, classified database of information related to contracts, grants, or cooperative agreements entered into by executive agencies for the performance of work in Iraq since March 2003, including the information described and collected under subsection (c), to be used by relevant Federal departments and agencies to adjudicate refugee, asylum, special immigrant visa, and other immigration claims and applications.

(e) NONCOMPLIANCE REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit a report to Congress that describes—

(1) the inability or unwillingness of any contractors or grantees to provide the information requested under subsection (c); and

(2) the reasons for failing to provide such information.

SEC. 1549. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

SA 2873. Mrs. FEINSTEIN (for herself, Mr. SPECTER, and Mr. FEINGOLD) submitted an amendment intended to be proposed by her to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

After section 1058, insert the following:

SEC. 1059. CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES.

(a) SHORT TITLE.—This section may be cited as the ''Equal Justice for United States Military Personnel Act of 2007''.

(b) IN GENERAL.—Section 1259 of title 28, United States Code, is amended—

(1) in paragraph (3), by inserting ''or denied'' after ''granted''; and

(2) in paragraph (4), by inserting ''or denied'' after ''granted''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 867a(a) of title 10, United States Code, is amended by striking ''The Supreme Court may not review by a writ of certiorari under this section any action of the Court of Appeals for the Armed Forces in refusing to grant a petition for review.''.

SA 2874. Mr. LUGAR (for himself and Mr. BIDEN) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

Subtitle D—Reconstruction and Stabilization Civilian Management

SEC. 1241. SHORT TITLE.

This subtitle may be cited as the ''Reconstruction and Stabilization Civilian Management Act of 2007''.

SEC. 1242. FINDING; PURPOSE.

(a) FINDING.—Congress finds that the resources of the United States Armed Forces have been burdened by having to undertake stabilization and reconstruction tasks in the Balkans, Afghanistan, Iraq, and other countries of the world that could have been performed by civilians, which has resulted in lengthy deployments for Armed Forces personnel.

(b) PURPOSE.—The purpose of this subtitle is to provide for the continued development, as a core mission of the Department of State and the United States Agency for International Development, of an effective expert civilian response capability to carry out reconstruction and stabilization activities in a country or region that is at risk of, in, or is in transition from, conflict or civil strife.

SEC. 1243. DEFINITIONS.

In this subtitle:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the United States Agency for International Development.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Relations of the Senate; and

(B) the Committee on Foreign Affairs of the House of Representatives.

(3) DEPARTMENT.—Except as otherwise provided in this subtitle, the term ''Department'' means the Department of State.

(4) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of State.

SEC. 1244. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the civilian element of United States joint civilian-military operations should be strengthened in order to enhance the execution of current and future reconstruction and stabilization activities in foreign countries or regions that are at risk of, in, or are in transition from, conflict or civil strife;

(2) the capability of civilian agencies of the United States Government to carry out reconstruction and stabilization activities in such countries or regions should also be enhanced through a new rapid response corps of civilian experts supported by the establishment of a new system of planning, organization, personnel policies, and education and training, and the provision of adequate resources;

(3) the international community, including nongovernmental organizations, and the United Nations and its specialized agencies, should be further encouraged to participate in planning and organizing reconstruction and stabilization activities in such countries or regions;

(4) the executive branch has taken a number of steps to strengthen civilian capability, including the establishment of an office headed by a Coordinator for Reconstruction and Stabilization in the Department, the Presidential designation of the Secretary as the interagency coordinator and leader of reconstruction and stabilization efforts, and Department of Defense directives to the military to support the Office of Reconstruction and Stabilization and to work closely with counterparts in the Department of State and other civilian agencies to develop and enhance personnel, training, planning, and analysis;

(5) the Secretary and the Administrator should work with the Secretary of Defense to augment existing personnel exchange programs among the Department, the United States Agency for International Development, and the Department of Defense, including the regional commands and the Joint Staff, to enhance the stabilization and reconstruction skills of military and civilian personnel and their ability to undertake joint operations; and

(6) the heads of other executive agencies should establish personnel exchange programs that are designed to enhance the stabilization and reconstruction skills of military and civilian personnel.

SEC. 1245. OFFICE OF THE COORDINATOR FOR RECONSTRUCTION AND STABILIZATION.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651 et seq.) is amended by adding at the end the following new section:

''SEC. 62. RECONSTRUCTION AND STABILIZATION.

''(a) OFFICE OF THE COORDINATOR FOR RECONSTRUCTION AND STABILIZATION.—

''(1) ESTABLISHMENT.—There is established within the Department of State the Office of the Coordinator for Reconstruction and Stabilization.

''(2) COORDINATOR FOR RECONSTRUCTION AND STABILIZATION.—The head of the Office shall be the Coordinator for Reconstruction and Stabilization, who shall be appointed by the President, by and with the advice and consent of the Senate. The Coordinator shall serve at the sole direction of, and report solely to, the Secretary of State or the Deputy Secretary of State and shall have the rank and status of Ambassador at Large.

''(3) FUNCTIONS.—The functions of the Office of the Coordinator for Reconstruction and Stabilization include the following:

''(A) Monitoring, in coordination with relevant bureaus within the Department of State, political and economic instability worldwide to anticipate the need for mobilizing United States and international assistance for the stabilization and reconstruction of countries or regions that are at risk of, in, or are in transition from, conflict or civil strife.

''(B) Assessing the various types of stabilization and reconstruction crises that could occur and cataloging and monitoring the non-military resources and capabilities of Executive agencies that are available to address such crises.

''(C) Planning to address appropriate nonmilitary requirements, such as demobilization, policing, human rights monitoring, and public information, that commonly arise in stabilization and reconstruction crises.

''(D) Coordinating with relevant Executive agencies (as that term is defined in section 105 of title 5, United States Code) to develop interagency contingency plans to mobilize and deploy civilian personnel to address the various types of such crises.

''(E) Entering into appropriate arrangements with other Executive agencies to carry out activities under this section and the Reconstruction and Stabilization Civilian Management Act of 2007.

''(F) Identifying personnel in State and local governments and in the private sector who are available to participate in the Response Readiness Corps established under subsection (c) or to otherwise participate in or contribute to stabilization and reconstruction activities.

''(G) Taking steps to ensure that training of civilian personnel to perform such stabilization and reconstruction activities is adequate and, as appropriate, includes security training that involves exercises and simulations with the Armed Forces, including the regional commands.

''(H) Sharing information and coordinating plans for stabilization and reconstruction activities, as appropriate, with the United Nations and its specialized agencies, the North Atlantic Treaty Organization, nongovernmental organizations, and other foreign national and international organizations.

''(I) Coordinating plans and procedures for joint civilian-military operations with respect to stabilization and reconstruction activities.

''(J) Maintaining the capacity to field on short notice an evaluation team to undertake on-site needs assessment.

''(b) RESPONSE TO STABILIZATION AND RECONSTRUCTION CRISIS.—If the President determines that it is important to the national interests of the United States for United States civilian agencies or non-Federal employees to assist in stabilizing and reconstructing a country or region that is at risk of, in, or is in transition from, conflict or civil strife, the President may—

''(1) designate the Coordinator, or such other individual as the President may determine appropriate, as the coordinator of the United States response, and the individual so designated, or, in the event the President does not make such a designation, the Coordinator for Reconstruction and Stabilization, shall—

''(A) assess the immediate and long-term need for resources and civilian personnel;

''(B) identify and mobilize non-military resources to respond to the crisis; and

''(C) coordinate the activities of the other individuals or management team, if any, designated by the President to manage the United States response;

''(2) exercise the authorities contained in sections 552(c)(2) and 610 of the Foreign Assistance Act of 1961 (22 U.S.C. 2348a(c)(2) and 2360) without regard to the percentage and aggregate dollar limitations contained in such sections; and

''(3) furnish assistance to respond to the crisis in accordance with the provisions set forth in section 614(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(a)(3)), including funds made available under such Act (22 U.S.C. 2151 et seq.) and transferred or reprogrammed for purposes of this section.''.

SEC. 1246. RESPONSE READINESS CORPS.

(a) IN GENERAL.—Section 62 of the State Department Basic Authorities Act of 1956 (as added by section 1245) is amended by adding at the end the following new subsection:

''(c) RESPONSE READINESS CORPS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the United States Agency for International Development and the heads of other appropriate departments and agencies of the United States Government, is authorized to establish and maintain a Response Readiness Corps (hereafter referred to in this subsection as the 'Corps') to provide assistance in support of stabilization and reconstruction activities in foreign countries or regions that are at risk of, in, or are in transition from, conflict or civil strife.

''(2) FEDERAL COMPONENTS.—

''(A) ACTIVE AND STANDBY COMPONENTS.—The Corps shall have active and standby components consisting of United States Government personnel as follows:

''(i) An active component, which should consist of 250 personnel who are recruited, employed, and trained in accordance with this paragraph.

''(ii) A standby component, which should consist of 2000 personnel who are recruited and trained in accordance with this paragraph.

''(B) AUTHORIZED MEMBERS OF STANDBY COMPONENT.—Personnel in the standby component of the Corps may include employees of the Department of State (including Foreign Service Nationals), employees of the United States Agency for International Development, employees of any other executive agency (as that term is defined in section 105 of title 5, United States Code), and employees of the legislative branch and judicial branch of Government—

''(i) who are assigned to the standby component by the Secretary following nomination for such assignment by the head of the department or agency of the United States Government concerned or by an appropriate official of the legislative or judicial branch of Government, as applicable; and

''(ii) who—

''(I) have the training and skills necessary to contribute to stabilization and reconstruction activities; and

''(II) have volunteered for deployment to carry out stabilization and reconstruction activities.

''(C) RECRUITMENT AND EMPLOYMENT.—The recruitment and employment of personnel to the Corps shall be carried out by the Secretary, the Administrator of the United States Agency for International Development, and the heads of the other departments and agencies of the United States

Government participating in the establishment and maintenance of the Corps.

''(D) TRAINING.—The Secretary is authorized to train the members of the Corps under this paragraph to perform services necessary to carry out the purpose of the Corps under paragraph (1).

''(E) COMPENSATION.—Members of the active component of the Corps under subparagraph (A)(i) shall be compensated in accordance with the appropriate salary class for the Foreign Service, as set forth in sections 402 and 403 of the Foreign Service Act of 1980 (22 U.S.C. 3962, 3963), or in accordance with the appropriate compensation provisions of title 5, United States Code.

''(3) CIVILIAN RESERVE.—

''(A) CIVILIAN RESERVE.—The Corps shall have a reserve (hereafter referred to in this subsection as the 'Civilian Reserve') consisting of non-United States Government personnel who are trained and available as needed to perform services necessary to carry out the purpose of the Corps under paragraph (1). The Civilian Reserve shall be established by the Secretary, in consultation with the Administrator of the Unites States Agency for International Development and the heads of other appropriate departments and agencies of the United States Government.

''(B) COMPOSITION.—Beginning not later than two years after the date of the enactment of the Reconstruction and Stabilization Civilian Management Act of 2007, the Civilian Reserve shall include at least 500 personnel, who may include retired employees of the United States Government, contractor personnel, nongovernmental organization personnel, State and local government employees, and individuals from the private sector, who—

''(i) have the training and skills necessary to enable them to contribute to stabilization and reconstruction activities;

''(ii) have volunteered to carry out stabilization and reconstruction activities; and

''(iii) are available for training and deployment to carry out the purpose of the Corps under paragraph (1).

''(4) USE OF RESPONSE READINESS CORPS.—

''(A) FEDERAL ACTIVE COMPONENT.—Members of the active component of the Corps under paragraph (2)(A)(i) are authorized to be available—

''(i) for activities in direct support of stabilization and reconstruction activities; and

''(ii) if not engaged in activities described in clause (i), for assignment in the United States, United States diplomatic missions, and United States Agency for International Development missions.

''(B) FEDERAL STANDBY COMPONENT AND CIVILIAN RESERVE.—The Secretary may deploy members of the Federal standby component of the Corps under paragraph (2)(A)(ii), and members of the Civilian Reserve under paragraph (3), in support of stabilization and reconstruction activities in a foreign country or region if the President makes a determination regarding a stabilization and reconstruction crisis under subsection (b).''.

(b) EMPLOYMENT AUTHORITY.—The full-time personnel in the active component of the Response Readiness Corps under section 62(c)(2)(A)(i) of the State Department Basic Authorities Act of 1956 (as added by subsection (a)) are in addition to any other full-time personnel authorized to be employed under any other provision of law.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on the status of efforts to establish the Response Readiness Corps under this section. The report should include recommendations for any legislation necessary to implement section 62(c) of the State Department Basic Authorities Act of 1956 (as so added).

SEC. 1247. STABILIZATION AND RECONSTRUCTION TRAINING AND EDUCATION.

Section 701 of the Foreign Service Act of 1980 (22 U.S.C. 4021) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection:

''(g) STABILIZATION AND RECONSTRUCTION CURRICULUM.—

''(1) ESTABLISHMENT AND MISSION.—The Secretary, in cooperation with the Secretary of Defense and the Secretary of the Army, is authorized to establish a stabilization and reconstruction curriculum for use in programs of the Foreign Service Institute, the National Defense University, and the United States Army War College.

''(2) CURRICULUM CONTENT.—The curriculum should include the following:

''(A) An overview of the global security environment, including an assessment of transnational threats and an analysis of United States policy options to address such threats.

''(B) A review of lessons learned from previous United States and international experiences in stabilization and reconstruction activities.

''(C) An overview of the relevant responsibilities, capabilities, and limitations of various Executive agencies (as that term is defined in section 105 of title 5, United States Code) and the interactions among them.

''(D) A discussion of the international resources available to address stabilization and reconstruction requirements, including resources of the United Nations and its specialized agencies, nongovernmental organizations, private and voluntary organizations, and foreign governments, together with an examination of the successes and failures experienced by the United States in working with such entities.

''(E) A study of the United States interagency system.

''(F) Foreign language training.

''(G) Training and simulation exercises for joint civilian-military emergency response operations.''.

SEC. 1248. SERVICE RELATED TO STABILIZATION AND RECONSTRUCTION.

(a) PROMOTION PURPOSES.—Service in stabilization and reconstruction operations overseas, membership in the Response Readiness Corps under section 62(c) of the State Department Basic Authorities Act of 1956 (as added by section 1246), and education and training in the stabilization and reconstruction curriculum established under section 701(g) of the Foreign Service Act of 1980 (as added by section 1247) should be considered among the favorable factors for the promotion of employees of Executive agencies.

(b) PERSONNEL TRAINING AND PROMOTION.—The Secretary and the Administrator should take steps to ensure that, not later than 3 years after the date of the enactment of this Act, at least 10 percent of the employees of the Department and the United States Agency for International Development in the United States are members of the Response Readiness Corps or are trained in the activities of, or identified for potential deployment in support of, the Response Readiness Corps. The Secretary should provide such training as needed to Ambassadors and Deputy Chiefs of Mission.

(c) OTHER INCENTIVES AND BENEFITS.—The Secretary and the Administrator may establish and administer a system of awards and other incentives and benefits to confer appropriate recognition on and reward any individual who is assigned, detailed, or deployed to carry out stabilization or reconstruction activities in accordance with this subtitle.

SEC. 1249. AUTHORITIES RELATED TO PERSONNEL.

(a) CONTRACTING AUTHORITY.—

(1) IN GENERAL.—The Secretary, or the Administrator with the concurrence of the Secretary, may enter into contracts to procure the services of nationals of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or aliens authorized to be employed in the United States as personal services contractors for the purpose of carrying out this subtitle, without regard to Civil Service or classification laws, for service in the Office of the Coordinator for Reconstruction and Stabilization or for service in foreign countries to assist in stabilizing and reconstructing a country or region that is at risk of, in, or is in transition from, conflict or civil strife. Such contracts are authorized to be negotiated, the terms of the contracts to be prescribed, and the work to be performed, where necessary, without regard to such statutory provisions as relate to the negotiation, making, and performance of contracts and performance of work in the United States.

(2) STATUS OF CONTRACTORS.—Individuals performing services under contracts described in paragraph (1) shall not by virtue of performing such services be considered to be employees of the United States Government for purposes of any law administered by the Office of Personnel Management. The Secretary or Administrator may determine the applicability to such individuals of any law administered by the Secretary or Administrator concerning the performance of such services by such individuals. Individuals employed by contract under the authority provided in paragraph (1) shall be considered employees for the purposes of parts 2600 through 2641 of title 5, Code of Federal Regulations, and sections 201, 203, 205, 207, 208, and 209 of title 18, United States Code.

(b) EXPERTS AND CONSULTANTS.—The Secretary and the Administrator may, to the extent necessary to obtain services without delay, employ experts and consultants under section 3109 of title 5, United States Code, for the purpose of carrying out this subtitle.

(c) AUTHORITY TO ACCEPT AND ASSIGN DETAILS.—The Secretary is authorized to accept details or assignments of employees of Executive agencies, members of the uniformed services, and employees of State or local governments on a reimbursable or nonreimbursable basis for the purpose of carrying out this subtitle. The assignment of an employee of a State or local government under this subsection shall be consistent with subchapter VI of chapter 33 of title 5, United States Code.

(d) DUAL COMPENSATION WAIVER.—

(1) ANNUITANTS UNDER CIVIL SERVICE RETIREMENT SYSTEM OR FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Notwithstanding sections 8344(i) and 8468(f) of title 5, United States Code, the Secretary or the head of another executive agency, as authorized by the Secretary, may waive the application of subsections (a) through (h) of such section 8344 and subsections (a) through (e) of such section 8468 with respect to annuitants under the Civil Service Retirement System or the Federal Employees Retirement System who are assigned, detailed, or deployed to assist in stabilizing and reconstructing a country or region that is at risk of, in, or is in transition from, conflict or civil strife during the period of their reemployment.

(2) ANNUITANTS UNDER FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM OR FOREIGN SERVICE PENSION SYSTEM.—The Secretary may waive the application of subsections (a) through (d) of section 824 of the Foreign

Service Act (22 U.S.C. 4064) for annuitants under the Foreign Service Retirement and Disability System or the Foreign Service Pension System who are reemployed on a temporary basis in order to be assigned, detailed, or deployed to assist in stabilization and reconstruction activities under this subtitle.

(e) INCREASE IN PREMIUM PAY CAP.—The Secretary, or the head of another executive agency as authorized by the Secretary, may compensate an employee detailed, assigned, or deployed to assist in stabilizing and reconstructing a country or region that is at risk of, in, or is in transition from, conflict or civil strife, without regard to the limitations on premium pay set forth in section 5547 of title 5, United States Code, to the extent that the aggregate of the basic pay and premium pay of such employee for a year does not exceed the annual rate payable for level II of the Executive Schedule.

(f) EXTENSION OF CERTAIN FOREIGN SERVICE BENEFITS.—The Secretary, or the head of another executive agency as authorized by the Secretary, may extend to any individuals assigned, detailed, or deployed to carry out stabilization and reconstruction activities in accordance with this subtitle, the benefits or privileges set forth in sections 412, 413, 704, and 901 of the Foreign Service Act of 1980 (22 U.S.C. 3972, 22 U.S.C. 3973, 22 U.S.C. 4024, and 22 U.S.C. 4081) to the same extent and manner that such benefits and privileges are extended to members of the Foreign Service.

(g) COMPENSATORY TIME.—Notwithstanding any other provision of law, the Secretary, or the head of another executive agency as authorized by the Secretary, may, subject to the consent of an individual who is assigned, detailed, or deployed to carry out stabilization and reconstruction activities in accordance with this subtitle, grant such individual compensatory time off for an equal amount of time spent in regularly or irregularly scheduled overtime work. Credit for compensatory time off earned shall not form the basis for any additional compensation. Any such compensatory time not used within 26 pay periods shall be forfeited.

(h) ACCEPTANCE OF VOLUNTEER SERVICES.—

(1) IN GENERAL.—The Secretary may accept volunteer services for the purpose of carrying out this subtitle without regard to section 1342 of title 31, United States Code.

(2) TYPES OF VOLUNTEERS.—Donors of voluntary services accepted for purposes of this section may include—

(A) advisors;

(B) experts;

(C) consultants; and

(D) persons performing services in any other capacity determined appropriate by the Secretary.

(3) SUPERVISION.—The Secretary shall—

(A) ensure that each person performing voluntary services accepted under this section is notified of the scope of the voluntary services accepted;

(B) supervise the volunteer to the same extent as employees receiving compensation for similar services; and

(C) ensure that the volunteer has appropriate credentials or is otherwise qualified to perform in each capacity for which the volunteer's services are accepted.

(4) APPLICABILITY OF LAW RELATING TO FEDERAL GOVERNMENT EMPLOYEES.—A person providing volunteer services accepted under this section shall not be considered an employee of the Federal Government in the performance of those services, except for the purposes of the following provisions of law:

(A) Chapter 81 of title 5, United States Code, relating to compensation for work-related injuries.

(B) Chapter 11 of title 18, United States Code, relating to conflicts of interest.

(5) APPLICABILITY OF LAW RELATING TO VOLUNTEER LIABILITY PROTECTION.—

(A) IN GENERAL.—A person providing volunteer services accepted under this section shall be deemed to be a volunteer of a nonprofit organization or governmental entity, with respect to the accepted services, for purposes of the Volunteer Protection Act of 1997 (42 U.S.C. 14501 et seq.).

(B) INAPPLICABILITY OF EXCEPTIONS TO VOLUNTEER LIABILITY PROTECTION.—Section 4(d) of such Act (42 U.S.C. 14503(d)) does not apply with respect to the liability of a person with respect to services of such person that are accepted under this section.

(i) AUTHORITY FOR OUTSIDE ADVISORS.—

(1) IN GENERAL.—The Secretary may establish temporary advisory commissions composed of individuals with appropriate expertise to facilitate the carrying out of this subtitle.

(2) INAPPLICABILITY OF FACA.—The requirements of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of a commission established under this subsection.

SEC. 1250. PREVIOUSLY APPROPRIATED FUNDS.

There are authorized to be appropriated for the Department of State under the heading ''DIPLOMATIC AND CONSULAR PROGRAMS'' such sums as may be available under section 3810 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (Public Law 110–28; 121 Stat. 151) to support and maintain a civilian reserve corps.

SA 2875. Mr. BOND submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 1064 and insert the following:

SEC. 1064. SECURITY CLEARANCES; LIMITATIONS.

(a) IN GENERAL.—Title III of the Intelligence Reform and Terrorism Prevention Act of 2004 (50 U.S.C. 435b) is amended by adding at the end the following new section:

''SEC. 3002. SECURITY CLEARANCES; LIMITATIONS.

''(a) DEFINITIONS.—In this section:

''(1) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given that term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

''(2) COVERED PERSON.—The term 'covered person' means—

''(A) an officer or employee of a Federal agency;

''(B) a member of the Army, Navy, Air Force, or Marine Corps who is on active duty or is in an active status; and

''(C) an officer or employee of a contractor of a Federal agency.

''(3) RESTRICTED DATA.—The term 'Restricted Data' has the meaning given that term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

''(4) SPECIAL ACCESS PROGRAM.—The term 'special access program' has the meaning given that term in section 4.1 of Executive Order 12958 (60 Fed. Reg. 19825).

''(b) PROHIBITION.—After January 1, 2008, the head of a Federal agency may not grant or renew a security clearance for a covered person who is—

''(1) an unlawful user of, or is addicted to, a controlled substance; or

''(2) mentally incompetent, as determined by an adjudicating authority, based on an evaluation by a duly qualified mental health professional employed by, or acceptable to and approved by, the United States government and in accordance with the adjudicative guidelines required by subsection (d).

''(c) DISQUALIFICATION.—

''(1) IN GENERAL.—After January 1, 2008, absent an express written waiver granted in accordance with paragraph (2), the head of a Federal agency may not grant or renew a security clearance described in paragraph (3) for a covered person who has been—

''(A) convicted in any court of the United States of a crime, was sentenced to imprisonment for a term exceeding 1 year, and was incarcerated as a result of that sentence for not less than 1 year; or

''(B) discharged or dismissed from the Armed Forces under dishonorable conditions.

''(2) WAIVER AUTHORITY.—In a meritorious case, an exception to the disqualification in this subsection may be authorized if there are mitigating factors. Any such waiver may be authorized only in accordance with standards and procedures prescribed by, or under the authority of, an Executive Order or other guidance issued by the President.

''(3) COVERED SECURITY CLEARANCES.—This subsection applies to security clearances that provide for access to—

''(A) special access programs;

''(B) Restricted Data; or

''(C) any other information commonly referred to as 'sensitive compartmented information'.

''(4) ANNUAL REPORT.—

''(A) REQUIREMENT FOR REPORT.—Not later than February 1 of each year, the head of a Federal agency shall submit a report to the appropriate committees of Congress if such agency employs or employed a person for whom a waiver was granted in accordance with paragraph (2) during the preceding year. Such annual report shall not reveal the identity of such person, but shall include for each waiver issued the disqualifying factor under paragraph (1) and the reasons for the waiver of the disqualifying factor.

''(B) DEFINITIONS.—In this paragraph:

''(i) APPROPRIATE COMMITTEES OF CONGRESS.—The term 'appropriate committees of Congress' means, with respect to a report submitted under subparagraph (A) by the head of a Federal agency—

''(I) the congressional intelligence committees;

''(II) the Committee on Homeland Security and Governmental Affairs of the Senate;

''(III) the Committee on Oversight and Government Reform of the House of Representatives; and

''(IV) each Committee of the Senate or the House of Representatives with oversight authority over such Federal agency.

''(ii) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

''(d) ADJUDICATIVE GUIDELINES.—

''(1) REQUIREMENT TO ESTABLISH.—The President shall establish adjudicative guidelines for determining eligibility for access to classified information.

''(2) REQUIREMENTS RELATED TO MENTAL HEALTH.—The guidelines required by paragraph (1) shall—

''(A) include procedures and standards under which a covered person is determined to be mentally incompetent and provide a means to appeal such a determination; and

''(B) require that no negative inference concerning the standards in the guidelines may be raised solely on the basis of seeking mental health counseling.''.

(b) CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 986 of title 10, United States Code, is repealed.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 49 of such title is amended by striking the item relating to section 986.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2008.

SA 2876. Mr. KERRY (for himself, Mr. DOMENICI, Mr. TESTER, Mr. HAGEL, and Mr. OBAMA) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

SEC. 703. CENTER OF EXCELLENCE IN PREVENTION, DIAGNOSIS, MITIGATION, TREATMENT, AND REHABILITATION OF MILITARY EYE INJURIES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1105 the following new section:

"§ 1105a. Center of Excellence in Prevention, Diagnosis, Mitigation, Treatment, and Rehabilitation of Military Eye Injuries

''(a) IN GENERAL.—The Secretary of Defense shall establish within the Department of Defense a center of excellence in the prevention, diagnosis, mitigation, treatment, and rehabilitation of military eye injuries to carry out the responsibilities specified in subsection (c). The center shall be known as a 'Center of Excellence in Prevention, Diagnosis, Mitigation, Treatment, and Rehabilitation of Military Eye Injuries'.

''(b) PARTNERSHIPS.—The Secretary shall ensure that the Center collaborates to the maximum extent practicable with the Department of Veterans Affairs, institutions of higher education, and other appropriate public and private entities (including international entities) to carry out the responsibilities specified in subsection (c).

''(c) RESPONSIBILITIES.—(1) The Center shall—

''(A) develop, implement, and oversee a registry of information for the tracking of the diagnosis, surgical intervention or other operative procedure, other treatment, and follow up for each case of eye injury incurred by a member of the armed forces in combat that requires surgery or other operative intervention; and

''(B) ensure the electronic exchange with Secretary of Veterans Affairs of information obtained through tracking under subparagraph (A).

''(2) The registry under this subsection shall be known as the 'Military Eye Injury Registry'.

''(3) The Center shall develop the Registry in consultation with the ophthalmological specialist personnel and optometric specialist personnel of the Department of Defense. The mechanisms and procedures of the Registry shall reflect applicable expert research on military and other eye injuries.

''(4) The mechanisms of the Registry for tracking under paragraph (1)(A) shall ensure that each military medical treatment facility or other medical facility shall submit to the Center for inclusion in the Registry information on the diagnosis, surgical intervention or other operative procedure, other treatment, and follow up for each case of eye injury described in that paragraph as follows (to the extent applicable):

''(A) Not later than 72 hours after surgery or other operative intervention.

''(B) Any clinical or other operative intervention done within 30 days, 60 days, or 120 days after surgery or other operative intervention as a result of a follow-up examination.

''(C) Not later than 180 days after surgery or other operative intervention.

''(5)(A) The Center shall provide notice to the Blind Service or Low Vision Optometry Service, as applicable, of the Department of Veterans Affairs on each member of the armed forces described in subparagraph (B) for purposes of ensuring the coordination of the provision of visual rehabilitation benefits and services by the Department of Veterans Affairs after the separation or release of such member from the armed forces.

''(B) A member of the armed forces described in this subparagraph is a member of the armed forces as follows:

''(i) A member with an eye injury incurred in combat who has a visual acuity of 20/200 or less in either eye.

''(ii) A member with an eye injury incurred in combat who has a loss of peripheral vision of twenty degrees or less.

''(d) UTILIZATION OF REGISTRY INFORMATION.—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly ensure that information in the Military Eye Injury Registry is available to appropriate ophthalmological and optometric personnel of the Department of Veterans Affairs for purposes of encouraging and facilitating the conduct of research, and the development of best practices and clinical education, on eye injuries incurred by members of the armed forces in combat.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 55 of such title is amended by inserting after the item relating to section 1105 the following new item:

''1105a. Center of Excellence in Prevention, Diagnosis, Mitigation, Treatment, and Rehabilitation of Military Eye Injuries.''.

(b) INCLUSION OF RECORDS OF OIF/OEF VETERANS.—The Secretary of Defense shall take appropriate actions to include in the Military Eye Injury Registry established under section 1105a of title 10, United States Code (as added by subsection (a)), such records of members of the Armed Forces who incurred an eye injury in combat in Operation Iraqi Freedom or Operation Enduring Freedom before the establishment of the Registry as the Secretary considers appropriate for purposes of the Registry.

(c) REPORT ON ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the status of the Center of Excellence in Prevention, Diagnosis, Mitigation, Treatment, and Rehabilitation of Military Eye Injuries under section 1105a of title 10, United States Code (as so added), including the progress made in established the Military Eye Injury Registry required under that section.

(d) TRAUMATIC BRAIN INJURY POST TRAUMATIC VISUAL SYNDROME.—In carrying out the program at Walter Reed Army Medical Center, District of Columbia, on Traumatic Brain Injury Post Traumatic Visual Syndrome, the Secretary of Defense and the Department of Veterans Affairs shall jointly provide for the conduct of a cooperative study on neuro-optometric screening and diagnosis of members of the Armed Forces with Traumatic Brain Injury by military medical treatment facilities of the Department of Defense and medical centers of the Department of Veterans Affairs selected for purposes of this subsection for purposes of vision screening, diagnosis, rehabilitative management, and vision research on visual dysfunction related to Traumatic Brain Injury.

(e) FUNDING.—

(1) INCREASE IN AMOUNT FOR DEFENSE HEALTH PROGRAM.—The amount authorized to be appropriated by section 1403 for Defense Health Program is hereby increased by $5,000,000.

(2) AVAILABILITY.—Of the amount authorized to be appropriated by section 1403 for Defense Health Program, as increased by paragraph (1), $5,000,000 may be available for the Center of Excellence in Prevention, Diagnosis, Mitigation, Treatment, and Rehabilitation of Military Eye Injuries under section 1105a of title 10, United States Code (as so added).

SA 2877. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title V, add the following:

SEC. 565. EMERGENCY FUNDING FOR LOCAL EDUCATIONAL AGENCIES ENROLLING MILITARY DEPENDENT CHILDREN.

(a) SHORT TITLE.—This section may be cited as the ''Help for Military Children Affected by War Act of 2007''.

(b) GRANTS AUTHORIZED.—The Secretary of Defense is authorized to award grants to eligible local educational agencies for the additional education, counseling, and other needs of military dependent children who are affected by war or dramatic military decisions.

(c) DEFINITIONS.—In this section:

(1) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means a local educational agency that—

(A)(i) had a number of military dependent children in average daily attendance in the schools served by the local educational agency during the school year preceding the school year for which the determination is made, that—

(I) equaled or exceeded 20 percent of the number of all children in average daily attendance in the schools served by such agency during the preceding school year; or

(II) was 1,000 or more,

whichever is less; and

(ii) is designated by the Secretary of Defense as impacted by—

(I) Operation Iraqi Freedom;

(II) Operation Enduring Freedom;

(III) the global rebasing plan of the Department of Defense;

(IV) the realignment of forces as a result of the base closure process;

(V) the official creation or activation of 1 or more new military units; or

(VI) a change in the number of required housing units on a military installation, due to the Military Housing Privatization Initiative of the Department of Defense; or

(B)(i) enrolls not less than 1 military dependent child affected by Operation Iraqi Freedom or Operation Enduring Freedom, as certified by the Secretary of Education; and

(ii) is not eligible for a payment under section 8002 or 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702, 7703).

(2) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) MILITARY DEPENDENT CHILD.—The term ''military dependent child''—

(A) means a child described in subparagraph (B) or (D)(i) of section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)); and

(B) includes a child—

(i) who resided on Federal property with a parent on active duty in the National Guard or Reserve; or

(ii) who had a parent on active duty in the National Guard or Reserve but did not reside on Federal property.

(d) USE OF FUNDS.—Grant funds provided under this section shall be used for—

(1) tutoring, after-school, and dropout prevention activities for military dependent children with a parent who is or has been impacted by war-related action described in subclause (I), (II), or (III) of subsection (c)(1)(A)(ii);

(2) professional development of teachers, principals, and counselors on the needs of military dependent children with a parent who is or has been impacted by war-related action described in subclause (I), (II), or (III) of subsection (c)(1)(A)(ii);

(3) counseling and other comprehensive support services for military dependent children with a parent who is or has been impacted by war-related action described in subclause (I), (II), or (III) of subsection (c)(1)(A)(ii), including the hiring of a military-school liaison; and

(4) other basic educational activities associated with an increase in military dependent children.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Defense $5,000,000 to carry out this section for fiscal year 2008 and such sums as may be necessary for each of the 3 succeeding fiscal years.

(2) SPECIAL RULE.—Funds appropriated under paragraph (1) are in addition to any funds made available to local educational agencies under section 561 or 562 of this Act or section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703).

SA 2878. Mr. HATCH (for himself and Mr. BENNETT) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military contruction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON CAPABILITIES FOR SUSTAINMENT OF THE MINUTEMAN III INTERCONTINENTAL BALLISTIC MISSILE.

(a) FINDINGS.—Congress makes the following findings:

(1) The strategic forces of the United States remain a cornerstone of United States national security.

(2) The 2001 Nuclear Posture Review states that it is the current policy of the United States that intercontinental ballistic missiles (ICBMs), submarine-launched ballistic missiles, and long-range nuclear-armed bombers play a critical role in the defense capabilities of the United States, its allies, and friends.

(3) The dispersed and alert Minuteman III intercontinental ballistic missile system provides the most responsive, stabilizing, and cost-effective strategic force.

(4) Section 139 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public Law 109–364; 120 Stat. 2114) requires the Secretary of the Air Force to modernize Minuteman III intercontinental ballistic missiles in the United States inventory so as to maintain a sufficient supply of launch test assets and spares to sustain the deployed force of such missiles through 2030.

(5) The modernization program for the Minuteman III intercontinental ballistic missile is nearing completion. Once that program is complete, there will be no program to sustain the capability of the United States industrial base to modernize or replace the intercontinental ballistic missiles that constitute the sole land-based strategic deterrent system of the United States.

(6) As an example, motor production for the Minuteman III Propulsion Replacement Program (PRP) is currently scheduled to end in fiscal year 2009. Once the PRP program ends, the capacity of the United States industrial base to respond to matters arising from the aging and obsolescence of Minuteman III intercontinental ballistic missiles will be extremely diminished, decades-worth of critical program knowledge may be lost, and the current design of the Minuteman III intercontinental ballistic missile is likely to no longer be reproducible.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than March 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the capability of the United States industrial base to achieve each of the following:

(A) To maintain, modernize, and sustain the Minuteman III intercontinental ballistic missile (ICBM) system until at least 2030.

(B) To replace the Minuteman III intercontinental ballistic missile with a follow-on land-based strategic deterrent system after 2030.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A description of any current plans for extending the Minuteman III intercontinental ballistic missile system after the period from 2020 to 2030, including plans for testing sufficient to account for any aging and obsolescence found in the Minuteman III intercontinental ballistic missile during the remaining life of the system, and an assessment of the risks associated with such plans after the shutdown of associated production lines.

(B) A description of any current plans to maintain the Minuteman III intercontinental ballistic missile system after 2030, including an assessment of any risks associated with such plans after the shutdown of associated production lines.

(C) An explanation why the Minuteman III intercontinental ballistic missile system, the only United States land-based strategic deterrent system, is no longer considered to be of the highest national defense urgency, as indicated by inclusion of the system on the so-called ''DX-Rated Program List'' while the sea-based strategic deterrent system, the Trident II D5 missile system, is still on the so-called ''DX-list''.

(D) An analysis of existing commonalities between the service life extension program for the Trident II D5 missile system and any equivalent planned service life extension program for the Minuteman III intercontinental ballistic missile system, including an analysis of the impact on materials, the supplier base, production facilities, and the production workforce of extending all or part of the service life extension program for the Trident II D5 missile system to a service life extension program for the Minuteman III intercontinental ballistic missile system.

(E) An assessment of the adequacy of current and anticipated programs, such as missile defense, space launch, and prompt global strike programs, to support the industrial base for the Minuteman III intercontinental ballistic missile system, including an analysis of the impact on materials, the supplier base, production facilities, and the production workforce of extending all or part of any such program to the program for the Minuteman III intercontinental ballistic missile system.

(c) COMPTROLLER GENERAL REVIEW.—Not later than 60 days after submittal under subsection (b) of the report required by that subsection, the Comptroller General of the United States shall submit to the congressional defense committees a report setting forth the Comptroller General's assessment of the matters contained in the report under subsection (b), including an assessment of the consistency of the budget of the President for fiscal year 2009, as submitted to Congress pursuant to section 1105 of title 31, United States Code, with the matters contained in the report under subsection (b).

SA 2879. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title II, add the following:

SEC. 256. COST-BENEFIT ANALYSIS OF PROPOSED FUNDING REDUCTION FOR HIGH ENERGY LASER SYSTEMS TEST FACILITY.

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report containing a cost-benefit analysis of the proposed reduction in Army research, development, test, and evaluation funding for the High Energy Laser Systems Test Facility.

(b) EVALUATION OF IMPACT ON OTHER MILITARY DEPARTMENTS.—The report required under subsection (a) shall include an evaluation of the impact of the proposed reduction in funding on each Federal agency that utilizes the High Energy Laser Systems Test Facility.

(c) PROHIBITION ON ACTIONS TO DIMINISH ABILITY OF FACILITY TO FUNCTION AS MAJOR RANGE AND TEST BASE FACILITY.—The Secretary of the Army may not take any action that diminishes the ability of the High Energy Laser Systems Test Facility to function as a major range and test base facility, as that term is defined in Department of Defense Directive 3200.11, including actions related to the closure of such facility.

SA 2880. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title III, add the following:

SEC. 358. REPORT ON HIGH-ALTITUDE AVIATION TRAINING SITE, COLORADO.

(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report on the High-Altitude Aviation Training Site at Gypsum, Colorado.

(b) CONTENT.—The report required under subsection (a) shall include—

(1) a summary of costs for each of the previous 5 years associated with transporting aircraft to and from the High-Altitude Aviation Training Site for training purposes; and

(2) an analysis of potential cost savings and operational benefits, if any, of permanently stationing no less than 4 UH–60, 2 CH–47, and 2 LUH–72 aircraft at the High-Altitude Aviation Training Site.

SA 2881. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT AND MASTER INFRASTRUCTURE RECAPITALIZATION PLAN REGARDING CHEYENNE MOUNTAIN AIR STATION, COLORADO.

(a) REPORT ON RELOCATION OF NORTH AMERICAN AEROSPACE DEFENSE COMMAND CENTER.—

(1) IN GENERAL.—Not later than December 31, 2007, the Secretary of Defense shall submit to Congress a report on the relocation of the North American Aerospace Defense command center and related functions from Cheyenne Mountain Air Station, Colorado, to Peterson Air Force Base, Colorado.

(2) CONTENT.—The report required under paragraph (1) shall include—

(A) an analysis comparing the total costs associated with the relocation, including costs determined as part of ongoing security-related studies of the relocation, to anticipated operational benefits from the relocation; and

(B) an analysis of what additional missions could be performed at the Cheyenne Mountain Air Station, including anticipated operational benefits or cost savings of moving additional functions to the Cheyenne Mountain Air Station.

(b) MASTER INFRASTRUCTURE RECAPITALIZATION PLAN.—

(1) IN GENERAL.—Not later than March 16, 2008, the Secretary of the Air Force shall submit to Congress a master infrastructure recapitalization plan for Cheyenne Mountain Air Station.

(2) CONTENT.—The plan required under paragraph (1) shall include—

(A) A description of the projects that are needed to improve the infrastructure required for supporting current and projected missions associated with Cheyenne Mountain Air Station; and

(B) a funding plan explaining the expected timetable for the Air Force to support such projects.

SA 2882. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title V, add the following:

SEC. 555. ASSESSMENTS OF SPONSOR PROGRAMS AT THE MILITARY SERVICE ACADEMIES.

(a) ASSESSMENTS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Board of Visitors for each military service academy shall submit to the congressional defense committees an assessment of the sponsor program at that academy together with a copy of the policy of the academy with respect to such program.

(b) CONTENT.—Each assessment submitted under subsection (a) shall describe—

(1) the purpose of the policy regarding the sponsor program at the academy;

(2) the implementation of the policy;

(3) the method used to screen potential sponsors;

(4) the responsibilities of sponsors; and

(5) the guidance provided to midshipmen and cadets regarding the sponsor program.

SA 2883. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

SEC. 1234. GOVERNMENT ACCOUNTABILITY OFFICE REPORT ON PREVENTION OF MASS ATROCITIES.

(a) REPORT REQUIRED.—Not later than 120 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees a report assessing the capability of the Secretary of Defense and the Secretary of State to provide training and guidance to the command of an international intervention force that seeks to prevent mass atrocities.

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

(1) An evaluation of any doctrine currently used by the Secretary of Defense or the Secretary of State to prepare for the training and guidance of the command of an international intervention force.

(2) An assessment of the current capability of the Secretary of Defense and the Secretary of State to provide training and guidance to the command of an international intervention force in keeping with the ''responsibility to protect'' doctrine described in paragraphs 138 through 140 of the outcome document of the High-level Plenary Meeting of the General Assembly adopted by the United Nations in September 2005.

(3) An assessment of the potential capability of the Secretary of Defense and the Secretary of State to support the development of new doctrines for the training and guidance of an international intervention force in keeping with the ''responsibility to protect'' doctrine.

(4) Recommendations as to the steps necessary to allow the Secretary of Defense and the Secretary of State to provide more effective training and guidance to an international intervention force.

(c) INTERNATIONAL INTERVENTION FORCE.—For the purposes of this section, ''international intervention force'' means a military force that—

(1) is authorized by an international organization such as the United Nations, the Economic Community of West African States (ECOWAS), the North Atlantic Treaty Organization (NATO), the European Union, or the African Union; and

(2) has a mission that is narrowly focused on the protection of civilian life and the prevention of mass atrocities such as genocide.

SA 2884. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title X, add the following:

SEC. 1070. UNIFORM STANDARDS FOR INTERROGATION TECHNIQUES APPLICABLE TO INDIVIDUALS UNDER CONTROL OR CUSTODY OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—No individual in the custody or under the effective control of the United States Government or any agency or instrumentality thereof, regardless of nationality or physical location, shall be subject to any treatment or technique of interrogation not authorized by sections 5–50 through 5–99 of the United States Army Field Manual on Human Intelligence Collector Operations.

(b) PROHIBITED ACTIONS.—The treatment or techniques of interrogation prohibited under subsection (a) include, but are not limited to, the following:

(1) Forcing an individual to be naked, perform sexual acts, or pose in a sexual manner.

(2) Placing a hood or sack over the head of an individual, or using or placing duct tape over the eyes of an individual.

(3) Applying a beating, electric shock, burns, or other forms of physical pain to an individual.

(4) Subjecting an individual to the procedure known as ''waterboarding''.

(5) Subjecting an individual to threats or attack from a military working dog.

(6) Inducing hypothermia or heat injury in an individual.

(7) Conducting a mock execution of an individual.

(8) Depriving an individual of necessary food, water, or medical care.

(c) APPLICABILITY.—Subsection (a) shall not apply with respect to any individual in the custody or under the effective control of the United States Government pursuant to a criminal law or immigration law of the United States.

(d) CONSTRUCTION.—Nothing in this section shall be construed to affect the rights under the United States Constitution of any individual in the custody or under the effective control of the United States Government.

SA 2885. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title I, add the following:

SEC. 132. LITTORAL COMBAT SHIP (LCS) PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) The plan of the Chief of Naval Operations to recapitalize the United States Navy to at least 313 battle force ships is essential for meeting the long-term requirements of the National Military Strategy.

(2) Fiscal challenges to the plan to build a 313-ship fleet require that the Navy exercise discipline in determining warfighter requirements and responsibility in estimating, budgeting, and controlling costs.

(3) The 55-ship Littoral Combat Ship (LCS) program is central to the shipbuilding plan of the Navy. The inability of the Navy to control requirements and costs on the two lead ships of the Littoral Combat Ship program raises serious concerns regarding the capacity of the Navy to affordably build a 313-ship fleet.

(4) On April 23, 2007, the Naval Inspector General reported to Congress that it determined that cost growth in the Littoral Combat Ship program was attributable to several factors, most notably that—

(A) the strategy adopted for the Littoral Combat Ship program, a so-called ''concurrent design-build'' strategy, was a high-risk strategy that did not account for that risk in the cost and schedule for the lead ships in the program;

(B) inadequate emphasis was placed on ''bid realism'' in the evaluation of contract proposals under the program;

(C) late incorporation of Naval Vessel Rules into the program caused significant design delays and cost growth;

(D) the Earned Value Management System of the contractor under the program did not adequately measure shipyard performance, and the Navy did not independently assess cost performance;

(E) the program manager for the program was inexperienced as an acquisition professional and had insufficient staff support for the challenges posed by management of such a complex, major program because senior Navy officials waived qualifications of acquisition workforce personnel and chose not to provide adequate support in other areas;

(F) the acquisition chain-of-command, from the program office for the program to the Assistant Secretary of the Navy failed to report timely program cost and schedule information within the Navy and to the Office of Secretary of Defense and Congress, which resulted in poor understanding of actual program performance; and

(G) the relationship between the Naval Sea Systems Command and the program executive offices for the program was dysfunctional.

(b) REQUIREMENT.—In order to halt further cost growth in the Littoral Combat Ship program, costs and government liability under future contracts under the Littoral Combat Ship program shall be limited as follows:

(1) LIMITATION OF COSTS.—The total amount obligated or expended for the procurement costs of the fifth and sixth vessels in the Littoral Combat Ship (LCS) class of vessels shall not exceed $460,000,000 per vessel.

(2) PROCUREMENT COSTS.—For purposes of paragraph (1), procurement costs shall include all costs for plans, basic construction, change orders, electronics, ordnance, contractor support, and other costs associated with completion of production drawings, ship construction, test, and delivery, including work performed post-delivery that is required to meet original contract requirements.

(3) CONTRACT TYPE.—The Navy shall employ a fixed-price type contract for construction of the fifth and following ships of the Littoral Combat Ship class of vessels.

(4) LIMITATION OF GOVERNMENT LIABILITY.—The Navy shall not enter into a contract, or modify a contract, for construction of the fifth or sixth vessel of the Littoral Combat Ship class of vessels if the limitation of the Government's cost liability, when added to the sum of other budgeted procurement costs, would exceed $460,000,000 per vessel.

(5) ADJUSTMENT OF LIMITATION AMOUNT.—The Secretary of the Navy may adjust the amount set forth in paragraphs (1) and (4) for either vessel referred to in such paragraph by the following:

(A) The amounts of increases or decreases in costs attributable to compliance with changes in Federal, State, or local laws enacted after September 30, 2007.

(B) The amounts of outfitting costs and costs required to complete post-delivery test and trials.

(c) REPEAL OF SUPERSEDED AUTHORITY.—Section 124 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163; 119 Stat. 3157) is repealed.

SA 2886. Mrs. FEINSTEIN (for herself and Mr. SPECTER) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 824 and insert the following:

SEC. 824. COMPTROLLER GENERAL REPORT ON EMPLOYMENT OPPORTUNITIES FOR FEDERAL PRISONERS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall, in coordination with the Attorney General, submit to Congress a report setting forth such modifications to law or regulations as may be required to provide sufficient employment opportunities for Federal prisoners to reduce recidivism among, and to promote job skills for, the growing population of Federal prisoners.

(b) ELEMENTS.—The report shall include an assessment of the following:

(1) The effect of the current Federal Prison Industries program on private industry.

(2) The impact of limitations on authorized purchasers of Federal Prison Industries products, and proposed alternative employment opportunities for Federal prisoners that may be used to reduce any negative impact on the Federal Prison Industries program of the modifications set forth in subsection (a).

NOTICES OF HEARINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. DORGAN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, September 19, 2007, at 9:30 a.m. in Room 628 of the Dirksen Senate Office Building to conduct a hearing on the process of Federal recognition of Indian tribes.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. KERRY. Mr. President, I would like to inform members that the Committee on Small Business and Entrepreneurship will hold a hearing entitled ''Expanding Opportunities for Women Entrepreneurs: The Future of Women's Small Business Programs,'' on Thursday, September 20, 2007, at 10 a.m. in room 428A of the Russell Senate Office Building.

DISCHARGE AND REFERRAL—S. 2006

Mr. REID. I ask unanimous consent that the Senate Committee on Environment and Public Works be discharged from further consideration of S. 2006 and the bill be referred to the Committee on Homeland Security and Governmental Affairs.

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

ORDERS FOR TUESDAY, SEPTEMBER 18, 2007

Mr. REID. Mr. President, I ask unanimous consent when the Senate completes its business today, it stand adjourned until tomorrow morning at 10 a.m., Tuesday, September 18; that on Tuesday, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there then be a period of morning business for 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the Republicans controlling the first 30 minutes and the majority controlling the final 30 minutes; that following morning business, the Senate proceed to H.R. 1124, as provided for under a previous order; that on Tuesday, following disposition of H.R. 1124, the Senate stand in recess until 2:15 p.m.

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

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. If there is no further business today, I now ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 7:12 p.m., adjourned until Tuesday, September 18, 2007, at 10 a.m.