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Senate

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

PRAYER

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

Let us pray.

Ever loving and eternal God, source of the light that never dims and of the love that never fails, help us to live in faithful expectation of Your triumph in our world. Fill us with hope that we will not become discouraged because of setbacks. Take away doubts that disturb us and worries that distract us. Empower our Senators to be instruments of Your purposes. Make them content to faithfully serve as they live in peace with others.

Give each of us the peace that passes understanding.

We pray in Your loving Name, Amen.

PLEDGE OF ALLEGIANCE

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will begin a 30-minute period of morning business. When that time has expired, we will begin consideration of the House message to accompany the deficit reduction bill.

Last night the agreement we entered allows for up to 7 motions to instruct conferees. Several Members spoke to these motions, debating their motions yesterday. Today we will vote on those, prior to lunch.

ORDER OF PROCEDURE

Mr. President, I now ask unanimous consent that at 11:45 this morning we proceed to three consecutive votes, first on the Baucus motion to instruct, to be followed by the Carper motion, to be followed by the Harkin motion; provided further that there be 2 minutes equally divided for debate prior to each of the votes; finally, I ask unanimous consent that following the third vote the Senate stand in recess until 2:15 for the policy luncheon to meet.

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

Mr. FRIST. Mr. President, therefore, Senators can expect three votes beginning at 11:45 today. The remaining motions will be debated this morning and this afternoon, and those votes will be scheduled for Thursday afternoon at approximately 3:30.

Today we expect the PATRIOT Act conference report to arrive from the House. If we are unable to reach consent for a limited debate time, then I am prepared to file cloture on that conference report.

I do hope we can come to a consent for the debate time. If not, cloture can be expected. If that is the case, that vote would occur Friday morning. The Labor-Health and Human Services appropriations conference report may also be available to the Senate today. I will be consulting with my colleagues about scheduling that vote as well.

In addition to the items I have mentioned, there is a number of other legislative and executive items that remain. These include the Defense authorization conference report, the Defense appropriations conference report.

As I have said over the last several days on the floor, I urge all Members to remain available and to adjust their schedules accordingly for the remainder of this week and into this weekend, and perhaps beyond as we schedule our final business of this year. We will make every effort to conclude our work as quickly as possible, but it will require the patience and cooperation of all Senators. As all of my colleagues understand, there is a lot of coordination with the House of Representatives with bills going back and forth.

I thank everyone for their help in advance as we move forward on these matters.

COMBAT METH ACT

Mr. FRIST. Mr. President, I briefly speak to an issue that is important to me and important to the American people. As we continue our debate on the PATRIOT Act conference report, I call my colleagues' attention to a special crimefighting provision that promises to thwart the No. 1 drug problem in America today, methamphetamine. The provision is called the Combat Meth Act. It enjoys broad bipartisan support in this body. It is a part of the PATRIOT Act legislation.

In particular, I want to thank my colleague from Missouri, Senator TALENT, for his tireless efforts in advancing this pressing issue. He has been focused on it, and he has talked to all of our colleagues about it. He very passionately expresses the need and the critical importance of this bill. He has

worked hand in hand with our colleague from California, Senator FEINSTEIN, and together they introduced the Combat Meth Act in January of this year.

As leadership, I was proud to work with our corresponding House leadership to encourage our Members to work with all of our counterparts to get this done, to work in a bicameral way.

The Combat Meth Act is a victory for law enforcement, a victory for our communities, and a victory for every family who has experienced the pain and the destruction of methamphetamine abuse. In 10 years—one decade—meth has become America's worst drug problem. That is above marijuana, cocaine, heroin—over the last 10 years. It is destroying individuals.

We have all heard stories in our various States and districts of families and whole communities being destroyed by the new emergence of methamphetamine and the destruction it causes. My own State of Tennessee has been hit particularly hard. In 2004, Tennessee ranked No. 2, tied with Iowa and just behind Missouri, in the number of methamphetamine lab seizures. Sandy Mattice, a former U.S. Attorney in Tennessee, and now a Federal judge in Chattanooga, calls meth ''the worst stuff'' we have ever seen. It has led to some of the worst and most disturbing cases of violence to hit the front pages of today.

This August, when I was back at home traveling across Tennessee, I heard stories again and again from my fellow Tennesseans of the devastating destruction meth is creating in communities all across the State. I heard about addicted mothers and fathers abusing their children, abusing each other during the highs and the lows created by methamphetamine use. I heard about addicts stealing from their own spouses, stealing from their own families because they were so desperate to support this highly addictive drug and the habit that becomes a part of it.

There is one Tennessee story which was so horrific that it made national news. Because it was so accurately reflective of the destruction and pain created by meth, the laws in Tennessee were changed.

In June of last year, authorities found 3-year-old Haley Spicer in her father's mobile home in Campbell County. Haley had been burned over her body with cigarettes, she had been scalded with hot water, and she had been severely beaten. The fumes from her father's meth lab were so toxic that Haley's eyelids were nearly melted shut. Haley has undergone several surgeries to open her eyes. She faces a number of operations in the future to rebuild her nose and to rebuild her injured ear.

Haley's father Tommy Joe Owens was sentenced in October to 95 years in prison for what he did to his child. His live-in girlfriend Charlotte Claiborne pleaded no contest and was sentenced to 20 years behind bars.

Haley's case was so shocking that in August the State legislature passed Haley's Law to drastically toughen child abuse penalties. This was an important victory for child abuse victims, but it didn't get to the concurrent problem of meth abuse and addiction which led to this crime.

Local law enforcement—I heard it all over the State—is literally overwhelmed by the meth crisis. They are calling out for our help. They need us to pass the Combat Meth Act to restrict access to the cold medicines that contain pseudoephedrine and ephedrine, which are the key ingredients easily obtained today and used to manufacture methamphetamine. Once you have those ingredients, meth can literally be manufactured with a few pots and pans in a kitchen.

While some States, such as my home State of Tennessee, have passed laws restricting access to these products, other States have not yet acted. As a result, meth cooks can jump from one State to another State to another State to get the over-the-counter ingredients they use to make this highly addictive toxin.

Law enforcement and prosecutors tell me the single greatest impact we could have on reducing meth abuse is to require all 50 States to restrict access to the cold medicines containing the ingredients used to make methamphetamine. Data from States that have gone ahead and passed laws restricting access to these precursor chemicals proves that indeed to be the case. They work.

Oklahoma, for instance, passed a law last year and with this law has seen a dramatic reduction in meth lab seizures. Data from my own State of Tennessee—we passed a similar law earlier in the year—shows the same trend, a steady decline in meth lab seizures.

The Combat Meth Act will require all 50 States to do what Oklahoma and Tennessee have done. The Combat Meth Act is critical to containing and defeating the meth epidemic. We need one uniform standard to close the loopholes in the system so that producers can't cruise from State to State exploiting our differences.

I again thank Senator TALENT and Senator FEINSTEIN for their leadership and for pushing hard to get this done.

I urge my colleagues to pass the PATRIOT Act, which includes this much needed law. The Combat Meth Act is a victory for law enforcement across this land in our communities. The Combat Meth Act is a victory for towns and for communities and cities all across America. It is a victory for all of the innocent individuals and families who have been harmed by this dangerous and deadly drug.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Colorado.

SECOND BRIGADE COMBAT TEAMS

Mr. ALLARD. Mr. President, last week I had the privilege of meeting privately with numerous soldiers from the 2nd Brigade Combat Team of the 2nd Infantry Division, which is stationed at Fort Carson, CO. These soldiers had just returned from their first tour in Iraq where they helped maintain the peace near the former terrorist hot-bed of Fallujah. I spent over an hour talking with them about their experiences, asking them about their challenges, and hearing their thoughts about whether we should stay the course in Iraq.

These soldiers spent the last year fighting the Iraqi terrorists, in some cases house-to-house. They helped train several Iraqi security units and participated in numerous reconstruction projects throughout central Iraq. Sadly, they lost 68 of their own while in Iraq. Yet, while they deeply mourn the loss of their comrades, they have no regrets about their time in Iraq.

Indeed, if there was one thing I took away from my meeting with the soldiers of the 2nd Brigade Combat Team, it was that each and every one of these soldiers was proud of their accomplishments in Iraq. They completed their mission well and helped thousands of Iraqis better understand the value of freedom and prosperity.

And why shouldn't these soldiers be proud of what they achieved? The progress we have made in Iraq is breath-taking, and these soldiers have been a part of it.

Those who believe that the war in Iraq has become a quagmire certainly haven't been paying attention. The President's strategy is working and we are making progress.

The reconstruction accomplishments in Iraq are staggering:

Over 3,000 schools have been renovated and refurbished; 133,000 primary school teachers—a third of Iraq's educators—have received additional training and technical assistance; primary school enrollment is up 19 percent from prewar levels; nearly 250 health care centers have been renovated and another 563 have received new equipment; over 2,500 primary health care workers have received training to better meet the Iraq's health care needs; in 2005 alone, 98 percent of Iraqi children between 1 and 5 years old have been immunized against measles, mumps, and rubella; more than 3 million Iraqis now have clean water, which was not adequately supplied before the war; more than 4.5 million Iraqis benefit from sewage disposal projects the United States has funded; sewage in many areas of Iraq used to literally run down the streets; 30,000 new businesses have registered with the Iraqi government in the past year alone; Iraqis are buying televisions, air conditioners, microwave ovens, and cell phones—all goods that were nearly impossible to buy unless you were one of Saddam's cronies; the generation of electricity is significantly higher than prewar level, though this area remains a challenge because of the power-consuming goods the Iraqis are buying.

The training of Iraqi security forces is continuing at a brisk pace. Over 200,000 soldiers and policemen have been trained so far. As the soldiers from the 2nd Brigade Combat Team at Fort Carson will tell you, some Iraqi units are highly competent and very capable. Other Iraqi units have a long way to go. Yet progress is being made.

Just in the last 2 weeks, Iraqi security forces conducted nearly 100 company-level combat operations on their own without U.S. assistance.

On the political front, the progress in Iraq has been nothing short of amazing.

As President Bush pointed out in his speech 2 days ago, Iraq was in the iron grip of a cruel dictator who murdered his own people, attacked his neighbors, and continued his decade-long defiance of the United Nations just 2½ years ago.

Since then, the Iraqi people have assumed sovereignty of their own country, held free elections, put together a new constitution, and approved that constitution in a nation-wide referendum.

Tomorrow, Iraqis will again return to the voters booth for the third time in the last year. They will be choosing a new government under a new constitution, and they will be choosing democracy over tyranny.

Hundreds of political parties representing every element of Iraqi society, including Sunni, Shittes, and Kurds, are participating in this highly competitive, completely unprecedented electoral race.

Despite the constant danger of terror attacks, Iraq is buzzing in a campaign-like atmosphere. Baghdad, Najaf, and Mosul are full of signs and posters. Television and radio are filled with political ads and commentary.

Political rallies for candidates are being held around the country. Nothing the terrorists can do or say has stopped this march toward freedom and democracy.

Like Shittes and Kurds, Sunni politicians are now coming under attack by the Iraqi terrorists. But the Sunnis now know that terror will never overcome the political momentum that has been gaining speed in Iraq. They know that an agenda of fear and tyranny will only lead to more death and destruction.

They see that the future of Iraq lies not in the hateful ideology of extremism but in freedom, prosperity, and hope.

As the Denver Post in their editiorial today, tomorrow marks an important milestone towards self-government for the Iraqi people.

The elections in Iraq are a sign of tremendous political progress, but they are not the only sign. The development of the rule of law and building of new political institutions is just as important—if not more so.

The United States is helping build an independent, impartial judiciary system capable of protecting all Iraqis and is helping Iraqi lawmakers develop a body of law that will sustain Iraq through the challenges of the future.

In particular, the trial of Saddam Hussein has shown all Iraqis that even the most despicable criminals deserve due process and an opportunity to prove their innocence under the law.

Some have questioned whether the war in Iraq is really a part of the war against terror. The terrorists have made it abundantly clear that Iraq is central in their war against the civilized world.

They have also made it clear that they will not stop with Iraq; they will strike Iraq's neighbors as they did last month in Jordan; they will strike Europe as they did in the Madrid bombings; and they will not hesitate to strike America again as they did on September 11.

The soldiers of the 2nd Brigade Combat Team of the 2nd Infantry at Fort Carson understand the stakes of the war in Iraq. They know that if we run away, all of their work will go for naught. They know that if we give up, the lives of millions of Iraqis will be put at risk. And they know that if we surrender, the fight the terrorists will be emboldened to hit us where it hurts the most—here in the United States.

I applaud the soldiers of the 2nd Brigade Combat Team for their service to our Nation and to the people of Iraq. They have every right to be proud of their achievements, as does every U.S. soldier, sailor, airman, and marine who has helped bring freedom to Iraq. We owe the men and women in our Armed Forces a debt of gratitude—their courage and bravery has inspired me and should inspire every American.

Mr. President, I appreciate the opportunity to discuss this important issue.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, I ask unanimous consent to be recognized to speak in morning business.

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

PATRIOT ACT

Mr. DURBIN. Mr. President, shortly after 9/11 we came together on a bipartisan basis in Congress to try to make certain that terrible tragedy was never repeated. We worked on a bipartisan basis to give tools to our Government to fight terrorism, to upgrade the laws of the United States so our Government could stay ahead of the curve when it came to that threat. We understood then, as we do now, that those tools were necessary for our Government, and we understood as well that preventing terrorism is the most important and the most valid exercise of governmental responsibility.

But we were concerned, concerned that at that moment in our history we were responding quickly, perhaps emotionally, to the threat and to the tragedy of September 11. So in the wisdom of both Republican and Democratic legislators, we included in the PATRIOT Act this new set of tools to fight terrorism, sunset provisions. We said: Four years from now we will take another look at it. We are going to try to decide at that point in time if we went too far because at issue here was not just fighting terrorism but our basic rights and liberties.

Giving the Government more power over the people in this country may be necessary in some regards to deal with terrorism, but we should always do it carefully because our basic rights and liberties, as guaranteed by our Constitution and the tradition of our laws, are things we are all sworn to uphold and protect. So the PATRIOT Act was passed on a bipartisan basis with only one dissenting vote in the Senate and included these sunset provisions.

Well, the calendar has run, it is 4 years later, and now again we are looking at this PATRIOT Act. I found it interesting that there were certain provisions of this act which were obviously accepted by the American people, provisions which gave the Government more authority. But there were several that became controversial. And over the years, since the act was first passed, a number of Members of the Senate started asking questions about whether perhaps we did go too far in passing the PATRIOT Act. It led to the introduction of legislation which I cosponsored with Senator LARRY CRAIG of Idaho entitled ''the SAFE Act,'' an attempt not to repeal the PATRIOT Act but to change some provisions which may have gone too far.

It was an interesting bill by political standards because the cosponsors could not be more different. Senator CRAIG is a very conservative Republican from Idaho. I, of course, am a Democrat from a blue State in Illinois. Yet we came together and believed we had a common goal of giving the Government enough power to deal with terrorism and protect us but not too much power to take away our basic rights and liberties. We attracted cosponsors from both sides of the aisle—Senator JOHN SUNUNU of New Hampshire; Senator LISA MURKOWSKI of Alaska; Senator RUSS FEINGOLD, who has been a very able leader on this whole issue, as well as Senator KEN SALAZAR, former attorney general of the State of Colorado. We have all come together to try to make certain that rewriting the PATRIOT Act on this 4-year anniversary is done in a responsible fashion.

We could not have had a better outcome in the Senate. I cannot think of one. We passed our revision of the PATRIOT Act out of the Judiciary Committee unanimously. I want to tell

you, I have served on the Judiciary Committee for about 8 years now. It is rough to get a unanimous vote for a resolution praising motherhood. But we had a unanimous vote—Democrats and Republicans—on the new PATRIOT Act, brought it to the floor, and it really struck the right chord with all Members of the Senate to the point where we did not have a record vote to pass it. We passed it by unanimous consent, and that says we were on to something, the right balance.

Then, of course, the legislative process takes that bill of the Senate and matches it with the bill in the House, and compromises are made. That is the reason we are here today.

Because, sadly, some of the compromises that were made between the Senate bill and the ultimate bill we are being presented with were significant, historic, and some, I am afraid, were just plain wrong.

In about 2 weeks, several provisions of the PATRIOT Act will expire. There are only a couple days left in this session of Congress. The Senate majority leader, Senator FRIST, said this morning this is one of his high priorities. And it should be.

Later this week, at the last possible moment, the Senate is going to consider the bill to reauthorize the expiring provisions of the PATRIOT Act. I wish we were not doing this at the last minute because this is an important debate. This debate is especially important because the current version of the bill does not include the safeguards which we need to protect the basic freedoms of Americans.

I come to this debate with the belief we have inherent in our democracy, based on our Constitution, certain rights and freedoms and liberties. If this Government, or any government, wants to take that freedom away from me or from any American, they have to make a compelling argument. The presumption is in favor of our freedom. The presumption is in favor of our privacy. It is the Government's responsibility to show that it has to go beyond current law to take away our basic freedom. That is where I start. And I think many Members of the Senate—conservative and liberal—feel exactly the same way.

Now, I understand there may be an attempt to shut off the debate on this PATRIOT Act. I think that is a mistake. I think we should give it the time necessary because we are talking about fundamental freedoms in this country. It is rare we stand on the floor and really consider a bill of this importance and this magnitude. But this is one of them. We rushed through the PATRIOT Act 4 years ago, as I said, in the light of what happened on 9/11, with an understanding we needed to pause and reflect on this in 4 years. We should not rush through this debate again.

Some claim we should not be concerned with problems in this bill because it includes another sunset clause, which gives Congress the power to review three of the bill's most controversial provisions 4 years from now. A sunset is really important. I am glad we included it in the original bill. But it is no justification for delaying changes to the PATRIOT Act that are needed to protect our fundamental liberties. We ought to fix the PATRIOT Act now.

In the last 4 years, 400 communities in 45 different States have passed resolutions expressing concerns about the PATRIOT Act. The American people are sensitive to the fact that this could be an infringement on their basic rights. The communities that passed these resolutions represent about 62 million people across this country from every corner of the United States.

Senator CRAIG and I introduced the SAFE Act to address these concerns. Three Republican Senators, three Democratic Senators, we came together across the aisle to try to find a bipartisan and sensible approach to dealing with this issue. The SAFE Act, as I said, would not eliminate the PATRIOT Act. It would only reform it.

And the bill has an amazing array of support: the American Conservative Union joined with the American Civil Liberties Union. When was the last time those two got together? But they did for this act because they believe whether you are on the right or on the left that basic freedoms should be protected.

The Senate bill was based on the SAFE Act that we introduced. We reached an agreement. We made compromises. So some of the reforms of the SAFE Act were included, some were not. The result was extraordinary. The Senate unanimously passed the bill.

The SAFE Act, like the Senate bill, retains all of the new powers created by the PATRIOT Act but places some reasonable limits on them.

Then came the conference report. The current version of the PATRIOT Act reauthorization legislation does not include some of the most important reforms of the Senate bill. In the limited time I have, let me speak to one or two issues.

Section 215 has been called the library records provision of the PATRIOT Act. Let me tell you what it would do. The bill would allow the Government to use this section to obtain library, medical, tax, gun records, business records, and other sensitive personal information simply by showing that the information might be relevant to an authorized investigation.

This is not in the tradition of American jurisprudence and American constitutional law. It has been our premise that before the Government can investigate any of us, any person who is following this debate, there must be some individualized suspicion about that person. This section of the PATRIOT Act says just the opposite. The Government can start looking at thousands of individual records held by different companies or libraries or hospitals and look to see if there is anything suspicious that they can glean from looking at those records. Section 215 clearly allows such a fishing expedition.

Who has raised concerns about this provision? The U.S. Chamber of Commerce, the National Association of Manufacturers, groups on the right and on the left. They argue that the Government should be required to show a judge that a person whose records they want has some connection to a suspected terrorist or spy.

This is basic to the law of America. In this country, you have the right to be left alone. It is pretty basic and important to all of us. If the Government wants to get into my personal life or yours, it has to do so with a reason, not in general terms that say: Let's look at all of the people who have checked books out of the New York Public Library in the last 30 days. Let's go to a hospital and ask for all of the medical records of people who have had a certain medical procedure, regardless of who those people happen to be. This is too broad.

When the FBI is conducting a terrorism investigation, they should not be able to snoop through your sensitive personal records unless you have some connection to a suspected terrorist act. The original Senate bill would provide that protection. This bill we are going to consider does not. That is what is at stake.

There are other problems with section 215. Let me mention another. An individual who receives a section 215 order—for example, the person who is running a library, the administrator of a hospital with medical records, the administrator of a credit agency, for example, with sensitive financial information—is subject to an automatic permanent gag order that prevents that person from speaking out, even if he believes that this section 215 order has gone way too far and violates their rights.

The original Senate bill we supported on a bipartisan basis and passed unanimously would give someone who receives a section 215 order the right to go to court to ask that the gag order be lifted. The current version of the bill does not.

It, in fact, continues to gag those individuals who could protest the Government reaching too far with a section 215 order. This is a serious threat to our freedom of speech. Courts have held that an individual who is subject to a Government gag order has a first amendment right to challenge that gag order in court. The current version of the PATRIOT Act does not provide that right. I am concerned that that on its face is unconstitutional.

I don't have time to get into all of the details of this conference report. There are many provisions of the bill which trouble me. This morning, I am going to be sending a letter, with several of my colleagues, to our other colleagues in the Senate outlining those concerns.

In this morning's Washington Post, Attorney General Gonzales says we have a choice: either accept this flawed conference report or it will expire. I respectfully disagree. We must not allow the PATRIOT Act to expire. There are provisions we desperately need to keep America safe. But we should not pass a reauthorization that fails to protect basic constitutional rights. Once we give these rights away in this act, can we ever reclaim them?

The 9/11 Commission said it best: The choice between security and liberty is a false choice. Our bipartisan coalition believes this legislation can be changed and improved to protect civil liberties and give the Government the tools it needs to fight terrorism.

We believe it is possible for Republicans and Democrats to come together, dedicated to protecting our basic constitutional rights. We believe we can be safe and free.

The American people have already lived with the PATRIOT Act for 4 years. They shouldn't have to wait any longer for Congress to take action to protect their constitutional rights.

This morning, the Senate majority leader came to the floor to speak about a provision in the PATRIOT Act which I certainly support. It is the Combat Meth Act. My State of Illinois, many States with rural populations, knows that this insidious drug crime has been increasing with these meth labs and an addiction which has destroyed lives and created chaos, starting, of all places, with rural areas and small towns. The Combat Meth Act includes $15 million in COPS funding to combat the growing methamphetamine problem, and I support it. However, what the Senate majority leader did not mention was that the Republicans in this Chamber have consistently voted against COPS funding.

As recently as last March, when the Senate considered the budget resolution—I see my friend, the chairman of the Budget Committee, and he may respond—Senator BIDEN proposed an amendment to increase COPS funding by $1 billion. That amendment did not receive a single vote on the other side of the aisle. Time and again, the President has proposed eliminating funding for hiring additional police officers through the COPS Program to help combat this methamphetamine problem. Simply authorizing another $15 million in COPS funding in the PATRIOT Act is not enough. It is time for Congress to take a stand and provide real money to fund the COPS Program, to help State and local law enforcement fight this insidious meth epidemic across America.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

DEFICIT REDUCTION ACT OF 2005

The PRESIDING OFFICER. The Chair now lays before the Senate a message from the House.

The bill clerk read as follows:

Resolved, That the bill from the Senate (S. 1932) entitled ''An Act to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)'', do pass with the following amendment.

The bill is printed in the House proceedings of the RECORD of November 17, 2005.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of motions to instruct conferees with respect to S. 1932, and the Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, we are now proceeding to try to appoint conferees for the purposes of passing, hopefully, at some point, the deficit reduction bill which would reduce the deficit of the United States by $45 to $48, maybe $49 billion and, thus, reduce the debt of the United States and be the first piece of legislation passed in the last 8 years which attempts to address one of the most serious issues we have as a matter of Federal spending policy, which is the issue of how we bring under control our entitlement accounts. It is important, as we move down this road, that we once again set the table as to what the issues are. It is a complex issue, and it is one which a lot of people who are not focusing on it probably do not really appreciate the subtleties because it is something that takes a certain amount of expertise or at least a fair amount of time relative to understanding it.

The way the Federal spending process works is that there are essentially two different sets of accounts. One is discretionary. Those are accounts that we spend every year. They are for things such as national defense, education, environmental cleanup, health care, items which every year need to be appropriated. That is called the appropriations bills. They represent about a third of the Federal spending.

Another set of accounts is entitlement accounts. Entitlement accounts are programs from which you, as American citizens or an organization, have a right to receive a payment. It is not a question of being appropriated. In other words, there doesn't have to be a law passed every year for you to get that expenditure like you have to do with national defense.

Rather, this money, you have a right to because the law says you meet certain criteria. You may be a veteran. You may be a student going to college and you have a right to a student loan. You may be a senior citizen who is retired and you have a right to Social Security payments and you have a right to health care payments. You may be a low-income individual and you have a right to Medicaid payments.

The problem we confront in the Federal Government is that although the discretionary accounts have been held at a very low rate of increase—in fact, nondefense discretionary funding has essentially been frozen under the budget resolution we passed. That freeze has been enforced through what is known as spending caps, where in order to go past this essential freeze, you have to have a supermajority to do it. On the entitlement side, there is no way in the regular order of the Senate to control the rate of growth in entitlement spending because, for a certain number of people or programmatic activity, the payment must be made. We confront a fiscal tsunami, driven by the fact that we are facing the largest retired generation in the history of this country, the baby boomers.

As Chairman Greenspan pointed out in what was essentially his wrap-up statement as to what he thought were the concerns we as a Nation should be looking at in the area of fiscal policy—or maybe not his last statement but maybe a major policy statement made in London. He said the one thing that most concerned him was the fact that the baby boom generation—this large generation born after World War II, through the 1950s—when it hits the retirement system, tremendous demands are going to be put on the Federal Treasury and, therefore, on the taxpayers of the country—the younger generation who are trying to earn and have a good lifestyle—are going to be overwhelmed. We are essentially going to confront the situation where we will have so many people retired compared to the number of people working that those people who are working are going to have to pay a disproportionate amount of their income in order to support the retired generation, and it will be to a level that will essentially eliminate or dramatically reduce our children's and grandchildren's ability to have a quality lifestyle. These pages today are going to have a tax burden that is so high that basically their ability to buy a house, to send their children to college, to have a quality of life that is equal to or better than ours—which is, of course, what we hope to pass on to our children—will be dramatically reduced.

To put this in context of dollars—and the dollars are so big it is hard to understand it—there is presently $47 trillion of unfunded liability out there to support the generation that is about to hit the retirement system. That is an unfunded liability. That means there is no way anybody knows how to pay for those programs. The vast majority of that is in the health care area, where there is about $24 trillion of unfunded liability between the Medicare and the Medicaid systems. Those numbers were not numbers I thought up or even that CBO thought up or OMB thought up, the in-house accounting groups we turn to for advice. Those numbers came from the independent, totally objective source of the Comptroller's office.

So we confront this huge cost, and the issue for us as policymakers and as

shepherds of hopefully a better America for our children is how do we address that so we don't pass on to them this massive debt.

In the last 8 years, we have done nothing about the entitlements. This section of the Federal spending apparatus has basically been ignored, except that new programs have been added. In the last 4 years, we have seen the largest increase in the history of the country added to entitlements in the prescription drug program, an $8 trillion unfunded liability in that program. So this year in the budget process, the Republican majority, with the exception of a few Members, decided that we would try, for the first time in 8 years, to actually do something about the entitlement accounts, and we passed something called reconciliation instructions, which essentially is a program by which we say as a Congress to the committees of jurisdiction, look at your entitlement spending programs, look at the health care programs, the farm programs, the various education programs and see if there is not some way, without significantly impacting the quality of those programs or the economic integrity of those programs or the benefit of those programs to the people—isn't there some way we can rein in their rate of growth so they will be more affordable for our children's generation to pay for it.

It is the first time we have tried this in 8 years. We didn't pick a big number to hit. It is a big number, but in the context of the Federal spending it is not that big a number. For example, in the Medicaid area, we suggested that the rate of growth be slowed by $10 billion. That is a big number, but in the context of total Medicaid spending, it is not. Total Medicaid spending over the 5-year period, which we asked for a $10 billion savings in, will be $1.2 trillion. So $10 billion is actually less than one-tenth of 1 percent of that total spending, and it will slow the rate of growth of Medicaid spending from somewhere around 40.5 percent down to 40 percent. That is the rate of growth. Forty-percent growth will still occur in the Medicaid account, even if we hit the target that the Senate has proposed. So we are trying as a Congress now to reach agreement on this package of proposals to rein in the rate of growth of Medicaid spending and other entitlement account spending, and we hope to have a package within the $40 billion to $50 billion range. That is a big number, but today we need to get to conference to do that. We have to meet with the House. That is the way it works. We have to go to conference and talk about it.

Some would like to give instructions to the conference as to what the conference should do. Now, it is the legitimate right of everybody in the Senate to offer a motion of instruction before you go to conference. That is so the other side of the aisle, coupled with some Members on our side, have asked to set up a set of motions for instructions. I believe seven will be proposed, and we will hopefully get a vote on conferees. There is an irony to this—in fact, it is more than irony. Other terms may be more appropriate, but I will not use them. But in every instance the people who are offering—the primary offerers—the motions to instruct conferees did not vote for the budget. None of them. They did not vote for the budget. There was one cosponsor of one of these who did vote for it, and I appreciate her vote; it was the Senator from Maine, Ms. COLLINS. But she is not the prime sponsor of it. The prime sponsors of those proposals did not vote for the budget. They not only didn't vote for the budget which had in place the spending restraint which froze discretionary spending and put into place the caps necessary to control discretionary spending and put in place the entitlement reconciliation instructions which would allow us to move forward with a reconciliation bill and try to control spending—so the sponsors of these instructions didn't vote for any spending restraint proposals and now they want to instruct the conference as to how to proceed. And then having not voted for the budget when the reconciliation bill came to the floor, which bill involved, when it passed the Senate, $3 billion of savings, deficit reduction, savings in spending, deficit reduction—they didn't vote for that—none of the sponsors of these motions to instruct the conferees voted to control spending by voting for the deficit reduction package or to control spending by voting for a budget. And now they come to the floor in an act of what I think is exceptional irony, and they wish to advise and tell and instruct the people who are going to try to put together a bill to reduce the deficit and reduce the debt as to what should be done. And in most instances, most of these instructions don't reduce the debt, don't reduce the deficit, but actually increase the debt and increase spending.

As was noted yesterday by the Senator from Iowa, the chairman of the committee that has jurisdiction over this issue, the trade instruction in this bill, which is directed at a special interest program, will actually cost the American taxpayers about $3 billion.

So having voted against the budget to reduce spending, having voted against the deficit reduction bill to reduce spending, they now come to the floor and in an act of extraordinary irony suggest instructing the people who are trying to put together some fiscal responsibility around here that they should spend more money or should have less available to spend.

I think these motions to instruct should be taken with a large grain of salt because of that fact. It would be credible if somebody who had voted for this deficit reduction bill offered a motion to instruct, especially if it is was an instruction, hopefully, to get more deficit reduction, and it would be credible if somebody who had voted for the budget resolution offered an instruction. But most of these instruction requests are not being offered in the context of trying to save funds, reduce the deficit, and reduce the debt, but are actually being offered for the purposes of increasing spending, increasing the debt, and increasing the deficit.

So we go forward with this exercise today of motions to instruct, but I think they need to be put in context, and that is what I have tried to do.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate disagrees to the House amendment, requests a conference with the House, and authorizes the Chair to appoint conferees with a ratio of 11 to 9.

The Senator from Ohio is recognized.

MOTION TO INSTRUCT CONFEREES

Mr. DEWINE. Mr. President, I have a motion at the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Ohio [Mr. DEWINE] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the House amendment to the bill S. 1932 be instructed to insist that any conference report shall not include the provisions contained in section 8701 of the House amendment relating to the repeal of section 754 of the Tariff Act of 1930.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, the motion that I am offering today, with Senator BYRD's support, urges the Senate conferees on the reconciliation bill to oppose efforts by the House to eliminate current law, to eliminate the Continued Dumping and Subsidy Offset Act.

This act, which is current law, which Senator BYRD and I originally introduced in 1999 and which was signed into law in 2000, continues to play a very important role in defending American companies from the injuries that unfair trade causes to American workers.

Repealing this legislation would be a grievous mistake. Let there be no mistake about it, this is about jobs. This is about American jobs. This is about protecting and saving jobs all across our great country and in my home State of Ohio, as well as in 47 other States. This is about punishing illegal trade practices, and it is about giving something back to the victims.

The Continued Dumping and Subsidy Offset Act is really very simple. We have heard a lot of talk about it. We have heard some criticism about it. But when you boil it down, it is very simple.

When foreign companies illegally violate our trade laws, they get punished. They get fined. What this act does is it takes those fines and gives them to the companies that were harmed instead of giving the money back to the U.S. Treasury. That is it. That is what it does. This compensation provides these injured companies and their workers with a remedy and helps them recover

from the damage done by the illegal trade practices.

Without this financial compensation, companies would continue to get hurt, jobs would continue to be lost, and that would be the end of the story. When we passed this bill a few years ago, we began to change that.

The truth is these foreign violators of the law—and that is what they are, they are violators of the law—think that this is just a cost of doing business, and they continue to do it. That is why we labeled this bill the Continued Dumping and Subsidy Offset Act. The point is they continue to do it. They look at the penalties they pay as a cost of doing business.

The idea behind this act when we passed it was we were not going to let them continue to get away with that and look at this as a cost of doing business. So instead of taking this money and giving it to the U.S. Treasury and letting them go merrily on their way, we would take this money and give it to the affected companies so these U.S. companies who employ U.S. workers could then take that money and invest it back into those companies, invest it for U.S. workers. That is what they have to do by law. And it has worked.

After the Continued Dumping and Subsidy Offset Act was implemented a few years ago, the disbursement reports have demonstrated the full extent of the dumping and the unfair trade problems our country faces. Let me give an example.

In 2004, no less than 458 companies received funds through this act. That means 458 of them were violated, had been abused. Across the United States, more than 700 producers in 48 States have received distributions from duties collected under our trade laws under this act which tells us that nearly every State in the United States of America is affected by unfair trade. Virtually every Senator in this body represents a State that has been helped by this law.

These recipients range from large, medium, small companies to family-owned businesses, independent workers, farmers, and fishermen. In my home State of Ohio alone, over 35 companies have benefited from the Continued Dumping and Subsidy Offset Act, including businesses in Akron, Canton, Cincinnati, Columbus, Youngstown, Warren, and Wooster.

The financial distributions have allowed businesses to reinvest in their operations, train workers, provide health care and pension programs, and keep high-wage, high-skilled jobs in our country. It matters. It is important.

Despite the many benefits that the Continued Dumping and Subsidy Offset Act has given our economy, some opponents argue that we must repeal it. Why? They say we must repeal it to comply with the WTO's rulings against the law. We must follow what the WTO tells this Congress to do, tells this country what to do. I disagree.

There is no reason the United States should abandon this law as an effective tool in trade talks. Why should we give it up? Like my friend and colleague, Senator CRAIG, said on this floor yesterday, there is nothing in any WTO ruling that tells countries what to do with the proceeds from the fines collected from illegal trade practices. We never agreed to that. The United States never entered into any agreement where we said we couldn't do this.

Why are we letting the WTO tell us these fines can't go back to the true victims, can't go back to the companies and the employees, can't go back to the people who have been hurt by foreign companies' dumping practices?

I find it somewhat ironic that some of the people who want to repeal this law that has worked so well are some of my same colleagues who come to the floor and talk about and criticize activist judges in the United States. We do not like activist judges in the United States. We do not like judges who dream up laws, who go beyond the letter of the law, who go beyond what Congress has written. Why do we want then to follow the WTO when the WTO goes well beyond any agreement this country has entered into? Why do we want to follow them down the road when they have been creative, when they have been activists? Why do we want to follow the logic that says we have to follow them? It makes no sense. They are the ones who are being the activist judges, so to speak. We should not do it.

The Continued Dumping and Subsidy Offset Act enjoys broad bipartisan support in this Chamber because Members know that the act has provided a lifeline to thousands of manufacturers, farmers, and fishermen throughout our Nation, people who have faced aggressive, unfair trade practices on the part of foreign producers.

Over the past couple of years, at least 71 other Senators currently serving in this body have joined me in opposing the act's repeal. Today—and tomorrow when we vote on it—we need to reiterate that support and to vote to build upon our past successes.

Unless our laws work to encourage all competitors to play by the rules, it is more difficult for U.S. producers to regain a declining market share and it makes it impossible to restore jobs that have been lost. The Continued Dumping and Subsidy Offset Act is simply good public policy. It helps ensure that our domestic producers can compete freely and fairly in global markets. I strongly urge my colleagues to oppose its repeal.

I conclude by one additional comment. I have heard people say that this act, this law, represents special interests. I am dumbfounded by that comment. When in the world did it become a special interest to protect American jobs? When is looking out for American workers a special interest? Are American workers a special interest group? Is making sure we have a level playing field in regard to trade practices a special interest? Are American workers a special interest group? I am dumbfounded by that comment. I do not understand it.

I am the strongest supporter in the world of free trade, fair trade, but to say that a law such as this that only goes into effect when it has already been proven that there has been a violation of trade laws, when it has already been proven that there has been illegal dumping, a law that only does the simple thing of compensating victims who have suffered by illegal dumping, and to say that is special interest legislation, I do not understand it. It makes absolutely no sense.

Seventy-one of my colleagues in this body who are currently serving have said this is not special interest, that standing up for American workers is the right thing to do. I hope the day never comes when Members of the Senate think that standing up for American workers is special interest. So I hope when this vote comes, probably tomorrow, we will do what we have every right to do, and that is to instruct the conferees on what the will of the Senate is.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DEWINE. I yield to my colleague from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

MOTION TO INSTRUCT CONFEREES

Mr. KOHL. Mr. President, I rise today to send a motion to the desk to instruct conferees on the budget reconciliation package.

The PRESIDING OFFICER. Without objection, the previous motion is temporarily set aside.

The Senator from Ohio.

Mr. DEWINE. Mr. President, I assume my colleague has his own time under the rules.

The PRESIDING OFFICER. The Senator is correct, and that will be used.

The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. KOHL] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the House amendment to the bill S. 1932 be instructed to insist that any conference report shall not include any of the provisions in the House amendment that reduce funding for the child support program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.), which would reduce funds by $4,900,000,000 over 5 years and have the effect of reducing child support collections by $7,900,000,000 over 5 years and $24,100,000,000 over 10 years, and to insist that the conference report shall not include any restrictions on the ability of States to use Federal child support incentive payments for child support program expenditures that are eligible for Federal matching payments.

Mr. KOHL. Mr. President, I am offering the motion on behalf of myself and Senators SNOWE, HARKIN, CORNYN, OBAMA, ROCKEFELLER and KENNEDY. We are asking conferees to reject the deep

cuts that the House made to the child support enforcement program. Perhaps some of my colleagues would like to speak on this matter, and so I will keep my comments brief.

I would hope that this would be a simple vote for my colleagues. The Senate needs to send a strong message to conferees that the cuts the House supported are unacceptable. I would like to remind my colleagues what those cuts are, and what they mean. The House slashes funding for the child support enforcement program by 10 percent, which is nearly $16 billion which will be cut in the next 10 years. In addition, the House language prevents States from drawing down Federal funds based on their performance incentive payments.

What does that mean for States, and more importantly, what will it mean for hard working American families? According to the Congressional Budget Office, the House cuts will reduce child support collections by nearly $7.9 billion in the next 5 years and $24.1 billion in the next 10 years. My State stands to lose $308 million in Federal funding over the next 10 years, and will lose approximately $468 million in child support collections.

Cutting the child support enforcement program is counterproductive. It means cutting one of the most successful, cost-effective Federal programs in existence. In 2004, the program collected $21.9 billion, while total costs were kept at $5.3 billion, which is greater than a $4 dollar return on every dollar the Federal Government invested. In fact, collections are rising faster than expenditures. Child support programs are increasing their cost-efficiency.

Being cost-effective, however, is not the greatest achievement of the child support program. Sixty percent of all single parent families participate in the child support program, and participants are primarily former welfare families or working families with modest incomes. It is proven that the child support program directly increases self-sufficiency and that families receiving child support are more likely to leave welfare and less likely to return. So these cuts have no place in a deficit-reducing measure. If congress cuts this program, it will ultimately push more people onto other Federal aid programs.

I would also like to remind my colleagues that the Senate already has a strong record on this issue. Two weeks ago we unanimously adopted an amendment offered by Senator HARKIN, a sense of the Senate in opposition to these cuts. Members from both sides of the aisle have consistently opposed the cuts, with the backing of a number of groups, ranging from the National Governors Association to the Information Technology Association of America.

I strongly urge my colleagues to find out how these cuts will affect their constituents, and would urge them to vote based on the families these cuts will impact.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I ask unanimous consent to speak as in morning business.

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

PATRIOT ACT

Mr. SESSIONS. Mr. President, if other matters come up, I would be pleased to conclude my remarks and yield to others who may be speaking relative to the reconciliation matter. But I want to talk at this time about the PATRIOT Act, and I want to go straight to the heart of the complaint that we have had against it by first observing that most of the complaints that we have heard, from my perspective, are emotive. They are not specific. Generally, they boil down to say we can't allow our liberties to be eroded out of fear that the terrorists would win—words to that effect. Certainly, that is true. There is no doubt about that.

Some contend that we have rushed into the PATRIOT Act, that all facts were not considered, that the bill was moved rapidly, and they suggest that provisions dangerous to our liberties were placed in the PATRIOT Act as a result of the emotions that arose after 9/11. But that is not true. I was on the Judiciary Committee when all of this occurred. I remember the debate that occurred. This legislation was carefully drafted. The best minds in our country participated. The Judiciary chairman, ORRIN HATCH, and his ranking member, Senator PATRICK LEAHY, deserve great credit for that. The U.S. Department of Justice was engaged, groups from the left and the right, civil liberties groups, the American Civil Liberties Union. All of those groups knew what was being considered. They had an opportunity to and did comment on the language.

The Senate gave it careful attention, and the legislation moved. But it took some time for it to move. We spent a great deal of time considering the language. Anything that raised the slightest possibility of being abused, or even some theoretical fear that it could somehow be abused, was considered carefully. Every line was examined. Every word was examined. Words and lines and provisions were altered continually to address the concerns and fears some people had.

Law enforcement procedures long used and long approved by the Supreme Court were attacked during this process as somehow violating the fundamental liberties of Americans.

It was breathtaking to me as a prosecutor of over 15 years to hear some of the charges being raised against practices that amount to nothing more than standard police procedure which are done in every State and every county in America. It was attacked as something that was somehow going to destroy the liberties that this country takes so seriously.

It is OK, I would say. That is good debate. It is a free country, and maybe it is good that our watchdogs are ever ready to point out any error. And perhaps some of the changes we made were better as a result of complaints that were raised. I don't dispute that. Some changes, however, I think were probably not good. But at any rate, great efforts were made to allay the fears and concerns and make sure this bill did not go too far.

Yes, it is good to have watchdogs, but you don't want the watchdogs biting the house owner. I want to have a bill that protects the owner of the house.

We discussed these issues and addressed them line by line. Senator LEAHY, ranking member, civil libertarian for sure, made certain that the process was open. So did Senator HATCH. Even the most arcane fears were addressed. It was a good process.

We left out things in this legislation that I would liked to have seen. But those things eroded some support, and people were concerned about it, and we left that out. But surely we have not forgotten that this debate just occurred 4 years ago. It was full and vigorous, and the legislation we passed was certainly not something that was rushed through without consideration.

Most importantly, we took down the wall that prohibited our Central Intelligence Agency and Defense agencies to gather intelligence around the world that might be relevant to attacks on our homeland.

This wall—this legal barrier—prevented them from sharing that information with the investigative forces in the United States, the FBI, and the local police, so that they could use it to protect the citizens of America. There was a wall created by the Church committee—an overreaction, frankly, to the Watergate problems that arose during that period of time. And they created this wall. So the data and the information couldn't be shared with the FBI, and the FBI couldn't share information with them. This wall perhaps even prevented the FBI from finding more information that would validate information they already had, and therefore left us less able to defend America and to effectively utilize information about criminal elements that would be important to us. This was an unbelievable situation. But it was the law of the United States.

Some people say surely the agents are not going to do that. Surely, if Defense agencies or the CIA found information that a terrorist organization may be threatening America, they would pass it to the FBI. No. They were

not. It was against the law that Congress passed. I think there were bits of evidence proved that indicated that had that wall not be there we might possibly have stopped 9/11. But it is easy to see after the fact that there are circumstances in which that wall would have allowed another 9/11 to happen when, and if it had not existed, we could have stopped it. There is no doubt about that. It is easy to see scenarios where that would happen.

So that is one of the most important things that was part of this act. It was important.

This bill is expiring. If we don't extend it now, that wall will go back up.

I say to my colleagues, this legislation is critical to national security. It is extremely critical to our national security. We are thankful and most pleased that we have gone now 4 years since 9/11 without another major attack on our homeland. It is something that I would not have thought possible. I can tell you that one reason it has not occurred and that we have not had another attack is our local law enforcement, our FBI, and our intelligence agencies which are working together effectively, and with a focus we have never had before on these kind of issues. It is remarkable what they are doing. They have given their heart and soul to it. Frankly, it amazes me to hear people on the floor of the Senate and outside of the Senate often suggesting that the FBI and our investigative agencies are threats to us. There is a paranoia that is not helpful.

I was a Federal prosecutor. I worked with the FBI for many years. These individuals are patriots. They are working night and day to protect our country. We have created many hurdles for them that are difficult for them to overcome and which can actually impair their ability to identify and prosecute terrorist cells that may be operating in our country today. It is not a theoretical matter. This is a matter of tremendous importance. We need to focus on it.

I will go straight to the areas raised as concerns and that have formed the basis of objections from many of our colleagues—some of our colleagues, not many—and from outside groups.

I recall the Senate PATRIOT Act bill cleared the Senate Judiciary Committee 18 to 0. It passed the Senate unanimously by unanimous consent. The legislation then went to conference committee. Much discussion and debate went on with regard to the House version and the Senate version. Frankly, they were not that much apart. Compromises were reached. The Senate bill did rather well as these things go in terms of our side prevailing. We came out with a pretty good bill. I was excited about it.

I am disappointed now we have Members of this Senate filibustering the PATRIOT Act, alleging that there is some sort of big change that has occurred that threatens the liberties of Americans and that we do not need to extend it. It is beyond my comprehension.

Let's talk about some of the issues. I will do it the best I can, fairly and objectively. I will try to say what I think the provisions mean. I will try to give a historical context for these provisions and make some comments with regard to why they are important tools for our law enforcement.

Our investigators are American heroes. They are working in every community. Before September 11, we had, I believe in Arizona, people learning to fly an airplane. They did not want to learn how to land it; they just wanted to learn how to fly it. In Wisconsin, Minnesota, we had other information that came up which was not properly assimilated and not properly evaluated. We had information from Florida that a number of terrorist groups had been stopped for speeding and other activities. The dots were not connected at that time. We know those stories. We were not as focused at that time as we are today post-September 11. We are more focused today.

Some of the problems we had at that time were a result of inadequate laws and procedures that made it even more difficult for investigators to investigate national security threats and terrorist threats, than it is to investigate dope dealers and tax evaders—unbelievable, but it is so.

There has also been a lot of discussion about national security letters, what they are and how they operate. I would like to have seen terrorist investigators given administrative subpoena power. That is something other agencies have. The Drug Enforcement Administration can issue subpoenas for financial records, telephone toll records, motel records, and bank records. They just issue a subpoena, and they give them a record. The IRS can get records like that in the same way. The Customs Service and many other agencies have the ability to obtain records administratively.

But people were concerned about this and said this would be abused. We worked and worked on it. This is what we came up with. It is a very modest proposal. It is a proposal and a legislative enactment which is fair, which is restrained, which is consistent with our history as a nation and consistent with approved criminal justice procedures by the Supreme Court of the United States.

For example, the national security letter is a procedure by which the Federal investigative agent can request information from a third party to obtain financial records, telephone toll records, credit reporting records, and a limited number of records like that. You cannot get medical records. You cannot get library records with a national security letter. But these are the routine things often critical to investigating a terrorist organization. It is extremely important. These cases can move very fast. If you have to have a court order to get it and you need the information on Friday night but cannot get a judge somewhere, death can result. It can be a matter of life and death. It can be a matter of whether an investigation breaks your way and you get the key information necessary to penetrate a terrorist cell or not. This is absolutely consistent with what other agencies have as a matter of their legitimate power. We ought to be able to do that in terrorist investigations, for heavens' sake. There is no doubt about that. This is extremely important.

Looking at the perspective, it is very important—and I know the Presiding Officer is a lawyer—to understand the principles of privacy and search and seizures that are at stake. These subpoenas are not subpoenas to an individual's personal, private records; these are subpoenas issued to third parties. A defendant does not own the telephone toll records. If he does not want the telephone company to know whom he has called, he should not use the phone company. Everyone in the phone company can access the phone numbers he calls—not the contents of the conversation—and can find out whom that person has called. When you go to the bank and use it, the bank maintains records on your account. Those are not your records; they are the bank's records. If you have a credit reporting agency that has collected public data on your payments, they can examine it; why can't an investigator investigating a terrorist have access to that, pray tell? In these areas, there is not the same expectation of privacy.

The U.S. Supreme Court has said repeatedly for the last 100 years or more that you do not have the same expectation of privacy you have in those records because they are not yours. They are somebody else's records. You have an expectation of privacy and the search and seizure laws and search warrants apply to matters in your house, matters in your car, matters at your office desk, any location in which you have exclusive control and dominion. If it is yours, you have a right to it, and the Government cannot come into your house, cannot come into your business and take those kinds of records without a search warrant approved by a Federal judge based on probable cause. They have to file affidavits under oath stating what facts are there to justify the entry into an individual's home or business to obtain those personal records.

This national security letter has nothing to do with the records people own. It in no way changes that historic right that your private property cannot be taken or searched without a warrant approved by a Federal judge in a Federal case. These are records belonging to third parties, and they are subpoenaed every day. Every district attorney in America can subpoena your telephone toll records if he believes they are relevant to an ongoing criminal investigation. That is the standard. That is the standard for Federal prosecutors. The U.S. attorney—which I

was for 12 years—issued tens of thousands of subpoenas for those kinds of records routinely on the simple test of whether it is relevant to an ongoing criminal investigation. If you are investigating a drug dealer, a drug deal goes down, and the dealer says, I don't know John Jones, and you subpoena his telephone toll records and see that he made 8 phone calls or 25 phone calls to John Jones in the hours leading up to the dope deal, you have pretty good proof to use at trial. That is the way you make cases. That is the way investigations are done. If they say, I didn't make any money off that, you check his bank record, and see that he deposited $10,000 in cash. That is proof that goes toward whether this person was engaged in selling dope for cash. That is the way you prove cases every day. This is the way you have to prove cases against terrorists. I make that big point.

I have heard people on national television say they can go into your house and search your house without a warrant. Absolutely not true. The great protections to your home and property were changed not one whit by the PATRIOT Act.

It simply allowed the Federal investigators in terrorist investigations to have a much improved ability to timely obtain records. I am telling you, when you are investigating one of these groups and you get a call, a tip, from someone who says, there is a group over here that is pretty dangerous, and we just heard one of the terrorists is coming in from out of the country to meet with them, and you need to check their telephone toll records or check the motel to see if they have been at this motel, to verify whether this occurred, subpoenas can be issued like that. But you do not need to have to go to the FISA court, a Federal court, to get approval any more than a local district attorney would have to do that. As I have indicated, other agencies have these requirements, have these abilities today. It is no big deal, in my view.

Now, what else did we require here? We required that the individual issuing this national security letter, the Federal agency that approves it, certify that it is a national security matter. That is an important certification. They have to do that under oath. Some people may think: Well, they may not comply with that. They could go and break in your house without any warrant. But that is not the way Federal agencies operate. I have worked with them for the biggest part of my career. They do not violate the law. They do not violate this wall between the CIA and the FBI. We have seen that to be true. They do what they are told according to the law. Congress makes these laws, and we need to make sure that laws make sense and do not undermine the ability of those out there working every day to be successful in their work. So it has to be certified, and if an agent lies about that, he or she can lose his or her job, trust me.

They also have to certify that it is a matter that endangers the national security. I think that is too high a burden, frankly. Maybe you do not have that much proof right now that it actually endangers national security, but it is a terrorist organization that you need to dig into and watch more closely. But we have to certify to that. That was part of what it took to get the bill passed, and we just have to live with that. It is something I am not happy with.

Remember, the recipients of these national security letters are third parties who have records—the phone company, the bank, and those kinds of agencies. They can object. They said: Well, they can't object. Yes, they can object. They can file a motion to quash under this bill if there is any abusiveness there, and they can object to the secrecy requirement, and it then requires, if they object, the Attorney General of the United States or one designee of his—the Deputy Attorney General probably—to personally certify that this is a need in which the national security is implicated. That is what you can do.

Let me just pause for a second. Nothing is more important in this act than the fact that we have a system by which our investigators, in terrorist cases, can obtain information from entities that have records relating to these terrorist organizations without those entities telling the terrorists we are investigating them. The last thing you want them to know is that you are onto them. That is so basic in law enforcement. I have been there. I have seen the investigations of drug organizations and things of that kind. You do not want them to know you are onto them. Once they know that, they will scatter like a covey of quail and not be around. They will regroup somewhere else to carry on their evil deeds. Now, you can do that today, but let me tell you the history of it.

When I became an assistant U.S. attorney in the 1970s, if you subpoenaed bank records, you would ask the bank or their agents not to report it to the customer, and they would not do it. But in the years that have gone by, the banks have been sued, so they have gotten lawyers and feel they have an obligation to their customers. Almost all of them have a policy that if a customer's records are subpoenaed, they notify the customer. So that has been a change in policy, and it can be devastating. Sometimes, you desperately need some of those records, but you do not need to tip off the organization you are investigating them. Most of the time, these companies have no real objection, because this eliminates their legal responsibility that lawyers say they may have, and this allows them to reveal it. They are satisfied. You get the records, and they do not tell the terrorist that you are getting them. That is one of the most important things in this whole legislation.

So, as I said, they can object. They can object to the fundamentals through a motion to quash a national security letter, and they can object to the secrecy requirement and require the Attorney General of the United States to certify that it is appropriate to be maintained secret.

Further, the bill says the Department must issue an annual public report to the Nation on how many of these have been issued and under what category.

Also, as part of the conference, we dropped legislation that made it a misdemeanor, with up to 1 year in jail, for a business to violate the court order and reveal the subpoena to the terrorist. I am amazed we did that. But people objected, and to make people happy, we removed the criminal misdemeanor penalty for somebody who tips off the terrorist that the Government has obtained information on them. I think that is terrible, but it is part of it, so it is one of the things I have to accept. If some of my colleagues have concern on the other side, they have to realize no bill is perfect, and we take what we can get.

I see our Budget Committee chairman, Senator GREGG. I was prepared to talk about some of the issues relating to section 215. We can do that later at another time, and I would be pleased to yield to Chairman GREGG if he has some matters he wishes to discuss at this time.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from New Hampshire.

Mr. GREGG. Madam President, I would actually like to get a clarification from the Senator from Alabama because I know he is an expert on this issue, having been a U.S. attorney and having been one of the leading authorities on legal activity here in our country. Because earlier in the day the assistant leader from the Democratic side of the aisle came to the Senate floor and made an extensive statement about how abusive the present bill, which is being moved forward, is, and specifically toward libraries, and how, as he represented it, somebody's records could be subpoenaed from a library, basically carte blanche, and then the library would be gagged from disclosing that information.

As I understood it, the bill, as it has worked its way through conference, has actually put in place stronger protections for libraries, and actually a terrorist gets more protection than, say, somebody who is in the Mafia; is that correct?

Mr. SESSIONS. Madam President, I think the Senator is fundamentally correct. Sometimes investigators need to know which books have you checked out. I prosecuted an individual one time who was a doctor. They made a TV movie out of it. He had a book, a death dealer's manual in his possession and another one on deadly poisons. But when you are trying to prosecute a case, the fact is that this covers even book sales, for example.

Any district attorney in America today can subpoena the book store and

find out what you or I bought, if it is relevant to a criminal investigation. In this case, not only must it be relevant to any investigation, it must be relevant to a national security investigation in which the issuer of the subpoena must certify that it endangers the United States. It is a very rare occurrence. The only difference is that there is an automatic ability for the Government to request that it not be revealed to the person investigated on an immediate basis.

These records are available today. The library association, in my view, has misunderstood the principle of law enforcement. Yes, you do not want people willy-nilly probing library records to see what people are reading. Of course, that is not legitimate. But when you certify it is a national security investigation, important to the safety of the United States, when you issue one of these subpoenas, I can't imagine anybody would object to that. It is certainly consistent with the generalized principle of subpoenaing records. I thank the Senator for raising that. I do believe this is out of sync with reality and the complaints are not justified.

If we were to find out that people, agents were probing, going around the country willy-nilly inspecting people's reading habits, this Congress would react just like that, and we would pass laws to stop it. We would get people fired if they were doing those kinds of things. That is in violation of Department of Justice procedures and policies. Anybody caught doing that would be fired on the spot. That is absolutely improper. But when you are investigating a terrorist organization, this is a modest proposal that requires the Government to have a high standard of proof, to support how they have done it, and is otherwise constrained in a way that the Senate Judiciary Committee agreed to by unanimous vote of 18 to nothing.

I would like a little later to talk about section 215 which requires a higher standard, and library records are part of that. With regard to library records in particular, along with medical records, you must present that to a Federal court, a FISA court, and get an approval in advance before you can get library records. It requires advance approval.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I ask unanimous consent that notwithstanding the previous order, the first vote be on the Carper motion to instruct, followed by the Baucus motion, and then the Harkin motion.

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

The Senator from Iowa.

MOTION TO INSTRUCT CONFEREES

Mr. HARKIN. Madam President, on behalf of myself and Senator SMITH of Oregon, I call up the motion at the desk to instruct conferees regarding cuts to Federal food assistance programs.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] (for himself and Mr. SMITH) moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the House amendment to the bill S. 1932 be instructed to insist that any reconciliation conference report agreed to jointly by the House and the Senate does not contain any cuts to Federal food assistance programs, including the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), for the following reasons:

(1) The Federal food stamp program is the first-line of defense in the United States against hunger and food insecurity, providing nutrition assistance for over 25,000,000 people in the United States.

(2) 80 percent of benefits under the food stamp program, over $23,000,000,000 in 2005, are provided to families with children, making the program the most important form of nutrition assistance for children in the United States.

(3) Hunger and food insecurity in the United States are rising, with a recent study by the Department of Agriculture finding that—

(A) 38,200,000 people in the United States live in households that were food insecure in 2004;

(B) the number of food insecure individuals increased by nearly 2,000,000 between 2003 and 2004; and

(C) since 2000, the number of individuals classified by Department of Agriculture as food insecure rose by 7,000,000.

(4) The food stamp program plays an important role during natural disasters and has provided emergency food assistance to approximately 2,200,000 individuals affected by Hurricanes Katrina, Rita, and Wilma, allowing disaster victims to obtain critical food within days.

(5) The food stamp program operates efficiently and effectively, with its error rate at an all-time low.

(6) Reductions in funding for the food stamp program would constitute cuts in or loss of benefits to currently eligible individuals and families and would not come out of fraud, waste, or abuse.

Mr. HARKIN. Madam President, I understand that under the order, I have a couple minutes to speak about this.

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. HARKIN. I was told I had 2 minutes and then 1 minute before the vote.

The PRESIDING OFFICER. The order was 2 minutes evenly divided preceding the vote.

Mr. HARKIN. I apologize. Then is there another minute before the vote?

The PRESIDING OFFICER. No, there is not.

Mr. HARKIN. Madam President, the Senate has considered cuts to food assistance programs this year on a bipartisan basis. It rejected such cuts. I commend my colleagues on both sides of the aisle, especially Chairman CHAMBLISS for his leadership. This motion is simple. It instructs the Senate conferees to insist upon the underlying Senate position of no cuts to Federal food assistance.

First, we are at a time when hunger and food insecurity in the United States is increasing rapidly. The number of Americans experiencing food insecurity has increased by approximately 7 million people. This is no time to cut the food stamp program.

Secondly, with all of the emergencies this year with the hurricanes, we have been reminded again of how the food stamp program works in emergencies. There were 2.2 million individuals affected by these hurricanes who got critical food assistance within days.

Finally, again, this has nothing to do with waste, fraud, and abuse. The error rate is at an all-time low in the food stamp program. We have worked on this for over 20 some years to bring it that low. It is working very effectively. The fact is, the House reconciliation bill does not go after fraud, waste, and abuse, but they cut 250,000 people off the food stamp program. That is the wrong way to go.

I thank my colleagues for standing up for hungry families earlier this year. Especially at this Christmas season, let's stand up for them once again and say we are not going to take the food out of the children's mouths.

I urge my colleagues to agree to the motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

MOTION TO INSTRUCT CONFEREES

Mr. BAUCUS. Madam President, I call up a motion to instruct which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the House amendment to the bill S. 1932 be instructed to not report a conference report that would impair access to, undermine eligibility for, make unaffordable by increasing beneficiary cost-sharing, adversely affect Medicaid services, or in any way undermine Medicaid's Federal guarantee of health insurance coverage with respect to low-income children, pregnant women, disabled individuals, elderly individuals, individuals with chronic illnesses like HIV/AIDS, cancer, and diabetes, individuals with mental illnesses, and other Medicaid beneficiaries.

Mr. BAUCUS. Madam President, I ask unanimous consent to speak for 2 minutes.

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

Mr. BAUCUS. Madam President, this motion instructs the Senate conferees on the spending reconciliation bill not to bring back a conference report that hurts Medicaid beneficiaries.

Last month, the House passed a spending reconciliation bill that would increase health costs and cut benefits for millions of seniors and lower-income Americans who depend on Medicaid.

According to the Congressional Budget Office, three-quarters of the Medicaid savings in the House bill came

from the these cuts. The bill would increase costs for 17 million people, cut benefits for 5 million people, and force tens of thousands off of Medicaid.

We know the damage that increasing health costs can cause. We have seen it happen. Oregon imposed just a nominal premium for some on Medicaid—from $6 to $20 a month. Within 10 months, nearly half of the people forced to pay had been dropped from coverage. Three-quarters of those who were dropped became uninsured.

These changes impose a tax on our poorest citizens.

And these changes also burden doctors, hospitals, and clinics that treat Medicaid patients. States will deduct the fees regardless of whether providers ever get paid. Healthcare providers will pass these uncompensated costs along through higher rates for all patients in the private market.

Many poor people will pay more, but get less. The House bill allows States to cut Medicaid benefits. Although the bill would protect the poorest children, millions of children would no longer get the medical care that they need. People with disabilities and chronic conditions would also be at risk.

Some say we need to look at Medicaid's rising costs, and I agree. We need to get a handle on spending and make this program sustainable. But shifting costs and cutting benefits for our poorest and least able to pay is not the smart way to do it.

This motion instructs Senate conferees on the reconciliation bill to reject the House changes to Medicaid that would hurt Medicaid beneficiaries or undermine Medicaid's guarantee. The Senate must take a stand in support of the neediest among us.

Let us ensure that we do no harm to the vulnerable people whom Medicaid serves.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I ask unanimous consent to speak for 2 minutes on the Baucus motion.

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

Mr. GREGG. Madam President, there is general feeling that the Baucus proposal is—I don't use this in a pejorative sense—benign enough so that everybody can agree to it.

But I do think it is important to understand, relative to the Medicaid issue, that Governors, in a bipartisan way, have come forward and put down some proposals that are really creative, where they feel they can dramatically expand coverage and significantly save money. Some of those do involve using copays of some sort relative to higher income individuals. Having been a Governor—and I know there are other former Governors in this Chamber—I think the flexibility the Governors want is reasonable.

I hope we will come back from conference with language that will give Governors the flexibility necessary to allow them to do creative things in the Medicaid accounts which will save us money, save the States money, and end up with more coverage. That should be our game plan—more people being covered. I think it is doable because a creative Governor who has energy and guts and staff people who are effective—and most Governors do—can do a lot if they are given flexibility and the ability to move forward without being straitjacketed by Federal regulations. So that will be our goal in conference. I don't think it is inconsistent with what the Senator from Montana has proposed.

Mr. BAUCUS. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. GREGG. Madam President, what is the regular order?

The PRESIDING OFFICER. The Senator from Delaware is to be recognized.

Mr. GREGG. I thank the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

MOTION TO INSTRUCT CONFEREES

Mr. CARPER. Madam President, I ask unanimous consent to address the Senate for 2 minutes on a motion I have at the desk.

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

The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Delaware [Mr. CARPER] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the House amendment to the bill S. 1932 be instructed to insist that any conference report shall not include the provisions in the House amendment relating to the reauthorization of the Temporary Assistance for Needy Families Program, including those which would increase work hours for single mothers with young children, impose new cuts on already inadequate child care funding and other proven work supports such as child support, restrict education and training, and reduce State flexibility, and insist that Congress enact free standing legislation that builds on the bipartisan Senate Committee on Finance's reported version of the Personal Responsibility and Individual Development for Everyone Act (the PRIDE Act, S. 667) to reauthorize the Nation's welfare-to-work laws.

Mr. CARPER. Madam President, for the last 3 years that we have been in the Senate, I have been pushing my colleagues, Democrats and Republicans, and pushing the administration and my colleagues in the House of Representatives to reauthorize Temporary Assistance for Needy Families. We first authorized it in 1996. There was a 5- or 6-year authorization that had lapsed, and we need to renew it and establish a path forward for welfare programs in my State, your State, and all other States across this country.

The Senate Finance Committee has approved unanimously, without dissent, legislation to reauthorize it for another 5 years. It is out of committee and ready to come to the floor. We should take it up, debate it, amend it, if we see fit, pass it, and go to conference with the House.

The House passed their own reauthorization measure, which is imperfect in my view. I will mention a couple of problems I have with it. As the Governor of Delaware and lead Governor of the National Governors Association on welfare reform, it occurred to me that if you want people to get off welfare and go to work, they need help with taking care of their kids, and we needed to make sure they had decent health care for the children. If they don't have that, they are not going to be successful in going to work. The measure reported out of the Committee provided extra money for childcare support. It is needed.

There is another problem. Under current law, if you are on welfare, you have to work 30 hours a week. However, if you have young kids under the age of 6, you can work as little as 20 hours a week, not 30 or 40 hours. The House measure says everybody has to work 40 hours a week if you are on welfare. That may sound good at the outset, but if you don't have money for childcare to help with the extra time people are going to be working, it is not going to work. Say somebody has a week-old or month-old or year-old child. They are going to have to work 40 hours a week.

I ask for support on the motion. Let the committee bring the bill forward and debate it and vote and go to conference.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. OBAMA. Madam President, I support Senator CARPER's motion to instruct reconciliation conferees to reject the House TANF provisions. Assisting needy families is too important an issue for this Chamber to cede its legislative authority to the House of Representatives. The TANF Program affects millions of American children and families. It deserves a full and fair debate.

The reconciliation process does not permit that debate. Reconciliation is not the place for policy changes.

The right starting point for Senate debate is the PRIDE bill. PRIDE is not a perfect bill. But it is a reasonable bipartisan effort that addresses childcare, transitional medical assistance, and certain educational opportunities.

Mr. President, we should have a full debate on the PRIDE bill. We should consider what the evidence actually says about moving people from welfare to work, from dependence to independence, from poverty to prosperity. We should have a full debate about what is really required to provide all Americans with equal opportunity.

Unfortunately, reconciliation does not permit that debate. Worse yet, the House provisions are based not on evidence and experience but on ideology.

The cynical increase in the work hour requirement, for example, is a Federal mandate with no basis in the

reality of what works to promote work and reduce poverty. The data shows that people meeting the current 30-hour requirement work about 35 hours now. That is a bit more than the national average for ''full time'' work for all employees, whether they receive TANF or not. Indeed, among all mothers with children under the age of 6, only 43 percent work as much as 35 hours.

People who don't meet the 30-hour TANF requirement now—for whatever reason—are not going to work more just because the requirement has been increased. What will happen is that Congress will punish the States and reduce State flexibility to do what works.

In my own State of Illinois, we are committed to moving people off welfare and into work. And Illinois is not cynical about it. This isn't about pinching pennies but about providing opportunity.

Illinois is serious about the need for work. Tens of thousands of families have worked their way off assistance. But we understand why people find themselves in need of assistance. We have adopted flexible rules to accommodate families where the wage earner was medically unable to work, where a spouse or child was disabled, where the worker was finishing up a training program.

Illinois requires work but allows people to work part time while they take care of their obligations. And to get mothers out of their homes and into the workforce in a productive way, we have improved the child care subsidy system. We have invested in it.

And you know what? People in Illinois have not lingered on TANF. If they could work their way off the program, they have done so.

Unfortunately, the House TANF provisions which raise participation rates to 75 percent will make it harder for States to deal with family sickness, the realities of raising children, and natural disasters. To avoid penalties, States will have to find make-work activities even for TANF recipients who are working full time.

Another problem is that raising work hours and participation rates will increase the need for childcare well beyond the funding provided in the House bill. Childcare funding makes work possible for many women. If we want people to work and be responsible parents, we have to worry about who will care for their kids. Under the House proposal, States will be forced to fund other activities that will leave them with less money for childcare. That makes no sense.

The House TANF provisions make it harder for States to support working families. I urge my colleagues to reject those provisions in reconciliation, and I look forward to an honest debate about TANF and the PRIDE bill here on the Senate floor.

I also rise today to speak in favor of the motion to instruct offered by Senator KOHL. This motion expresses the Senate's view that the Senate conferees should not accept the cuts to the child support program that have been proposed by the Committee on Ways and Means in the House of Representatives.

The child support program is an effective and efficient way to enforce the responsibility of noncustodial parents to support their children. For every public dollar that is spent on collection, more than four dollars are collected to support children. That is a good return on our investment in families. Moreover, these families are then less likely to require public assistance and more likely to avoid or escape poverty. This is a program that works.

The evidence is compelling. For example, in 2004, enforcement efforts helped collect almost $22 billion in child support. Our aggressive State and Federal efforts have translated into $1 billion in collected child support payments in Illinois alone this year. That means 386,000 Illinois families will be better equipped to provide for their children.

Preliminary budget estimates suggest the cuts proposed by the Ways and Means Committee will translate into $7.9 billion in lost collections within 5 years, increasing to a loss of over $24 billion within 10 years. This proposal is not even penny-wise, and it is certainly pound-foolish.

Today, the State of Illinois reports a 32 percent child support collection rate. Let's not take a step backward in the progress that has been made by stripping the States of necessary Federal support. The welfare of too many is at stake.

Child support is the second largest income source for qualifying low-income families. We should not balance our budget on the backs of families that rely on child support to remain out of poverty.

I urge my colleagues to support this motion as well. Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. GREGG. Madam President, we yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion to instruct conferees offered by the Senator from Delaware.

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

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from New Mexico (Mr. DOMENICI), the Senator from South Carolina (Mr. GRAHAM), and the Senator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), the Senator from Connecticut (Mr. DODD), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

If present and voting, the Senator from California (Mrs. BOXER) would vote ''yea.''

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

The result was announced—yeas 64, nays 27, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—64

Akaka	Frist	Nelson (NE)
Alexander	Grassley	Obama
Baucus	Harkin	Pryor
Bayh	Hatch	Reed
Bennett	Hutchison	Reid
Bingaman	Inouye	Roberts
Burns	Jeffords	Rockefeller
Byrd	Johnson	Salazar
Carper	Kennedy	Santorum
Chafee	Kerry	Sarbanes
Clinton	Kohl	Schumer
Coleman	Kyl	Smith
Collins	Landrieu	Snowe
Conrad	Lautenberg	Specter
Corzine	Leahy	Stabenow
Dayton	Levin	Stevens
DeWine	Lincoln	Thune
Dole	Lugar	Voinovich
Dorgan	Mikulski	Warner
Durbin	Murkowski	Wyden
Feingold	Murray	
Feinstein	Nelson (FL)	

NAYS—27

Allard	Craig	Lott
Allen	Crapo	Martinez
Bond	DeMint	McConnell
Brownback	Ensign	Sessions
Bunning	Enzi	Shelby
Burr	Gregg	Sununu
Coburn	Hagel	Talent
Cochran	Inhofe	Thomas
Cornyn	Isakson	Vitter

NOT VOTING—9

Biden	Chambliss	Graham
Boxer	Dodd	Lieberman
Cantwell	Domenici	McCain

The motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. GREGG. Madam President, I ask unanimous consent that on the next two votes they be 10-minute votes.

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

The Senator from Montana.

Mr. BAUCUS. Madam President, what is the regular order?

The PRESIDING OFFICER. There is now 2 minutes evenly divided prior to the vote on the Baucus motion.

Mr. BAUCUS. Madam President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Montana.

Mr. BAUCUS. Madam President, this motion instructs the Senate conferees on the pending reconciliation bill not to bring back a conference report that hurts Medicaid beneficiaries. In fact, these changes amount to a tax on our poorest citizens. They also burden doctors, hospitals, other providers who will pass on the costs to them. More poor people will pay more, but they will get less. It does not make sense. We are cutting Medicaid to take it out of the hide of the poorest people of our country, and that is Medicaid recipients.

May I also say I am supported by a strong letter from a number of Senators on the other side of the aisle. This letter asks the same; that we do not adopt these harsh House Medicaid cuts. I ask unanimous consent it be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, December 13, 2005.

Hon. WILLIAM H. FRIST,
Majority Leader, U.S. Senate,
Washington, DC.
Hon. HARRY REID,
Minority Leader, U.S. Senate,
Washington, DC.

DEAR MAJORITY LEADER FRIST: Throughout the budget process we have been concerned about the impact to America's lowest income and most vulnerable from policies implemented to secure budget savings. We were heartened by the Senate's effort to protect these Americans by utilizing system efficiencies and eliminating waste and abuse from the Medicaid program. Unfortunately, the House of Representatives did not take a similar path. Therefore, as the Senate begins its work to reconcile the two budget reconciliation bills, we urge you to hold firm in defending the Senate's policies regarding Medicaid.

Medicaid is a vitally important program that serves almost 54 million poor, disabled, chronically ill and elderly Americans. It provides a range of benefits from screenings and vaccinations for the young, to home health and long term care for the elderly. Given the breadth and diversity of the people it helps, Congress must remain committed to the strength and viability of Medicaid.

As indicated by the strong support from beneficiary groups, advocates and providers, the Senate bill ensures that the most vulnerable among us are not called upon to carry the burden of balancing the budget. This was accomplished by adhering to a few key principles. First, the Senate bill limits the cuts to a total of $10 billion, the savings level which the Finance Committee was instructed to achieve. The bill utilizes both Medicare and Medicaid to reach the required $10 billion in budget savings, and holds the net level of Medicaid cuts to under $5 billion. Most importantly, the Senate bill does not achieve any savings through policies that would negatively impact beneficiaries. We strongly urge you to continue to defend these principles and preserve the Senate's policies on Medicaid in the final budget reconciliation agreement.

In particular, we are concerned with policies included in the House bill that would impose new cost-sharing requirements on beneficiaries, alter eligibility policies for long term care that impact the middle-class, and provide unlimited flexibility to states to change benefits. These proposals were debated within the Senate and soundly rejected.

We look forward to working with you on developing a conference report that can garner wide support among Senators and supporters of the Medicaid program.

Sincerely,

GORDON SMITH.
NORM COLEMAN.
ARLEN SPECTER.
LINCOLN CHAFEE.
SUSAN COLLINS.
OLYMPIA SNOWE.
MIKE DEWINE.

Mr. GREGG. Madam President, this will be a 10-minute vote, as well as the following vote, so I hope Senators will stay around to accomplish those votes promptly.

Second, we intend in conference, should we be successful in going to conference under the leadership of Senator GRASSLEY, to bring back a bill which will effectively address the issues of Medicaid, and we see the opportunity here to follow very closely, hopefully, the proposals of the Governors, which are bipartisan in nature.

Mr. BAUCUS. The Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. GREGG. I believe we hope to follow closely the proposals of the Governors, which are bipartisan in nature, and give the Governors the flexibility they need in order to accomplish significant Medicaid reform, which will mean extending Medicaid to more people but doing it in a more efficient way, which will save us more money. We actually don't see that this language impairs that effort, and we think we can report a very effective bill with or without this language.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been previously ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Georgia (Mr. CHAMBLISS), the Senator from New Mexico (Mr. DOMENICI), the Senator from South Carolina (Mr. GRAHAM), and the Senator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), the Senator from Connecticut (Mr. DODD), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

If present and voting, the Senator from California (Mrs. BOXER) would vote ''yea.''

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

The result was announced—yeas 75, nays 16, as follows:

[Rollcall Vote No. 352 Leg.]

YEAS—75

Akaka	Dorgan	Lugar
Alexander	Durbin	Martinez
Baucus	Enzi	McConnell
Bayh	Feingold	Mikulski
Bennett	Feinstein	Murkowski
Bingaman	Frist	Murray
Bond	Grassley	Nelson (FL)
Brownback	Gregg	Nelson (NE)
Burns	Harkin	Obama
Byrd	Hatch	Pryor
Carper	Hutchison	Reed
Chafee	Inouye	Reid
Clinton	Jeffords	Roberts
Cochran	Johnson	Rockefeller
Coleman	Kennedy	Salazar
Collins	Kerry	Santorum
Conrad	Kohl	Sarbanes
Corzine	Kyl	Schumer
Craig	Landrieu	Smith
Crapo	Lautenberg	Snowe
Dayton	Leahy	Specter
DeWine	Levin	Stabenow
Dole	Lincoln	Stevens
Talent	Thune	Warner
Thomas	Vitter	Wyden

NAYS—16

Allard	DeMint	Sessions
Allen	Ensign	Shelby
Bunning	Hagel	Sununu
Burr	Inhofe	Voinovich
Coburn	Isakson	
Cornyn	Lott	

NOT VOTING—9

Biden	Chambliss	Graham
Boxer	Dodd	Lieberman
Cantwell	Domenici	McCain

The motion was agreed to.

Mr. GREGG. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. There are 2 minutes equally divided in relation to the motion by Senator HARKIN to instruct conferees.

The Senator from Iowa.

Mr. HARKIN. Mr. President, we are now going to vote on a motion to instruct conferees. Stick with the Senate's position dealing with cuts in the Food Stamp Program. I know arguments have been made about waste, fraud, and abuse. What the House does does not cut waste, fraud, and abuse but cuts 200,000 people off the food stamp rolls. They are working poor. They work every day. They have children. This sends them back on welfare rolls.

I point out there was a letter sent to Senator CHAMBLISS on December 8 from 15 Republican Senators saying, please stick with the Senate position. I compliment those Senators. I publicly thank Senator CHAMBLISS for his great leadership both on the Agriculture Committee and in the full Senate on this issue.

This is not the time to cut food stamps from people who are working and struggling with their children.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, first, I also wish to compliment the Senator from Georgia, Mr. CHAMBLISS, who brought to us reconciliation instructions out of his committee which did not cut food stamps. But I do think it would be a mistake for us to tie Senator CHAMBLISS's or anybody's hands as they move forward in conference.

The language which I have concern about in this proposal is the last paragraph. Everything up to the last paragraph is OK, but that last paragraph catches you because he says:

> Reductions in funding for the food stamp program would constitute cuts in or loss of benefits to currently eligible individuals and families and would not come out of fraud, waste, or abuse.

Well, it represents the fact that we cannot save any money from food stamps out of fraud, waste, and abuse. That is just wrong. There are ways to save money in food stamps by addressing fraud, waste, and abuse. There are a lot of ways. Anybody who has been exposed to the program knows that.

I believe this instruction would be counterproductive to the flexibility that Senator CHAMBLISS and others would like as they move forward in this conference, and I intend to vote no on it.

Mr. President, I believe the yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent. The Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. GRAHAM), and the Senator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Washington (Ms. CANTWELL), the Senator from Connecticut (Mr. DODD) and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

If present and voting, the Senator from California (Mrs. BOXER) would vote ''yea.''

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

The result was announced—yeas 66, nays 26, as follows:

[Rollcall Vote No. 353 Leg.]

YEAS—66

Akaka	Feinstein	Nelson (FL)
Baucus	Frist	Nelson (NE)
Bayh	Grassley	Obama
Bennett	Hagel	Pryor
Bingaman	Harkin	Reed
Brownback	Hatch	Reid
Burns	Inouye	Roberts
Burr	Jeffords	Rockefeller
Byrd	Johnson	Salazar
Carper	Kennedy	Santorum
Chafee	Kerry	Sarbanes
Clinton	Kohl	Schumer
Coleman	Landrieu	Smith
Collins	Lautenberg	Snowe
Conrad	Leahy	Specter
Corzine	Levin	Stabenow
Dayton	Lincoln	Stevens
DeWine	Lugar	Talent
Dole	Martinez	Thune
Dorgan	Mikulski	Voinovich
Durbin	Murkowski	Warner
Feingold	Murray	Wyden

NAYS—26

Alexander	Crapo	Kyl
Allard	DeMint	Lott
Allen	Domenici	McConnell
Bond	Ensign	Sessions
Bunning	Enzi	Shelby
Coburn	Gregg	Sununu
Cochran	Hutchison	Thomas
Cornyn	Inhofe	Vitter
Craig	Isakson	

NOT VOTING—8

Biden	Chambliss	Lieberman
Boxer	Dodd	McCain
Cantwell	Graham	

The motion was agreed to.

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

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. HAGEL. Mr. President, I ask unanimous consent that when the Senate reconvenes at 2:15, the following Senators be recognized to speak as in morning business: ROBERTS, 30 minutes; MIKULSKI, 15 minutes; CARPER, 30 minutes; I further ask unanimous consent that if a Republican Senator seeks recognition between Senator MIKULSKI and Senator CARPER, my request be so modified.

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

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, at 1:09 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. IZAKSON).

The PRESIDING OFFICER. Pursuant to the previous order, the Senator from Kansas is recognized for 30 minutes.

PATRIOT ACT

Mr. ROBERTS. Mr. President, I rise today to support the conference report for the USA PATRIOT Improvement and Reauthorization Act of 2005. That is a long title. We are talking about the PATRIOT Act.

I am pleased to report to my colleagues and to the President that the House just passed the PATRIOT Act with a very strong bipartisan vote. We need to do the same. I thank Chairman SPECTER for his hard work in getting this important legislation to the conference.

This conference report is one of the most important that we will pass this year. We must do it prior to leaving because it contains a number of provisions that are absolutely vital to our national security. I say that from my perspective as chairman of the Senate Committee on Intelligence.

Like the original PATRIOT Act, this legislation does contain a number of compromises that are not to my liking. But it is often said that the mark of a good compromise is that it leaves both sides unhappy. We have a great number, apparently, who are unhappy about this bill. I think we can safely say that no one is entirely happy with all of the provisions in the legislation. Simply put, this is not the best possible bill but the best bill possible under difficult circumstances. Again, it is absolutely needed on behalf of our national security.

My primary concern as a conferee was to ensure that the intelligence community retains its ability to effectively use the important tools that are provided by the PATRIOT Act, and I think we have accomplished that goal.

This act reauthorizes all of the PATRIOT Act provisions that are scheduled to sunset at the end of this year. It does, however, impose a 4-year sunset on the use of FISA court orders for business records and roving electronic surveillance and an additional sunset on the FISA—what is called the lone wolf authority.

Personally, I am opposed to these extended PATRIOT Act sunsets. I know Congress has conducted extensive oversight of these provisions. I know the Intelligence Committee and other committees have, and we have yet to find any evidence—I know this is not the perception we read about in the newspapers or that we hear on the electronic media, but we have yet to find any evidence of abuse or overreaching with respect to these or any other provisions of the PATRIOT Act.

Moreover, this very legislation makes modifications to address the perceived problems with the FISA business records and roving wiretap provisions. I ask this simple question: If we fixed these provisions, why is there need for additional sunsets? It seems to me that Congress always retains the ability to amend the law that is enacted. We have a duty to conduct vigorous oversight with the use of these provisions. The Judiciary and Intelligence Committees certainly do that. We don't need and should not use sunsets to compel oversight of these important issues. That ought to be our reasonable obligation, and we do meet those obligations.

Having said that, I want to highlight the modifications made to two investigative tools that have been widely mischaracterized, in my view, by critics and some in the media—FISA business record court orders and national security letters.

With regard to the FISA business record court orders, one of the most contentious issues during this conference was whether a relevance-plus standard should be added to the FISA business record provisions. Critics argued this tool could be used for fishing expeditions. Our oversight did reveal that this was not the case, but we agreed that relevance was the proper standard for obtaining a business record court order.

Some are not satisfied with this approach and demand that we include not only a relevance standard but a requirement to specify facts that would tie the requested records to a foreign power or to an agent of a foreign power, a so-called relevance-plus standard. The problem with this is very easy to understand. It is a standard not used on any other subpoena, certainly not requiring the prior approval by a judge like these FISA orders. The standard would also leave gaps in the FBI's ability to use what is in reality a nonintrusive investigative tool. Under relevance-plus, by then the FBI would have lost the use of section 215 in important circumstances.

Ultimately, the conferees reached a compromise to address the misperceptions about section 215. Under the conference report, the standard remains relevance to an authorized investigation. Let me say that again. The standard remains simple relevance to an authorized investigation. There is no increased burden of proof. The standard remains the same as every

other subpoena that Congress has ever enacted.

If the FBI seeks records that are relevant to any authorized, full investigation or a preliminary investigation, it should be able to obtain those records. Under this conference report, it still can. But to address the allegations that the scope of lawful national security investigations is too broad, the conferees included language that does provide for a presumption of relevance if the FBI does provide a statement of facts explaining the link between the requested records and one of three statutory categories. Thus, the compromise language encourages the FBI to seek the protection of presumptive relevance by including a link to one of the three statutory categories in its application, but it also maintains the use of investigative technique in those limited circumstances that fall outside the three categories.

The conferees also placed additional restrictions on section 215 orders. Under the conference agreement, the records obtained with a FISA business record court order must be screened through minimization procedures adopted by the Attorney General. These procedures are not required for any other subpoena, grand jury, court order, administrative, or otherwise. In my opinion, minimization procedures should not be required for this low-level investigative activity, especially in light of the requirement for prior judicial approval of an order.

These procedures unfortunately were part of the price we paid to get this legislation passed—a price that I did reluctantly accept to preserve this investigative tool. I urged the Attorney General when this bill was passed to adopt flexible minimization procedures.

These procedures must maintain the ability of the intelligence community to analyze the important foreign intelligence information now obtained by FISA business record orders. That information must be made available over an extended period of time so that the intelligence community will not lose its ability to connect the so-called dots. One current phone number that would be connected to one 2-year-old credit card record that would be connected to one 10-year-old hotel receipt might be the information necessary to stop an attack. We should never forget that, especially in the age in which we live.

Severe retention or any rules of dissemination for these third-party business records will limit the FBI's ability to prevent attacks, and that is the standard we have demanded post-9/11. I can assure you that the Intelligence Committee will examine these procedures with great interest once they are issued.

Next, with regard to national security letters—and the acronym for that is NSL—this conference report makes three important modifications.

First, it will provide for express enforcement of national security letters by creating criminal penalties for noncompliance with the request.

Second, this bill clarifies the process by which the recipients of a national security letter may seek judicial review of requests that are either unreasonable, oppressive, or otherwise unlawful.

Third, this legislation does replace the current blanket nondisclosure rule with a process that requires a special certification by a high-level official to invoke the protection of the nondisclosure provision. If the official is sufficiently high level, the certification that the disclosure would endanger national security or interfere with foreign relations will not be overturned by a court without a showing of bad faith.

Some have questioned the need for nondisclosure provisions on these national security letters or complained that they can be invoked or defended much too easily. I have an opposite concern. I am concerned that the disclosure of the fact that the FBI has sought business records might hinder the investigation of a terrorist network or an espionage ring. Nondisclosure requirements on these national security letters are absolutely necessary for the protection of our national security. We must all keep in mind that these so-called NSLs are issued in the context of classified investigations of terrorists and spies.

Make no mistake, the national security letter that requests information in support of a classified investigation should also be classified. But because many phone companies, Internet service providers, financial institutions, or credit card companies don't have the facilities to handle classified information, these national security letters are submitted in unclassified form. The FBI relies on the nondisclosure provisions in the NSL statute to prevent the disclosure of classified investigations of terrorists and spies. Without the protection of a nondisclosure provision, the FBI would have to choose between not using a national security letter or taking the risk that its investigation will be disclosed to the spy or terrorist under investigation. We can't afford either option.

If a terrorist becomes aware of an FBI investigation that was directed at him based on the fact that a national security letter has been issued, he obviously can take actions to protect other members of his cell, ensure that the terrorist network does proceed with other planned attacks, or, in the worst-case scenario, speed up the time line of a planned attack.

We also cannot afford for the FBI to walk away from valuable intelligence information from fear the disclosure of a national security letter might undermine an ongoing investigation. These NSLs do provide access to limited categories of third-party business records that form the building blocks of national security investigations. They allow the FBI to identify the activities of a terrorist or spy and others who associate with them.

The conference report maintains the protections of the NSL nondisclosure provision. It does modify the nondisclosure provision so it is no longer automatic; it must be invoked. It provides the recipients with the avenue to challenge the nondisclosure not once, but every single year. Subsequent challenges also require the Government to reexamine the need for secrecy.

With these modifications, it seems to me the conference report strikes the balance needed on this issue. First, we protect the very legitimate rights of the recipients and ensure the sensitive investigations of terrorist and spies certainly are not compromised.

So as my colleagues can see, the protections that are provided in the conference report for privacy and civil liberties are extensive. In fact, I think the modifications to the FISA business record orders and the national security letters should address all concerns raised about these tools. I hope my colleagues who have concerns about this know what is in this bill as opposed to what the perception is.

The conferees did not stop there. In addition to the modifications I have mentioned, the conference report includes the provisions enhancing existing oversight of these tools. For example, the bill requires the Department of Justice Inspector General to conduct extensive audits of both the use by the FBI of the national security letters and FISA business record orders. The bill also expands public reporting on these investigative tools.

I cannot help but note at this point that many of the protections for privacy and civil liberties incorporated in this bill were derived from the protections that the intelligence committee would have applied to the national security administrative subpoena that we reported in June in our bill. This conference report has essentially taken all of the protections that were contained in the national security administrative subpoena provision, but it has failed to provide the FBI with the same ability to access records that now exist in 335 other contexts.

Far too often we legislate to the possible rogue FBI agent, one-tenth of 1 percent who might go beyond the law. When we take this step, we deprive the other 99.9 percent of FBI agents of a lawful investigative tool, and then if something is missed or we have an attack, why, of course, we blame the FBI. Our oversight reveals no abuses. Yet we deprive our national security investigators of these constitutional tools.

I challenge opponents of national security administrative subpoenas to provide one good reason the FBI should not have the authority. I have listened to their arguments. I still have not heard one good reason. Four years removed from 9/11, it is far too easy to put restrictions on the intelligence community that are not necessary or appropriate. It seems to me we must

continue to ensure that we provide lawful access to data with appropriate precautions. We must tear down the remaining walls that prevent access to lawfully collected intelligence information. One of the top priority goals of the intelligence committee is information access. That is the one thing that seems to me that we must reach out and accomplish, and obviously passing this act and not rebuilding walls to make this problem worse is a top goal.

When we needlessly restrict intelligence investigations, we increase the possibility that the next attack will succeed. I will oppose such restrictions and will continue to fight for new authorities for the intelligence community. I believe the national security administrative subpoena is an appropriate tool that would increase our security without sacrificing our civil liberties. I will continue to ask a simple question: Why are we withholding administrative subpoenas from those who investigate spies and terrorists when they are being used every day by those who investigate health care fraud, drug violations, and other similar matters.

As I have asked many times before, why can the Attorney General use an administrative subpoena to stop a dirty doctor or a dirty drug dealer but not a dirty bomber? That does not make sense. This is a tool that the President, the Attorney General, and the Director of the FBI have all asked Congress to provide in regard to our national security investigators. Once again, Congress has denied them.

Before concluding, I want to highlight one more important intelligence-related provision in this bill: section 506. That is the section that will establish a national security division within the Department of Justice that is consistent with the recommendations of the executive WMD Commission. The national security division will be headed by the Assistant Attorney General for National Security who will be appointed by the President, with the advice and consent of the Senate.

This process, in regard to confirmation, will be subject to the shared jurisdiction of the Senate Judiciary Committee and our Intelligence Committee.

The provision also requires the Attorney General to consult with the Director of National Intelligence before recommending a nominee to the President. I believe the creation of the national security division will help prevent the rebuilding of these walls that I keep talking about that once hindered access to foreign intelligence information. This new national security division will help ensure that law enforcement and intelligence are indistinguishable partners in the protection of our national security.

Finally, I strongly oppose passing a short-term continuing resolution, as some have suggested, to reauthorize existing authorities. The conferees have already worked extremely hard to reauthorize the existing authorities. I do not believe that any additional time or negotiations will close the gap between the opponents and the supporters in regard to this act.

In fact, on the one issue that prevented some conferees from across the aisle from signing onto the conference report, the so-called bad-faith certification provision, this conference report is actually more protective of national security letter recipients than the version previously passed by the Senate.

I hope the folks who are upset about this know that is in this bill and that this is actually more protective. As convinced as I am that an additional 3 months will not close the gap between opponents and supporters, for those who want a continuing resolution, I am equally convinced that further negotiations will only result in additional concessions that will make the PATRIOT Act tools virtually useless.

I remind my colleagues again that 4 years of oversight of the use of the authorities that are provided by the PATRIOT Act have not revealed one single substantiated—let me emphasize that, substantiated—allegation of abuse. Yet despite this fact the conference report before us today contains numerous additional checks on the use of the PATRIOT Act tools.

The arguments for these additional checks and restrictions are not based on any factual allegations of abuse but, rather, on unsubstantiated allegations, hypotheticals, innuendo, and perception. I understand the concern, but facts are stubborn things, and there has been no abuse. Nonetheless, this conference report will place more burdens on national security investigators using these constitutional tools to defeat terrorists and spies. Further compromise will only serve to negotiate away these very crucial tools. I urge my colleagues to base their position on this important legislation on facts. Facts are stubborn things, as I said before: The fact that terrorists continue to seek to kill Americans, the fact that they continue to plot attacks against us, the fact that they are determined to continue their war against us, the fact that this conference report does provide significant increased protections for privacy and civil liberties, and the fact that our national security investigators have not abused authorities that are provided under the original act.

We have had plenty of time to oversee the use of authorities that are provided by the PATRIOT Act and plenty of time to separate fact from fiction or the wheat from the chaff.

I am deeply committed to the men and women of the intelligence community. The USA PATRIOT Act has provided them with important tools to keep us safe. We should continue to do that. I will vote for cloture if necessary—I hope it is not necessary—and in favor of this conference report. I, again, am very glad that the House has passed the reauthorization of the PATRIOT Act by a large bipartisan vote because this allows the intelligence community to retain these important PATRIOT Act tools and keep America safe. I urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from Maryland is recognized for 15 minutes.

Ms. MIKULSKI. Thank you, Mr. President.

(The remarks of Ms. MIKULSKI pertaining to the introduction of S. 2097 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Ms. MIKULSKI. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MURKOWSKI). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from Delaware is recognized for 30 minutes.

IRAQ

Mr. CARPER. Mr. President, 10 days ago, I returned home from a bipartisan, bicameral congressional factfinding mission that took a number of Members, including Senator CHUCK HAGEL of Nebraska, myself, and Congresswoman ELLEN TAUSCHER from California, to a number of Middle Eastern countries. There we met with, among others, the leaders of Israel, the Palestinian Authority, Jordan, Saudi Arabia, and Iraq, as well as with our own civilian and military leaders. For me, our visit was informative, highly informative, even illuminating, and provided me with a number of insights that I wish to share today with my colleagues and with the American people.

For the past several months, Americans have become increasingly skeptical about our ongoing military presence in Iraq, leading to a fierce debate on how to succeed in Iraq and when to begin to redeploy American troops. With so much discord at home, I was surprised and, frankly, heartened to learn during our mission that there is a growing consensus among both U.S. and Iraqi civilian and military officials on a reasonable path forward that I believe many Americans can embrace.

As our President acknowledged somewhat belatedly today, a number of

grievous mistakes were made during his administration following the ouster of Saddam Hussein—for example, literally telling the Iraqi army to go home, you are disbanded, not needed anymore. Having said that, there is a whole lot at stake, too much at stake, for us to just cut and run. But somewhere between withdrawing all U.S. forces within 6 months and staying the course is a commonsense policy and a path forward for the United States, for Iraq, and for its Arab neighbors.

I believe tomorrow's parliamentary elections and the likely emergence of a coalition government in Iraq gives us a great opportunity, not so much to stay the course but to begin to alter it. This altered course would provide for a moderate but significant redeployment of U.S. troops from Iraq beginning early next year. It could start with our National Guard men and women, might start with our Reserve Forces. We might bring some of them home. Some of them we may wish to deploy to a place such as Afghanistan where they probably would be needed.

Redeployment or drawdown is, maybe, a good beginning, but by no means does it end there. We must also redouble our effort to enlist the full cooperation of the Arab League and others to stabilize Iraq politically and economically as we continue to help Iraq militarily and their police force shoulder more of the burden in providing security in their country.

On the sensitive issue of withdrawing U.S. troops, I believe if we were to withdraw all of our military forces within the next 6 or even 12 months, we would leave that country in danger of a civil war, and America and Iraq's neighbors would be less safe, not more safe, than they were before we invaded Iraq. The truth is, though, a modest American force may well be needed in Iraq for some time. While it will not be close to the 160,000 or so troops we have there now, America will likely maintain some kind of military presence in Iraq, if the Iraqis want us to, just as we currently do in Afghanistan and Kosovo and several other places around the world.

The President's open-ended statements, however well intentioned, about staying the course cause many Iraqis to question our Nation's true intentions. More and more, Iraqis view our troops as occupiers, not liberators. To a lot of them, the President's rhetoric is code for ''We are here for your oil, and we are going to stay until we get it.'' That is an interpretation that fuels the very insurgency we are trying to defeat.

That is why it makes sense to me to announce as early as January that we plan to redeploy a significant number of American troops from Iraq in 2006 and then begin to do so shortly thereafter. Taking this step will help make clearer to most Iraqis our desire ultimately to leave Iraq and its natural resources where they belong—in the hands of Iraqis.

These views are not mine alone. They reflect the views of Iraq's civilian and military leaders as well as those of top American officials on the ground. We should listen to them. In the words of one of our top American military commanders, he said, pointing toward the door of the room in which we were meeting, it is time for us to begin moving toward the door. And I believe he is right. Otherwise, I fear our troops, who continue to perform courageously under incredibly difficult circumstances, will remain targets of opportunity for months or even years to come.

Although much of the debate in America has focused on withdrawing troops, if all we do by the end of next year is reduce our troop levels, we will not set Iraqis up for success; we will set them up for failure. There is also a political war to win, and it is not going to be easy. I believe America's Ambassador to Iraq, the gifted Zal Khalilzad, has done a remarkable job this year in narrowing the differences among competing factions in Iraq. Now it looks like tomorrow's turnout for the parliamentary elections will be strong, even among minority Sunnis, and result in the need to form a coalition government.

In fact, when we were there, we heard that the Sunnis—of which only 3 percent of them voted a year ago when they formed their interim government, and barely a third of them voted 2 or 3 months ago when they voted on their constitution—I understand now that over half the Sunnis are going to vote tomorrow. They will elect anywhere from 50 to 55 to maybe 60 members of this new parliament. The Kurds are expected to elect a similar number, and the Shiites will elect maybe 100, 110. There is not enough among any of them to have a majority. That outcome will create a need, and that is a need to form a coalition government.

The real challenge will come, though, after the vote, as Iraqis confront at least two enormous tasks. One is setting up a functioning government, and the second is rewriting or amending the constitution they just adopted a couple months ago, while at the same time trying to subdue an armed insurgency.

America must do all we can to make sure that the Iraqis' experiment with democracy does not founder, even if this experiment results in something less than a Jeffersonian democracy. But to succeed and become a new and prosperous country, Iraq will need more than just our help. European countries and other nations, including democratic nations, can do their part by helping Iraq set up government ministries and agencies designed to oversee everything from defense and finance to human services and environmental protection.

In fact, I strongly support a proposal that would call for individual countries to adopt a new ministry in Iraq and help them to develop and implement and execute sound policies. For example, Nation A might adopt a finance ministry, Nation B might adopt a foreign ministry, Nation C might adopt the petroleum industry, Nation D might adopt the transportation industry, and on and on and on. It should not be just us; it should be a whole lot of countries joining with us in this effort.

Arab countries that have been extremely critical of the war and of America's occupation must realize they have a dog in this fight, too. On that point, I am more optimistic than I was before my trip. As Saudi King Abdullah told us a week or so ago—these are his words—''In Iraq, what's done is done.'' That is coming from a monarch, a King, who, frankly, did not appreciate, nor did his people much appreciate, our invading Iraq and taking down the regime of Saddam Hussein. But his words: ''In Iraq, what's done is done.'' And from that, I infer he means it is time to turn a page. It is time for them and other Arab nations in that region to get off the bench and get into the game. And they sure need to.

To that end, I sense that many of Iraq's neighbors, including Saudi Arabia, the United Arab Emirates, Kuwait, and Qatar, realize it is in their interest to make sure that Iraq does not erupt into civil war, a civil war that could become a regional war or turn Iraq into a haven for terrorism. Those nations could help ensure a better outcome in Iraq by, among other things, forgiving the Iraqi debt they hold while also working to improve political relations within Iraq. The United States, perhaps through the Arab League, should exert considerable influence in the region to make sure this happens.

Another area in which the United States and other nations can be helpful is to assist Iraq in formulating and implementing, next year, an economic recovery and growth strategy. Iraq, as we all know, is blessed with enormous oil and gas revenues. Yet it is almost beyond belief that today, some 30 months after the U.S. invasion of Iraq and the lifting of the oil embargo in Iraq, oil production in that country is really no higher today than it was on the day of our invasion. In fact, we were told on our visit that oil production today continues to hover at barely one-third of Iraq's capacity of some 5 million barrels of oil per day. But, roughly, that leaves 3 million barrels of oil a day untapped in the ground, even though there is the capacity to draw it out and to refine it and to sell it. At $50 per barrel and 3 million barrels per day, that means that Iraq is leaving approximately $150 million per day on the table in unrealized revenues. That is about $1 billion a week. For $1 billion a week, you could hire several armies to protect the generating capacity, the oil production capacity in that country.

That kind of revenue also would allow the Iraqis to have some money left over to meet a number of their needs. And they have plenty of needs to

meet. That is money that could be used to lower the 25-percent unemployment rate among young Iraqis, along with the unemployment rate among adults in that country. How? By putting them to work on a host of worthy projects around the country—schools, health centers, roads and transit projects, housing, wastewater treatment, electricity generation, telecommunications infrastructure, and the list goes on.

Speaking of economic development, Saudi Arabia continues to increase its oil revenues by more fully integrating their oil and gas business to include surveying, exploration, drilling, recovery, refining, and transportation, as well as providing feedstocks to a growing petrochemical industry. There is no reason why Iraq could not also do the same over time.

But unlike a number of other Arab nations, Iraq's economy does not have to be what I call a one-trick pony. Iraq is blessed with an adequate water supply and plenty of fertile land. Crops, produce, and fruits raised on that land can feed all of Iraq and much of that region. We can help the Iraqis figure out how to realize their potential, and we ought to do it.

Iraq is also blessed with a well-educated workforce, many of whom would like to be entrepreneurs in their country as they move away from a command-and-control economy to more of a free enterprise system. I am told that last year some 30,000 Iraqis applied for business licenses to start their own businesses. A lot of them could have used an infusion of capital to get started, too. They did not need $50,000 or $100,000, either. In a number of instances, as little as a couple of hundred dollars is all they might have needed.

One of the missing ingredients in Iraq in terms of an economic recovery is a banking system that can make and service loans, including loans to small businesses, which generate a lot of the jobs. In America, we know banking. So do some other nations. We need, collectively, to do more to help Iraqis establish a banking system to fuel, among other things, the growth of small businesses—the engine for job creation.

On a positive note, USAID has begun operating in Iraq trying to develop those micro-loan programs that they are putting in place in other nations around the world where maybe $100 or $200 or $300 is extended in a loan to a small businessperson. That is a good program. It is just beginning, but it is one we ought to kick into high gear there.

The idea of Iraq as a tourist mecca was not the first thing that came to mind as we headed for that part of the world. Having said that, Iraq is the home of several of the holiest shrines in the Muslim world, and, lest we forget, it was also the cradle of civilization. Muslims come from all over the world already to visit a number of those holy shrines in Iraq. Given the chance, I believe a lot more of them would come to visit some of those holy places, other holy places, in Iraq if there were airports to serve them, along with restaurants and hotels, bus service, auto rental agencies, and the like.

Next, let me add a word or two about Iran, a largely Shiite nation that borders Iraq, as we know. Iraq's Shiite population lives primarily in the southern part of Iraq. Hundreds of thousands of people have crossed over the border from Iran into Iraq over the past year or two. Tens of millions of dollars have followed them into Iraq. Many in the region fear, understandably, that Iran is attempting to expand its influence through southern Iraq all the way to its border with Saudi Arabia. Others fear a balkanized Iraq divided into three parts, and maybe eventually three countries, will evolve, and those fears are understandable.

Last week, in an unprecedented move, Iran's supreme religious leader, the real boss in that country—not the President, the real boss in that country—sent a personal emissary to Saudi Arabia to meet with its King, King Abdullah, apparently to begin a dialog. That was 2 weeks ago. I said 1 week. It was 2 weeks ago.

Recently, Iran has also sent word to U.S. officials in Iraq, through the U.N., through Shiite persons in Iraq, that the Iranians would also like to send, I believe, their national security adviser to meet in Iraq with our representatives there. I am told that our administration, apparently, is not prepared to give the green light for those talks, arguing that any talks should involve much lower level Iranian representation.

The words of another Arab leader we spoke to on this subject are instructional. That Arab leader said to us during our stay—he was talking about the U.S. unwillingness to join multilateral talks over Iran's nuclear policy but this monarch said to us:

Ignoring someone doesn't mean they cease to exist.

Think about those words: ''Ignoring someone does not mean that they cease to exist.'' I would encourage our own administration to give American officials in Iraq the green light and find out what is on the Iranians' minds. It is hard to imagine much damage coming out of such a conversation, and there may be some upside to it. Time will tell.

If we are willing to engage in multilateral discussions with some of those wild and crazy North Koreans, I don't know that there is a lot of danger in sitting down and being involved in direct or multilateral relations with Iranians, all the while making clear that their possession of nuclear weapons is not acceptable to us and the views they have toward Israel and pushing Israel into the sea is anathema to us and something we would never countenance.

Let me conclude on the Middle East by sharing with my colleagues an old Navy story. Long before I came here, I served as a naval flight officer during the Vietnam War in Southeast Asia and later on as a Reserve naval flight officer and mission commander of a Navy P–3 airplane, a four-engine airplane. Our Presiding Officer may have seen the Navy P–3s land at Jacksonville, FL, any number of times in our job to hunt for Red October and patrol the oceans of the world.

Every now and then, we would have to change an engine in one of our planes. They break. You land the plane. You pull into the hangar and pull off the engine and put another one on. It takes a day or two, and you have to test it before you go up in the air again. In the Navy, if you had a really hard job to do, we would liken it to changing an aircraft engine in one of our planes. But a really tough job is one that we had to do by changing the engine of the airplane while the airplane was in flight. When you are doing that, that was a tough job.

What the Iraqis face in the coming weeks and months is the political, economic, and military equivalent of changing the aircraft engine while the aircraft is in flight. Tomorrow, they are going to hold elections. The good news is that for 275 parliamentary seats, some 6,500 candidates have filed and are running. That is an astounding number. When the smoke clears literally and figuratively later in the week, they will have to figure out who won and who of those 6,500 lost. They will have to seat a parliament. Then they will have to start putting together a coalition government, not unlike what the Israelis do from time to time. Nobody is going to have a majority. The Shiites may have 100 or 120. But they will need other forces. Or maybe some of the rest of the people who are there, the Kurds or the Sunnis and others, can create a majority coalition on their own.

They will have to figure out who is going to be the prime minister or deputy prime ministers. They have to figure out who is going to be the minister of finance, of foreign affairs, of transportation, of housing, the environment, petroleum, on and on. They have to put the right people in the leadership roles of those agencies and have good people up or down the line in those agencies so they can formulate, implement, and execute policy.

While they are doing all of that, they will have to rewrite their constitution, or at least part of it. To make matters more challenging, they have to do it all while in the face of an armed insurgency. I suggest to my colleagues, doing any of those things in and of itself—going through the elections tomorrow, electing a parliament, standing up a government, putting the right people in place to lead those ministries, rewriting the constitution—any one of them by itself is a hard thing to do. Doing them all almost simultaneously during the course of an armed insurgency, achieving that would be

like the triumph of man's hope over experience.

I returned from Iraq more hopeful than when I left. I acknowledge that a lot of hard work lies ahead for us and, hopefully, for a new coalition of the willing in the Middle East. While there are no easy choices or solutions, I acknowledge that. I think we know that. But if we do begin to alter course, as I have outlined earlier, I believe we increase the likelihood that America, Iraq, and its neighbors will arrive at the destination we all seek.

SERGEANT FIRST CLASS JAMES ''SHAWN'' MOUDY

Mr. CARPER. Mr. President, I rise to talk about a young man who lost his life last Sunday in Iraq. He is an Army sergeant first class who grew up in Delaware, a graduate of Tatnall High School. His name is James ''Shawn'' Moudy. He is the ninth soldier from Delaware to have died in Iraq.

Shawn epitomized the best of our country's brave men and women who fought to free Iraq and to secure a new democracy in the Middle East. Shawn exhibited unwavering courage, dutiful service to his country and, above all else, honor. The way he lived his life and how we remember him, Shawn reminds each of us how good we can be.

Shawn was born in Wilmington, DE, on July 14, 1968, to James and Thelma Moudy who now reside in Newark, DE. Shawn attended the Independence School and graduated from Tatnall School in 1986, where he enjoyed playing football and lacrosse. Shawn then attended 1 year at Marion Military Institute in Marion, AL.

After earning a nomination to the Coast Guard Academy, Shawn decided instead to enlist in the Army. For almost two decades, Shawn traveled the world on tours of duty in Korea, Germany, Bosnia, and later at Ft. Benning, GA. It was in Korea that he met his wife Myong Sun, and today they have a daughter, Sandra Rebecca. She is 13 years old.

In September 2004, Shawn was transferred to Ft. Drum in Watertown, NY, where his family resides today. He was deployed to Iraq in August 2005, a few months ago. Shawn's mission was to train Iraqi troops, and he joined in the security patrols there. Shawn was a member of the 71st Cavalry Regiment of the 10th Mountain Division. He always knew he wanted to be a soldier. He had several uncles who served in the military. As a child, his mom and dad told me, he always drew pictures of soldiers. According to his mom, with whom I was privileged to speak the night before last, Shawn believed that ''the world needs to be safe and protected and free. That's what his whole life was dedicated to.'' Those are her words and his.

Shawn's parents take comfort in knowing their son was doing what he believed was right. Their son was resolute in his belief that the United States should not leave Iraq until a free society has been established. He died Sunday in western Baghdad when the humvee he was driving struck another one of those roadside bombs we hear so much about.

I rise today on behalf of Senator BIDEN and our whole congressional delegation and the people of Delaware to celebrate his life, to commemorate his life, and to offer his mom and dad and family our support and our deepest sympathy on their tragic loss and on ours.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. CARPER. Mr. President, on behalf of our leadership, I ask unanimous consent that the following Senators be recognized to speak as in morning business:

Senator CLINTON for 1 hour, followed by Senator COLLINS for a time to be determined; Senator KENNEDY for 30 minutes to make a motion to instruct; Senator LANDRIEU for 20 minutes.

I further ask unanimous consent that Republican Senators be accommodated, if seeking recognition, in between two Democratic Senators, and that Republican Senators be allocated time that is equal to that consumed by the minority Senators.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MOTION TO INSTRUCT CONFEREES

Mr. KENNEDY. Mr. President, tomorrow, we are going to have a series of votes in the Senate to give instructions to our conferees. It is an expression of the Senate to give instructions to conferees on priority items that are going to be before the conference. In this particular instance, it is dealing with the issues of higher education.

I intend to address the Senate again tomorrow. I want to urge a favorable vote by Republicans and Democrats alike because the resolution I will be offering is a reflection of the action that was taken in our HELP Committee, chaired by Senator ENZI, in which there was extremely broad bipartisan support—virtually unanimous support—for that position. That position basically was that the committee would have $8 billion in additional savings for need-based aid.

Our intention is to give this additional aid to Pell eligible students. We would also offer an additional grant of up to $1,500 to Pell-eligible juniors and seniors who are majoring in math or science.

We know that one of the great challenges we are facing in the United States is how we are going to deal with the challenges of globalization.

We have to ask ourselves as Americans whether we are going to be consumed by globalization or whether we are going to accept the challenge and equip every man, woman, and child with the ability to compete in a global market and to equip our country with the ability to succeed in a global market. That means we must be the country, the society, the economy that is innovative and creative, and that is going to mean new opportunities that are presented. That is going to be essential not only for our economy but for our national security. The kind of investments we have and those recommended by our committee are a good start.

I believe we are going to have to do more, and I welcome the opportunity to do more in the next session of this Congress.

This motion that I offer and others support, that will be voted on tomorrow, is a reaffirmation of the importance of strengthening higher education. There are many different aspects of the education budget which are of concern to us. Senator HARKIN and others have outlined those concerns. I join them in expressing our anxiety and disapproval at the fact that we are either going to support education or support greater tax incentives, essentially giveaways, to the wealthiest individuals in our country.

This is really the issue. This is the question. We will have an opportunity to express ourselves tomorrow. The whole battle over the budget is an issue about priorities for our Nation. We can say expending more resources in the area of education isn't going to solve all of our problems, but it is an expression of a nation's priorities: investing, investing, investing to make sure that every young person who has ability, who wants to continue their education is going to be able to do it.

Finally, I will just mention that the additional reason this motion is needed is because the Republican proposal from the House could actually increase the cost of college loans by more than $2,000.

Mr. President, I send a motion to the desk. As I understand, the leadership will work out the voting sequence, and we will have an opportunity tomorrow to go into greater detail on this motion.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the House amendment to the bill S. 1932 be instructed to insist that the Senate provisions increasing need based financial aid in the

bill S. 1932, which were fully offset by savings in the bill S. 1932, be included in the final conference report and that the House provisions in the bill H.R. 4241 that impose new fees and costs on students in school and in repayment be rejected in the final conference report, for the following reasons:

(1) The cost of public college tuition and fees has increased by 46 percent since 2001.

(2) The lowest income student at a 4-year public college faces an average of $5,800 in unmet need.

(3) For families in the lowest income quartile, the average cost of attendance at a 4-year public college represents 47 percent of their income.

(4) More than 5,300,000 students received Federal Pell Grants in 2004 through 2005.

(5) The buying power of the maximum Federal Pell Grant has decreased from 57 percent of public college tuition to 33 percent in the last 20 years.

(6) The gap between the cost of attendance at a 4-year public college and the maximum Federal Pell Grant has increased from $5,282 in 2001 to $8,077 in 2005 through 2006.

(7) The typical student who borrows money graduates with a bachelor's degree from a public college with $15,500 of debt.

(8) A person with a bachelor's degree makes $1,000,000 more over the course of the person's lifetime than a person with only a high school degree.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I associate myself with the comments of the Senator from Massachusetts and underscore the importance of the points he was making about the need for us to be better prepared to compete in the global economy. I look forward to supporting the Senator's motion, and hopefully the conferees will pay heed to the Senator's strong admonition about what is in our Nation's best interest in terms of investments. I hope I may be added as a cosponsor of that very important effort.

Mr. President, the holiday season is upon us, presenting an opportunity to give thanks for our blessings, reflect on the past year, and consider how we can better demonstrate goodwill to one another. That is the true spirit of this wonderful and blessed season.

Sadly, the budget we are debating this week and, quite frankly, the work of the Congress this entire session has failed to keep faith with the spirit of the season or the priorities of the American people. We are not following through on the promise to rebuild New Orleans. We are not taking the necessary steps to reduce health care costs or make energy more affordable. We are not investing in education as we should to prepare the next generation.

This entire legislative season has been about the misplaced priorities of the White House and the Republican majority in Congress who are unable or unwilling to recognize the realities facing America's families.

Washington Republicans seem oblivious to the fact that 1.1 million more Americans fell into poverty last year for a total of 37 million of our fellow citizens, including 13 million children. In New York City, one in five residents lives below the poverty line. They have turned a blind eye to the fact that 45 million Americans are without health insurance, including almost 3 million New Yorkers.

They have ignored the devastating effects of the job losses that workers at GM, Ford, and Delphi face and our huge and growing national debt, now $8.1 trillion, that threatens the future of our children.

The Republican budget lays bear the priorities of Washington Republicans: Loopholes for oil companies instead of student loans for middle-class families; irresponsible tax breaks instead of affordable health care for the working poor. Now these are choices that would even give Ebenezer Scrooge pause—choices that not only ignore the challenges facing American families but make those challenges more difficult to overcome.

Congress is on the verge of enacting a fatally flawed budget plan that finances further irresponsible tax breaks on the backs of Americans who struggle to pay college tuition, to provide health care coverage for their families, and keep their homes warm in winter.

This budget plan is written in the full spirit of the ''Grinch Who Stole Christmas.'' But instead of taking away the presents and the Christmas decorations like the Grinch did, Congress is ringing in the holiday season by taking away Medicaid benefits, food stamps, child support enforcement, childcare programs, affordable housing grants, and student loan benefits.

At the end of the story, the Grinch sees the error of his ways. I can only hope that the Members of this Chamber experience a similar revelation.

We have been told that these steps are necessary to pay down the deficit. We have been told that the proposed additional cuts and tax breaks are the priorities of the American people necessary to continue economic growth.

Cutting Medicaid, food stamps, childcare, affordable housing, and student loans is no way to balance the budget or secure our children's futures. It is not in the long-term interest of our country, and it is not in keeping with the values of the American people.

What is more, under the Republican majority's budget proposals, the budget deficit would actually increase by anywhere from $10 billion to $20 billion.

Democrats in the Congress know what real deficit reduction looks like. It involves difficult choices on both the revenue and spending side. During the Clinton administration, making the tough choices not only eliminated the deficit but produced the largest budget surpluses on record. If those in Congress who support this budget, the Grinch budget, were truly concerned about deficits, then they would not have opposed the restoration of the pay-go rule, a very simple rule which means you don't spend money you don't have. They certainly would not have approved an additional $70 billion in tax breaks along with the budget cuts, tax breaks skewed toward the most affluent among us that will worsen our Nation's growing fiscal imbalance.

What this bill represents is not only an abandonment of our responsibility to middle-class and working families but the steady erosion of the work support programs that have enabled millions of Americans to find work, get off the welfare rolls, and rise above the poverty line.

The right way to cut the deficit is clear.

Instead of cutting programs that help working families get ahead, cut the subsidies flowing to corporate tax breaks, delay further tax cuts on capital gains and dividends while passing those cuts that benefit the middle class such as AMT reform. The tax cuts going already to the wealthiest in this country are nearly seven times larger than all of the proposed budget cuts in the House and Senate. Moreover, there are tax cuts not yet in effect, such as the repeal of the phaseout of personal exemptions and limitations on deductions that go into effect next year, which will cost over $27 billion in the next 5 years.

We could also allow the Government to negotiate with drug companies to lower the cost of prescription drugs, which was prohibited in the flawed Medicare drug benefit. If Medicare were able to reap the kinds of savings we have seen through the VA system's negotiations, seniors could expect to save more than $100 billion over the next decade in drug costs. This alone is more than four times the savings achieved through the harsh budget cuts being proposed.

We could establish a fund for alternative energy investments by requiring that oil companies, which as we know are experiencing amazing record profits this year, to invest in alternative energy. We could require that they help with people's heating bills this winter. We could bring in $20 billion a year with the right energy investments through the strategic energy fund that I have recommended that would have the benefit of making us less energy dependent on foreign oil.

Of course, we could eliminate the $2.6 billion in new tax breaks that those same record profit-making oil companies lobbied for and won in this year's Energy bill. Why do we not take the oil companies off welfare? I think that is an idea we at least ought to debate in this Chamber. Unfortunately, the Republican majority and the administration have made their choice: Breaks for the special interests instead of compassion for common citizens who face new hardships. They must literally wake up each morning and ask, what are we going to do to help our friends today? Never has so much been done for so few who need it so little.

Look at their plans for Medicaid. The Republican majority is recommending cuts of up to $11.4 billion over the next 5 years. The Congressional Budget Office has estimated that these cuts will

result in higher premiums and copays for over 7 million people, including 3.5 million children. Some 70,000 people may lose their health care altogether. A family just above the poverty line could see an increase of more than $1,000 annually to maintain their health care coverage.

New York would bear a disproportionately high burden of these cuts, as we would stand to lose over $1.37 billion, putting at risk the more than 4 million New Yorkers who depend on Medicaid. Over 97,000 New York children and 12,400 New York seniors would lose a substantial portion of their services under the cuts being debated. Instead of closing tax loopholes, Washington Republicans are cutting health care. It is very difficult to understand how we could be doing this. If we took that $2.6 billion in new tax subsidies for oil companies that are having an aggregate year of profits of—give or take a billion or so—around $100 billion, with that $2.6 billion we could cover the health care costs of an additional 1.7 million children nationwide.

Sadly, the majority has chosen health care cuts and Medicaid as the tip of the iceberg. We can take a look at other damage that will come to American families because of these misplaced priorities. Working parents struggling to pay for child care, health care, and housing will now have the added burden of losing their food payment assistance. Two hundred and twenty-five thousand people will see their food stamps vanish, including up to 14,000 New York residents and some 5,000 New York children.

To put this in perspective, the Republican majority is proposing an approximately $700 million cut in food stamps. If we simply reinstated the Superfund polluter tax, which forces companies that pollute to bear the expense of cleaning up instead of passing it on to the average taxpayers to clean up their mess, that would generate $7.3 billion over the next 10 years, more than 10 times the cost of the food stamp cut.

Additionally, children in households receiving food stamps are automatically eligible for school meals. The Republican bill in the House, while reducing the number of people who will receive food assistance, also eliminates the automatic link and makes it more difficult for hundreds of thousands of low-income children in New York State, as well as many more around the country, to qualify for free or reduced priced meals at school. The House budget is literally taking food from the mouths of children.

Then, what are they thinking when it comes to child support enforcement? If there ever was a win-win program, it is this. It is designed to go after deadbeat parents, collect the money that is owed, which in turn can be provided to the families that are in need, helping lift those single-parent families out of poverty by requiring that their parents work and make regular payments to support their children. Well, no, that is going to be cut as well. Funding would be slashed by $16 billion. That means some $24 billion in child support payments would go uncollected. In the next 10 years, children in my State would stand to lose over $1.4 billion in child support payments.

It is almost impossible to imagine this happening at any time but here we are in the Christmas season, and we are giving a boon to deadbeat parents, taking food out of the mouths of children, cutting people off of health care and, of course, under the radar screen, the Republican majority is trying to use this budget reconciliation process for a major overhaul of our Nation's welfare rules.

I am very proud of welfare reform. In 1997, we created a welfare program that valued work, built around the notion that people should work and that people who do work should not still be poor after they have worked. And that work leads to dignity and self-sufficiency and provides strong role models for children. Back then—it was not so long ago—Republicans claimed to agree that we should support working families, but the policies they are pushing today will punish working parents. It will push those who are literally tottering on the brink of poverty over the edge.

Under their proposal, 330,000 families would lose child care assistance and cities and towns throughout my State would be the ones that would have to provide some kind of help but not with Federal assistance because they would be required to eliminate subsidies for working families. They are the ones down at the local level who will see the results of these wrong-headed policies.

As working families grapple with rising home prices, the Republican majority is trying to eliminate critical grants that create more affordable housing. These grants have been an invaluable source of funds, providing for the rehabilitation of homes that would otherwise be out of reach for low-income working families.

Since 1995, New York has saved 1,746 units of housing as a result of this program; on the chopping block. Goodbye to help for housing. I do not know where the working families in my State or other States will end up living. A lot of them will end up being homeless.

Then we come to a program that is about the future. It is particularly stunning—I am sure many in this Chamber and the House believe that a college education is certainly critical for their own children and grandchildren and is part of the route to success in today's competitive global economy. Well, one would not know by the budget numbers that are coming out of the Republican majority that they have any value for education at all because they are instituting an additional $14.3 billion in charges for student loan recipients, making an education even more difficult to finance. This would be the largest cut in student aid in the history of the loan program.

So while with one hand we paint college education as the path to achievement, with the other we are erecting an even higher barrier for middle class families and working families, let alone poor families, who all of a sudden are going to be told they better try to get their kid to go to college, but tuition is rising so we know it is more and more expensive. Instead of giving more help as we used to do, we are going to make it harder to get the financial assistance that is needed to go to and complete college.

An average student would be saddled with a lot more in costs. For example, if a student had $17,500 in student loans they might pay an additional $5,800 under the Republican plan. In my State, approximately 472,000 students would see an increase in their costs. I do not understand what we are trying to achieve. If we simply took the $18 billion revenue-raising package adopted by the Senate in its tax bill, which repeals among other loopholes another $4.3 billion tax giveaway to oil companies—honest to goodness, don't the oil companies ever get enough tax breaks? I mean, it is not enough that we are paying so much money to them out of our daily paychecks, now they are going to ask us to pay it out of our tax payments—more and more and more subsidies to companies that are making tens of billions of dollars in profits. It doesn't add up to me.

But if we took away those $4.3 billion in new tax giveaways to oil companies and we cracked down on abusive corporate tax transactions such as setting up offshore tax havens in places such as Bermuda to avoid paying United States taxes, we would not have to make it more painful and costly for students to go to college.

So what is the tradeoff here? More subsidies for the oil companies, more offshore tax havens for companies that call themselves American but are not willing to pay their fair share to fund our young men and women in uniform, to help pay for the victims of Katrina or literally anything else? We could keep doing that. I guess that is the Republican philosophy. Or, we can say: Wait. Enough is enough. We don't have to give the oil companies any more tax breaks and let's close these loopholes. It is unpatriotic for these companies to pay not one penny in taxes to this Government, to our national defense, for the blessings that make it possible for them to do business and have a good standard of living. It is wrong.

Apparently that is not the way the Republican majority sees it. What they say is that these spending and tax cuts are progrowth. They are right about that. They are progrowth for the oil companies. They are progrowth for the tax haven companies. But they are sure not progrowth for somebody trying to get through college or some working mom who needs to collect child support

from an ex-husband. I do not see anything progrowth about that for them.

They do not even make economic sense. You know, we know how to do the economy right. We did it in the 1990s. We not only balanced the budget and created a surplus but helped to create 22 million new jobs and lifted millions and millions of people out of poverty. We enjoyed a long period of sustained economic growth. We took on the challenges of the day and we tried to prepare for the future.

That is not what is happening in Washington today, and I am deeply troubled and regretful about the choices that are being made on both ends of Pennsylvania Avenue.

I have spent many years working on behalf of children in foster care. They are probably the most vulnerable of all of our children, the poorest of the poor—abused, neglected, children who get taken away from their families because their families are unable or unwilling to care for them. When they are taken away by the police or by a court or social worker—maybe they are turned in by a neighbor or relative—they become our children. They become the responsibility of every single one of us and we have to work very hard to try to get them reunited with families, to try to find a relative who will love and care for them; absent that, to try to make sure they are safe and secure in foster care while hopefully we try to find a permanent, loving family for them.

It is going to be a lot harder because the Republicans are choosing corporate tax breaks instead of foster care. They are going to slash $600 million from foster care support.

I grew up loving the Christmas season, telling the story over and over again about how Mary and Joseph found themselves with no place to stay and how Jesus was born in the manger. Many people say: Look, they were shut out, left behind. We are shutting out and leaving behind a lot of our children with these budget decisions. It is wrong. It is wrong to reward special interests who can do perfectly fine for themselves and slam the door on foster children who need all kinds of help to even have a chance in life.

It is wrong to give more tax breaks to oil companies and not be sure we are going to have enough money to help families pay their heating bills this winter. It is wrong that we are using Orwellian language to call a budget bill that actually raises the deficit a deficit reduction bill. It may be clever. You might fool some of the people but not for long. The deficit will continue to be a drag on our economy and a burden for future generations.

The American people, and particularly our children, deserve better. The Republican majority's proposals for this budget are not in the best interests of America. They will undermine the hopes and dreams of a lot of hard-working people, people who took us at our word 8 years ago. They got off welfare and they are working now. I see them every day. I go into offices or restaurants all over New York and somebody will come up to me and they will say: Senator, I used to be on welfare, but I am working now and my children are so proud. Thank you. Tell your husband thank you.

I always say: Well, God bless you, take care of those children.

Now what are we doing? We are going to cut the childcare that people need to help take care of their children while they are at work. We are going to cut the housing assistance that people need in order to be able to afford a house or an apartment in most places of which I am aware. We may be cutting their children off Medicaid with all these cuts in Medicaid, so that little girl who needs that expensive asthma medicine in order to keep going to school may be out of luck. We are going to be cutting child support so we are not going after those deadbeat parents to collect money that will help that family stay on the right path, stay out of poverty.

It doesn't make any sense to me, but those are the choices that the elected representatives of the people of this country are about to make. It is time that we go back to arithmetic and reality; we go back to a conservative fiscal policy that pays as you go, doesn't spend what you don't have, produces balanced budgets and surpluses, and takes care of people who are working as hard as they can or who are vulnerable and need our help.

There is a lot of talk about family values. Well, let's value families and let's do it, not just with rhetoric, but with money, decisions, budgets that show what our values are.

So in the spirit of this holiday season I call on the Members of this body to reflect on the choices they will be making in the next few days. These choices are going to have a profound impact on millions of people, less fortunate than we are, but there but for the grace of God go any of us. It will not just be for a holiday season, it will be for years to come.

I think we can do better. I know America deserves better. We can get back on the right path of fiscal responsibility and moral decisionmaking that takes into account the needs of the least among us.

We can build a nation that reflects the best of what we can and should be. I hope we will take this opportunity to do so. If we do not, there will be consequences, and they will reflect badly on our Government.

Let us have a happy ending to the story. The Grinch had an epiphany. The Grinch came back and said: I don't want to be a bad guy. I want to share in the Christmas spirit.

So let us replace this ''Grinch budget'' with an American budget that does what it should do for all the people of our country.

I thank the Chair. I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

AMERICAN PRIORITIES

Mr. ISAKSON. Mr. President, I thank the Presiding Officer. I thank you for the opportunity to speak.

I had not intended to come to the floor today but I passed my television set in my office, and I caught the preceding speech regarding American priorities and certain allegations regarding leadership at both ends of Pennsylvania Avenue. I felt compelled for a second to try to answer some of the rhetorical questions that were asked but never responded to in the speech. If I heard it right—I could be corrected—one of the questions was ''I don't understand what we are trying to accomplish.'' It was stated in the context of extending the tax cuts, I presume the tax cuts the House passed—to extend on capital gains and dividends. I will assume for a second that was part of them. There may have been others, and I will address some of them, but I thought it was time, at least for those who might be watching and listening today.

There are two distinct philosophies in Washington, DC. One has just been characterized. My hope is, in the few minutes I have been allocated, to be able to characterize the other.

When George Bush took office at the beginning of his first term, this country was moving into a serious recession which was realized shortly after that term began.

In September, on the 11th day of September, in the year 2001, America had the most unbelievable, heinous attack upon us that has ever been perpetrated, even worse, both in death toll but also in tragedy, than that of Pearl Harbor. That event, on top of the declining economy which was inherited in large measure by the administration, this President, and in turn this Congress, set on a new course to do two things: One, empower the great economic engine of America, which is American business and free enterprise. We did so by strictly passing legislation in terms of tax cuts and changes in tax policy that would empower American business, offer the incentives for more jobs and bring us out of the economic difficulty we were having.

I submit that is precisely what has happened. If you look at the last 5 years, we have gone from a period of recession, which began in 1999, peaked probably in 2000–2001, and since, we have continued to climb and improve. Why have we done so? We have done so because we empowered the American business person and the American employer and the American employee by allowing them to keep a little bit more of their business and invest it in this great country, spend it in discretionary spending, buy a new home. Economic

enterprise breeds economic enterprise which breeds more economic enterprise.

We know from the standpoint of our side of that philosophical issue, if you empower business to do more business, the American Government will prosper. Our revenues have gone up in this country. They have not gone down because of tax cuts. June 15, 2005—this year—was the largest single take in tax revenue in the history of the United States of America. It was because our country is running on all cylinders, or almost all cylinders.

When I went to college, 95 percent employment was full employment. We have that today. We have had an unbelievable sustained period of very positive interest rates. We have had an economy that has not been attacked by inflation, and inflation continues to be under control. The jobs that were lost because of the recession in the early part of this decade are coming back, and they are coming back at a rapid rate. Business formations, prosperity, American home ownership is at an all-time high. The real estate industry is at an all-time high. American business enterprise is thriving, and I submit it is not confusing to me. I do understand what we are doing. What we are doing is we are empowering that which has always taken this country to great heights: the American free enterprise system, the American taxpayer, the American employer, and the American employee. We are empowering them with their money and believing they can do it better, and we can prosper together.

The other side's philosophy is, you charge the people more money to take care of the problems you perceive. Instead of empowering them, you shackle them with less money, you empower government, you breed mediocrity. That is wrong.

No one predicted September 11. Nobody could have ever predicted September 11. But while in the process of reinvigorating the American economy through strategic tax cuts, this administration has confronted the most horrible fate a country could confront on September 11 in the attack of terrorism. We have pursued terrorists around the world. We have secured our airports. We are securing our ports. We have been fortunate not to have an attack on our soil since that date. That did not come cheap. It came at a great price. A great price we have financed, in part, obviously, with the deficits that were referred to. But we paid for an awful lot of it with the growth in our revenue from an empowered taxpayer and an empowered employer and an empowered employee.

I just want to make a couple things clear. I am one member of the majority party of this Senate, and I can only speak for myself. But I take issue with being characterized as someone who is trying to cut health care, someone who is trying to take food out of the mouths of children, somebody who is trying to take welfare and turn it back around and hurt people on welfare to recovery, someone who is trying to make it harder for kids to go to college.

All of those examples that I heard in the previous speech were examples of taking an issue and distorting an issue to make it appear that one side is against children, for hunger, against education, for ignorance—all those negative connotations. So for a second I will address them, if I can.

We had an earlier motion in the Senate today with regard to Medicaid. We have a lot of Governors in this country who are attempting to get flexibility with Medicaid. I happen to be one who supports giving the Governors flexibility from the standpoint of Medicaid. Why? First of all, they and their legislatures administer Medicaid, we don't. We pay for two-thirds of it, but we hold them accountable for its administration. If they are accountable for its administration, and they are paying a third of the costs, and we are holding them accountable, by golly, they ought to get flexibility to use some of the tools. I know the distinguished Presiding Officer knows about tools in medicine today and applies them to health care for our poorest.

Being more flexible for our Governors to deal with one of the largest single expenditures of State government, the largest in my State, is good common sense. It is not cutting health care. It is empowering the people who are helping to get it to the people who need it.

This business of taking food out of the mouths of babes, I do not know what the Senator from New York was referring to specifically, and I will give her the benefit of the doubt. But I will say, cutting the rate of growth in programs is not taking food out of the mouths of people who are getting it. Cutting the rate of growth in spending is trying to manage our budget. I have never seen a time, even back in the early 1990s, when the Republicans were attacked in the House for taking the food out of the mouths of young children. It was the rate of growth in programs that was talked about. It was not real dollars. I submit the reference today was probably precisely the same thing.

As far as welfare rules are concerned, one of the great legislative initiatives of the 1990s was welfare reform and welfare-to-work. I have been to the centers in my State. I have seen the bulletin boards, the success stories today of people who were on welfare, shackled for a lifetime, and then empowered by welfare-to-work legislation. We have reduced our roles in this country tremendously. We have not really reduced the cost of welfare that much because we are providing childcare, we are providing training, we are providing transportation, and we are providing education.

But do you know what we did. We slowed the growth of the cost of welfare to the American taxpayer. In the process of doing it, we empowered Americans who thought they were shackled for a lifetime in poverty, in welfare, because we got them job training. We got them child assistance while they were being trained. We empowered them and challenged them to go off of welfare and on to work. And they are there today. That is a great accomplishment.

As to the student loan business, I do know a little bit about that. We were tasked in the Health, Education, Labor, and Pension Committee on budget reconciliation with finding some savings. The characterization in the previous speech was it will cost students more money to go to college and to borrow on student loans. There are going to be some costs, that is correct. We still, however, as a government, provide through Pell grants and through assistance in the College Loan Program unparalleled assistance to students wanting to go to college and to finance that education. We are merely trying to make that program accountable and live to a certain extent within our means.

There was a comment in the preceding speech that it is time to get back to arithmetic and reality. I will address my remarks to that for just a second.

There is not one Member in here who likes the deficit situation we have been in. I applaud the White House for encouraging us, and I applaud Senator GREGG in his diligent leadership to force us to try to bring about savings and begin to reduce the rate of spending in programs. The reconciliation bill we passed, which I believe was $39.4 billion in savings, is a start. It is only a start. We will have to do more.

In the case of the reconciliation and those savings, whatever the program might be, there is going to be somebody who says: Don't cut here, cut there. But for us eventually to make this budget process accountable, we will have to be able to open all of government, look at all of government, analyze all of government, and make hard choices. The reality of arithmetic is you cannot tax America into prosperity. You cannot solve everyone's problem by taxing those who are producing the jobs that employ the people of the United States of America. What you can do, however, is hold yourself accountable on the spending side and empower those who produce the revenues to do more.

The arithmetic of our tax cuts is simple, because of capital gains reductions, mature assets which were held and not liquidated because of the tax rate were sold, and new money was made, and it was deployed in new investments with growth because dividends became equalized with capital gains and, in fact, were lowered in a rate of taxation. Wall Street began to focus on dividends as being a positive thing for companies to do.

There has been a tremendous move on Wall Street, and the market is

stronger and investment in America is stronger because of what we did in bonus depreciation, because of what we did in expensing. In every one of those things that was called a cut, we raised revenue, and we did so because we empowered American business.

But if the Senator from New York or anybody else thinks that if you have a billion-dollar problem, you can just raise taxes by a billion dollars and solve it, and that is the way for us to go in the 21st century, they are dead wrong. Because there is a point at which when you tax, you suppress prosperity, you cause people who have money to make the decision not to deploy that money anymore. You cause the exact opposite of what has happened in this country for the past 3 years since the tax programs were passed.

So while I may have missed some of the points because I caught this in passing and stopped at the TV to listen, I did not miss one point. The point was the question: I don't understand what it is we are trying to accomplish. I will tell you what we are trying to accomplish. We are trying to accomplish empowering the great locomotive of prosperity, American free enterprise, the American employer and employee to do better. And as they do better, the American Government does better, and revenues go up, not because we raised rates but because we raised hope and we raised opportunity.

Secondly, I know where we are trying to go in budget reconciliation. We are trying to go where every American is every day of their life. We are trying to sit around the kitchen table, setting priorities, looking to the future, seeing where we can slow the rate of growth of Government expenditures. We are not trying to take food out of the mouth of a single person, nor to take health care away from a single person. Nor do we want a deadbeat dad not to get caught. We want every child support payment to be made. To characterize one party as being for those things and the other being against them, to me, is quite ludicrous. But you have to go through a budget process of reconciliation and savings by looking at programs, analyzing programs, setting realistic goals for the future, and trying to make them more accountable.

The United States of America is a great and prosperous nation for a lot of reasons. But the most important reason of all, it is a land of hope and opportunity. Taxation can destroy the hope and, in turn, destroy the opportunity when it is carried to the excess no matter how noble the cause on which it is levied.

Mr. President, I thank you for the time yielded to me. I thank you for the opportunity to serve with you in this body. In the next few days, as we close out this legislative session, I hope we can, in the end, be where we started this year, with a goal of empowering the American taxpayer, doing a better job handling the expenses of this country, and doing what we always do in giving thanks to live in the greatest Nation on the face of this Earth, the United States of America.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I commend the Senator from Georgia for his excellent statement. He presented the themes and the basic philosophy which are behind this bill, the deficit reduction bill, which includes that we, as a government, need to come close to living within our means. Hopefully, we could live completely within our means. Secondly, the American people should not always have money taken out of their pockets to support the largess of the Federal Government. We should have a tax burden that is reasonable, but to the extent we can, we should allow Americans to keep their hard-earned money and allow them to make decisions as to where their money should go.

If we increase taxes dramatically, we basically reduce the incentive of people to go out and be productive, which translates directly into a loss of jobs because people are not willing to take risks, are not willing to be entrepreneurs because if their tax burden is so high, the practical effect is they do not create jobs. A job, of course, is the ultimate economic benefit for any family.

So I congratulate the Senator from Georgia. I think his statement was right on. I especially appreciate his comments relative to trying to put in context the comments of the Senator from New York because the Senator from New York used a few hyperboles, referring to ''The Grinch That Stole Christmas.'' ''How the Grinch Stole Christmas,'' of course, is a classic story. First, I congratulate her. I do congratulate her for using the term ''Christmas'' and recognizing this is the Christmas season, not the holiday season, something which my wife continually reminds me about. We don't have a holiday tree; we have a Christmas tree.

But independent of that small aside, let me point out that ''How the Grinch Stole Christmas'' is a wonderful story. It was written by a fellow who went to school in New Hampshire. It is a fantasy. He wrote some other things such as ''The Cat in the Hat.'' And quite honestly, I think the Senator from New York was talking through her hat when she delivered her statement because it, first, was inconsistent with all the facts on the ground, and, second, it represented a philosophy which essentially says, as the Senator from Georgia has pointed out, if you simply tax people more, you can solve your problems as the Federal Government. All it takes is you take more of people's money and we can solve any problem around here.

Where is it factually inaccurate? Well, to begin with, the deficit reduction bill which we passed was a very unique bill. It has only been done once in the last 8 years. This is the first attempt to do it again. It was unique because the way it was structured, as it came out of the Senate—and I congratulate the various chairmen who did this, especially the chairman of the HELP Committee and the chairman of the Finance Committee and the chairman of the Agriculture Committee, which bore the biggest reductions here, and the chairman of the Commerce Committee. Other chairmen also participated, but they had the big, heavy lift.

The way it came out of the Senate was this: It actually ended up saving about $70 billion. But there were decisions made that as we saved some of this money we should reallocate it toward better ideas and better concepts. The practical effect of this was that we significantly, under this bill, expanded the availability of loans called Pell grants to people who want to go to college, low-income people who want to go to college. We significantly expanded it. So 5 million more people, 5 million more kids who want to pursue a college career or college path are going to be able to do so under this bill because of the expansion of the Pell grants.

Why was that decision made? That decision was made because we believe, as Republican Members of this Senate, that if you give people a good education, you give them a better chance to be productive, you give our Nation a better chance to be productive, that as we give more people a better education, we become globally more competitive, and we create more jobs and more economic activity in the United States. As a result, we end up probably benefiting the Federal Treasury because we have more people earning higher incomes who pay more in taxes. But we believe very strongly in that type of commitment.

So this bill, rather than as was represented earlier by the Senator from New York as being some sort of a negative event around here for low-income people, was actually the most significant expansion of the Pell grant program for low-income individuals, certainly in the last 12 years since the beginning of the Pell grant program.

Secondly, the bill again, under this same philosophy, dramatically expanded the availability of funds for low-income and disabled children under Medicaid. This bill, as it passed the Senate, will add 1.1 million people, make Medicaid available for 1.1 million people, basically kids who are disabled and of extremely low income so they will have health care coverage. So some of the savings we took and we applied there.

In addition, the bill expanded the effort to try to help out people who have been impacted by Katrina—unfortunately, a lot of people have been devastated by that storm—and had the effect, and will have the effect, if it is passed, of helping 1.9 million people

who were dramatically impacted by Katrina get Medicaid coverage. Again, that was a decision that was made to reallocate resources.

So the bill itself is probably the biggest and most aggressive effort to try to help people of low income that has gone through this Senate in recent history, probably since the welfare reform bill that was signed by the husband of the Senator from New York.

How were these savings generated which were able to be reallocated? Remember that the bill overall, on a net basis, as it left the Senate, saved about $39 billion. My hope is, after we go to conference, it will save about $45 billion, maybe $46 billion, maybe be as high as $48 billion, $49 billion in net savings. But there are other savings that we have taken and reallocated. Where did those savings come from? Did they come from low- and moderate-income individuals? Were they slashing programmatic activity that benefited low-income individuals, as would be represented by the statement of the Senator from New York that the Grinch has been at work? No. As I said, a more appropriate analogy would have been the Cat in the Hat because she was talking through her hat on that issue.

The savings that expand the Pell grant come directly out of the lenders who, if we do not act under this bill, will realize a $12 billion windfall because the interest rate which students will have to pay will be artificially high unless we adjust that rate to appropriately reflect the marketplace. What this bill did, under the leadership of Chairman ENZI—and interestingly enough, this language came out of that committee in a bipartisan way.

The Senator from New York serves on that committee, as do I. I don't think there was any opposition to this proposal. We essentially said, rather than allowing this $12 billion windfall, which will occur if we don't act by the end of the year, which will occur so that these lenders, these corporations which lend this money to students, and they do a service for the Nation by doing that, but they are getting this artificially inflated rate of return. Because of the way the law was structured, it didn't reflect the actual interest costs or what the real interest costs are today, if we don't act, they will get a $12 billion windfall.

What Chairman ENZI and the HELP Committee said was: That doesn't make any sense. Let's take back that windfall, which was artificially created by Federal law, and take a significant amount of it and expand the Pell grant program so 5 million more kids will be able to get Pell grants, low-income kids. In fact, the whole program is targeted to the lowest of low-income kids who want to go to college. And take another big chunk of it and use it to reduce the debt of the Federal Government. That is a pretty logical approach, certainly not a Grinch approach. It is a rather thoughtful approach, a good approach.

I would say the characterization of the Senator from New York of this bill is inconsistent with the facts on the ground and inappropriate.

The Finance Committee looked at places where we could save money in the Medicaid system. It came to the conclusion that a considerable amount of money could be saved by changing the way pharmacies are reimbursed under Medicaid. So they made a decision. They said: Rather than having an artificially high reimbursement for pharmacies and drug manufacturers, they would rather more accurately reflect the cost of those drugs and what those drugs would go for on the open market and thus take the savings from that and, once again, split those savings. They said: Part of those savings should go to expand assistance to low-income kids, adding another 1.1 million kids to the SCHIP program, the Medicaid Program for low-income kids, and taking another part of the savings and applying it to debt reduction, creating a deficit reduction event.

In addition, they said: Listen, if we don't do something about doctor reimbursements, doctors will end up with their fees being cut by 4.8 percent at the end of the year. We are going to have doctors dropping out of the Medicare system. That is not a very good idea. Low-income senior citizens who want to go see a doctor aren't going to have doctors to see because doctors are going to say: I am not going to practice because my income is being cut. Everytime I see one of these patients who is a Medicare patient, I am losing money. I have to pay insurance, my nurses. I have to pay my overhead. I can't take a 4.8-percent cut.

So the committee said: Let's hold the doctors harmless, basically give them no cut. Well, they gave them a 1-percent increase, but it basically amounts to no cut. And they paid for that, again, by basically reducing areas of Medicare which legitimately should be reduced. Specifically, there is $5.6 billion sitting in the Medicare Part D trust fund, which is actually in Part C, but it applies to Part D, which was euphemistically called the stabilization fund, which essentially was walking-around money for the Department of Health and Human Services to basically pay out to various insurance companies, HMOs, and drug companies in order to buy them into the drug program because there was some concern that not enough people would participate in the drug program.

It turns out, in every State, there has been an overwhelming number of different drug companies and insurance companies offering pharmaceuticals that have been willing to participate. In my State, we have 41 different plans. The problem isn't that there aren't enough. The problem is there are so many people getting confused as to what is available. And that is good news. We hope that there are so many participating. We hope to be able to clarify who is offering what. The fact is, the logic behind the stabilization fund didn't come to fruition. So there was no need to have this walking-around money. It has been referred to as a slush fund. So this committee decided to take that walking-around money and basically use it to make sure that patients, when they go to see somebody under Medicare, when they need a doctor, will be able to find a doctor.

Tell me what is Grinchlike about that. What is Grinchlike about the idea of creating a system where there is actually a doctor when a senior citizen wants to find a doctor because they have a problem and having a proposal which accomplishes that? Obviously nothing. Once again, on the facts of it, the Senator from New York was inaccurate as to the implications of this bill and how it affects seniors and low-income seniors.

Yes, this bill does reduce the debt by, as it passed the Senate, $39 billion. And I suspect if we get it back from conference, it will probably be closer to $45, $46, maybe even higher, $48 billion. Again, what is Grinchlike about that? I ask: What is wrong with reducing the Federal debt? What is the Federal debt? It is our generation spending money to benefit, in most cases, people today, and then taking the bill for that and saying to our children and our children's children: You have to pay for it. It is akin to using a credit card only you don't pay the credit card. You give the bill for the credit card to your children or grandchildren. That is not very nice. That is Grinchlike. If the Senator from New York wants to talk about something that is Grinchlike, it is having a Government that continues to run up debt for current expenses, passing those current expenses on to the next generation and the next generation after that to pay for it. That is unfair. That is stealing the Christmas of our children and our children's children or at least undermining their capacity to go out and have the funds to have as good a life as we have had.

The purpose of this bill was, for the first time in 8 years, to step up to the plate on the most significant part of the Federal budget where the most money is spent and where the most growth is occurring which is the entitlement accounts. As I mentioned before, people need to understand how the Federal Government works in the area of spending. We have the account called appropriations. It represents 30 percent of the Federal Government. It is everyday expenses such as national defense, education, laying out roads, environmental expenses. Those dollars are a decision we make every year to spend. We decide to spend dollars to buy our military equipment. We decide to spend dollars to assist a State in laying out a road. But we don't have to spend that money. We can decide not to buy that piece of military equipment or not to lay out that road.

We can do it every year, and it is called the appropriating process.

In the appropriation accounts, we have essentially frozen spending, under this budget, under the budget which was passed in nondefense discretionary activity. But again, it only represents 30 percent of the Federal budget. The rest of the Federal budget, outside of debt financing, is entitlement spending or mandatory spending. Those are programs where people, because of their situation, or institutions or corporations, because of their situation, have the right to come to the Federal Government and get paid.

They may be veterans, students, senior citizens on health care or on Medicaid or on Social Security. They have a right to that benefit because they fit certain criteria—age or income or experience. Those entitlement accounts are the fastest growing element in the Federal Government. They have been for years. Now they are projected to explode in their rate of growth because of the fact that we have something called the baby boom generation that is about to enter the Federal system. A CBO report is coming out that reflects that it is going to overwhelm our capacity as a society to support it.

The concept that you can tax your way out of this, which appears to be the proposal of the Senator from New York, cannot stand in the face of facts. It cannot stand in the face of facts. Three programs—Social Security, Medicare, and Medicaid—make up about 80 percent of the mandatory spending. Those 3 programs today absorb I think probably around 8 or 9 percent of the Federal budget. Maybe it is higher.

When the full baby boom generation has retired by the year 2030, those three programs will cost the American taxpayer 20 percent of the gross national product of the Federal Government. Why is that an important number? Because 20 percent of the gross national product is how much we have, historically, as a Federal Government been willing to spend for all Government activity, including defense spending, education, environmental protection and health care for senior citizens and Social Security. But by 2030, those three programs alone will cost as much as the entire Government spends today as a percentage of our gross national product.

What are the implications of that? The implications are that in order to pay for that, and to have a functioning government, you would have to raise taxes on our children and grandchildren over this 20 percent level. That number keeps going up because the unfunded liability of Medicare and Medicaid alone is $27 billion. The unfunded liability of Medicare and Social Security and Medicaid together and all of the other entitlement programs is about $44 billion. So the number keeps going up well beyond 20 percent, so by 2040 you are looking at 25 to 30 percent gross national product for those three programs. Maybe the Senator from New York is willing to raise taxes as a percentage of the gross national product well above what we have done as a Nation, generally. We have never had a tax rate which has exceeded 21 percent. That has been hit occasionally, but usually the tax rate has been about 18 percent of GDP. Once you get above 18 percent of GDP as your tax rate, you suppress the Nation's ability to be productive. People will come to the conclusion that there is no point in going out and working harder because the Federal Government is simply going to take their money.

That is what happened in the late 1970s when tax rates were up to 70, 75 percent. People said: Why should I go out and work hard to produce that extra dollar? They are just going to tax it away from me. So Ronald Reagan came along, following the ideas of John Kennedy, and said: Let's cut the tax rate, and it will produce more incentive for productivity, more entrepreneurship, and therefore more jobs and more revenues, and that is exactly what happened.

That is also what happened with George W. Bush. He cut the tax rate in the middle of a very severe recession, followed by the attack of 9/11. As a result of the tax-rate cut, we have seen a huge increase in revenues in the last 2 years. That revenue increase is a direct result of the fact that we have created an incentive for people to be productive and create jobs.

So you cannot, as a practical matter, even if you wanted to do this, follow the course that has been outlined by the Senator from New York, which is essentially trying to tax your way out of the problem we confront, which is called the Federal deficit, and the spending of the Federal Government resulting from entitlement spending. The only way you can address this issue is if you take a hard look at the entitlement programs and begin to restructure them so that they become affordable for the next generation.

I wish this deficit reduction bill was much more expansive than it is. I wish it took a hard look at Medicare. I wish we were addressing Social Security. Both of those issues were taken off the table through the political realities of the time. Our colleagues on the other side of the aisle, in I think an act of real fiscal irresponsibility, basically demagogued the President when he suggested that we address the Social Security issue. So we could not move forward on that. Regrettably, the President took Medicare off the table because he said we should let Medicare Part D go forward before we start to move to try to restructure Medicare. I think that was a mistake, but that was the decision. We were left with a narrow number of entitlement programs to look at. Even within those narrow programs, we were asked to limit significantly the scope of our review.

For example, in the area of Medicaid, which we will spend $1.2 trillion to $1.3 trillion on over the next 5 years, our suggestion was simply to reduce that rate of growth of spending by $10 billion. So the rate of spending in Medicaid, instead of being 40.5 percent, would fall back to 40 percent. Even with that, less than a one-tenth-of-1-percent reduction in the rate of growth of Medicaid, it has been described as Grinchlike, even though none of it, as proposed in the Senate, came out of beneficiaries. In fact, as I mentioned, the number of beneficiaries that will receive Medicaid under the Senate bill will expand by 1.1 million people. Rather, the savings came out of pharmacy and drug manufacturers as a result of pricing. But that, under the theory of the Senator from New York, is Grinchlike.

It is hard to accept that on its face, if you look at the facts behind this bill. But what we do know will be Grinchlike is if we pass on to our children a continued expansion of the Federal debt and deficit, so that undertakings which we pursue today as a Government that benefit people today—they are not capital expenses, but they are basically the ordinary operating expenses of the Government from day to day. Those undertakings will continue to be paid for by our children and our children's children. That would be Grinchlike. That takes away from them the opportunity to have as high a quality of life as we have had because their tax burden to pay for our bills will be added to their general tax burden to pay for their bills and, as a result, they will have less money available to do things for their kids, whether it is buying toys, putting them through college or buying a decent family home.

So this deficit reduction bill, which was structured in a very careful way to make sure it expanded benefits to low-income individuals, adding 5.5 million new people to Pell grants, 1.1 million kids to Medicaid, and 1.9 million people who were impacted by Katrina relative to health care costs.

At the same time, it moves forward for the first time in 8 years in an attempt to address the issue of reducing the debt. It is the right policy and it is, rather than being a Grinchlike event, truly an appropriate gift, should we get around to passing it, to our children and our children's children and to those people who benefit from this bill.

Mr. President, at this point, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I rise today to join my colleague from Rhode Island in offering a motion to instruct the conferees to include $2.9 billion in additional funding for the Low-Income Home Energy Assistance Program as part of the budget reconciliation bill.

This funding is absolutely critical to help our Nation's low-income citizens keep warm this winter. I believe we simply must provide more LIHEAP funding this year. Let me describe the situation we are facing in my home State.

Just yesterday, I was in northern Maine, in Aroostook County, which is where I come from, and the high for the day was 12 degrees. That was the high temperature for the day. In weather like this, people simply have no choice but to devote a very large part of their household budget to heating their homes. Unfortunately, with the escalating cost of home heating oil, many people simply cannot afford to do so.

In Maine, 78 percent of the households use home heating oil to heat their homes. Currently, the cost of home heating oil is approximately $2.34 per gallon. That is 38 cents above last year's already inflated prices. These high prices greatly increase the need for assistance, and at least 3,000 additional Mainers are expected to apply for LIHEAP funding this year.

So we have a situation where there are more people in need of assistance compared to last year. The prices are much higher than last year, and yet the average benefit is expected to fall by roughly 10 percent to $440 per qualifying household. Unfortunately, at today's high prices, $440 is only enough to purchase 188 gallons of oil. That is far below last year's equivalent benefit of 251 gallons. I can tell you, that is not nearly enough to get even through the first half of the winter in Maine. With rising prices and falling benefits, we have a real problem. Just to purchase the same amount of oil this year as last year, the State of Maine would need an additional $10 million in LIHEAP funds.

Just a few months ago, we passed and the President signed into law the Energy Policy Act of 2005. This law passed the Senate overwhelmingly, and it authorizes $5.1 billion for the LIHEAP program for fiscal year 2006. The chairman of the appropriations subcommittee, Senator SPECTER, worked very hard to find some funding to increase LIHEAP. He increased it to $2.2 billion. I commend him for his efforts and hard work, but $2.2 billion is not nearly enough.

Our Nation has been struck by three extremely powerful hurricanes. These hurricanes have been devastating to the people of Florida and the gulf coast, but we need to remember that they have had a major impact on the rest of the Nation as well. Just as the Nation should have been building oil supplies for the winter heating season, these hurricanes disrupted our already strained supplies and sent both home heating oil and gasoline prices to painfully high levels.

While high energy prices have been challenges for many Americans, they impose an especially difficult burden on our low-income families and on our elderly living on limited incomes. Low-income families already spend a greater percentage of their incomes on energy, and they have fewer options available when energy prices soar. High energy prices can even cause families to choose between keeping the heat on, putting food on the table, or paying for much-needed prescription medicine. In America today, in a country as prosperous as our country, no family should have to make such a choice. No elderly person should have to choose between buying the fuel oil they need to keep warm to avoid hypothermia and filling a much-needed prescription to stay healthy.

With winter upon us and energy prices soaring, home heating oil bills are already pounding family budgets mercilessly. For low-income families, LIHEAP funds can be the factor that prevents them from having to choose between paying their bills and putting food on the table.

I call on my colleagues to support this motion to instruct the conferees to include this vital assistance as part of the budget reconciliation bill.

I wish to recognize the efforts of my colleague from Rhode Island. We have worked very closely toward this common goal. Those of us who live in the Northeast or the Midwest or cold-weather States have a special appreciation for just how much hardship will be imposed if we do not increase this funding.

I commend the administration for calling for $1 billion in additional funding, but, frankly, that is simply not enough. We need to do more. I hope that just as many of us are responding to the needs of those victims of the hurricanes in the gulf region, that our colleagues from that area of the country and from other areas of the country will join us in averting this looming crisis.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, first, I commend my colleague, Senator COLLINS, for her leadership on this issue and for the eloquence and persuasiveness of her statement today. She has truly been in the forefront of all these efforts to increase the funding for the Low-Income Home Energy Assistance Program.

MOTION TO INSTRUCT CONFEREES

Mr. President, I send to the desk a motion to instruct conferees on behalf of myself, Senator COLLINS, Senator KENNEDY, Senator SNOWE, Senator LIEBERMAN, Senator LEAHY, Senator BINGAMAN, Senator COLEMAN, Senator SALAZAR, Senator STABENOW, Senator CLINTON, Senator LUGAR, Senator HARKIN, Senator SMITH, Senator KOHL, Senator DAYTON, and Senator CORZINE.

The PRESIDING OFFICER. The clerk will report the motion.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. REED] moves that the managers on the part of the Senate at the conference on the disagreeing votes of the two Houses on the House amendments to the bill S.1932 (to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95)) be instructed to insist on a provision that makes available $2,920,000,000 for the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.), in addition to the $2,183,000,000 made available for such Act in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006, for the following reasons:

(1) High energy prices threaten to overcome low-income households in the United States. On average, households heating their homes primarily with natural gas will likely spend 38 percent more for home energy this winter than last winter. Households heating their homes primarily with heating oil will likely spend 21 percent more for home energy this winter than last winter. Households heating their homes primary with propane will likely spend 15 percent more for home energy this winter than last winter. For many low-income households, including households with individuals with disabilities or senior citizens living on fixed incomes, those price increases will make home energy unaffordable.

(2) An appropriation of $2,920,000,000 would bring funding for the Low-Income Home Energy Assistance Act of 1981 for fiscal year 2006 to $5,100,000,000, the amount authorized in section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)), as amended by the Energy Policy Act of 2005, for fiscal year 2006.

(3) In the United States, no family should be forced to choose between heating its home and putting food on the table for its children. No senior citizen should have to decide between buying lifesaving pharmaceuticals or paying the senior citizen's electric bill.

Mr. REED. Mr. President, I have very little to add to what Senator COLLINS said. Her remarks were compelling and eloquent. With the increase in prices, with the severity of the winter which is already upon many parts of this country, Rhode Island, and particularly Maine, it is obvious we need more funds just to keep what we were able to do last year. In fact, even if we are successful—and I hope we are—in authorizing the full allocation of $5.1 billion, there will still be a significant number of Americans who qualify for the program who will not be able to receive any type of help this winter. So this is an important step, but it is certainly not a complete solution to the problem of low-income people struggling to heat their homes.

As the Senator also pointed out so accurately, there is a real dilemma. Many families will have to give up food to heat their homes, and they will have to make other sacrifices. This is an extraordinary burden and particularly so this winter because of the huge increase in heating costs and the severity of the weather that is predicted for the region.

There has been some suggestion, or objection, I should say, to our proposal on several grounds. There is a suggestion that we have been inconsistent in what we have asked for. Last September, Senator COLLINS and I authored a letter, and we were joined by 40 of our colleagues, for an increase of about $1 billion. Forty-three Senators, including myself and Senator COLLINS, wrote to the Appropriations Committee. What we were asking for was allocation of emergency funding, funding that would go to the President so that at his discretion he could identify

areas of the country under severe conditions and make allocation of these funds.

What we are talking about today is fully funding the State grant program. One of the reasons it is essential to fully fund the State grant program at the level of about $5.2 billion is because of the complexity of the formulas. Unless we fully fund this program, many of the States that are in the most dire circumstances won't receive funding.

Essentially, what happens is there is a front loading of funds to the areas of the country that are affected by winter, but as the funds in LIHEAP increase, appropriations and allocations go to areas of the country—the Southwest, the Southeast—that have problems in the summertime and need cooling assistance. The irony would be if we increase money but do not really increase it to the full level, we would be funding—and I think it is appropriate to do that—States that are not affected by the winter and providing very little for the States such as Wisconsin, Maine, New Hampshire, and others that need the heating assistance today. So that is the rationale underlying our request.

I point out that we have brought this issue to the floor on numerous occasions, and we have had the support of a majority of the Senators on both sides of the aisle and across the country. This is not a regional issue; this is a national issue. This is not a Republican or Democratic issue; this is a bipartisan issue. We have had that support because the majority of our colleagues recognize the reality. Prices are up, the temperature is down. People are going to suffer if we do not act.

There has also been a suggestion that this is inappropriate because it is not offset by cuts in other programs. Well, I would hasten to add that in the next few weeks we are going to consider many programs and funding requests that are not offset. Today, if one reads the newspapers, the Pentagon is preparing about a $100 billion supplemental request for funding in Iraq and Afghanistan. That may come down; it may go up. No one is proposing that we not consider that because it will not be offset by cuts in other programs. I think we are going to see, at least in the House version of the tax reconciliation bill, significant tax cuts which I believe are not offset. I think we should move to a balanced budget. I think we should take the tough steps that we took in the 1980s. I came here as a Congressman in January 1991, and we were running huge deficits every year. It took us a while. It was under the leadership of President Clinton that we were able to reverse that.

At the end of the 1990s, in the year 2000, we were looking at a projected surplus. Lo and behold, it is now the year 2005, and we are back into annual deficits and a projected deficit over many years before us. So we can do it, but I suggest those are not strong arguments to stop us from doing what we have to do today to help people who really will suffer if we do not take appropriate action.

I hope my colleagues would join Senator COLLINS and I—and again I would point out that this is a bipartisan, broadly based group of Senators who are coming together to make a simple request that I think is compelling, given the obvious reality, huge increase in prices, falling temperatures, people who will give up eating to heat their homes, people who will take drastic steps. Unfortunately, we read about it every winter in our part of the country, Senator COLLINS and I, where they turn the stove on at night, they go to sleep, and there is a fire, an explosion, a terrible tragedy. They are just trying to keep warm. We can help them. I hope we will.

I am pleased and proud to be doing this with my colleague and friend, Senator COLLINS from Maine.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. COBURN. Mr. President, I wanted to take a few minutes to just kind of talk a little bit about the process of the end of the year here in the Senate and something that I do not think is healthy for the American people. It is certainly not healthy for the Senate, but in the long run it is not healthy for our country.

I have thought a lot about this, considering the campaign I went through to become a U.S. Senator. The theme that keeps recurring in my mind is that we are all Americans. There are multiple parties, there are differences within parties, there are conservative Republicans, liberal Republicans, conservative Democrats, liberal Democrats, but we are all Americans. If there ever was a time our Nation required leadership instead of partisanship, it is now.

We are on an absolutely unsustainable financial course. We have heard great criticisms today, not by a member of any party but by a person who chooses to make those criticisms of the direction it is trying to go in terms of trying to get us off that unsustainable course. It kind of grieves me for our country that we lack the leadership to stay focused on what is important for the country and instead focus on what somebody else does wrong or is perceived to do wrong.

We can have tremendously intelligent and respectful debate that is directed toward a difference of opinion about issues. But the problems that face this country today are greater than any in my lifetime. This last year, we charged to our children and our grandchildren $528 billion. That $528 billion is how much the debt grew last year. It is going to require absolutely zero partisanship over the next 20 years in this country for us to try to attack the structural problems that are going to undermine the future opportunities of our children.

I am reminded of history because Franklin Delano Roosevelt, facing a similar situation to what we have right now in our country, cut out three of his most favorite programs and cut discretionary spending by 22 percent so he could do what was right for the next two generations.

I worry we lack that foresight, or if we do not lack it, we place partisan political positioning and elections that are coming ahead of the best interests of our Nation.

We have heard about cuts. We have heard about taxes. We have heard about all sorts of things, described in a way so you would think anybody who believed opposite of that would just be terrible. That is not the truth. It is not anywhere close to the truth. Anybody who is a Member of this body cares immensely about this country. They just differ about how they want to go about getting to a solution.

If we have half a trillion dollars that we added to our children's debt this year and we are on a course, with Medicare, Medicaid, Social Security, and interest on the national debt—by the way, which nobody ever speaks of, which is the fourth largest item and will soon become the largest item—if we do not have the desire and the will to work together as loyal opponents, with the best interests of our country at heart, taking the partisanship out of it—nobody is bad, they just have a different idea.

I hope as we wind up the Senate year that we will keep in mind that what I believe to be true throughout the country and that is that country is nauseated by partisanship. It doesn't build our country, it tears our country down. It doesn't promote unity, it promotes division, it promotes polarization, and our problems are so great that we ought to be following the advice of John Kennedy. We ought to be following the advice that says: Don't ask what your country can do for you, ask what you can do for your country.

If there is ever a time that we needed to be doing that, both as Members of the Senate and as citizens of this country, it is now. The numbers that face us in the future—a war in Iraq, the devastation on the gulf coast, and a structural deficit—require that we have a shift, and the shift is that we look to the long run, that we don't try to gain the short run, and that we do what is in the best interests of the country, and the first thing we do that is in the best interests of the country is to put partisanship aside.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. HARKIN. Mr. President, if I might inquire of my friend and colleague from Louisiana, I know she is preparing to speak. Might I ask about how long she may speak? I have a speech. I ask unanimous consent, after the Senator from Louisiana finishes speaking, that I be recognized for up to half an hour.

The PRESIDING OFFICER. Is there objection?

Ms. LANDRIEU. I thank the Senator. I will probably speak for about 15 minutes.

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

USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005—CONFERENCE REPORT

CLOTURE MOTION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany H.R. 3199, the PATRIOT Act, and I send a cloture motion to the desk.

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

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, do hereby move to bring to a close debate on the Conference Report to accompany H.R. 3199: The U.S. PATRIOT Terrorism Prevention Reauthorization Act of 2005:

Chuck Hagel, Jon Kyl, John McCain, Richard Burr, Conrad Burns, Pat Roberts, John Ensign, James Talent, C.S. Bond, Johnny Isakson, Wayne Allard, Norm Coleman, Kay Bailey Hutchison, Mel Martinez, John Thune, Jim DeMint, Jeff Sessions, Bill Frist, Arlen Specter.

Mr. FRIST. Mr. President, we will be very brief. I know we have two of our colleagues on the floor prepared to speak.

What we have just done is turn to the conference report on the PATRIOT Act, a vitally important piece of legislation, that in bipartisan way our colleagues have addressed, in a bicameral way, and it is now our intention to address the PATRIOT Act, discuss it over the course of, I am sure, later this evening as well as tomorrow.

Because we were unable to come to a unanimous consent agreement to address this bill in a limited amount of time, in an appropriate amount of time, and then to vote up or down on the bill, I filed a cloture motion, and that cloture vote will actually be Friday morning. I will have more to say about that.

Let me briefly turn to my distinguished colleague, who is chairman of the Judiciary Committee, who has put together, again in a bipartisan way with a lot of negotiation and compromise over the long period of time, a bill that, as we all know, has passed the House of Representatives earlier today with I believe 44 Democrats voting for the PATRIOT Act in the House of Representatives, a bill that we now will be addressing on the floor of the Senate.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I shall be brief. I know two Senators are waiting to speak.

I congratulate the House of Representatives for approving the conference report by a significant margin.

I thank the majority leader for moving ahead procedurally with filing of the cloture motion. There have been a number of public statements made by Senators about an intention to filibuster. We are obviously at the conclusion of our work and we want to proceed. I am advised by the distinguished majority leader that this conference report will be on the floor tomorrow.

I urge my colleagues to come to the Senate to debate the issue. It is a complicated bill. I addressed it at some length the day before yesterday with a floor statement, moving into the critical areas. Yesterday, Senator FEINGOLD and I had an opportunity to discuss the bill for almost an hour. It is valuable for our colleagues to know the details as to what is in the bill. That can be best accomplished by an interchange of ideas, those who have objections stating them, and hearing the responses so that we may fulfill our responsibility as the world's greatest deliberative body. I look forward to that exchange and debate.

I believe it is an acceptable bill, a good bill, not a perfect bill. I am prepared to go into detail. I have talked to many of my colleagues one on one, individually, and I have found, understandably, because of the complexity of the bill, that many of its provisions are not fully understood as to what they mean and what the import is and why we have come to this.

Ideally, I would like to have seen the Senate bill go through unanimously, passed by the Judiciary Committee 18 to 0, and then on the unanimous consent calendar here, which is, I think, unprecedented for a bill of this magnitude. But we have a bicameral system, and we conferred at length with our colleagues in the House of Representatives and are presenting the conference bill, which I submit is a good bill that I am prepared to advocate tomorrow.

I urge those who want to speak to come to the Senate tomorrow morning when we take up the bill and have a constructive debate so our colleagues may be informed about the contents and vote on the cloture motion in a timely way and hopefully move forward to consideration on an up-and-down vote.

I thank my colleagues from Louisiana and Iowa for yielding this time.

Mr. FRIST. Mr. President, let me very briefly close in stating my strong support for the legislation, the substance of the legislation, but also underscore the importance of this Senate acting on this legislation. I encourage our colleagues who have talked about filibuster to do exactly what our distinguished chairman has talked about, and that is look at the substance of the bill. A lot of changes and modifications have been a product of compromise and negotiation and have been put into the bill. It is very strong in terms of issues such as terrorist financing and protection of our ports and addressing issues surrounding mass transit and privacy and personal liberties.

This bill does present us with a stark and clear choice: Should we take a step forward, which we have an opportunity to do in the next several days, or take a step backwards in that goal to make America safer? It does expire on December 31. The PATRIOT Act expires on December 31, but the terrorist threat does not.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I begin as my leader is in the Senate to say the bill they most certainly have presented for our consideration is one that needs attention and needs deliberation. The PATRIOT Act is a very important part of the security of our Nation. We can debate the inside and pieces of it, but I strongly suggest to the leadership that protecting America is more than just the chapters and statutes related to the PATRIOT Act.

Protecting America is about protecting patriots in the gulf coast, in Louisiana, in Mississippi—not just citizens who are patriots, taxpayer citizens, hard-working citizens who have come to believe the notion that in America they are safe, or should be safe, and if disaster does strike, the government, with the private sector and with their own effort, will be there to help.

What about the patriots on the gulf coast who are veterans themselves, the 400,000 veterans in Louisiana, the 250,000-plus veterans in Mississippi—just for two States that were affected—men and women who have put on the uniform, served their time, true patriots. What are we doing to secure their homes, their schools, their churches?

I suggest to the leadership that while the PATRIOT Act itself has many pieces of what helps make America secure, it is one piece but not the only piece. We should most certainly not be comfortable leaving here without securing the homes and businesses and dreams of average Americans, patriots, on the gulf coast.

As I speak for just a few minutes this afternoon, it has been over 100 days

since two of the deadliest storms hit the coast of America: Katrina and Rita, Katrina on the southeastern part of Louisiana, on the Mississippi section as well, and Rita, just a little over a week later hitting the southwest part of Louisiana and Texas counties as well.

As the days and weeks have unfolded and as there have been investigations and hearings and committees that have looked into what happened, I suggest it was not just a natural disaster that led us to this point but a manmade disaster.

The Times-Picayune, the major newspaper in New Orleans, and other papers in the region, have written extensively on this subject. I ask unanimous consent that this article, ''Evidence Points to a Man-Made Disaster,'' be printed in the RECORD.

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

[From the Times-Picayune, Dec. 8, 2005]

EVIDENCE POINTS TO MAN-MADE DISASTER

(By John McQuaid, Bob Marshall and Mark Schleifstein)

As investigators and residents have picked through the battered New Orleans levee system's breaches, churned-up soil and bent sheet pile in the 100 days since Hurricane Katrina struck, they have uncovered mounting evidence that human error played a major role in the flood that devastated the city.

Floodwall breaches linked to design flaws inundated parts of the city that otherwise would have stayed dry, turning neighborhoods into death traps and causing massive damage. In other areas, poorly engineered gaps and erosion of weak construction materials accelerated and deepened flooding already under way, hampering rescue efforts in the wake of the storm.

These problems turned an already deadly disaster into a wider man-made catastrophe and have made rebuilding and resettlement into far tougher and more expensive challenges.

That's the picture that emerges from investigations of the levee system by teams sponsored by the state government, the American Society of Civil Engineers and the National Science Foundation, as well as from dozens of interviews with local residents, officials and engineers.

Experts say the New Orleans flood of 2005 should join the space shuttle explosions and the sinking of the Titanic on history's list of ill-fated disasters attributable to human mistakes.

The evidence points to critical failures in design and construction, as well as a lack of project oversight and responsibility that allowed small problems to metastasize into fatal errors. Twisted lines of authority led to cursory inspections, communications snafus and even confusion about such basic information as wall dimensions.

Outside engineers, political leaders and many New Orleans residents now question the judgments and even the once-unassailable competency of the Army Corps of Engineers, which had final authority over the system. The corps and some of the same firms involved in the original design and construction of the levees are spearheading the effort to repair the system and already are planning to build stronger protections.

Sen. David Vitter, R-La., who sits on two Senate committees investigating the levee failures, says the U.S. system for building flood defenses is broken. The corps, he said, should be overseen by outsiders who can ensure it will do the job right.

''We need a new model, a new structure, a new process to get this done which has to include outside, independent review of the corps by outside, independent engineering experts,'' he said.

''THE BEST MINDS''

The levee flaws also raise troubling questions about the integrity of flood defenses elsewhere.

''Everybody who has a levee out the back door now has to look out and wonder, is this going to fail? Was it designed right?'' said Steve Ellis, vice president of Taxpayers for Common Sense, a Washington fiscal watchdog group critical of the corps' priorities.

Corps spokesman David Hewitt said the agency has several experts and engineers from outside agencies, private firms and academia to aid its investigation. ''We are determined to find out exactly what happened both in the technical engineering and the planning and execution process so that we can prevent another occurrence,'' Hewitt said. ''We are engaging the best minds and professional expertise in this important effort.''

Engineers say most structures that fail do so not because they're hit by overwhelming forces, but because of flaws that creep in unnoticed during design, construction and upkeep. A paper published this month by Robert Bea, an engineering professor at the University of California at Berkeley who is studying the levee failures, concluded that 80 percent of 600 structural engineering failures he studied in the past 17 years were caused by ''human, organizational and knowledge uncertainties.''

Bea said everything he has seen about the New Orleans levee system so far tells him it belongs in that category.

NOT AS GOOD AS ADVERTISED

The levee system's design dates to the 1950s, when understanding of hurricane risks and flood dynamics was primitive compared to today. The system was never built to take a hit from the most powerful hurricanes, storms in Categories 4 or 5 on the Saffir-Simpson scale. The levees were designed by congressional mandate to fend off floodwater heights—up to about 11 or 13 feet, depending on location—that Category 1 or 2, and some Category 3 storms would kick up.

But the investigations show that the levees did not live up even to that billing. When Katrina's storm surge rolled in from the Gulf of Mexico before dawn Aug. 29, the huge dome of water followed a path up the Mississippi River and then along the Mississippi River-Gulf Outlet into Lake Borgne.

In a matter of hours, the sheet of water—reaching 25 feet high at some locations—moved relentlessly north and west, pouring over the tops of and eroding large stretches of levees surrounding Chalmette, clearly exceeding their design capacity.

When the surge reached New Orleans' southern edge along the Gulf Intracoastal Waterway, it caused as much as five miles of the 17.5-foot tall levee there to disappear, creating a back door for water into eastern New Orleans.

Water pushed west through the waterway into the Industrial Canal, where it met water already rising from storm surge that had entered Lake Pontchartrain. The water topped levees on both sides of the canal, causing walls to fail on the east side, flooding the Lower 9th Ward, and leaking through smaller levee breaks and a pump station on the west side, flooding the rest of the 9th Ward.

BREACHES BY DESIGN

Later that morning, as surge rose in Lake Pontchartrain, floodwalls along the 17th Street and London Avenue canals breached, even though the water was well below their tops. Investigators say those breaches shouldn't have happened. Observational data and computer modeling indicate that storm surge entering the canals from the lake reached heights ranging from 9 to 11 feet in the 17th Street Canal and 11 to 12 feet in the London Avenue Canal. The walls were 13.5 feet high or higher along much of the two canals and were designed to withstand water rising to 11.5 feet.

Investigators say the walls broke when floodwater, pushing through the soft, porous earth under the steel sheet pile foundations, started moving the soil. In the 17th Street Canal, one breach opened on the east side, and in the London Avenue, two breaches occurred. Water poured into the Lakefront area and moved south, inundating much of central New Orleans over the course of the day and night.

Engineers say some systemic design problem—not merely a localized fluke—caused the breaches because walls gave way in two canals and some walls appear to have been close to breaching at other points.

While it's easy to second-guess after a disaster, outside engineers say the depth of the sheet pile foundation appears too shallow. A survey by Team Louisiana, the state-sponsored forensics group, found—and the corps confirmed last week—that the sheet pile depth was about 10 feet below sea level in the breached areas at both canals, much shallower than the 18.5 foot below-sea-level depth of the canals and 7 feet shorter than the corps thought.

Modjeski & Masters, the firm that designed the 17th Street canal wall, said last week it had initially recommended a 35-foot depth for the piling on the 17th Street Canal, then shortened it at the corps' behest, but the firm offered no documentation to back the claim.

SOIL AND SAFETY

It's still unclear exactly what went wrong, though engineers suggest the soil's resiliency was overestimated.

New Orleans soil is swampy and mushy, with alternating layers of peat, clay and sand. Along the length of a floodwall it varies wildly in consistency and strength. Along both canals, a layer of peat—the weakest and spongiest of soils—lies directly under breaches a few feet below the base of the sheet pile. Along the London Avenue Canal, coarse sand underlay the peat and now lies throughout nearby residential yards and homes, another layer of weakness, the engineers said.

''Those are the kinds of subsurface conditions that lend themselves to having weak pockets or stronger pockets, and Mother Nature will always find the weak pockets,'' said Joseph Wartman, a Drexel University geotechnical engineer studying the levee failures. ''What makes levee design and engineering so challenging is you can have a system that's many, many miles long and you only need the weakest 150 feet to rupture for the whole system to fail.''

Another factor in the breaches, one with national implications, is the low safety factor used in constructing the levee banks and floodwalls. A safety factor is a kind of cushion that engineers include in a structure's design to ensure it can withstand all the punishment it's designed to take, plus a little more.

Corps standards for levees and floodwalls date back decades, officials say, and were intended to protect sparsely populated areas, not cities and billions of dollars of infrastructure. The safety factor of 1.3 used in the designs is significantly lower than those used in structures with similarly large-scale tasks of protecting lives and property.

With data from soil borings spaced at more than 300-foot intervals along the canals, engineers could develop only a fragmentary picture of what is underground. They were supposed to account for that uncertainty. That is typically done by raising the safety factor or by making conservative estimates of soil conditions.

Team Louisiana investigators said last week that based on new calculations, they think engineers working for contractors Eustis Engineering and Modjeski & Masters miscalculated the depths of the 17th Street Canal walls. The team has not yet released detailed findings. University of California engineers say the designers might not have accounted for storm surge's effects on the soil.

According to project and court documents, those designs were reviewed and approved by corps engineers.

It's not clear yet whether additional factors such as cost-cutting or specific on-site construction problems contributed to the levee breaches, but the failures can also be linked to a chain of political and managerial decisions.

The corps originally proposed building floodgates at the mouth of each canal—and at the mouth of the Orleans Canal that runs along the west side of City Park—to block surge. But local officials, including those at the Orleans Levee Board and New Orleans Sewerage & Water Board, insisted on building floodwalls because floodgates would have made it difficult to pump water out during a storm. Engineers say the obvious, though expensive, solution is to build pumping stations at the lakefront rather than miles inland.

A 1980s-era Sewerage & Water Board dredging project in the 17th Street Canal next to the breached area left the Orleans Parish canal-side levee wall much narrower than that on the Jefferson Parish side. Investigators say that change probably contributed to the failure of the wall.

Pittman Construction, the contractor that built the 17th Street Canal wall, ran into trouble driving sheet piles in 1993. When the concrete tops to the walls were poured, documents show, the walls tipped slightly. Though the corps attributed this to Pittman's methods, not the site conditions, and a judge agreed, some engineers say the difficulty they encountered was an early warning sign.

WHAT LIES BENEATH

Meanwhile, state and local officials have admitted they generally skipped the canal floodwalls in annual inspections of levees—and the levees they did inspect were examined in a cursory fashion.

Though necessary, visual inspections are of limited use. Absent an obvious problem like water bubbling to the surface, most levee problems go on out of sight, meaning a system's problems can go undetected for years without a more aggressive inspection program that includes probing beneath the surface with soil sampling, sonar or other methods.

''It looks perfect from the outside. It looks in good shape. Even if you had a 10-man crew walking along there every day, you would not have seen the problem,'' said Jurjen Battjes, a retired professor of engineering from the Technical University of Delft, Netherlands, who is on an American Society of Civil Engineers panel reviewing the corps' investigation.

To the east, assessing the levee system's performance is a more complicated task. Water flowed over levees and floodwalls along the Industrial Canal, Gulf Intracoastal Waterway and Mississippi River-Gulf Outlet. In many spots, the water scoured out earth along the dry side and the walls gave way.

In general, engineers say that once a levee is topped, its structural integrity cannot be guaranteed. But the speed with which many of the walls breached or eroded and the large scope of the damage have alarmed investigators. The outer levee along the Mississippi River-Gulf Outlet protecting St. Bernard Parish and the levee along the north side of the Gulf Intracoastal Waterway protecting part of the Lower 9th Ward were all but washed away by the storm, for example.

Engineers say that if a wall is sturdy enough to remain in place while water flows over it, flooding will be minimized, lasting only until the surge drops. When a breach opens, adjacent neighborhoods basically become part of nearby waterways and the scale of the flooding is many times greater.

THE FUNNEL EFFECT

One source of the scouring and multiple breaches is actually a corps policy, dictated by Congress. Corps officials say they are not allowed to put rip-rap, concrete or other forms of scour protection on the dry side of levees. Doing that anticipates flood level higher than the walls are designed for, which is beyond the corps' mandate for Category 3 protection.

A report published last month by the American Society of Civil Engineers and National Science Foundation teams identified other unanticipated weaknesses in the levee system. Builders used weak, sandy soils in the now-obliterated St. Bernard Parish hurricane levee, and that likely contributed to its rapid destruction. In areas where two different levee sections came together, investigators found many awkwardly engineered transitions that allowed water through.

A much larger problem lies in the overall design of the levees along the city's southeastern flank. Unlike areas fronting Lake Pontchartrain, southeastern areas are more or less directly exposed to waters from the Gulf, and hurricane floods are more likely to strike there and rise higher when they do.

The levee system forms a V-shape where the MR–GO and Intracoastal Waterway meet. That acts as a giant funnel, driving water heights even higher and channeling storm surge directly into canals leading into the city.

Computer modelers have complained for years that the corps had underestimated the risk to those areas, and former corps modeler Lee Butler estimated the actual risk was double the corps estimate in a 2002 study done for The Times-Picayune. The corps only recently announced it will stop dredging the MR–GO.

WAITING FOR ANSWERS

It will take months, and possibly years, to arrive at a detailed assessment of what went wrong and assess responsibility, engineers familiar with the situation say. Investigators must determine not only why individual wall sections failed, but they also must trace the roots of decisions, untangling overlapping responsibilities of the corps, private contractors and local agencies. A federal interagency team investigating the system won't make its report until June. A National Research Council team is only now being formed.

So far, the scope of the disaster, and the human element central to it, have only begun to sink in among political leaders and agency heads, including the corps, which is at the center of all the inquiries. The corps has declined to comment on the causes of the levee failures, pending the outcome of its own studies.

People familiar with the agency say the disaster means things might never be the same.

''In the old days the corps used to get criticized for being way too conservative in their designs,'' said Don Sweeney, a corps economist for 22 years who left after exposing irregularities in the agency's economic impact statements and now teaches at the University of Missouri. ''They would design a structure with a safety factor of 4 or 5. They did have that reputation of building things with integrity that were built to last. And if they said it was built to do something, it would do it.''

Ms. LANDRIEU. I also ask unanimous consent to have printed in the RECORD ''Corps' Own Study Backs Critics of Levee Engineering.''

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

CORPS' OWN STUDY BACKS CRITICS OF LEVEE ENGINEERING

[From the Times-Pacayune, Dec. 10, 2005]

(By Mark Schleifstein)

An internal review by the Army Corps of Engineers supports most of the criticisms leveled against the New Orleans area levee system by an independent team of engineers, including questions about soil strength, levee maintenance and whether the system was built as designed.

In a Dec. 5 interim report released Friday, the Interagency Performance Evaluation Task Force said its conclusions already have been passed on to engineers who are working to restore the levee system to its authorized protection level before it was overwhelmed by Hurricane Katrina, flooding more than 70 percent of the city.

''The IPET team vigorously agrees that everything possible should be done to reconstitute an effective and resilient flood protection system for the New Orleans area,'' the report said.

While the level of protection is still limited by past congressional authorizations to the equivalent of a fast-moving Category 3 hurricane, the report said the task force will evaluate the risk and reliability of that system.

''This will provide a clearer perspective of the overall performance capacity of the system for use by individuals and governments in their decision making,'' the report said.

The task force concurred with the independent engineers from the American Society of Civil Engineers and the National Science Foundation that the failure of levee walls at the 17th Street and London Avenue canals were likely caused by failures in the foundation soils beneath them. The engineers also have noted that sheet piling beneath the walls was too short to properly support the walls.

The independent engineers said soft peaty soils under the 17th Street levee and a combination of soft peat and sand beneath the London Avenue levees allowed water from the canals to push the walls and earth beneath them out of the breach areas, allowing water to flood into much of the city.

''Extensive observations by a number of teams found no signs of major overtopping of these systems at the breach sites,'' the report said, pointing to a structural failure of the floodwalls at those sites.

ANALYZING FAILURES

The corps task force is studying a variety of other factors that also may be involved in the failures at those two canals:

The potential for differences between how the levee and floodwall structures were built and the plans and specifications that were supposed have guided their construction.

Properties of soil layers beneath the levees to a depth of 60 feet below sea level.

The kinds of soil materials, including whether they were natural deposits or were

compacted properly to remove moisture and be more dense.

Whether the soil layers included tree stumps or other organic materials.

The way the soil may have coped with the forces imposed by Katrina's wind and water.

The effect of trees, swimming pools and other objects in nearby back yards that may have affected the levee strength.

How close the levee failures were to bridges, and whether the connection between them was adequate.

Whether operations and maintenance practices by the corps and individual levee boards differed from the corps' Operations and Maintenance Manual.

The task force said it had found evidence that scour, probably from water going over the top of the levee, occurred along the London Avenue Canal at the southeast corner of its intersection with the Robert E. Lee bridge, near a part of the wall that looks deformed. That levee section is directly across from a breach.

Damage near a pump station at the southern end of the Orleans Canal also appears to indicate water topped the levee wall there, the report said.

Along the levee walls of the Industrial Canal and along earthen levees on the Gulf Intracoastal Waterway and Mississippi River-Gulf Outlet, Katrina's storm surge went over the top, causing scouring or in some cases simply washing away large parts of the levees, the report said.

At the Industrial Canal, the water pouring over the wall scoured the levee on what was supposed to be the protected side of the I-shaped levee wall.

''The erosion appeared to be so severe that the sheet piles may have lost all of their foundation support, resulting in failure,'' the corps report said.

PROTECTING BACK OF LEVEES

The task force also agreed with the independent engineers that those designing repairs to the levee systems should consider ways of protecting the back sides of levees from the effects of water scour in the event another major hurricane's storm surge tops the levees.

Officials with the corps' Task Force Guardian, which is in charge of the rebuilding effort, already have said they plan to use more protective inverted-T levee walls in the 17th Street and London Avenue canals where breaches occurred. Water topping such a wall would splash down on a concrete strip before running off.

The investigative task force also said the use of erosion protection, including riprap, concrete mats or slabs, or paving, should be considered in areas where erosion by waves and surge are possible. The report said additional study is under way into where structures in the levee system are most likely to sustain unusually large surge and wave conditions.

And the report recommended using stronger clay soils in building levees ''to improve their survivability chances.''

The investigative task force also recommended that in rebuilding, more effort should be put into assuring that connections between different types of protective systems—such as walls and earthen levees—be better designed.

''A common problem observed throughout the flood protection system was the scour and washout found at the transition between structural features and earthen levees,'' the report said. Similar problems occurred where ''penetrations,'' such as streets or railroad tracks, went through levee structures, the report said.

The task force also agreed with the independent engineers' conclusion that a lack of access to the land side of levees and levee walls, such as found along the canals in New Orleans, led to major problems for emergency personnel attempting to make repairs.

In the aftermath of Katrina, corps contractors had to build a road behind homes along Bellaire Drive to reach the 17th Street canal breach.

Corps officials told the Orleans Levee Board this week that they expect to expand the canal levee walls' rights of way by 15 feet to build an access road.

LOOKING FOR WEAKNESS

The task force also recommended that corps officials undertake an in-depth investigation of the area's levees to determine where other weaknesses might lie.

''Detailed inspection of the entire hurricane protection system using appropriate remote sensing, surveying, inspection and investigation techniques and equipment implemented and analyzed by properly trained and experienced professionals is recommended to identify those structures that have been weakened but have little visual evidence of degradation,'' the report said.

The corps task force held off on agreeing with a recommendation from the independent engineers to keep sheet piles in place along bridges on the northern end of the 17th Street and London Avenue canals so they could be easily plugged in advance of a storm during the next hurricane season.

That decision will require further study, the report said.

The report said it was outside the task force's authority to concur with the independent engineers' recommendation that the corps should retain an independent board of consultants to review the adequacy of interim and permanent repairs.

The report points out that Katrina's sustained winds were at 147 mph when it crossed the Louisiana coast early Aug. 29.

''The sustained wind speeds for the standard project hurricanes used to design many of the flood protection structures in and around New Orleans were in the neighborhood of 100 miles per hour,'' the report said. ''While wind speed alone is not a complete measure of the surge and wave environments experienced by specific structures, it is a clear indicator of the level of the forces to which the system was subjected.''

According to National Weather Service records, the highest winds recorded in the immediate New Orleans area were gusts of 105 mph at Lakefront Airport and Belle Chasse Naval Air Station. But much higher wind speeds were believed to have occurred in eastern New Orleans and St. Bernard and Plaquemines parishes, which were directly in the path of Katrina's eye.

The report said the task force is conducting an analysis of Katrina's surge and wave effects in Lake Borgne and the rest of the New Orleans area so the data can be used in determining the forces acting on levees and floodwalls throughout the area.

Ms. LANDRIEU. The point is, this was not just a natural disaster, it was a manmade disaster. One of our columnists captured it correctly. You could almost argue, based on the evidence that is in, independent evidence, that it was a Federal Government-sponsored disaster.

Let me repeat, these are strong words: A Federal Government-sponsored disaster because it was the Corps of Engineers, the failing of a sophisticated and supposedly a strong levee system that failed, that put a major American city underwater 10 to 15 feet for 2 weeks and flooded a region, with multiple levee breaks in an urban area.

It has never happened in the recent hitory of America. It has not happened since the great floods of 1927 when the Mississippi system was designed. It is written and documented beautifully in John Barry's book, ''Rising Tide.''

We have a natural disaster of unprecedented proportion coupled by a manmade disaster of neglect, poor design, faulty design, and no telling what else will be discovered. This is the result. These are homes that resulted. A hurricane did not do this. Katrina did not do this. Rita did not do this. We did this. The Federal Government sponsored this disaster by not securing and supporting the levee system, by not engineering it properly, and this home that is in Chalmette, which is in St. Bernard Parish which lost almost every home in the parish. This is why I say we shouldn't go home because people in St. Bernard, in St. Tammany, in Orleans, in Vermilion, in Cameron, in Calcasieu, in counties along the Mississippi gulf coast from towns such as Biloxi and Waveland, this is what their homes look like.

Let me show another picture. The sun is shining, but it is not a happy time for the family that lived in this home. This could have been done from a hurricane, from wind damage. There may or may not have been flooding in this home. I am not sure if this was on the gulf coast, but I can promise, hundreds of thousands of homes along the gulf coast looked like this.

What our delegation has said with the rising voices of the Mississippi delegation, as well as the Louisiana delegation, without action, homes are going to stay looking like this for months, if not years.

I do not know how to express any more clearly that what we have done to date is wholly insufficient. FEMA, on its best day, being led by the finest executive you could find in the country, is not designed to meet the challenges of this kind of disaster. Let me repeat, on its best day, with the finest executive we could find, it is not designed to meet this disaster. So when people continue to say, and legislators and Congressmen, ''Well, we have sent $62 billion to FEMA. We have done enough,'' I, please, want to plead with my colleagues and the citizens of our Nation, do not confuse sending money to FEMA with giving help to homeowners, businesses, large and small, in Mississippi and Louisiana. Please do not confuse that. They are two separate things. You can send money to FEMA and then maybe cross your fingers to see if any of that money gets to solve this problem.

This is a picture I have used a lot because it reminds me of my own grandmother who had a camp a lot like this. There is virtually nothing left of the camp we owned. But this is typical of senior citizens throughout the gulf coast. This would be what most of our grandparents and parents are going to do this holiday. This picture—it really is one of the most heart wrenching,

moving pictures, and I have seen thousands of them.

What does this woman do? FEMA is not enough to help. That is why I have said we are going to slow this process down. I know people are anxious to get home for the holidays. I know this is not the only issue before America. But it goes to the heart of what homeland security is about—or should be about. If you cannot be secure in your own hometown, if you cannot be secure in your own home, if you cannot be secure when you are kneeling in your own church or when you are in your own business, where can you be secure? I am not suggesting we are powerful enough to stop hurricanes, but I am suggesting we should be smart enough and powerful enough to mitigate against their damage, to prevent manmade disasters by underinvestment in civil works systems that are important for the growth of the country, and men and women enough when the disaster does happen to step up and think outside the box and do something that actually helps people. So I am not anxious to go home because the people I represent do not have any homes to go home to.

Now, this next picture is not as dramatic a picture, but it will tell you the story. In the South, we have been talking about Hurricane Andrew since it hit. I think it was in 1992. Yes, here it is, 1992. Hurricane Andrew in the South is like a legend. People talk about Camille, they talk about Betsy, but then everybody says: Andrew. It hit Florida. It did not hit us, but a lot of our people went over to Florida to help. We remembered Andrew. We saw pictures of Andrew for months, and we did everything we could to try to help in Florida. And it was the worst, costliest storm ever to hit.

Can I show you what Katrina is? This is not even counting Rita. For Katrina, insured losses are twice—twice—that of Hurricane Andrew. And this is not even showing the costs for Rita. It could be triple the costliest storm in the history of the United States. It is not because the hurricanes were really maybe as bad. And maybe they were equal. But this differential is about a levee break in an urban area, putting 200,000 homes underwater and uninhabitable, and 18,000 businesses.

I believe, if I am not wrong about Hurricane Andrew, we lost 28,000 homes. That is a lot of homes. Think about a town with 30,000 people. That is a pretty big-sized town. Think about every home in the town being destroyed. That is a very terrible tragedy. We had 205,000 homes totally destroyed, uninhabitable, from Katrina. These are not homes with blue tarps on the roof until the roofer can come in, with people in the kitchen; these are homes that you cannot stay in for more than 5 minutes or maybe an hour or two to clean up. There is no water. There is no electricity. There is mold. There is mildew. People are gutting their homes, basically sitting on slabs. That is 205,000 homes totally destroyed. Mississippi had 68,000 homes totally destroyed, we had 205,000 homes totally destroyed, for a total of almost 300,000 homes—poof—gone, destroyed. That is not damaged. That is not thousands of homes that have a tree through the roof or the porch fell off or there was water in the kitchen and the appliances do not work but you can sleep in the bedroom and just kind of wait for the kitchen to get back. These are 300,000 homes gone.

Many of them did not have insurance because they were not required to because our laws were not written correctly to require them to. They were sitting in high places, in places that had never flooded before. And they looked up, and because our levee system failed, they have lost their house, they have lost their business, they have lost their financial future. Their children are not going to college. Their kids are not in the school. They are not worshiping in their church. And we are sitting around here passing 100 bills that have nothing to do with helping them.

Yes, this chart is what I was looking for. Sometimes I cannot keep numbers in my head and sometimes I can. There were 28,000 homes lost from Andrew. Charley, Frances, Ivan, and Jeanne—we still talk about those hurricanes. They were terrible hurricanes and 27,000 homes destroyed. Look at Katrina—275,000 homes destroyed.

Now, this graph is why we are struggling to a point where I just cannot quite describe that if we do not get some real help real soon, this region is not going to be able to stand back up. Now, we will eventually—I will get to that point in a minute—but it is going to be very difficult. We lost 18,752 businesses in Louisiana alone. Mississippi lost close to 2,000. Let me repeat: 18,000 in Louisiana, 2,000 in Mississippi.

Now, I am not saying this to minimize what happened to the gulf coast. As I have shared with Senators with whom I serve, I grew up on the gulf coast. I love Pass Christian probably as much as they do, but they had 2,000 businesses destroyed. But when levees break in a major city, this is what happens. This is virtually every small business or a large part of the small businesses in the metropolitan area.

Now, we stand up here in this Senate all the time and say: Small business is the backbone of our economy. Please, let's help small business. Could somebody tell me how FEMA is actually going to stand up these 18,752 businesses that pay taxes, that were patriots, that played by the rules, paid their employees? These are not big corporations. We only have one Fortune 500 company. But we have a lot of good people who worked hard to build those businesses, and—poof—they are gone. Some of them had insurance, but some of them did not.

So we put in a bill 7 weeks ago. OLYMPIA SNOWE and JOHN KERRY passed a bill almost unanimously in the Senate. It is sitting somewhere because we just cannot get out of the box enough to help these people. We have to go through the same old regular process that is not working. And last time I checked, under the administration's proposal, we had processed a grand total of six—six—six—GO Loans in Louisiana. I have 18,000 businesses gone, and we processed 6 GO Loans last week.

When I suggest we have been about as patient as we can be, that is why we may be staying here through Christmas.

The system is not working. Business owners are losing everything they worked for, not in one lifetime, three lifetimes—grandfather, father, son, or grandmother, daughter, granddaughter, 60, 70 years, businesses gone. And this Congress can't figure out how to help these businesses. But we are building infrastructure in Iraq. We are building businesses in Iraq, but we can't help our own American businesses.

Political allies of the White House have said that more has been accomplished than any other American disaster including 9/11. The claim cannot be justified. That claim is inaccurate. It is not valid. It cannot be substantiated. It is not justified under any objective criteria. What might be true is that we have sent more money through FEMA to try to help, but it is anemic. It is not functioning well. And the money is not getting to the people who need it.

That is why Senator COCHRAN and Senator BYRD have stepped up with a reallocation and said: OK, we hear you Louisiana. We hear you Mississippi. Let's not add any money, but let's take $30 billion of the FEMA money, since it is sitting in a bank account not being used, and move it over, give it to our Governors with community development block grants, full accountability, full flexibility.

We will send you some money, $6,000 per child for your education, because the schools took these children in. They knocked at the door. The schools took our children in, 370,000. They were never asked if they could pay. They have been educating these children for 6 months. The Federal Government has yet to give one of these school systems in Houston or Baton Rouge or Lafayette or Jackson, MS, one penny for taking these kids in. I don't know, do we expect schools that are having trouble anyway to take in children and educate them for free? They have added teachers, classrooms, and the Federal Government sits here giving money out right and left through every door as fast as it can get out, and we can't give money to school systems educating kids whose homes flooded and whose parents have no business anymore.

Senator COCHRAN has put that in his bill, mostly for Louisiana. We don't think that we have to keep saying that if we don't get better levees, not only can we not rebuild our city and region,

but it would be morally the worst thing that could be done not to help people feel safe and protected as they make decisions to go back. We have put a substantial amount of money in the budget with Senator COCHRAN's proposal for category 3 real levee protection and a downpayment on category 5 which is essential to us as we rebuild. With the community development block grant, the Governors, along with our parish presidents and municipal officials, can take that money and fashion it to help match private sector donors, to help supplement insurance payments, to help with some strategic housing initiatives and begin getting tools and capital and money out in these communities in the right ways to help stand them up.

We have to argue about this, not adding money to the budget, reallocating FEMA, and yet we are still arguing with the House on the total amount. Maybe they don't want to do 17, so we are down to this or that.

This week we cannot leave until we pass a Cochran-Byrd reallocation of the President's supplemental. With all due respect to the administration, the supplemental that was sent to us was a bill of $17 billion, except for some serious levee money which I thank the administration for. I thank the administration for putting that money—I think it was $1.6 billion—in their original request. We appreciate it. But the rest of the money in that bill was basically to refurbish Federal facilities.

I want to show again the picture of the lady. This is what I want to refurbish. I understand we have to refurbish Federal facilities. I know that Federal bureaucracies are important. But this is where we are trying to get the money, to citizens such as this woman who have worked hard their whole life, raised their family, never asked anybody for too much. Now they are sitting in a house with nothing. This is whom we are trying to help. We are trying to get money to the private sector, to private property owners, not to refurbish Federal Government buildings. So Senator COCHRAN took that bill and said: If you want to help refurbish Federal buildings, fine, but we need to add money to help citizens, patriots, business owners in our States.

I sure hope we can do that because it will be a shame if we do not.

I want to add a quote from Governor Haley Barbour. There has been a lot of discussion about Mississippi's approach and Louisiana's approach. But pain has a way of bringing people together.

Governor Barbour said yesterday:

> We are at a point where our recovery and renewal efforts are stalled because of inaction in Washington, D.C., and the delay has created uncertainty that is having a very negative effect on our recovery and our rebuilding.

If this is coming from Governor Barbour, who is part of the party in power and was head of the Republican Party for many years, who lost a fraction of the homes that we lost, how do you think the people of Louisiana are feeling about the stalled recovery effort and the desperation as they see Congress winding down for the holidays? They ask: Why aren't people in Washington understanding what we are going through?

I want to read for the RECORD an appropriate and moving quote, right on target as far as I am concerned, from Vanity Fair in November. It says:

> . . . when the damage is this catastrophic, the people so helpless, the government so weak and clumsy, we expect it to take place somewhere else—on the coast of Sri Lanka or Bangladesh, for instance—somewhere distant and more poor. . . . We do not expect to see our government so impotent and indifferent that it is completely paralyzed . . .

I know the men and women with whom I work. I don't find them to be incompetent or paralyzed. I believe they are sensitive and smart and intelligent people. What is it that is keeping us in this Congress from understanding FEMA isn't working. The Red Cross is not sufficient. People are suffering. New tools are needed. Let's get about helping people here at home.

There has been some unbelievable debate about whether New Orleans should be rebuilt. Our city has been there for 300 years. Thomas Jefferson leveraged the entire Treasury to buy the city of New Orleans because of its strategic advantage, which was true then. It is true now. Andrew Jackson took his troops and defeated the British to protect it in 1815 because it is the greatest port system in America. It is America's only energy coast. You can't have a great nation without protecting your Southern border. You can't have great trade. What thought of anyone would be that we can't rebuild New Orleans in the region of south Louisiana after we have given so much to this economy? We are not a charity case. We need help, we need respect, and we need a partner.

We will rebuild New Orleans and south Louisiana and the gulf coast of Mississippi. The people have spoken, and the spirit is strong. We may not have houses to live in or businesses to go to, but the people who have lived in this part of the world are strong people. We are Black and White, Hispanic, different socioeconomic levels, but we have lived there. The question is, Will we have a partner in the Federal Government? This week we will see if we have a partner.

Let's get on to the business of getting these bills passed. We will be slowing it down until we do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, is there a speaker designated to go next?

The PRESIDING OFFICER. The Senator from Iowa is previously designated to follow the Senator from Louisiana.

Mr. FEINGOLD. In light of the fact that the Chair indicated that the Senator from Iowa is to be next, I ask unanimous consent that I may speak next, and that I may use as much time as I may require.

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

The Senator from Iowa is recognized.

CHILDHOOD OBESITY

Mr. HARKIN. Mr. President, over the last several years, we have repeatedly heard alarming reports about the rising tide of overweight and obesity in the United States, particularly among young children. Over the past two decades, the rate of obesity has doubled in children and tripled in adolescents. Fifteen percent of the children in this country are now overweight. In fact, the United States has a higher percentage of overweight teens than any other industrialized country.

This comes at a high price for our country, both in terms of the long-term physical health of our citizens and the enormous health care costs our Nation faces. Just last week, the Institute of Medicine of the National Academy of Sciences released a new report: ''Food Marketing to Children and Youth; Threat or Opportunity?''

The report focused on one big factor that contributes to the childhood obesity epidemic: the relentless multibillion-dollar marketing of junk food to our children. This landmark report is the most comprehensive and systematic review to date of the impact of food marketing on the diets of American youth. Its conclusions are troubling, but they hardly come as a surprise to parents who know well the effects of food marketing on their children.

In a nutshell, the Institute of Medicine concluded that there is strong scientific evidence that food marketing influences food preferences, the purchases and diets of children age 12 and below. Even more important, the Institute of Medicine confirms what many had suspected before, that ''television advertising influences children to prefer and request high-calorie and low-nutrient food and beverages.''

Let me just read two sentences from the executive summary. I am quoting directly from the Institute of Medicine's finding:

> It can be concluded that television advertising influences children to prefer and request high-calorie and low-nutrient foods and beverages.

That is a key finding. Next, on the broad conclusions: Food and beverage marketing practices geared to children and youth are out of balance with healthful diets and contribute to an environment that puts their health at risk.

There you have it. Now, 2 years ago, I requested this study to be done. We put money in the appropriations bill for the CDC to do the study. They contracted with the National Academy of Sciences and the Institute of Medicine to do the study. This is an unbiased landmark study. It proves conclusively that our kids are being inundated nonstop with advertising that puts their health at risk.

The food industry is a $900 billion-a-year business. It spends billions of dollars promoting food products, much of it targeted at kids. The IOM report is important because it outlines in great detail how over the past decade advertising directed at our children has grown to a point where they are bombarded nonstop with ads. Indeed, food marketing has expanded in both intensity and variety into nearly all areas of kids' lives.

The food industry spends more than $11 billion a year targeting kids with marketing campaigns through television, movies, magazines, Internet, in-school marketing, kids clubs, toys, coupons, and product placement in movies and books. Marketing to kids has become so pervasive and sophisticated that over the past several years marketing firms have even begun to employ child psychologists who specialize in this field to help devise their strategies.

On the advice of these psychologists, advertisers make use of media fantasy figures, celebrities, and cartoon characters. They use messages crafted to imply that products will give kids power, make them popular. The aim is simply to exploit kids' imaginations and their vulnerabilities and to sell them products or to get them to nag their parents to buy certain products.

What kind of foods are they marketing to our kids? We are not talking about apples and pears and peaches and broccoli and carrots. We are talking about high-fat, high-sugar, high-sodium foods with little or no nutritional value.

The food industry contends it is concerned about the health and nutrition of our children, and that it is taking active steps to change its marketing practices to introduce new products that are healthier for our children. But is that really the case?

In limited instances, the industry has taken some positive steps. For example, in the past year, both Kraft Foods and Pepsico have announced they will take steps to curb the marketing of unhealthy food products to children, and instead focus on the promotion of healthier products. I have commended publicly, and I do so again today on the floor of the Senate—both Kraft and Pepsico for taking a leadership position in this area.

But here is the problem. This Institute of Medicine report is clear that such responsible actions are far from the industry norm. As you can see from this chart, the number of new products that the food industry has targeted to kids have gone up tenfold over the past 10 years, from around 50 to just under 500 in 2004—500 new products per year—not apples, not salad bars. According to the Institute of Medicine, these 500 products are high in calories and sugar and low in nutrients. This is what dominated those products.

Let's take a look at some of the examples of what is happening to our kids. Many advertisements for junk food snacks use characters popular with children. Here is one. They range from Spiderman to Sponge Bob Square Pants. Kids know these characters. They admire these characters. Quite frankly, when I saw ''Shrek 1'' and ''Shrek 2,'' I kind of liked Shrek. He became a loveable, nice guy who wanted to do good. Now what do we see? Here is Shrek advertising Twinkies, green Twinkies with a green filling.

Now Shrek has a powerful appeal to kids' minds. Kids see the movie Shrek and they like Shrek. And Shrek, why, he likes Twinkies, so Twinkies must be OK to eat. That is what that message says.

What do we know about Twinkies? The nutritional value is zero, harmful to kids' health.

Shrek now becomes a bad guy trying to get our kids to eat unhealthy food. Shame on the advertisers who take a likable, loveable character when he was first introduced to kids in the movies and now using Shrek to poison our kids. I use the word ''poison'' because that is what this food does, it poisons our kids by making them obese and unhealthy.

Then what you can do when you see this ad, you can visit twinkies.com. I will show that a little bit later in my presentation.

It is not just limited to television. Food marketing has gone on in numerous ways that we are just beginning to explore. The Institute of Medicine report was shocking. One thing—I didn't know this—only 20 percent of all food and beverage marketing in 2004 was devoted to the traditional methods of television, radio, and print. Only 20 percent. Eighty percent is going to new forms of marketing—product promotions, character licensing, school marketing.

At one time, our schools were considered safe havens for our kids, places of learning that insulated our kids from crass commercial influences. No longer is that the case. Our schools have been inundated with commercial messages that are now a major advertising medium that these food companies are using to establish brand loyalty and to get kids to eat junk food.

Here is a photograph of a hallway in a high school. You have the Coke machine, you have a POWERade machine. You have a vending machine with potato chips, Fritos, cookies, candy bars, M&M's. Nothing in this entire display is of any nutritional value. That is what is happening in schools.

Let's not forget that a lot of these food marketing companies have exclusive contracts with schools and school districts to link the sale of soda pop to cash payments or equipment assistance to schools. These are the very foods that are making our kids obese, contributing to their unhealthy lifestyles.

I often ask parents, What would you think of a parent who sat down with his or her child before they went to school in the morning and measured out 15 teaspoons of sugar, put it in a little plastic bag and told the kid: Here, you can take this to school and eat it. Or, on second thought, measure out 30 teaspoons of sugar, give it to the kid and say: Here, take this to school and eat it. You would think no parent would ever do that. But some children to buy two soda pops every day and two of those 20-ounce soda pops will have 15 teaspoons of sugar each. One 20-ounce soda pop equals 15 teaspoons of sugar. That is why others call this liquid candy. A 20-ounce Coke, liquid candy, that is all it is, 15 teaspoons of sugar.

Why do we allow this? Why do we allow this in our schools? It is sending a message to our kids that this is OK? It is in school, it is promoted by the schools, so it must be OK. That is a new marketing technique they have.

Now we have other techniques such as branded toys and new marketing techniques aimed at babies? Hang on, wait until you see this one: A baby with a 7-Up bottle. Here is a baby being nursed on a bottle that has a 7-Up logo on it. One might say, well, that baby can't buy 7-Up. No, but that baby's eyes are picking up things. When that baby gets older, that is going to be stuck in that baby's mind somewhere in the deep recesses, that was good because what that baby got out of that bottle was good healthy milk, formula probably. And now they are going to associate that with 7-Up. Imagine that, that early in life.

You think that is bad, hang on, you haven't seen anything yet. Look, before I put this picture up here, let's agree on one thing. We all agree—I know the occupant of the Chair and I bet he agrees with this, being a doctor—that the most beneficial, nutritious food for a newborn baby is a mother's milk, breastfeeding. We all know that breastfeeding is the best, and any doctor will tell you if you are capable, you ought to breastfeed your child.

Now look what we have here: A billboard with a baby breastfeeding on a McDonald's Burger. That just about borders on the obscene. It can't get any worse. I understand this did not run in the United States, but it ran on billboards in Europe. Here is a baby, obviously less than a year old supposedly breastfeeding on a McDonald's hamburger bun. Not only does this ad imply that fast food is a developmentally appropriate product for infants, it suggests that fast food is an appropriate replacement for the nutrition of breastfeeding, which is the perfect form of nutrition for babies.

Equating a McDonald's hamburger with breastfeeding, while it might be intended to be humorous, is no laughing matter. It sends very subtle messages that breastfeeding is nutritious and so are McDonald's hamburgers.

Now we have other ways of marketing. I tell you, these are psychologists who devise these ads. They know what they are doing. How about the candy counting books? Here we have ''Reese's Pieces Count by 5,'' ''Hershey's Subtraction'' book, the

''Skittles Riddles Math'' book, the ''Twizzlers Percentage'' book, the ''Hershey's Fraction'' book, and the ''Hershey's Kisses Addition'' book.

Here is where I am going to pay tribute again to Kraft Foods. On this floor periodically in the past I have shown the Oreo counting book. Kraft Foods discontinued that practice. Kraft Foods does not allow that any longer. God bless them; good for Kraft Foods.

But here is the problem: You get one company who actually acts responsibly, and look what the rest of them do. They move into the marketplace and take market share away with their counting books.

Again, 2-year-olds, 3-year-olds learn with counting books—Hershey's, M&M's, and Reese's Pieces. I don't have it here, but I saw one counting book where you lay it out and you actually put the M&M pieces on there, and when you count one, you get to eat that one piece, and when you count two, you get to take the two pieces of M&M's off and eat those two, until you get to 10 M&M pieces. Junk food, building brand loyalty early.

Then we have toys. How about the toys? It is an emerging trend that puts the food on the toy so you don't just get it for 30 seconds, you get it all the time you play with your toys.

Here we have a Coca Cola princess, whatever, a cheerleader. We have a Jell-O Barbie. We have a McDonald's Barbie.

So little kids play with these and they build that brand loyalty. They play with a Barbie wearing a McDonald's logo or a Jell-O or a Little Debbie brand. That is what we have come to, where kids are inundated day after day not with just 30-second ads but with everything they play with, everything they see. Now they go to school, and they see the same thing in school. This is a recent innovation. It was not like this 20 years ago.

Now we have the Internet, which is becoming a growing segment of the food marketing industry. Remember, I said earlier that Shrek urges children to visit twinkies.com, well, here you go. If one goes to twinkies.com, they go to Planet Twinkie. At Planet Twinkie, there are all of these little interactive things, visit the Twinkie shop, the Hostess Hall of Fame, the chocolate and cupcakes and snowballs. That is Planet Twinkie.

So a kid sees Shrek, Shrek says: Visit my Web site, visit twinkie.com.

Well, again, what are they saying to kids? They are saying: Eat junk food. It is fun and it is an adventure just to eat junk food and eat Twinkies and to eat candy and stuff, and it is good for you. And guess what, it will make you smart because we do it in school; you go there to school to learn, so since we do it all in school it makes you smart, too.

So when one looks at all of these marketing techniques together, television, schools, product tie-ins, promotions, the Internet, branded baby products, what we are seeing is that the food marketers seek to do nothing less than envelop our children every day during all of their waking hours in a commercial environment that encourages them to eat unhealthy food.

For years the food marketers have been saying: One cannot really prove that food marketing influences children's diets. Not anymore. With this study, food marketers can no longer say that food marketing does not influence children's diets. The evidence is quite clear that marketing has a negative influence on children's food preferences and on their diets.

Some might say: Well, that is obvious. The food industry does not spend $11 billion a year on marketing to kids because it does not work, because they want to throw that money away. They spend it because it works brilliantly, inducing children to purchase it themselves or to beg, whine, and cajole their parents into buying it for them.

Some might say: What about the parents' responsibility? Parents should be responsible, but parents' control is being eroded. Food marketers are inserting themselves between parents and their kids. Their control is being eroded in the face of a highly sophisticated billion-dollar industry. This is not a level playing field.

Again, what can we do? Someone who has been listening to me might say: Well, OK, HARKIN, what can you do? That is the way business works. What can we do about it?

There is plenty we can do about it. The IOM report makes recommendations on what we ought to do. First, they say the industry needs to exhibit a greater level of corporate responsibility. Amen. Some of them have. But here is the problem: If it is not industrywide, one food company may do something good such as Kraft did, got rid of the Oreo cookie counting book. So what happens, their competitor moves in with other counting books. So it has to be industrywide.

IOM calls for sweeping change in the way the food industry, the beverage industry, the fast food restaurant industry, the media, and the entertainment industries do business. They call on all of those industries to use the same creativity, resources and marketing practices that they currently use to sell junk food to instead promote healthier diets for kids. They call on the food companies to change the products they advertise as well as the products they produce. They say that business as usual has to change and has to change now.

I hope corporate America is listening because if they do not change, then we in Congress will make them change. Almost 25 years ago, the Federal Trade Commission warned Congress about the dangers of advertising aimed at children. What did Congress do? We attacked the FTC and took away its regulatory authority as it pertains to children's ads.

In 1978, the FTC undertook an investigation and found that TV advertising directed at young children was both unfair and deceptive. They found that the advertising of high sugar foods to children is unfair and deceptive. They suggested that restrictions on ads directed at the young and vulnerable minds might be appropriate. But the broadcast industry went nuts. The food industries went nuts. The advertisers went nuts, and they got Congress to kill the messenger.

In 1981, this Congress stripped the Federal Trade Commission of its regulatory authority as it pertained to children's advertising. It expressly prohibited the Federal Trade Commission from following through on its proposals to ban or restrict advertising directed at children. This new law made it next to impossible to regulate advertising directed at kids. It is a little known fact that right now the FTC has more authority to regulate advertising at me and you and adults than it does to our kids, and here is how it does that.

There are two ways the Federal Trade Commission can regulate advertising: If it is unfair or deceptive.

In 1981, this Congress cut off one arm of the FTC in regulating advertising to kids. The FTC can only regulate advertising to kids if it is deceptive, not if it is unfair. Interesting point. One might say: Well, an advertisement of junk food is not deceptive, but is it unfair? It is, according to the Institute of Medicine because the Institute of Medicine said that kids lack the cognitive ability to discern between advertising, persuasive intent advertising and a program.

It stands to reason, if one is a young kid, they do not understand what advertising is all about. They get inundated with all of this, and it makes an impression on them, sticks with them, but they do not understand this is advertising. That is what the Institute of Medicine says. This is a medical report.

So I submit that any advertising that advertises high-calorie, high-in-fat junk food to kids that has no nutritional value, that is inherently unfair because kids do not understand the intent. Forget about deceptive. It is unfair. It may not be unfair to adults, since we understand what advertising is about—we should have that ability—but it is to kids. That is why we need to give the Federal Trade Commission the authority to regulate advertising to children both on unfairness and deceptiveness, as it does to adults. I want to point out, in closing, that I have introduced legislation to give FTC that authority.

In addition, the IOM talks about Government responsibility. It says that:

> Government at all levels should marshal the full range of public policy approaches (e.g., subsidies, legislation, regulation, federal nutrition programs), to foster the development and promotion of healthful diets for children and youth.

It says, ''Government and industry should work together to set higher standards for marketing to children.''

They called for changes in the school environment, to get rid of the junk food and the vending machines.

When we come back next session, Senator SPECTER and I will introduce the Child Nutrition Promotion and School Lunch Protection Act. This legislation will, per the recommendation of the IOM, require the Department of Agriculture to update its nutritional guidelines for school food sales and ensure that the foods available to kids during the school day promote, rather than undermine, their health and learning.

We in this Congress have a responsibility to protect America's children from the sophisticated, aggressive, relentless marketing of junk food to our children. We have a responsibility to stick up for our parents. Our parents don't have a chance when our kids are inundated, day after day, hour after hour, even in places where parents don't have control—in our schools, when they watch a movie, when they pick up a book, a counting book.

I was in a school not too long ago, looking at some renovations in a school, an elementary school. Do you know what the kids had to sit on? Coca-Cola chairs; little chairs with the Coca-Cola legend, red and white, with Coca-Cola written on it. I assume that they donated the chairs to the school. But this is the idea, to get it into the kid's head early, that education and having a high sugar soft drink go hand in hand.

Late in her life, Jackie Kennedy said a very wise thing. She said, ''If you botch raising your children, nothing else you do in your life matters very much.''

With what we now know, thanks to the IOM report, what we know about the destructive impacts of junk food marketing to the kids, with the new insights thanks to the Institute of Medicine, it is clear by allowing the food industry to market junk foods to our kids we are botching the raising of all of our children.

Again, this is enough. This report makes it clear that it is time to say to those who are enveloping our kids in this sort of 24-hour-a-day, 7-day-a-week nonstop advertising, that it is enough. Foods that are high in fat, sugar, and salt have their place. We all like to have a cookie. I enjoy a piece of candy as much as anybody else. They have their place. But they ought to be kept in their place—not in schools, not in advertising. They ought to be kept in their place and the place to start is with sensible, long overdue regulation of the advertising and marketing of junk food to children.

I yield the floor.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Wisconsin is recognized.

Mr. FEINGOLD. On behalf of Senator DODD, I wish to inform our colleagues that for health reasons Senator DODD will necessarily be absent from Senate business for the remainder of the week. He thanks his colleagues for their courtesy and understanding.

Mr. President, I commend my colleagues who came to the floor yesterday to discuss the PATRIOT reauthorization, and I thank Chairman SPECTER for initiating a very interesting debate with me when we were both on the floor. That is exactly the kind of dialog we want to see on the floor more often. I hope we will see a lot more of it over the next few days. The PATRIOT Act reauthorization conference report has come to the Senate and the Senate will be faced with a very important choice. I expect this debate will be lengthy and hard fought, so I wanted to take some time tonight to lay out the background and the context for this debate, and to discuss my concerns about the conference report with some specificity.

Because I was the only Senator to vote against the PATRIOT Act in 2001, I want to be very clear about something from the start. I am not—not—opposed to reauthorization of the PATRIOT Act. I supported the bipartisan compromise reauthorization bill that the Senate passed earlier this year, that had no Senator at all objecting. I believe the bill should become law. The Senate reauthorization bill is not a perfect bill, but it is a good bill. If that were the bill we were considering today, I would be on the floor speaking in support of it. In fact, we could have reauthorized the PATRIOT Act several months ago if the House had taken up the bill the Senate approved without any objections.

I also want to respond to those who argue that people who are demanding a better conference report want to let the PATRIOT Act expire. That is actually nonsense. Not a single Member of this body is calling for any provision of the PATRIOT Act to completely expire. As Senator SUNUNU eloquently argued yesterday, just because we are coming up against the end of the year does not mean we should have to compromise the rights of law-abiding Americans. There are any number of ways we can get this done and get it done right before the end of the year.

Let me also be clear about how we ended up voting on a badly flawed conference report just days before certain provisions of the PATRIOT Act expired. The only reason we are debating this conference report in the middle of December, rather than in the middle of September or October, is because the House—the House—refused to appoint its conferees for 3½ months. It passed its reauthorization bill on July 21, but it did not appoint the conferees until November 9. In the Senate, on the other hand, we passed a bill by unanimous consent on July 29 and we appointed our conferees the very same day. We were ready and willing to start the process of resolving our differences with the House right away, leaving plenty of time to get this done without the pressure of the end-of-the-year deadline.

So when I hear Members of the House already attempting to place blame on those of us in the Senate who object to this conference report, I am a little bit frustrated. If there is anyone to blame, it is the House leadership for playing a game of brinkmanship with this crucial and controversial issue. Senators who are standing strong for the rights and freedoms of the American people will not be at fault if parts of the PATRIOT Act expire.

I also want to clear up one related misconception. I have never advocated repeal of any portion of the PATRIOT Act. In fact, as I have said repeatedly over the past 4 years, I supported most of the provisions of the bill. There are many good provisions in the bill. As my colleagues know, the PATRIOT Act did a lot more than expand our surveillance laws. Among other things, it set up a national network to prevent and detect electronic crimes such as the sabotage of the Nation's financial sector, it established a counterterrorism fund to help Justice Department offices disabled in terrorist attacks to keep operating, and it changed the money laundering laws to make them more useful in disrupting the financing of terrorist organizations. One section of the PATRIOT Act even condemned discrimination against Arab and Muslim Americans.

Even some of the act's surveillance sections were not troubling. In fact, one provision authorized the FBI to expedite the hiring of translators. Another added terrorism and computer crimes to the list of crimes for which criminal wiretap orders could be sought. And some provisions helped to bring down what has been termed ''the wall,'' the wall that had been built between intelligence and law enforcement agencies.

This week we have heard a lot of people saying we must reauthorize the PATRIOT Act in order to ensure that this wall does not go back up. Let us make this clear. I supported and continue to support the information-sharing provisions of the PATRIOT Act. One of the key lessons we learned in the wake of September 11 was that our intelligence and law enforcement agencies were not sharing information with each other, even where the statutes permitted it. In the PATRIOT Act we tore down the remaining legal barriers.

Unfortunately, the law was not so much a legal problem as a problem of culture and the report of the 9/11 Commission made that very clear. I am sorry to report that we have not made as much progress as we should have in bringing down those very significant cultural barriers to information sharing among our agencies.

The 9/11 Commission report card that was issued last week gave the Government a ''D'' for information sharing because their agencies' cultures have not changed enough these 4 years after the change in the law in the PATRIOT Act.

There is a statement issued by Chairman Kean and Vice Chairman Hamilton that explained:

You can change the law, you can change the technology, but you still need to change the culture. You still need to motivate institutions and individuals to share information.

So far, unfortunately, our Government has not met the challenge.

Talking about the importance of information sharing, as administration officials and other supporters of the conference report have done repeatedly, is part of a pattern that started several years ago. Rather than engage in a true debate on the controversial parts of the PATRIOT Act, as Senator SPECTER did yesterday, unfortunately many proponents of the PATRIOT Act point to noncontroversial provisions of the PATRIOT Act and they talk about how important they are. They say this bill must be passed because it reauthorizes those noncontroversial provisions.

That doesn't advance the debate. It just muddies it further. In fact, it is a red herring.

I have news for those who would try to use that tactic. It won't work. We don't have to accept bad provisions to make sure that good provisions become law. I hope the Senate will make that lesson very clear this week.

Tonight, I want to advance the debate, spend some time explaining my specific concerns about the conference report in some key areas. It is very unfortunate that the whole Congress could not come together, as the Senate did around the bipartisan compromise reauthorization bill. Back in July, the Senate Judiciary Committee, on which I serve, voted unanimously in favor of a reauthorization bill that made meaningful changes to the most controversial provisions of the PATRIOT Act to protect the rights and freedoms of innocent Americans. Shortly thereafter that bill passed the full Senate by unanimous consent. It was not easy for me to support that Senate bill which fell short of the improvements contained in the bipartisan SAFE Act.

At the end of the day, the Senate bill contained meaningful changes to some of the most problematic provisions of the PATRIOT Act, provisions that I have been trying to fix since October of 2001. So I decided to support it. I made it very clear at the time, however, that I viewed that bill as the end point of negotiations, not the beginning. In fact, I specifically warned my colleagues that the conference process must not be allowed to dilute the safeguards in this bill. I meant it. But it appears that people either weren't listening or weren't taking me seriously.

This conference report, unfortunately, does not contain many important reforms of the PATRIOT Act that we passed in the Senate. So I cannot support it. In fact, I will fight it with every ounce of strength I have. And I am delighted to be part of a strong bipartisan consensus that believes, as I do, that this conference report is unacceptable.

Let me start with section 215, the so-called ''library'' provision, which has received so much public attention.

I remember when the former Attorney General of the United States called the librarians who were expressing disagreement with this provision ''hysterical.''

What a revelation it was when the chairman of the Judiciary Committee, the Senator from Pennsylvania, opened his questioning of the current Attorney General during his confirmation hearing by expressing his concern—the chairman's concern—about this provision of the PATRIOT Act. He got the Attorney General to concede that, yes, in fact, this provision probably went a bit too far and could be improved and clarified. That was an extraordinary moment. It was a moment, I am afraid, that was very slow in coming and long overdue.

I give credit to the Senator from Pennsylvania because it allowed us to start having, for the first time, a real debate on the PATRIOT Act. But credit also has to go to the American people who stood up despite the dismissive and derisive comments of Government officials and said with loud voices: The PATRIOT Act needs to be changed. And these voices came from the left and the right, from big cities and small towns all across the country. So far, over 400 State and local governmental bodies have passed resolutions calling for revisions to the PATRIOT Act. I plan to read some of those revisions on the floor of the Senate in this debate, and there are a lot of them. Nearly everyone mentions section 215.

Section 215 is at the center of this debate over the PATRIOT Act.

It is also one of the provisions that I tried unsuccessfully to amend on the floor in October 2001.

So it makes sense to start my discussion of the specific problems I had with the conference report with the infamous library provision.

Section 215 of the PATRIOT Act allowed the Government to obtain secret court orders in domestic intelligence investigations, to get all kinds of business records about people, including not just library records but also medical records and various other types of business records. The PATRIOT Act allowed the Government to obtain these records as long as they were ''sought for''—that is all, ''sought for''—in a terrorism investigation. That is a very low standard. It doesn't require that the records concern someone who is suspected of being a terrorist or a spy, or even suspected of being connected to a terrorist or a spy. It didn't require any demonstration of how the records would be useful in the investigation.

Under section 215, the Government simply said—this is fact—all the Government has to do is say the magic words, that it wanted records for a terrorism investigation, then the secret FISA court was required—required—to issue the order, period. No discretion. The judge had to give the order.

To make matters worse, recipients of these orders are subjected to an automatic gag order. They cannot tell anyone that they have been asked for the records.

Some in the administration and even in this body took the position that people shouldn't be able to criticize these provisions until they can come up with a specific example of abuse.

The Attorney General makes that same argument today in an op-ed in the Washington Post when he simply dismisses concern about the PATRIOT Act by saying: ''There have been no verified civil liberties abuses in the 40 years of the Act's existence.''

That has always struck me as a strange argument since 215 orders are issued by a secret court, a secret court. And people who receive them are prohibited by law from discussing them.

In other words, the way the law is actually designed, it is almost impossible to know if any abuses have occurred. How would we find out? It is a secret court and nobody can talk about it.

The Government should not have the kind of broad, intrusive powers it gave itself in section 215. And the American people shouldn't have to live with a poorly drafted provision that clearly allows for records of innocent Americans to be searched and just hope that the Government uses it with restraint.

A government of laws doesn't require its citizens to rely on the goodwill and the good faith of those who have those powers, especially when adequate safeguards can be written into the laws without compromising their usefulness as a law enforcement tool.

After lengthy and difficult negotiations, the Judiciary Committee came up with language this year that achieved that goal. It would require the Government to convince a judge that a person has some connection—some connection—to terrorism or espionage before obtaining their sensitive records. When I say some connection, that is what I mean.

The Senate bill standard is the following: One, that the records pertain to a terrorist or a spy; two, the records pertain to an individual in contact with or known to a suspected terrorist or spy; or, three, that the records are relevant to the activities of a suspected terrorist or spy.

That is a three-pronged test in the Senate bill. I think it is quite broad. I think it is more than adequate to give law enforcement the power it needs to conduct investigations but also at the same time protecting the rights of innocent Americans.

It would not limit the types of records that the Government could obtain, and it does not go as far to protect law-abiding Americans as I might prefer, but it would make sure the Government cannot go on a fishing expedition into the records of innocent people.

The Senate bill would also give recipients of a 215 order an explicit, meaningful right to challenge business record orders and the accompanying gag orders in court. These provisions

passed the Senate Judiciary Committee unanimously after tough negotiations late into the night. Unfortunately, the conference report just did away with their delicate compromise.

First and most importantly, it does not contain the critical modification to the standard for section 215 orders.

The Senate bill permits the Government to obtain business records only if it can satisfy one or more prongs of the three-pronged test that I just described.

This is a broad standard with a lot of flexibility. But it retains the core protection that the Government cannot go after someone who has no connection whatsoever to a terrorist or a spy or their activities.

What does the conference report do? The conference replaces the three-pronged test with a simple relevant standard. It then provides the presumption of relevance if the Government meets one of the three prongs I just described.

But it is silly to argue that this is adequate protection against a fishing expedition. The only actual requirement in the conference report is that the Government show that the records are relevant to an authorized intelligence investigation. Of course, ''relevance'' is a very broad standard that can arguably justify the collection of all kinds of information about law-abiding Americans.

The three prongs now are just examples of how the Government can satisfy the relevance standard, and that is simply a loophole, or an exception that swallows the rule. The exception is the rule.

In fact, a better way to say it is that this is actually a complete rule, and the exception has been rendered meaningless.

I will try to make this as straightforward as I can. The Senate bill requires the Government to satisfy one of three tests. Each test requires some connection between the records and a suspected terrorist or spy. The conference report says that the Government only is required to satisfy a new fourth test, which is just relevance, which does not require a connection between the records and a suspect. So basically the other three tests no longer provide any protection at all.

The conference report also does not authorize judicial review of the gag order that comes with a 215 order. While some have argued that the review by the FISA court of a Government application for a section 215 order is equivalent to judicial review of the accompanying gag order, that is simply inaccurate. The statute does not give the FISA court any latitude to make an individualized decision about whether to impose a gag order when it issues a section 215 order. It is required by statute to include a gag order in every section 215 order. That means that the gag order is automatic and permanent in every case. This is a serious deficiency, one that very likely violates the first amendment.

In litigation challenges, a semi-permanent national security letter statute, two courts have found first amendment violations because there is no individualized evaluation of the need for secrecy. I have these decisions right here; perhaps I will have a chance to read them in detail during the debate.

I will discuss other provisions in the conference report that fail to adequately address the concerns expressed in this Senate and around the country about the PATRIOT Act. Section 215 is a linchpin of this debate. To keep faith with the American people and with our constitutional heritage, we have to address the problems with section 215 in this reauthorization bill. There is no way around that.

Let me turn next to a very closely related provision that has finally been getting the attention it deserves—the national security letter, or NSL, an authority that was expanded by sections 358 and 505 of the PATRIOT Act. This NSL issue has flown under the radar for years even though many of us have been trying to bring more public attention to it. I am gratified that we are finally talking about these NSLs, in large part due to a lengthy Washington Post story published last month explaining just what these authorities are and reporting that the use of these powers has increased dramatically.

What are NSLs? Why are they such a concern? Let me spend a little time on this because it is important. National security letters are issued by the FBI to businesses to obtain certain types of records. They are similar to section 215 orders but with one very critical difference: The Government does not need to get any court approval whatever to issue that. It does not have to go to the FISA court and make even the most minimal showing. It simply issues the order signed by the special agent in charge of a field office or some other supervisory official. NSLs can only be used to obtain such categories of business records, while section 215 can be used to obtain ''any tangible thing.''

Even the categories reachable by NSLs are broad. Specifically, they can be used to obtain three types of business records: subscriber and transactional information related to Internet and phone usage, credit reports, and financial records. That category has been expanded to include records from all kinds of everyday businesses such as jewelers, car dealers, travel agents, and even casinos.

Just as with section 215, the PATRIOT Act expanded the NSL's authorities to allow the Government to obtain records of people not suspected of being or even connected to terrorists or spies. The Government need only certify that the documents are either sought for or relevant to an authorized intelligence investigation—a far-reaching standard that could be used to obtain all kinds of records about innocent Americans. Just as with section 215, the recipient is subject to an automatic permanent gag rule, and the conference report does very little to fix the problems of the national security letter authorities.

In fact, I disagree with the Senator from Pennsylvania, the chairman of this committee, on this point. In fact, I believe it could be argued that the conference report makes the law worse. Let me explain why.

First, the conference report does nothing to fix the standard for issuing a national security letter. It leaves in place the breathtakingly broad relevant standard.

Some have analogized NSLs to grand jury subpoenas issued by grand juries in criminal investigations to obtain records relevant to the crime they are investigating. So the argument goes, What is the big deal if NSLs are also issued under a relevant standard for intelligence investigations? Two critical differences make that analogy break down very quickly.

First of all, the key question is, Relevant to what? In criminal cases, grand juries are investigating specific crimes, the scope of which is explicitly defined in the Criminal Code. Although the grand jury is quite powerful, the scope of its investigation is limited by the particular crime it is investigating. In sharp contrast, intelligence investigations are by definition extremely broad. When you are gathering information in an intelligence investigation, anything could potentially be relevant.

Suppose the Government believes a suspected terrorist visited Los Angeles in the last year or so. It might want to obtain and keep the records of everyone who has stayed in every hotel in Los Angeles or who booked a trip to Los Angeles through a travel agent over the past couple years, and it could argue strongly that information is relevant to a terrorism investigation because it would be useful to run all those names through the terrorist watch list.

I don't have any reason to believe that such broad use of NSLs has happened. But the point is, when you are talking about an intelligence investigation, relevance is a very different concept than in criminal investigations. It is certainly conceivable that NSLs could be used for that kind of a broad dragnet in an intelligence investigation. Nothing in the current law prevents it. The nature of criminal investigations and intelligence investigations is different. Let's not forgot that.

Second, the recipients of grand jury subpoenas are not subject to the automatic secrecy that NSL recipients are. We should not underestimate the power of allowing public disclosure when the Government overreaches. In 2004, Federal officials withdrew a grand jury subpoena issued to Drake University for a list of participants in an antiwar protest. Why? Because there were public revelations about the demand. That could not have happened if the request had been made under section 215 or for records available via the national security letter authority.

Fortunately, there are many other reasons the conference report does so little good on NSLs. Let's talk about judicial review. The conference report creates the illusion of judicial review for NSLs, both for the letters themselves and for the accompanying gag rule, and if you look at the details, it is drafted in a way that makes the review virtually meaningless.

With regard to the NSLs themselves, the conference report permits recipients to consult their lawyer and seek judicial review, but it allows the Government to keep all of its submissions secret and not share them with the challenger regardless of whether there are national security interests at stake. So you can challenge the order, but you have no way of knowing what the Government is telling the court in response to your challenge. Parties could argue about something as garden-variety as attorney-client privilege with no national security issues, and the Government would have the ability to keep this secret. This is a serious departure from our usual adversarial process. I believe it is very disturbing.

The other significant problem with the judicial review provisions is the standard for getting the gag rule overturned. In order to prevail, the recipient has to prove that any certification by the Government that disclosure would harm national security or impair diplomatic relations was made in bad faith. Now, that is a standard of review that is virtually impossible to meet. So what we have here is the illusion—the illusion—of judicial review. When you look behind the words in the statute, you realize it is a mirage.

I also want to take a moment to address again an argument made yesterday by the Senator from Pennsylvania about the NSL provisions of the conference report. He argued that many of the complaints I have about the NSL provisions of the conference report apply equally to the NSL provisions of the Senate bill. And then he says because I supported the Senate bill, by some convoluted theory, my complaints are, therefore, invalid and I should support the conference report.

As I said yesterday, that does not make any sense.

The NSL section of the Senate bill was one of the worst sections of the bill. I did not like it then, and I do not like it now. But in the context of the larger package of reforms that was in the Senate bill, including the important changes to section 215 that I talked about earlier, and the new time limit on sneak-and-peek search warrants, which I will talk about in a moment, I was able to accept that the NSL section was there even though I would have preferred additional reforms.

The argument was made yesterday that after supporting a compromise package for its good parts, now I am supposed to accept a conference report that has the bad parts of the package even though the good parts have been taken out. Now, that is nonsense. Every Member of this Chamber who has ever agreed to a compromise—and I must assume that includes every one of us—knows it.

The other point I want to emphasize is that the Senate bill was passed before the Post reported that there has been extensive use of NSLs and the difficulties that the gag rule poses for businesses that feel they are being unfairly burdened by them, as reported by the Washington Post. At the very least, I would think that an NSL sunset is justified. But the conferees refused to make that change. Nor would they budge at all on the absurdly difficult standard of review, the so-called conclusive presumption.

I suspect that the NSL power is something the administration is zealously guarding because it is one area where there is almost no judicial involvement or oversight. It is the last refuge for those who want virtually unlimited Government power in intelligence investigations. And that is why the Congress should be very concerned and very insistent on making the reasonable changes we have suggested.

We had an interesting discussion on the floor yesterday also about the sneak-and-peek searches. This is another area where the conference report departs from the Senate's compromise language, and it is another reason I must oppose the conference report.

Yesterday, the Senator from Pennsylvania made what seems on the surface to be an appealing argument. He says the Senate bill requires notice of a sneak-and-peek search within 7 days of the search, and the House said 180 days.

The conference compromised on 30 days. ''That's a good result,'' he says. ''They came down 150 days, we went up only 23. What's wrong with that?''

Well, let me take a little time to put this issue in context and explain why this is not just a numbers game. An important constitutional right is at stake. One of the most fundamental protections in the Bill of Rights is the fourth amendment's guarantee that all citizens have the right to ''be secure in their persons, houses, papers, and effects'' against ''unreasonable searches and seizures.'' The idea that the Government cannot enter our homes improperly is actually a bedrock principle for Americans, and rightly so.

The fourth amendment has a rich history and includes in its ambit some very important requirements for searches. One is the requirement that a search be conducted pursuant to a warrant. The Constitution specifically requires that a warrant for a search be issued only when there is probable cause and that the warrant specifically describe the place to be searched and the persons or things to be seized.

Why does the Constitution require that particular description? For one thing, that description becomes a limit on what can be searched or what can be seized. If the magistrate approves a warrant to search someone's home, and the police show up at the person's business, that search is not valid. If the warrant authorizes a search at a particular address, and the police take it next door, they have no right to enter that house.

But, of course, there is no opportunity to point out that the warrant is inadequate unless that warrant is handed to someone on the premises. And if there is no one present to receive the warrant, and the search must be carried out immediately, most warrants require that they be left behind at the premises that were searched. Notice of the search—notice of the search—is part of the standard fourth amendment protection. Without the notice, it does not mean much. It is what gives meaning, or maybe we should say ''teeth,'' to the Constitution's requirement of a warrant and a particular description of the place to be searched and the persons or items to be seized.

Over the years, the courts have had to deal with Government claims that the circumstances of a particular investigation require a search without notifying the target prior to carrying out the search. In some cases, giving notice would compromise the success of the search by leading to the flight of the suspect or the destruction of evidence. The two leading cases on so-called surreptitious entry, which would come to be known as sneak-and-peek cases, came to very similar conclusions.

Notice of criminal search warrants could be delayed—delayed—but not omitted entirely. Both the Second Circuit in U.S. v. Villegas and the Ninth Circuit in U.S. v. Freitas held that a sneak-and-peek warrant must provide that notice of the search will be given within 7 days—7 days—unless extended by the court. Listen to what the Freitas court said about such searches:

> We take this position because surreptitious searches and seizures of intangibles strike at the very heart of the interests protected by the Fourth Amendment. The mere thought of strangers walking through and visually examining the center of our privacy interest, our home, arouses our passion for freedom as does nothing else. That passion, the true source of the Fourth Amendment, demands that surreptitious entries be closely circumscribed.

That is the end of the quote from that case.

So when defenders of the PATRIOT Act say that sneak-and-peek searches were commonly approved by the courts prior to the PATRIOT Act, they are partially correct. Some courts permitted secret searches in very limited circumstances, but they also recognized the need for prompt notice unless a reason to continue to delay was demonstrated. And they specifically said that notice had to occur within 7 days—7 days.

Section 213 of the PATRIOT Act did not get this part of the balance right. It allowed notice to be delayed for any reasonable length of time. Information

provided by the administration about the use of this provision indicates that delays of months at a time are now becoming commonplace. Now, those are hardly the kinds of delays that the courts had been allowing prior to the PATRIOT Act.

The sneak-and-peek power in the PATRIOT Act caused concern right from the start, and not just because of the lack of a time-limited notice requirement. The PATRIOT Act also broadened the justifications that the Government could give in order to obtain a sneak-and-peek warrant. It included what came to be known as the catch-all provision, which allows the Government to avoid giving notice of a search if it would ''seriously jeopardize an investigation.'' Some think that that justification in some ways swallows the requirement of notice since most investigators would prefer not to give notice of a search and can easily argue that giving notice will hurt the investigation.

The SAFE Act, the bipartisan bill that many of us worked on, worked to fix both of these problems. First, it tightened the standard for justifying a sneak-and-peek search to a limited set of circumstances—when advanced notice would endanger life or property, or result in flight from prosecution, the intimidation of witnesses, or the destruction of evidence. Second, it required notice within 7 days, with an unlimited number of 21-day extensions if approved by the court.

The Senate bill was a compromise from this. It kept the catch-all provision as a justification for obtaining a sneak-and-peek warrant. Those of us who were concerned about that provision agreed to accept it in return for keeping, and actually getting back, in my view, from the court cases, the 7-day notice requirement. And we accepted unlimited extensions of up to 90 days at a time. The key thing was prompt notice after the fact, or a court order that continuing to delay notice was justified.

That is actually the background of the numbers game that the Senator from Pennsylvania and other supporters of the conference report point to. They want credit for walking the House back from its outrageous position of 180 days, but they refuse to recognize that the sneak-and-peek provision still has the catch-all justification, and unlimited 90-day extensions. And here is the crucial question they refuse to answer: What possible rationale is there for not requiring the Government to go back to a court after 7 days and demonstrate a need for continued secrecy? Why insist that the Government get 30 days free without getting an extension? Could it be that they think the courts usually won't agree that continued secrecy is needed after the search is conducted, so they would not get the 90-day extension? If they have to go back to a court at some point, why not go back after 7 days rather than 30? From the point of view of the Government, I don't see the big deal. But from the point of view of someone whose house has been secretly searched, there is a big difference between notice after 1 week and notice after a month.

Suppose, for example, that the Government actually searched the wrong house, as I mentioned. That is one of the reasons that notice is a fourth amendment requirement. The innocent owner of the place that had been searched might suspect that somebody had broken in. They might be living in fear that someone has a key or some other way to enter. Should we make that person wait a month to get an explanation rather than a week? Presumably, if the search revealed nothing, and especially if the Government realized the mistake and does not intend to apply for an extension, it surely will be no hardship, other than perhaps embarrassment, for notice to be given within 7 days.

All of this is about why I am not persuaded by the numbers game on the sneak-and-peak provisions. The Senate bill was already a compromise on this very controversial provision. There is no good reason not to adopt the Senate's provision. No one has come forward and explained why the Government can't come back to the court within 7 days of executing the search. In fact, on a discussion of this last night on one of the television programs, one of my colleagues literally said, 7 days versus 30 days, what is the big deal? That is the strength of the argument. There is no merit to the idea of making the notice be as potentially late as 30 days.

Let me put it this way: If the House had passed a provision that allowed notice to be delayed for 1,000 days, would anyone be boasting about a compromise that requires notice within 100 days, more than 3 months? Would that be a persuasive argument? I don't think so. The House provision of 180 days was arguably worse than current law, which required notice ''within a reasonable time,'' because it created a presumption that delaying notice for 180 days, 6 months, is reasonable. It was a bargaining ploy. The Senate version was what the courts had required prior to the PATRIOT Act. It was itself a compromise because it leaves in place the catchall provision for justifying a warrant in the first place. That is why I believe the conference report on the sneak-and-peak provision is inadequate and must be opposed.

Let me make one final point about sneak-and-peak warrants. Don't be fooled for a minute into believing that this power is needed to investigate terrorism or espionage. It is not. Section 213 is a criminal provision that could apply in whatever kind of criminal investigation the Government has undertaken. In fact, most sneak-and-peak warrants are issued for drug investigations. So why do I say they are not needed in terrorism investigations? Because FISA also can apply to those investigations and FISA search warrants are always executed in secret and never require notice. If you really don't want to give notice of a search in a terrorism investigation, you can get a FISA warrant. So any argument that limiting the sneak-and-peak power, as we have proposed, will interfere with sensitive terrorism investigations is also a red herring.

I have spoken at length about the provisions of this conference report that trouble me. But to be fair, I should mention one significant improvement to the conference report over last month's draft. This new version does include a 4-year sunset on three of the most controversial provisions: Roving wiretaps, the so-called library provision which I discussed at some length, and the ''lone wolf'' provision of the Foreign Intelligence Surveillance Act. Previously, the sunsets on these provisions were at 7 years. It certainly is an improvement to have reduced that number so the Congress can take another look at these provisions or can take a look at these provisions sooner.

I also acknowledge that the conference report creates new reporting requirements for some PATRIOT Act powers, including new reporting on roving wiretaps, section 215 sneak-and-peak search warrants, and national security letters. There are also new requirements that the Inspector General of the Department of Justice conduct audits of the Government's use of national security letters and section 215.

In addition, the conference report includes other useful oversight provisions relating to FISA. It requires that Congress be informed about FISA court rules and procedures and about the use of emergency authorities under FISA. And it gives the Senate Judiciary Committee access to certain FISA reporting that currently only goes to the Intelligence Committee. I am glad to see that it requires the Department of Justice to report to us on its data-mining activities.

But adding sunsets and new reporting and oversight requirements only gets us so far. The conference report remains deeply flawed. I appreciate sunsets and reporting. I know that the senior Senator from Pennsylvania worked hard to ensure that they were included. But these improvements are not enough. Sunsetting bad law for another 4 years is not good enough. Simply requiring reporting on the Government's use of these overly expansive tools does not ensure that they won't be abused. We must make substantive changes to the law, not just improve oversight. This is our chance. We cannot let it pass by.

Last Thursday, after the conference deal was announced, the Attorney General termed it a ''win for the American people in that it would result in continued security for the United States and also continued protection of civil liberties for all Americans.'' In a way,

that comment shows that we have made some progress. The administration seems to understand now that protecting civil liberties is pretty important to our citizens. That is quite an improvement from the days when people who expressed these concerns were termed hysterical. But the Attorney General also said: ''people have seen how the Department of Justice has been very responsible in exercising [its] authorities.'' This comment reflects a fundamental misunderstanding of the relationship of the Government and the governed in our democracy. Trust of Government cannot be demanded or asserted or assumed. It must be earned. This Government has not earned our trust. It has fought reasonable safeguards for constitutional freedoms every step of the way. It has resisted congressional oversight and often misled the public about its use of the PATRIOT Act. And now the Attorney General is arguing that the conference report is adequate protection for civil liberties for all Americans? It isn't.

We sunsetted 16 provisions of the original PATRIOT Act precisely so we could revisit them and make necessary changes, to make improvements based on the experience of 4 years with the act, and with the careful deliberation and debate that, quite frankly, was missing 4 years ago. This process of reauthorization has certainly generated debate. But if we pass this conference report as currently written, we will have wasted a lot of time, and we will have missed an opportunity to finally get it right. The American people will not be happy with us for missing that chance. They will not accept our explanation that we decided to wait another 4 years before addressing their concerns. They will not settle for half a loaf because we ran out of time to reach consensus.

I submit that an acceptable consensus was reached unanimously by this Senate, every one of us, back in July. We should insist that the House pass that bill and give the American people a reauthorization bill that is worthy of their support and their confidence. I am prepared to keep fighting for as long as it takes to make that happen.

I thank the Chair and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I would like to share some thoughts about the PATRIOT Act and its importance to the security of this country, its reasonableness, the careful way in which it has been crafted and adopted, the full debate to which it has been subjected, and I urge our colleagues not to allow this bill to expire, not to allow the wall to return so that our foreign intelligence agencies cannot share with our domestic intelligence agencies information that may be directly relevant to an attack on the people of the United States. That is exactly what was taking place on 9/11. It is precisely why we have had a failure to share important information. And many people believe that the PATRIOT Act possibly could have prevented the 9/11 attacks. It is easy to contemplate situations where other information not shared could have resulted in the lives of Americans being placed at risk or being lost. That is why we passed this bill.

We have had a full debate about it. This past reauthorization came out of the Senate Judiciary Committee 18 to 0. Senator FEINGOLD supported it. It came out of the Senate floor by unanimous consent. It went to a conference committee with the House. They had some different provisions in their version, as they always do, and the conference committee hammered out the differences. As Senator SPECTER, a civil libertarian himself, and chairman of the Judiciary Committee, who was involved in that process said, about 80 percent of what was disputed was decided in favor of the Senate bill. Now we are faced with a filibuster, an effort to block an up-or-down vote on the PATRIOT Act. It is really an extraordinary thing. In fact, some of the provisions put in by the conference committee strengthened the bill, from a civil liberties point of view, more than the Senate bill that left this body.

I want to just say, first of all, that the provisions in the PATRIOT Act are in no way extreme, in no way novel, in no way contradictory to the principles of the constitutional law this country has operated under since its founding. I mean that very sincerely. I would say that everything here, in any fundamental way that results in a method by which law enforcement can investigate terrorist activity—those procedures, those techniques, those abilities are clarified in this bill. These are standards that they must comply with, and that have been approved by the Supreme Court of the United States.

I remember at one of the hearings I asked witnesses this question: Do you think any of the provisions in this act are going to be found to be unconstitutional by the Supreme Court as required to protect our liberties and enforce the constitutional protections that we as Americans have been given? Every one of them said no. They said that because there is nothing in here that is going to be found unconstitutional. All of these principles and techniques that are provided with clarity, and standards in this act are consistent with what we have already approved in America. But we find that many of the investigatory techniques available to an IRS agent who is investigating somebody for a nonviolent crime involving taxes, or a drug enforcement agent that may be investigating someone for cocaine or marijuana, and many of those procedures that have been approved under the Constitution by the Supreme Court, are not available to investigators investigating terrorists who would kill us.

Everybody knows that it is a different matter when dealing with international entities, people who operate outside the laws of our country, who represent foreign powers, who represent international terrorist groups or other groups that are hostile to the interests of the United States. We have always understood that there are spies and we need a counterspy system in our country which will protect our Nation from those who would destroy it. We have always had principles that deal with that. For example, there have been complaints about the national security letters and section 215. Many of these complaints and those who oppose these provisions worry and suggest that something in the PATRIOT Act is novel, unusual, or unprecedented. But it is not so. I think we have had people who are utterly misinformed or sometimes maybe even deliberately failing to accurately articulate what is important and what is correct.

The national security letters that have been referred to by some of those who oppose this legislation were not created by the PATRIOT Act of 2001. This tactic, this procedure has been available since the 1980's. All the original PATRIOT Act did was add credit reports to the list of things you could get with a national security letter during the course of an investigation involving terrorism. Sometimes you might need a credit report to determine something about an individual, like where he is moving his money, and that kind of thing. That is all that was really added with regard to national security letters. Use of national security letters is limited to six very specific items: telephone toll records, bank records, credit reports, and things of that nature. These are all things that a drug enforcement agent can get with an administrative subpoena this very day to investigate someone for a drug crime.

Yet we don't have similar provisions for the FBI agent who is investigating a terrorist? What kind of idiotic principle of investigation is that? So the bill allows us to do that with national security letters. It has been the law for some time—over 20 years. So we added to the original PATRIOT Act the ability to use a national security letter to get credit reporting records of suspected terrorists—a big change that won't be used much. The conference report more than adequately addresses concerns about the national security letters by setting an extremely high requirement for nondisclosure.

Under the report, in order for the recipient to be precluded from telling others that they received a national security letter, a high Government official must certify that doing so would

''endanger the national security of the United States or interfere with diplomatic relations.'' That is an extremely high standard. In fact, I think it is too high. I think that in a terrorist or national security case, the disclosure is not such an important principle that needs this type of protection.

In my view, the standard of certification is high because we may not always be able to make such certification. An investigator may not be able to certify to every one of those things and therefore may be denied the right to obtain a record and not have the business notify the person about it.

By the way, I will repeat, we are talking about obtaining by national security letter from a third party, records that belong to the third party, not to the defendant or terrorist. You are not going into their house or their automobile or their desk in order to obtain their personal records. These are records being held at a bank, records to which everybody in the bank has access. These records are being held at a telephone company, and show the telephone toll records that you get on your monthly statements.

They are not in your control. They are in the telephone company's control. What used to happen was people would subpoena the toll records and ask the telephone company not to tell the customer, if it was a sensitive investigation. That has been done by every district attorney in America. They issue thousands of these subpoenas. Tens of thousands, I suggest, literally every month are issued for bank records, toll records every day. You have some expectation of privacy, but you don't have an expectation that those records will be secretly maintained by the bank or the telephone company when they are requested by a law enforcement officer for a law enforcement purpose, and relevant to an ongoing criminal investigation. That is the law, and it has been that way forever.

So now, when asking for these records during the course of an investigation into terrorism, we have to certify that if the recipient discloses to the terrorist that we are investigating their records, it would endanger the national security of the United States or interfere with diplomatic relations. Those are extremely high standards.

I know my colleague—and I respect him—Senator FEINGOLD voted for the less restrictive certification requirements that unanimously passed the Senate Judiciary Committee. He was one of the 18 who voted for it. I don't understand an objection now to the conference report that has a higher certification standard. The conference report makes clear that a recipient of an NSL, such as a bank, can consult with their attorney about the NSL without worrying that the consultation would be an unlawful disclosure. The conference report makes clear that the bank can also file a motion to quash the NSL if it does not want to give the government the information requested, and it makes it clear that the bank could ask the court to quash the nondisclosure requirement and allow them to share that information with the customer. So really, the provisions in this conference report only improve the situation from the perspective of civil libertarians, if we reject the conference report these extra protections will not become law.

Let's be frank about this. I am telling you how it works in the real world. I have been there. The banks simply want to be protected. If it is lawful for them to turn over the documents they have on a customer to a law enforcement agency without notifying their customers, they are perfectly willing to do so. But if they are told that in the law, their lawyers are now telling them to protect themselves by notifying customers that they gave their records, and they routinely do so to protect themselves today. They didn't used to do that 25 years ago, but it is because of the threat of being sued that they do that routinely now.

So it is critical that they not disclose because when you are looking at a terrorist organization, a cell that may be plotting to bomb someone but you are not sure who is in it and what it is about, and you are trying to find out about it, maybe you want their bank records, maybe you want motel records, maybe you want telephone toll records. They can provide incredibly valuable information to an investigator. This can prove whether the person being investigated is connected to terrorists. If you get their toll records and there are 25 phone calls to Yemen to somebody who has been identified by foreign intelligence as being connected to al-Qaida, then you have something. So that is very important. You may not be prepared at that moment to arrest the person. There may not be enough evidence to arrest them, but now you have a series of phone calls from a person who is a suspect in some city or State in this country calling a known terrorist in some other part of the world. You want to proceed with this investigation, but you don't want them to know you are on to them.

That is so basic. Talk to investigators. This is what it is all about. It is not academic. This is life and death. We can't ask too much of our investigators. We can not tie their hands by demanding they prove these things beyond a reasonable doubt, and certify all these facts that they are looking for as true before they do an investigation.

How do you get the facts? How do you get them? You have to gather the facts. But if we are not able to gather the facts in a terrorism prosecution with reasonable investigative tools, then how can we ever investigate a case and make a good case?

I feel strongly that this is an incredibly important provision and, in fact, is more civil liberties protective now as it has come out of conference than it was when it went to conference.

With regard to several other matters, I find the debate to be out of sync with reality.

Let's talk about the delayed notice search warrants, the so-called sneak and peek. This provisions is dealing with an everyday, regular search warrant. These are the type of warrants you need a court to approve if you are going to search someone's private house or office. This is not the same as going to the bank and getting a record on third parties. This is a search warrant to get somebody's own property. You can't take that property without a search warrant approved by a judge, and if it is a Federal case, such as a terrorist case, it will be a Federal judge. To get that warrant, you must prove to that Federal judge through an affidavit by real witnesses that there is probable cause to believe that person possesses evidence relevant to an important criminal investigation.

Senator FEINGOLD is correct, when you get a warrant approved on probable cause and then conduct the search, you should do it and give the return on the warrant to the individual whose property has been searched. If for some reason they are not there, you usually tack it on the door so they will know you have come, and that is the traditional way search warrants are done.

In the course of these kinds of investigations, I have had the personal experience on rare occasion to seek delayed notification, and I have heard of it on other occasions, I have read about situations where delayed notice is needed. Courts have approved through the common law process search warrants which they approve delaying notification to the person being searched. There can be many reasons, as one can imagine, why this delayed notice could be good. It had been done for a long time, long before the PATRIOT Act was passed. The U.S. Supreme Court has approved the procedure for delaying notice of a search.

All the delayed notification language does in the PATRIOT Act is set forth standards about how delayed notice procedure should be done.

The Senate bill, when it came out of our committee and voted on the floor, said you have to either to notify the defendant in 7 days that you did the search or come back to the judge within 7 days and ask the judge for more time before you notify them and set forth a reason for needing more time.

The House passed bill said you could delay notification for up to 180 days before you had to go back to the judge and ask for more time as a reason to delay the notification. Maybe you have gone in there and found they are putting material together to make a bomb, or you may find information that bad guys are coming into town and you need to wait on them, those kinds of things might justify further delaying notification. There may be a very delicate investigation of the most critical national importance. That is

why delayed notice has been around for decades and that is why the PATRIOT Act sought to provide a national standard for delayed notice.

So, the House was at 180 days, and the Senate was at 7 days, and we had a conference. We reached an agreement on 30 days. Well, you would think this is the end of the world if you believed some of my colleagues. If you are going to have delayed notification, how long should it be? Seven days is not a disaster for an investigator, although it is pretty tight deadline that could cause a good bit of problem. Thirty is much healthier, in my view. But whether it is 20 days, 40 days, whatever, this search has to be approved by a judge before it can be conducted. And if the defendant is not notified immediately, then they have to go back and establish to the court through evidence and proof that the delay should continue beyond the time period set.

It is not a big deal. To suggest that 7 days or 30 days is a difference that invokes some sort of huge constitutional principle that we should block this bill over and not even give it an up-or-down vote because of is beyond my comprehension. It is not a critical difference to our liberties whether it is 7 or 30 days. Some might have a different opinion. We had to reach a compromise. We rejected the 180 days. We took the 30 days, which is a lot closer to 7 than 180. In my view, the Senate already won on this issue.

There are a lot of other issues of the same import. I believe we have gone beyond the pale in criticizing this bill. It has been in effect for 4 years. None of it has been found to be unconstitutional. It is now going to be extended. It is already being curtailed by this conference report in a number of different ways to make the act even more friendly to civil liberties than it was when we first passed it. Nothing in the first bill, frankly, represented any reduction in any of our liberties, the claim that it did is simply untrue. This conference report has the full support of Chairman SPECTER and former Chairman HATCH. Senator LEAHY voted for the reauthorization bill before. He voted for it in committee and then did not object to it moving by unanimous consent off the floor this year in the Senate.

So now we have some that are making objections to some of the modest changes that were made in conference. I, frankly, think these changes were very minor. Our colleagues should not do that. To jeopardize the continuation of the tremendously valuable principles of the PATRIOT Act by filibustering this bill—and it will extinguish, critical parts of it will end soon if we do not break this filibuster and pass the reauthorization this week—is unthinkable to me. So I encourage my colleagues, please do not get upset about the conference report by believing the misinformation that is out there, please read and think carefully about what is in this bill. If they do so, they will find that all the provisions in it are consistent with sound constitutional law. All of these actions and provisions will be affirmed by the Supreme Court, many of them already have been, and it will be a tremendous advantage to our investigators who are working their hearts out this very day, this night, some places in this country today, investigating those who would do us harm.

I will probably share some more thoughts on some of the other provisions tomorrow but at this time would yield the floor and in a moment would, on behalf of the majority leader, do a wrap-up before we conclude. So therefore I will not put us in a quorum call at this time.

REPORTING ON THE DEPLOYMENT OF U.S. FORCES

Mr. STEVENS. Mr. President, I rise today to submit for the RECORD the President's consolidated report on the deployment of U.S. Armed Forces to operations around the world.

This report is provided for the information of all Senators and covers operations in support of the war on terror, Kosovo, and Bosnia and Herzegovina.

This report is submitted by the President, consistent with the war Powers Resolution, and addresses the circumstances under which hostilities were initiated, the scope and duration of such hostilities, and the constitutional and legislative authority under which the introduction of hostilities took place.

I encourage all of my colleagues to review this important report.

I ask unanimous consent to have the President's consolidated report printed in the RECORD.

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

DECEMBER 7, 2005.

Hon. TED STEVENS,
President pro tempore of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am providing this supplemental consolidated report, prepared by my Administration and consistent with the War Powers Resolution (Public Law 93–148), as part of my efforts to keep the Congress informed about deployments of U.S. combat-equipped armed forces around the world. This supplemental report covers operations in support of the war on terror, Kosovo, and Bosnia and Herzegovina.

THE WAR ON TERROR

Since September 24, 2001, I have reported, consistent with Public Law 107–40 and the War Powers Resolution, on the combat operations in Afghanistan against al-Qaida terrorists and their Taliban supporters, which began on October 7, 2001, and the deployment of various combat-equipped and combat-support forces to a number of locations in the Central, Pacific, and Southern Command areas of operation in support of those operations and of other operations in our war on terror.

I will direct additional measures as necessary in the exercise of the right of the United States to self-defense and to protect U.S. citizens and interests. Such measures may include short-notice deployments of special operations and other forces for sensitive operations in various locations throughout the world. It is not possible to know at this time either the precise scope or duration of the deployment of U.S. Armed Forces necessary to counter the terrorist threat to the United States.

United States Armed Forces, with the assistance of numerous coalition partners, continue to conduct the U.S. campaign to pursue al-Qaida terrorists and to eliminate support to al-Qaida. These operations have been successful in seriously degrading al-Qaida's training capabilities. United States Armed Forces, with the assistance of numerous coalition partners, ended the Taliban regime and are actively pursuing and engaging remnant al-Qaida and Taliban fighters in Afghanistan. Approximately 280 U.S. personnel are also assigned to the International Security Assistance Force (ISAF) in Afghanistan. The U.N. Security Council authorized the ISAF in U.N. Security Council Resolution 1386 of December 20, 2001, and has reaffirmed its authorization since that time, most recently, for a 12-month period from October 13, 2005, in U.N. Security Council Resolution 1623 of September 13, 2005. The mission of the ISAF under NATO command is to assist the Government of Afghanistan in creating a safe and secure environment that allows reconstruction and the reestablishment of Afghan authorities. Currently, all 26 NATO nations contribute to the ISAF. Ten non-NATO contributing countries also participate by providing military and other support personnel to the ISAF.

The United States continues to detain several hundred al-Qaida and Taliban fighters who are believed to pose a continuing threat to the United States and its interests. The combat-equipped and combat-support forces deployed to Naval Base, Guantanamo Bay, Cuba, in the U.S. Southern Command area of operations since January 2002 continue to conduct secure detention operations for the approximately 500 enemy combatants at Guantanamo Bay.

The U.N. Security Council authorized a Multinational Force (MNF) in Iraq under unified command in U.N. Security Council Resolution 1511 of October 16, 2003, and reaffirmed its authorization in U.N. Security Council Resolution 1546 of June 8, 2004. In U.N. Security Council Resolution 1637 of November 8, 2005, the Security Council, noting the Iraqi Government's request to retain the presence of the MNF, extended the MNF mandate for a period ending on December 31, 2006. Under Resolutions 1546 and 1637, the mission of the MNF is to contribute to security and stability in Iraq, as reconstruction continues, until the completion of Iraq's political transformation. These contributions have included assisting in building the capability of the Iraqi security forces and institutions, as the Iraqi people, represented by the Transitional National Assembly, drafted and approved a constitution and progressed toward the establishment of a constitutionally elected government. The U.S. contribution to the MNF is approximately 160,000 military personnel.

In furtherance of our efforts against terrorists who pose a continuing and imminent threat to the United States, our friends and allies, and our forces abroad, the United States continues to work with friends and allies in areas around the globe. United States combat-equipped and combat-support forces are located in the Horn of Africa region, and the U.S. forces headquarters element in Djibouti provides command and control support as necessary for military operations against al-Qaida and other international terrorists in the Horn of Africa region, including Yemen. These forces also assist in enhancing counterterrorism capabilities in

Kenya, Ethiopia, Yemen, and Djibouti. In addition, the United States continues to conduct maritime interception operations on the high seas in the areas of responsibility of all of the geographic combatant commanders. These maritime operations have the responsibility to stop the movement, arming, or financing of international terrorists.

NATO-LED KOSOVO FORCE (KFOR)

As noted in previous reports regarding U.S. contributions in support of peacekeeping efforts in Kosovo, the U.N. Security Council authorized Member States to establish KFOR in U.N. Security Council Resolution 1244 of June 10, 1999. The mission of KFOR is to provide an international security presence in order to deter renewed hostilities; verify and, if necessary, enforce the terms of the Military Technical Agreement between NATO and the Federal Republic of Yugoslavia (which is now Serbia and Montenegro); enforce the terms of the Undertaking on Demilitarization and Transformation of the former Kosovo Liberation Army; provide day-to-day operational direction to the Kosovo Protection Corps; and maintain a safe and secure environment to facilitate the work of the U.N. Interim Administration Mission in Kosovo (UNMIK).

Currently, there are 25 NATO nations contributing to KFOR. Eleven non-NATO contributing countries also participate by providing military personnel and other support personnel to KFOR. The U.S. contribution to KFOR in Kosovo is about 1,700 U.S. military personnel, or approximately 10 percent of KFOR's total strength of approximately 17,000 personnel. Additionally, U.S. military personnel occasionally operate from Macedonia, Albania, and Greece in support of KFOR operations.

The U.S. forces have been assigned to a sector principally centered around Gnjilane in the eastern region of Kosovo. For U.S. KFOR forces, as for KFOR generally, maintaining a safe and secure environment remains the primary military task. The KFOR operates under NATO command and control and rules of engagement. The KFOR coordinates with and supports the UNMIK at most levels; provides a security presence in towns, villages, and the countryside; and organizes checkpoints and patrols in key areas to provide security, protect minorities, resolve disputes, and help instill in the community a feeling of confidence.

In accordance with U.N. Security Council Resolution 1244, UNMIK continues to transfer additional competencies to the Kosovar provisional Institutions of Self-Government, which includes the President, Prime Minister, multiple ministries, and the Kosovo Assembly. The UNMIK retains ultimate authority in some sensitive areas such as police, justice, and ethnic minority affairs.

NATO continues formally to review KFOR's mission at 6-month intervals. These reviews provide a basis for assessing current force levels, future requirements, force structure, force reductions, and the eventual withdrawal of KFOR. NATO has adopted the Joint Operations Area plan to regionalize and rationalize its force structure in the Balkans. The UNMIK international police and the Kosovo Police Service (KPS) have full responsibility for public safety and policing throughout Kosovo except in the area of South Mitrovica, where KFOR and UNMIK share this responsibility due to security concerns. The UNMIK international police and KPS also have begun to assume responsibility for guarding patrimonial sites and established border-crossing checkpoints. The KFOR augments security in particularly sensitive areas or in response to particular threats as needed.

NATO HEADQUARTERS IN BOSNIA AND HERZEGOVINA

Pursuant to the June 2004 decision made by NATO Heads of State and Government, and in accordance with U.N. Security Council Resolution 1575 of November 22, 2004, NATO concluded its Stabilization Force operations in Bosnia-Herzegovina and established NATO Headquarters-Sarajevo to continue to assist in implementing the Peace Agreement in conjunction with a newly established European Force. The NATO Headquarters-Sarajevo, to which approximately 220 U.S. personnel are assigned, is, with the European Force, the legal successor to SFOR. The principal tasks of NATO Headquarters-Sarajevo are providing advice on defense reform and performing operational supporting tasks, such as counterterrorism and supporting the International Criminal Tribunal for the Former Yugoslavia.

I have directed the participation of U.S. Armed Forces in all of these operations pursuant to my constitutional authority to conduct U.S. foreign relations and as Commander in Chief and Chief Executive. Officials of my Administration and I communicate regularly with the leadership and other Members of Congress with regard to these deployments, and we will continue to do so.

Sincerely,

GEORGE W. BUSH,
The White House.

TRIBUTE TO BOB TISCH

Mr. REID. Mr. President, I rise today to pay tribute to the life of Preston Robert ''Bob'' Tisch, who died this past November after a battle with cancer.

Bob left a permanent impression on many lives, including my own. He was a pillar in his community, well-liked and respected, considerate, wise, and passionate about life and serving others. He will be missed.

Bob was born in New York City and proudly lived there for most of his life. He was chairman of the board of Loews Corporation, a company he cofounded along with his late brother, Lawrence. Bob was also chairman and cochief executive officer of the New York Football Giants.

Bob was a proud New Yorker and greatly assisted in enhancing New York's position as an international business center. He held a number of civic posts, including chairman of the New York City Convention and Visitors Bureau, founding chairman of the New York City Convention and Exhibition Center Corporation, chairman of the New York City Partnership and the New York Chamber of Commerce and Industry.

Bob believed that along with success comes great responsibility and exemplified this by giving back to his country and community. He served as chairman of the Citizens Committee for the Democratic National Conventions held in New York City in 1976 and 1980. From 1986 to 1988, he served as U.S. Postmaster General. In May 1990, Mayor David Dinkins appointed him New York City's Ambassador to Washington, DC.

He also served chairman of New York City Public Private Initiatives, a public-private partnership that funds vital community programs, and was a founding director of New York City Meals-on-Wheels. A graduate of New York City public schools, Bob founded Take the Field, a nonprofit organization dedicated to renovating the athletic fields of New York City's public high schools.

With Bob's passing, we have lost an extraordinary philanthropist, businessman, and a great American. I express my heartfelt sympathies to Joan, his wife of 57 years, his sons Steven and Jonathon, daughter Laurie, and the entire Tisch family. May they be comforted by all that Bob did to enrich the world.

PELL GRANT PROGRAM INTEGRITY ADJUSTMENTS

Mr. GREGG. Mr. President, for several years the Pell Grant Program has been accumulating a shortfall. This shortfall has recently been estimated at $4.3 billion. For a program that costs around $13 billion to run each year, this is a significant problem that puts the entire program in jeopardy. The concurrent resolution on the budget for fiscal year 2006 addressed this issue by including a new scorekeeping rule to ensure that the program is fully funded each year and by providing a reserve fund to retire the $4.3 billion shortfall that has already accrued.

Section 303 of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2006, permits the chairman of the Senate Budget Committee to make adjustments to the 302(a) allocations when certain conditions are met relating to retiring the Pell grant shortfall. These conditions having been met in the Labor-HHS appropriations conference report, I am making the reserve fund adjustment. The following table reflects revised 302(a) allocations. The revised allocations for budget authority and outlays are the appropriate levels to be used for enforcement of the congressional budget.

Additionally, the Senate-passed Labor-HHS appropriations conference report included additional funds for three program integrity initiatives as specified in the 2006 congressional budget resolution, and accordingly on July 28, 2005, I submitted changes to the Appropriations Committee's discretionary 302(a) allocation, increasing both budget authority and outlays by $309 million. However, the Labor-HHS-Education conference report does not include these additional funds for the program integrity initiatives. Therefore, the discretionary 302(a) allocation will be reduced by $309 million in budget authority and outlays.

Pursuant to sections 303 and 404, I hereby ask unanimous consent to have the following revisions to H. Con. Res. 95 printed in the RECORD.

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

[In millions of dollars]

Current Allocation to Senate Appropriations Committee:	
FY 2006 Budget Authority—General Purpose Discretionary	$843,020
FY 2006 Outlays—General Purpose Discretionary	916,836
FY 2006 Budget Authority—Mandatory	531,782
FY 2006 Outlays—Mandatory	512,469
FY 2006 Budget Authority—Total	1,374,802
FY 2006 Outlays—Total	1,429,305
Adjustments:	
FY 2006 Budget Authority—General Purpose Discretionary	−309
FY 2006 Outlays—General Purpose Discretionary	−309
FY 2006 Budget Authority—Mandatory	4,300
FY 2006 Outlays—Mandatory	0
FY 2006 Budget Authority—Total	3,991
FY 2006 Outlays—Total	−309
Revised Allocation to Senate Appropriations Committee:	
FY 2006 Budget Authority—General Purpose Discretionary	842,711
FY 2006 Outlays—General Purpose Discretionary	916,527
FY 2006 Budget Authority—Mandatory	536,082
FY 2006 Outlays—Mandatory	512,469
FY 2006 Budget Authority—Total	1,378,793
FY 2006 Outlays—Total	1,428,996

PASSAGE OF U.S.-BAHRAIN FREE TRADE AGREEMENT IMPLEMENTATION ACT

Mr. GRASSLEY. Mr. President, over the past several years the Congress has worked hand-in-hand with the administration to foster greater peace and stability in the Middle East through trade. We have concluded and implemented free trade agreements with Israel, Jordan, and Morocco. We recently concluded negotiations with Oman and negotiations are ongoing with United Arab Emirates. Perhaps soon, we will launch negotiations with our good friend and ally, Egypt.

Yesterday, with the passage of S. 2027, the U.S.-Bahrain Free Trade Agreement Implementation Act, we took another historic step forward. Once this agreement enters into force, 98 percent of our agricultural exports to Bahrain will enter duty-free and 100 percent of our two-way trade in industrial and consumer products will be duty-free. The agreement sets a new standard on services, with broad commitments by Bahrain to open their service sector to our exports.

Passage of the U.S.-Bahrain FTA will help advance the President's goal of achieving a Middle East Free Trade Area, MEFTA, by 2013. This visionary agenda is a key element in our efforts to help foster economic growth and prosperity in an important region of the world. It also reflects keen appreciation by the Bush administration of the 9/11 Commission Report recommendation that ''a comprehensive U.S. strategy to counter terrorism should include economic policies to encourage development, more open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future.''

I am pleased that we are able to take another step toward fulfilling this recommendation with passage of the Bahrain agreement. This would not have been possible without the hard work and dedication of many people. I first want to recognize Ambassador Robert Zoellick. As the former U.S. Trade Representative, Ambassador Zoellick spearheaded our trade agenda, including initiation of negotiations with Bahrain. This year, Ambassador Portman took up the reigns as our U.S. Trade Representative. Ambassador Portman has proven to be an able and effective negotiator who faithfully works with Congress to achieve the best result for America in our trade agreements. Ambassador Portman was assisted by Catherine Novelli, before her departure, as well as her replacement, Ambassador Shaun Donnelly, both serving in their capacity as Assistant U.S. Trade Representatives for Europe and the Mediterranean.

With the passage of this agreement, the Finance Committee continues its tradition of bipartisanship on trade. I appreciate the efforts of my ranking member, Senator MAX BAUCUS, in helping remove any impediments to getting this done. An agreement such as this one also would not have been possible without the professionalism and work ethic of Senator BAUCUS' staff. In this regard, I owe thanks to Russ Sullivan, Democratic staff director, and Bill Dauster, deputy staff director, for their steadfast dedication to the Committee. Brian Pomper, chief international trade counsel to Senator BAUCUS, also deserves special thanks for his efforts as do Shara Aranoff, Demetrios Marantis, Anya Landau, Janis Lazda, and Chelsea Thomas.

I also want to recognize the work of my Finance Committee staff. At the top of the list is Kolan Davis, my chief counsel and staff director. Kolan has been a valuable asset to this committee, lending his counsel and expertise to moving countless bills, including the Bahrain agreement. Everett Eissenstat, chief international trade counsel to the committee, has played an important part in seeing that this agreement is timely implemented. I appreciate his continued dedication to advancing our trade agenda.

Everett manages a strong team of dedicated staff who consistently pull together to achieve our trade agenda. David Johanson, Stephen Schaefer, and Tiffany McCullen Atwell provide valuable support to the team. Their hard work and long hours are much appreciated. I also want to recognize Claudia Bridgeford, international trade policy assistant, and Russell Ugone, who is on detail to my staff from the Bureau of Customs and Border Protection in the Department of Homeland Security. Both Claudia and Russ have contributed a great deal to the work of this committee.

I would be remiss if I did not take this time to thank Mike Smythers, Special Assistant to the President for Senate Affairs from the White House Office of Legislative Affairs. I also want to thank Matt Niemeyer, Counselor and Assistant U.S. Trade Representative for Congressional Affairs. Matt will soon be leaving the Office of the U.S. Trade Representative. Throughout his tenure, he has been a valuable ally in passage of much of our trade agenda. I appreciate his hard work and service to the American people.

Matt was assisted by David ''Andy'' Olson, who provided critical support in moving this agreement. Jonathon Kallmer from the Office of General Counsel at the Office of the U.S. Trade Representative, also played a key role in working with Congress to ensure faithful implementation of the agreement. I appreciate both of their efforts. Finally, I want to take this opportunity to thank Polly Craghill senior counsel in the Senate's Office of Legislative Counsel, for her role in passing this agreement. Polly never falters in her efforts to provide timely technical expertise to this committee and her work is much appreciated.

This is a good day for the United States and Bahrain. I hope President Bush will soon sign this bill and that we will see quick implementation of this historic agreement.

BAHRAIN FREE TRADE AGREEMENT

Mr. FEINGOLD. Mr. President, I oppose this agreement. It is more of the same flawed trade model that has undermined the standards that our firms operate under and has helped ship millions of jobs overseas. From inadequate protections for workers, the environment, and public health and safety, to lax rules of origin, this trade agreement continues the appalling trade policies of the last decade and more.

We should be working to strengthen our ties with Bahrain and forge a trade agreement that is sustainable and that will enhance the welfare of consumers, businesses, and workers in both countries. This agreement will not do that. Tragically, the record of this trade model has been just the opposite.

My own State of Wisconsin has been hit especially hard by this trade policy. Nor have our trading partners fared well under this flawed trade model. Eleven years of NAFTA have lowered living standards in Mexico, both for urban workers and in rural areas. As I have noted before, Professor Riordan Roett of Johns Hopkins has noted that at least 1.5 million Mexican farmers have lost their livelihoods under NAFTA.

And while this agreement with Bahrain may not have the same devastating impact that NAFTA has had

and that CAFTA will have, it is cut from the same cloth as those two trade agreements. Certainly neither the United States nor Bahrain is likely to benefit when the trade agreement's rules of origin provisions invite gaming. As Robert Baugh, executive director of the AFL–CIO, testified before the Senate Finance Committee, the provision permits multinational corporations to manipulate production and purchasing ''to ship goods made primarily in third countries through Bahrain for a minimal transformation before entering the U.S. duty free. The rule of origin fails to promote production and employment in the U.S. and Bahrain, and it grants benefits to third-party countries that have provided no reciprocal benefits under the agreement and that are not subject to the agreement's minimal labor and environmental standards.''

Mr. President, Wisconsin has paid a heavy price for our trade policy in recent years. Since 2000, Wisconsin has lost nearly 92,000 manufacturing jobs. NAFTA, the GATT, and Most Favored Nation treatment for China have devastated local businesses and punished working families, taking away family-supporting jobs, and offering lower paying jobs, if any, in return. I regret that this trade agreement promises more of the same. Instead of building on this failed model of trade, we should scrap it and establish a new model of trade that is fair to American businesses, workers, and farmers, as well as the small businesses, workers and farmers of our trading partners.

PATRIOT ACT IMPROVEMENT

Mr. JEFFORDS. Mr. President, the people of Vermont are proud of the important role that Senator PATRICK LEAHY is serving in trying to improve the USA PATRIOT Act.

My colleague from Vermont rightly believes that security and civil liberties need not be mutually exclusive objectives. We can and we should advance both goals. As the ranking member of the Judiciary Committee, Senator LEAHY worked closely with Chairman ARLEN SPECTER in helping to produce a bipartisan bill to renew and improve the USA PATRIOT Act. That bill was unanimously approved both by the Judiciary Committee and by the Senate. Now he is working with Senators of both parties in trying to win further improvements in the proposed conference report on that bill.

Just as he did in 2001, then as chairman of the Judiciary Committee and the leader of the Senate's negotiations with the administration in crafting the initial USA PATRIOT Act, Senator LEAHY now, once again, has worked tirelessly to ensure that we do not hastily pass flawed legislation. Back in the fall of 2001, the Bush administration had demanded that Congress pass the PATRIOT Act in 1 week. The Senator from Vermont knew that rushing such an expansive law through Congress was a mistake, and he secured more time, allowing Congress to add crucial checks and balances to the law. In the best tradition of the Senate, Senator PATRICK LEAHY has championed effective law enforcement and the rights and freedoms that we cherish as Americans.

I ask unanimous consent that two recent editorials which have spotlighted these issues and Senator LEAHY'S role be printed in the RECORD.

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

[From the Bennington Banner, Dec. 9, 2005]

A REAL GREEN MOUNTAIN PATRIOT

Much has been said about what makes someone a patriot. Sadly much of it has come as a result of the response to the terrorists attacks on the World Trade Center and the Pentagon on Sept. 11, 2001. What makes that sad is that an outside attack should have—and did for a brief time—brought the country closer together.

That has been fractured by political opportunists who responded to the attacks with legislation that Americans would never have accepted before their confidence was rattled so vehemently.

One such piece of legislation is the provocatively named USA Patriot Act. The Patriot legislation was drafted to give the government a way to fight terrorism. No one would argue that's an important and necessary goal.

But it contains too many provisions that we find unacceptable despite the fact that we remain staunchly anti-terrorist and pro-America. (We're cutting off that argument at the pass. . .)

The scariest provision is one that allows the government to get warrants that would allow them to find out what books someone is reading or checking out of the library.

That's un-American enough in a society that prides itself on the free and open exchange of ideas. What's worse is that we wouldn't know what books or articles are on that list that makes a reader a suspect.

To make it scarier, those warrants are requested and granted in secret.

We know that there are armchair generals who are rushing to point out that this is the kind of action needed to fight enemies like terrorists. We remain unconvinced that such secret warrants would make us much different or better than nations that support terrorists.

Nor can we justify giving a tool like this to the federal government under an administration that can't convince its people or the world that it's not engaging in torture. We suspect there will be more Abu Ghraibs before the War on Terror is finished.

So what makes somebody a patriot? How about standing up against faulty legislation even when a nation that's still in fear may support that law? Maybe it's recognizing the lessons of history and trying to protect our country from another shameful incident like the imprisonment of Japanese citizens during World War II?

That's exactly what Sen. Patrick Leahy, the ranking Democrat on the Senate Judiciary Committee, is doing by refusing to sign a version of the Patriot Act that would extend these powers for four years.

We're proud that a patriot like that is serving the people of Vermont.

[From USA Today, Dec. 14, 2005]

QUALMS ABOUT ANTI-TERROR LAW UNITE THE LEFT AND RIGHT

Patrick J. Leahy first made his name in politics as a tough-on-crime, attention-grabbing county prosecutor in the turbulent late 1960s and early '70s. His law-and-order aggressiveness propelled him to election as the first—and, so far, only—Democrat to represent historically Republican Vermont in the U.S. Senate.

After the 9/11 attacks, as chairman of the Senate Judiciary Committee, Leahy helped shepherd the questionably named ''USA Patriot Act'' through Congress. Reassuring a frightened nation, the Patriot Act granted unprecedented powers to law enforcement, some of which are set to expire at the end of this year.

Federal investigators and prosecutors have welcomed the law as providing a clutch of much-needed tools in the war on terrorism. Indeed, much of the act is a good fit for threatening times.

But it's also something else: cover for sweeping invasions of citizens' privacy, secret fishing expeditions into privately held records and muzzling of targets who want to complain about it.

All are convenient for law enforcement. All have already been abused.

This year's rewrite fails to solve these problems and, in fact, would add provisions that have nothing to do with terrorism (see box at right).

Leahy is a useful barometer of just how troubling the latest legislation is.

Today, the former prosecutor is leading a bipartisan coalition in the Senate seeking to block renewal of some of the PATRIOT Act's most controversial provisions until more is done to curb the potential for assaults on privacy and civil liberties. ''This much unchecked power doesn't make us any safer,'' Leahy told us Tuesday. ''It makes us less safe. . . . Ultimately, you're secure only if you maintain basic liberties.''

Other Senate critics of the bill range the full breadth of the political spectrum, from Idaho Republican LARRY CRAIG to Wisconsin Democrat RUSS FEINGOLD. Their bid to hold up the legislation is a worthy one.

Since Sept. 11, 2001, using the Patriot Act and stretching authority under other laws, government investigators have collected private information on thousands of people who have no apparent connection to international terrorism. Secret sweeps have been made into library records, hotel bookings, car-rental files and other documents. That material is retained, perhaps forever, in government computers. In at least one case, a lawyer's home and office were searched based on false information.

The Bush administration and its allies in Congress have resisted calls for more meaningful protections against invasion of privacy and abuse of civil liberties. While some of the most troubling provisions have been modified in the latest changes, many of the revisions are cosmetic at best.

The pressure is on because portions of the PATRIOT Act, including several of the most troubling provisions, expire Dec. 31, and lawmakers are trying to get home for Christmas.

Leahy and his allies are proposing to extend the law for three months to allow more time to fix what's wrong. That makes sense. Mistakes made in the heat of post-9/11 anxiety shouldn't be compounded and extended based on an artificial deadline.

As Leahy and others have discovered, there's more to patriotism than the label on an antiterrorism law. True patriotism requires not only giving law enforcement the tools it needs, but also adequately protecting citizens against abuse of that power.

ALITO NOMINATION FILIBUSTER

Mr. HATCH. Mr. President, on Monday United Press International reported the good news that our Democratic colleagues do not plan to filibuster the Supreme Court nomination of Judge Samuel Alito.

I hope that UPI report is true, because this body needs to return to our constitutional and commonsense tradition of fully and fairly evaluating and debating judicial nominations.

Senators may, of course, vote for or against a judicial nominee for any reason, or no reason at all. Our constitutional role of advice and consent, however, requires that after vigorous floor debate, we must vote.

UPI quoted a spokesman for the Democratic leader saying that talk of an Alito filibuster is, in his words, silly and unhelpful.

I can only assume that he was speaking for the Democratic leader and, while I agree with his statement, I am afraid the situation is not quite what he would have our fellow citizens believe.

In fact, not 24 hours earlier, this very same spokesman was himself engaging in some silly and unhelpful filibuster talk of his own, telling the Associated Press that all procedural options are on the table for handling the Alito nomination.

We all know what that means.

The list of all procedural options includes the filibuster, by which those who cannot defeat a judicial nomination on the merits try to do so by preventing any confirmation vote at all.

Before the Democratic spin machine cranks out a press release accusing me of silly and unhelpful filibuster talk, let me remind everyone of some possibly inconvenient facts.

I know that my friend, the distinguished Senator from West Virginia, was on the floor Monday claiming that no Democratic Senator had talked about filibustering the Alito nomination.

With all due respect to him, that is simply not accurate and the public record speaks for itself.

On November 1, for example, the Senator from New York, Mr. SCHUMER, told The Hill newspaper that nothing is off the table.

That same day, the Senator from California, Mrs. BOXER, was more specific, telling the Associated Press that, in her words, the filibuster's on the table.

The next day, the Senator from Iowa, my friend Senator HARKIN, went even further.

The Baltimore Sun quotes him saying that he believes Democrats will indeed filibuster the Alito nomination.

Other Democrats, some of them my colleagues on the Judiciary Committee, have also engaged in what their party's spokesman has branded silly and unhelpful filibuster talk.

The distinguished assistant Democratic leader, Senator DURBIN, said the Democrats' decision whether to allow the nomination to go forward at all will be made after next month's hearing.

Again, we all know what that means.

It means the filibuster is still on the table.

On November 20, the Senator from Delaware, Mr. BIDEN, a former Judiciary Committee chairman, not only suggested a filibuster was possible, but said its prospects had actually increased.

Democratic National Committee Chairman Howard Dean said last month that Senate Democrats should, in his words, absolutely keep the filibuster option on the table.

And finally, the Democratic leader, Senator REID, himself said back on November 1 that an Alito filibuster is possible.

This record is public and very consistent. And this record makes the statement on Monday by the senior Senator from Massachusetts, Mr. KENNEDY, that he does not know a single Democratic Senator who has talked about an Alito filibuster absolutely baffling.

My Democratic colleagues have certainly done so, early and often.

Some Senators, well-meaning Senators, have said that the judicial nomination filibuster issue is really about freedom of speech. The distinguished Senator from West Virginia made that point on Monday here on the Senate floor.

We all believe in freedom of speech. We all believe in full, fair, and vigorous debate. When it comes to the legislation over which this legislative body has complete authority, debate can become an end in itself. That is, after all, the definition of a filibuster, when ending debate proves impossible.

The filibuster has long been, and I believe should remain, part of the legislative process.

Judicial appointments, however, are different than legislation. The Constitution assigns the power to nominate and appoint judges to the President.

And judicial, as opposed to executive, appointments also dramatically affect the third branch of government.

When it comes to judicial nominations, therefore, debate should be a means to an end.

The end of the judicial confirmation process must be an up-or-down vote for nominations reaching the Senate floor.

The Senate can vote to withhold consent to a judicial nomination, and we have done so in the past.

But refusing to vote at all, especially when a judicial nomination clearly has majority support, goes beyond exercising our advice and consent role and attempts to highjack the President's appointment power altogether.

When Republicans were in the minority, we respected President Clinton's primary role in judicial appointments.

This body confirmed his Supreme Court nominee Judge Ruth Bader Ginsburg in 1993 by an overwhelming vote of 96 to 3.

We confirmed his nominee Judge Stephen Breyer in 1994 by a margin of 90 to 9.

Judicial nomination filibusters, then, are not about freedom of speech.

When it comes to the judicial confirmation process, our freedom of speech must be shaped and balanced by the separation of powers, by the Constitution's assignment of authority in that process.

Until recently, the Senate refused to transfer the powerful tool of the filibuster from the legislative process to the judicial confirmation process.

We refused to go down that road and I believe we should put up a permanent roadblock.

With all due respect to my Democratic colleagues, they cannot have it both ways.

They cannot, as they have been doing now for more than 6 weeks, keep filibuster hopes alive by suggestions and hints, and then claim their political hands are clean when Senators on this side of the aisle respond.

I believe that UPI reported the Democratic spokesman's statement accurately, but I am not as confident that his statement is accurate or operative.

Does it mean that Democratic Senators have abandoned their earlier statements and decided that the Senate should indeed debate and then vote on the Alito nomination?

I believe that is what the American people expect us to do, but is that what Democratic Senators will do?

I hope they do.

I hope we can fully and vigorously debate the Alito nomination, and then vote on it.

I also believe that when the Senate and American people get to know Judge Alito, his experience, his character, and his traditional mainstream views of the law and the Constitution at his confirmation hearing, they will like what they hear.

Judge Alito is a good man and a great judge.

My Democratic colleagues can help sort out the confusion their earlier statements have created.

If they mean what they now say, that talk of filibustering the Alito nomination is indeed silly and unhelpful, then let us take the divisive and politicizing option of a filibuster off the table.

Let us agree, right here and now, that this body will do its duty of fully debating the Alito nomination and then voting on it.

The Constitution, Senate tradition, and the American people demand no less.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

VOTE EXPLANATION

• Mr. LIEBERMAN. Mr. President, because of a severe head cold I decided, after a telephone discussion with the minority leader, not to attempt to

travel on a so-called redeye flight last night from the west coast to arrive this morning back in Washington to vote on 3 motions to instruct conferees. Had I been present, I would like the record to indicate that I would have voted for the motions by Senators HARKIN, CARPER, and BAUCUS. I note that on none of these votes would my vote have affected the outcome; all passed by substantial margins. I want to inform my colleagues that I plan to return by another redeye flight leaving tonight for votes Thursday.●

ADDITIONAL STATEMENTS

HONORING THE LIFE OF PETER H. SORUM

● Mr. KERRY. Mr. President, I would like to take this time to honor the life and accomplishments of Peter H. Sorum, Acting National Ombudsman at the U.S. Small Business Administration. Mr. Sorum passed away at the age of 58, leaving behind an impressive legacy through his work in small business, government, entrepreneurship, publishing, and political fundraising.

In his 4-year tenure at the Small Business Administration, Mr. Sorum served as the Deputy Director of Intergovernmental Affairs, working closely with State and local officials to foster open communication and strong working relationships among Federal, State, and local government officials. Following this, Mr. Sorum became a senior adviser in the agency's Office of the National Ombudsman. In that post, he served a number of roles, including the regulatory fairness board coordinator, trade association coordinator, and Federal agency liaison. Most recently, Mr. Sorum was the Small Business Administration's Acting National Ombudsman where he worked to ensure that small business owners, nonprofit organizations, and small government entities were not faced with unfair Federal regulatory enforcement actions.

Prior to his service in the Small Business Administration, Mr. Sorum, a small business owner himself, was the founder and manager of the software and telecommunications company, Maple Eagle International. Additionally, he published The Word, a Marine Corps Reserve Officers' magazine from 1985–1987 as well as Japan Now from its inception in 1992 until 1994.

Mr. Sorum's commitment to public service and small business lasted until his death. His career spanned several decades, including five Presidential administrations. Mr. Sorum's family, friends, and coworkers should take pride in his service to our Nation.

I offer my condolences to his wife Mary Claire, and to his mother, siblings, and children during this difficult time.●

TRIBUTE TO BILL CARSON

● Mr. LUGAR. Mr. President, I rise today to congratulate a distinguished Hoosier and friend, Mr. Bill Carson, as he steps down at the end of the year after 42 years of dedicated leadership as chief executive of the Indiana Builders Association.

During those 42 years, Bill has overseen the remarkable transformation of the organization to which he dedicated so much time and energy. In that time, the IBA has grown from 12 locals spread across the State to 33 today. Much of the success Bill has enjoyed can be attributed to his ability to work closely with all parties affected by the building industry. I continue to be grateful for the generous counsel and support he has offered to me throughout my career.

Many Hoosiers also know Bill as an accomplished author, having written a best selling pamphlet entitled ''Diary of a Mad Home Builder'', and a book about the building industry entitled ''High Pitches and Other Tall Tales.''

Bill has been recognized by his many friends across Indiana and the Nation for the remarkable contributions he has made to the building industry. He has been awarded Indiana's highest housing award, the John C. Hart Presidential Award, and is a recipient of the Seldon Hale Award for Excellence in Association Management from the National Association of Home Builders. Bill has been recognized by three different Governors as a Sagamore of the Wabash, Indiana's highest honor.

From my days as mayor of Indianapolis through today, Bill has been a trusted friend. I look forward to his continued work across Indiana, even as he attempts retirement.●

TRIBUTE TO GENERAL LEON J. LAPORTE

● Mr. WARNER. Mr. President, I would like to recognize the professional dedication, vision and military service of GEN Leon J. LaPorte who is retiring from the U.S. Army after 37 years of dedicated service. It is a privilege for me to recognize the many outstanding achievements General LaPorte has provided the Army, and our great Nation.

General LaPorte was commissioned a second lieutenant in 1968 upon graduation from the University of Rhode Island. He was commissioned an armor officer and served in numerous positions of increasing responsibility to include the position from which he will retire. General LaPorte's contributions throughout his career have made an historic impact and greatly improved our Nation's security.

General LaPorte assumed command of the United Nations Command, Republic of Korea/United States Combined Forces Command, and United States Forces Korea on May 1, 2002. On October 1, 2005, General LaPorte became the longest serving U.S. commander in Korea. Earning this distinction is a tribute to his performance and the excellent relationships he fostered with our Korean allies. General LaPorte's tenure has been highlighted by several very crucial periods in the alliance. During his time in command, we have witnessed multiple North Korean maritime violations and numerous DMZ and airspace incursions. These threats to the security and sovereignty of Korea led General LaPorte to develop deterrent options and force enhancements that provided increased deterrence against aggression. Despite the tremendous implications involved, General LaPorte remained unflappable and skillfully designed military force packages that could be deployed against anticipated threat scenarios to address the uncertain political-military situations.

General LaPorte has been a principal participant in the fast-paced bilateral military and political discussions. General LaPorte earned the reputation as a well-respected ambassador for the United States. He developed and maintained close ties with the military and civilian leadership of the Republic of Korea in partnership with the U.S. Ambassador to Korea. He is credited with fusing a lasting bond between the two nations.

General LaPorte is a soldier's soldier. Throughout his career foremost in his thoughts and his actions have been initiatives in the best interest of the soldiers, civilians, and family members. These priorities are reflected in every decision he makes. He expects those serving below him to do the same. This was never more evident than when he deployed with the 1st Cavalry Division, Fort Hood, TX as the Chief of Staff in October 1990 during Operations Desert Shield and Desert Storm and more recently during the deployment of one of his battalions to Iraq in support of OIF. General LaPorte was tireless in ensuring that each soldier was properly prepared, trained and equipped for the mission and that every family was cared for by a Family Readiness Group. The reenlistment rates in his units demonstrate the love, loyalty and dedication of those who served under General LaPorte.

During his illustrious career in the Army General LaPorte has been nothing less than brilliant. General LaPorte is a great credit to the Army and the Nation. As he now departs to share his experience and expertise with the private sector, I call upon my colleagues on both sides of the aisle to recognize his service and wish him and his wife Judy well in their new endeavors.●

TRIBUTE TO FRANK M. ''MARK'' NEWTON

● Mr. VITTER. Mr. President, I rise today to recognize Frank M. ''Mark'' Newton, assessor of Grant Parish. Mr. Newton retired on October 31, 2005, after 45 years of service to Grant Parish. Today, I want to take a moment to offer warm thanks for his years of service to the State of Louisiana and Grant Parish and thank him for all of his endeavors.

A life long resident of Grant Parish, LA, he was the youngest child of Will and Laura Newton and graduated from Dry Prong High School in 1953. After proudly serving in the U.S. Marine Corps for 3 years, he immediately enrolled at Northwestern State University in Natchitoches, LA. Upon graduation in 1960, he became an involved and dedicated teacher in the Grant Parish school system. Soon becoming the business manager for the Grant Parish school system, Mr. Newton served proudly in this position until 1977 when he became the chief deputy tax assessor of Grant Parish. He proudly retained this position until his retirement at the end of October.

Known as someone who would always lend a helping hand, Mr. Newton developed and maintained numerous relationships that have lasted a lifetime. During his tenure as a public servant, not only did Mr. Newton create a wonderful working relationship with all of his employees, but he also became known as a dependable and well respected leader of Grant Parish.

Mr. Newton was recently quoted saying ''during my work years, I have tried to follow this motto—follow the law, use common sense, and have compassion for people. Suffice it to say, it's been a good trip.'' All of the citizens of Grant Parish have come to know that he has honorably and courageously stuck by these words. I now come to the Senate floor today to join the residents of Grant Parish in personally commending, honoring, and thanking him for his 45 years service to central Louisiana.●

TRIBUTE TO DAVID L. BRANT

● Mr. WARNER. Mr. President, I take this opportunity to recognize a dedicated law enforcement official at the Naval Criminal Investigative Service, NCIS, David L. Brant, who is retiring after 28 years of service to the United States. Culminating a law enforcement career spanning over 30 years, Director David Brant has announced his retirement from Federal service effective December 9, 2005.

Following graduation in 1975 with a master's degree in criminology from Indiana State University, Mr. Brant began his law enforcement career as a police officer with the Dade County Metropolitan Public Safety Department in Miami, FL. Two years later, he accepted an offer from the Naval Investigative Service and began his service as a special agent assigned to NISRA Norfolk, VA. During his 4 years in the Norfolk area, Mr. Brant served in four different NIS offices and also completed an assignment as special agent afloat aboard the USS *Independence*.

For 13 years, Mr. Brant served NCIS in a number of assignments in the United States and the Philippines, and he earned an appointment to the Senior Executive Service as Assistant Director for Counterintelligence in 1994. Mr. Brant served in that capacity until he succeeded Roy D. Nedrow as Director of the NCIS in May 1997.

Mr. Brant has been widely recognized within the Department of the Navy and the Department of Defense, as well as within the Federal law enforcement community, for his innovative and transformational approaches to enhancing law enforcement and counterintelligence capabilities. He has led NCIS in developing and implementing operational strategies, across all of the agency's mission areas, which serve as models for others to follow. Additionally, Mr. Brant established the Counterterrorism Directorate and built the Multiple Threat Alert Center, MTAC, specifically to enhance the ability of the NCIS to counter threats facing the Navy and Marine Corps.

Other noteworthy accomplishments during Mr. Brant's tenure include the creation of both the NCIS Contingency Response Field Office, CRFO, to improve the capacity of NCIS to deploy agents to meet naval requirements in high-threat environments like Iraq and Afghanistan, and the Deployment Support Office, DSO, to better support those personnel once they are deployed. Mr. Brant has also led the creation of the Law Enforcement Information Exchange, LInX, Program, which has brought local, State, and Federal law enforcement agencies together to great effect in support of naval force protection and crimefighting in the Hampton Roads area and other parts of the country. He has partnered NCIS with the FBI on Joint Terrorism Task Forces, and assigned agents to Defense Department Force Protection Detachments, FPDs, around the world. Moreover, he has been an outstanding spokesman for NCIS and the Department of the Navy in senior level law enforcement, counterintelligence, and counterterrorism venues around the world.

Most of all, Mr. Brant appreciates that what makes NCIS a truly great agency is the quality of its people. He routinely fought to ensure that agents, analysts, and support personnel alike had the equipment, training, and support required to do their jobs. Under his leadership, NCIS gained civilian arrest authority and built a reputation as a first-class law enforcement agency. He established the Director's Advisory Board, DAB, to provide him with direct feedback for the field on emergent issues. Mr. Brant improved upon the NCIS support infrastructure by hiring specialists in the fields of communications, congressional affairs, human resources, and information technology. He increased the number of SES and other high-grade billets while also working diligently for the additional funding that will ensure the success of his agency for years to come.

During his career, Mr. Brant has been recognized as an outstanding leader by multiple organizations. For his distinguished service, he has received the Department of Defense Presidential Rank Award and the Department of the Navy Distinguished Service Award. Recently, he was honored by the Hispanic American Police Command Officers Association, HAPCOA, with the Aguila Award for Law Enforcement and Criminal Justice and by the Women in Federal Law Enforcement, WIFLE, as the 2004 Outstanding Advocate for Women in Federal Law Enforcement.

As he begins his well deserved retirement, Mr. Brant will remain in the Washington, DC, area with his wife Merri Jo, and his children, Emily and Andrew. I salute David Brant for his dedicated service to our country, and I wish him and his family well in the years to come.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:21 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 125. An act to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes.

H.R. 280. An act to facilitate the provision of assistance by the Department of Housing and Urban Development for the cleanup and economic redevelopment of brownfields.

H.R. 452. An act to authorize the Secretary of the Interior to conduct a study to determine the suitability and feasibility of designating the Soldiers' Memorial Museum located in St. Louis, Missouri, as a unit of the National Park System.

H.R. 798. An act to provide for a research program for remediation of closed methamphetamine production laboratories, and for other purposes.

H.R. 853. An act to remove certain restrictions on the Mammoth Community Water District's ability to use certain property acquired by that District from the United States.

H.R. 975. An act to provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands under the jurisdiction of these agencies, and for other purposes.

H.R. 3422. An act to amend the United States Housing Act of 1937 to exempt small

public housing agencies from the requirement of preparing an annual public housing agency plan.

H.R. 3443. An act to direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District.

H.R. 4107. An act to designate the facility of the United States Postal Service located at 1826 Pennsylvania Avenue in Baltimore, Maryland, as the ''Maryland State Delegate Lena K. Lee Post Office Building''.

H.R. 4295. An act to designate the facility of the United States Postal Service located at 12760 South Park Avenue in Riverton, Utah, as the ''Mont and Mark Stephens en Veterans Memorial Post Office Building''.

H.R. 4500. An act to designate certain buildings of the Centers for Disease Control and Prevention.

The message also announced that the House has passed the following bill, without amendment:

S. 1047. An act to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively to improve circulation of the $1 coin, to create a new bullion coin, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 218. Concurrent resolution recognizing the centennial of sustained immigration from the Philippines to the United States and acknowledging the contributions of our Filipino-American community to our country over the last century.

At 2:26 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3199) to extend and modify authorities needed to combat terrorism, and for other purposes.

At 3:57 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agree to the further report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3010) making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

S. 1047. An act to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively, to improve circulation of the $1 coin, to create a new bullion coin, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 125. An act to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes; to the Committee on Environment and Public Works.

H.R. 280. An act to facilitate the provision of assistance by the Department of Housing and Urban Development for the cleanup and economic redevelopment of brownfields; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 452. An act to authorize the Secretary of the Interior to conduct a study to determine the suitability and feasibility of designating the Soldiers' Memorial Military Museum located in St. Louis, Missouri, as a unit of the National Park System; to the Committee on Energy and Natural Resources.

H.R. 798. An act to provide for a research program for remediation of closed methamphetamine production laboratories, and for other purposes; to the Committee on Environment and Public Works.

H.R. 853. An act to remove certain restrictions on the Mammoth Community Water District's ability to use certain property acquired by that District from the United States; to the Committee on Energy and Natural Resources.

H.R. 975. An act to provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands under the jurisdiction of these agencies, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3422. An act to amend the United States Housing Act of 1937 to exempt small public housing agencies from the requirement of preparing an annual public housing agency plan; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3443. An act to direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District; to the Committee on Energy and Natural Resources.

H.R. 4107. An act to designate the facility of the United States Postal Service located at 1826 Pennsylvania Avenue in Baltimore, Maryland, as the ''Maryland State Delegate Lena K. Lee Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 4295. An act to designate the facility of the United States Postal Service located at 12760 South Park Avenue in Riverton, Utah, as the ''Mont and Mark Stephensen Veterans Memorial Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 4500. An act to designate certain buildings of the Centers for Disease Control and Prevention; to the Committee on Health, Education, Labor and Pensions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4803. A communication from the Attorney Advisor, Office of the Secretary, Department of Transportation, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary for Aviation and International Affairs, received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4804. A communication from the White House Liaison, Department of Commerce, transmitting, pursuant to law, the report of conformations for the following positions: Assistant Secretary and Director General; Under Secretary for Export Administration; Assistant Secretary for Export Enforcement; and Under Secretary for International Trade, received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4805. A communication from the White House Liaison, Department of Commerce, transmitting, pursuant to law, the report of a change in previously submitted reported information and the discontinuation of service in the acting role for the position of Under Secretary for International Trade, received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4806. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ('Appliance Labeling Rule')'' (RIN3084-AA74) received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4807. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Revision License Requirements and Licensing Policy, and Increased Availability of License Exceptions for Certain North Atlantic Treaty Organization (NATO) Member States'' (RIN0694-AD61) received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4808. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Establishment of New License Exception for the Export or Reexport to U.S. Persons in Libya of Certain Items Controlled for Anti-Terrorism Reasons Only on the Commerce Control List'' (RIN0694-AD57) received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4809. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska'' (I.D. No. 101405B) received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4810. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska'' (I.D. No. 101705A) received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4811. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration,

transmitting, pursuant to law, the report of a rule entitled ''Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Pacific Whiting Primary Season for the Shore-based Sector and the Resumption of Trip Limits'' (I.D. No. 101805C) received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4812. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Temporary Rule; Suspension of the Atlantic Surfclam Minimum Size Limit'' (I.D. No. 101705B) received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4813. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries; Temporary Rule; Inseason Retention Limit Adjustment'' (I.D. No 102505B.) received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4814. A communication from the Acting Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Annual Specifications and Management Measures; Inseason Adjustments'' (I.D. No. 093005A) received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4815. A communication from the Acting Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications Pacific Mackerel Fishery'' (RIN0648-AS59) received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4816. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Comprehensive Amendment to the Fishery Management Plans of the U.S. Caribbean'' (RIN0648-AP51) received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4817. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries off West Coast States and in the Western Pacific; Highly Migratory Species Fisheries; Data Collection Requirements for U.S. Commercial and Recreational Charter Fishing Vessels'' ((RIN0648-AT97)(I.D. No. 102903C)) received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4818. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 17'' (RIN0648-AT10) received on November 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4819. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of the Christian County, Kentucky Portion of the Clarksville-Hopkinsville 8-Hour Ozone Nonattainable Area to Attainment for Ozone; Correction'' (FRL7999-5) received on November 28, 2005; to the Committee on Environment and Public Works.

EC–4820. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Indiana: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL8001–3) received on November 28, 2005; to the Committee on Environment and Public Works.

EC–4821. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Massachusetts: Extension of Interim Authorization of State Hazardous Waste Management Program Revision'' (FRL7988–8) received on November 28, 2005; to the Committee on Environment and Public Works.

EC–4822. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Imperial and Santa Barbara County Air Pollution Control Districts'' (FRL7998–4) received on November 28, 2005; to the Committee on Environment and Public Works.

EC–4823. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''TSCA Inventory Update Reporting Partially Exempted Chemicals List; Addition of 1,2,3-Propanetriol Technical Correction'' (FRL7744–8) received on November 28, 2005; to the Committee on Environment and Public Works.

EC–4824. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Underground Injection Control Program—Revision to the Federal Underground Injection Control Requirements for Class 1 Municipal Disposal Wells in Florida'' (FRL7999–7) received on November 28, 2005; to the Committee on Environment and Public Works.

EC–4825. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, a monthly report on the status of the Commission's licensing activities and regulatory duties for September 2005; to the Committee on Environment and Public Works.

EC–4826. A communication from the Assistant Secretary of the Army (Civil Works), Department of Defense, transmitting, pursuant to law, a report recommending authorization of the Napa River Salt Marsh Restoration Project, California for the purposes of ecosystem restoration and recreation; to the Committee on Environment and Public Works.

EC–4827. A communication from the Assistant Secretary of the Army (Civil Works), Department of Defense, transmitting, pursuant to law, a report relative to the Louisiana Coastal Area, Louisiana, Ecosystem Restoration Program; to the Committee on Environment and Public Works.

EC–4828. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, (19) reports relative to vacancy announcements within the Department; to the Committee on Banking, Housing, and Urban Affairs.

EC–4829. A communication from the Acting Under Secretary of Defense for Acquisition, Technology and Logistics, transmitting, pursuant to law, thirteen quarterly Selected Acquisition Reports (SARs) for the quarter ending September 30, 2005; to the Committee on Armed Services.

EC–4830. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, a report on the approved retirement of General Leon J. LaPorte, United States Army, and the grade of general on the retired list; to the Committee on Armed Services.

EC–4831. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, a report on the approved retirement of Lieutenant General Steven R. Polk, United States Air Force, and the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–4832. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, authorization of Lieutenant General David D. McKiernan, United States Army, to wear the insignia of the grade of general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

DISCHARGED NOMINATIONS

The Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of the following nomination and the nomination was placed on the Executive Calendar:

Stephanie Johnson Monroe, of Virginia, to be Assistant Secretary for Civil Rights, Department of Education.

The Senate Committee on Homeland Security and Governmental Affairs was discharged from further consideration of the following nomination and the nomination was placed on the Executive Calendar:

Donald A. Gambatesa, of Virginia, to be Inspector General, United States Agency for International Development.

The Senate Committee on Foreign Relations was discharged from further consideration of the following nomination and the nomination was placed on the Executive Calendar:

Marilyn Ware, of Pennsylvania, to be Ambassador to Finland.

Nominee: Marilyn Ware.

Post: Ambassador to Finland.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Marilyn Ware $4351, 1/24/01, Republican National State Elections Committee (RNSEC); $375, 1/26/01, RNSEC; $5,000, 9/17/01, Republican Federal Committee of PA; $1,000,

10/11/01, Friends of Jennifer Dunn; $1,000, 11/5/01, Collins for Senator; $9.500, 12/27/01, Republican Party of Florida-Nonfederal Account; $2,000, 1/2/02, John Thune for South Dakota; $1,000, 3/14/02, Hagel for Senate; $1,000, 4/1/02, Diane Allen for U.S. Senate; $1,000, 4/15/02, Friends of Joe Pitts; $50,000, 5/16/02, RNSEC; $1,000, 5/29/02, Pat Toomey for Congress; $50,000, 6/11/02, RNSEC; $1,000, 6/17/02, Greenwood for Congress; $1,000, 7/16/02, Friends of Jim Gerlach; $2,000, 7/24/02, Norm Coleman for U.S. Senate; $1,000, 8/22/02, Bill Shuster for Congress; $1,000, 8/29/02, Friends of Scott McInnis; $1,000, 9/16/02, Friends of Melissa Brown; $20,000, 9/30/02, National Republican Senatorial Committee; $1,000, 9/30/02, Friends of Jennifer Dunn; $60,000, 10/23/02, RNSEC; $1,000, 10/28/02, Sandhills PAC; $1,000, 8/27/03, Friends of Joe Pitts; $2,000, 9/11/03, Bush-Cheney '04, Inc.; $25,000, 10/7/03, Republican National Committee; $1,000, 10/7/03, Jim Gerlach for Congress; $5,000, 3/5/04, Ocean Champions PAC; $2,000, 3/31/04, John Thune for U.S. Senate; $250, 5/7/04, Committee to Elect Sheryl S. Perzel; $1,500, 7/27/04, College Republican National Committee; $1,500, 8/9/04, Paterno for Congress; $250,000, 8/11/04, Progress for America Voter Fund; $275, 8/12/04, FED Political Action Committee (aka FED PAC); $5,000, 8/23/04, Specter Senate Victory Committee; $2,000, 8/24/04, John Thune for U.S. Senate; $12,500, 9/24/04, Republican National Committee; $150,000, 9/30/04, Progress for America Voter Fund; $150,000, 10/19/04, Progress for America Voter Fund; $60,000, 10/19/04, Let Freedom Ring; $2,000, 10/30/04, Jim Gerlach for Congress; $1,000, 12/7/04, Republican Federal Committee of PA; $5,000, 4/7/05, America's Foundation-Santorum PAC.

3. Mark A. Strode, son, $250, 10/30/02, Republican National Committee; $2,000, 9/19/03, Bush-Cheney '04 Primary.

3a. Tina Strode, son's spouse, $2,000, 9/19/03, Bush-Cheney '04 Primary.

3b. Scott Strode, son: $800, 7/20/04, Citizens for Arlen Specter.

3c. Amyla R. Strode, daughter: N/A.

4. Marian S. Ware, mother: $25,000, 1/9/01, Presidential Inaugural Committee; $2,500, 3/15/01, Republican Senate Special Election Fund; $10,000, 9/17/01, PA Republican State Committee; $1,000, 10/11/01, Friends of Jennifer Dunn; $1,000, 11/9/01, Susan Collins for Senator; $9,500, 12/27/01, Republican Party of Florida—Nonfederal Account; $1,000, 1/2/02, John Thune for South Dakota; $1,000, 1/2/02, John Thune for South Dakota; $1,000, 4/15/02, Friends of Joe Pitts; $1,000, 6/19/02, Pat Toomey for Congress Committee; $1,000, 6/17/02, Greenwood for Congress; $1,000, 7/16/02, Friends of Jim Gerlach; $1,000, 9/17/02, Melissa Brown for Congress Committee; $25,000, 9/30/02, NRSC; $1,000, 10/4/02, Team Sununu; $75,000, 10/23/02, Republican National State Elections Committee; $2,000, 9/18/03, Bush-Cheney '04; $2,000, 9/30/03, Bush-Cheney '04; $25,000, 10/7/03, Republican National Committee; −$2,000, 10/30/03, Bush-Cheney '04 (Refund); $2,000, 4/7/04, Citizens for Arlen Specter; $2,000, 4/7/04, Citizens for Arlen Specter; $15,000, 7/23/04, Choices for America; $500,000, 8/17/04, Progress for America Voter Fund; $10,000, 9/9/04, National Republican Senatorial Committee; $10,000, 9/9/04, Specter Senate Victory Committee; $1,500, 12/7/04, Republican Federal Committee of Pennsylvania. $250,000, 10/19/04, Progress for America Voter Fund; $2,000, 10/30/04, Jim Gerlach for Congress Committee.

5. Grandparent's: N/A.

6. Paul W. Ware, brother: $2,000, 9/24/01, Republican Federal Committee of Pennsylvania; $1,000, 10/18/01, Citizens for Arlen Specter; $100, 12/21/01, NARAL; $30, 9/16/02, Friends of Tony Allen; $250, 11/15/02, Citizens for Arlen Specter; $1,000, 12/31/02, Citizens for Arlen Specter; $100, 12/31/02, NARAL; $250, 2/24/03, Fund for Choice; $100, 4/8/03, Friends of Dennis Stuckey; $1,000, 4/10/03, Friends of Better Government; $1,000, 4/10/03, Friends of Dennis Stuckey; $1,000, 4/21/03, Citizens for Arlen Specter; $1,000, 4/21/03, Citizens for Arlen Specter; $5,000, 5/15/03, Friends of Better Government; $2,000, 10/31/03, Bush-Cheney '04; $100, 12/24/03, ACLU; $50, 12/24/03, NOW; $1,000, 3/15/04, ''Big Tent'' PAC; $1,000, 3/25/04, Republican Federal Committee of Pennsylvania; $100, 5/27/04, ACLU; $50,000, 8/26/04, Progress for America Voter Fund; $50,000, 8/27/04, Progress for America Voter Fund; $250, 9/13/04, Wenger for Senate Committee; $500, 9/29/04, Friends of Better Government; $2,000, 11/29/04, Friends of John Perzel;

6a. Judy S. Ware, brother's spouse: $250, 4/9/03, Citizens for Arlen Specter; $1,500, 4/21/03, Citizens for Arlen Specter; $2,000, 4/21/03, Citizens for Arlen Specter; $2,000, 10/31/03, Bush-Cheney '04; $250, 11/19/03, Citizens for Arlen Specter.

6b. John H. Ware IV, brother: $12,000, 3/8/01, Republican National Committee; $500, 10/13/04, Friends of Scott Paterno; $500, 10/13/04, Freshman PAC; $500, 12/21/04, Freshmen PAC.

7. Carol Ware Gates, sister: $260, 12/2/01, The Wish List; $1,000, 1/3/03, RNC; $2,000, 3/26/03, Friends of Joe Pitts; $4,000, 4/10/03, Citizens for Arlen Specter; $4,000, 4/16/03, The Jim Geriach for Congress Committee; $4,000, 7/2/03, Republican National Committee; $100, 7/23/03, RNC Life Membership Program; $2,000, 9/10/03, Bush-Cheney '04; $500, 10/29/03, Republican National Committee; $1,000, 2/18/04, The Chairman's Advisory Board; $100, 2/18/04, National Republican Congressional Committee; $2,000, 4/21/04, John Kerry for President; $150, 6/30/04, The Presidents Dinner; $25, 7/21/04, The Chairman's Advisory Board; $2,000, 8/25/04, Kerry-Edwards 2004 GELAC; $100, 8/25/04, Friends of Joe Pitts; $2,975, 2/9/05, The Chairman's Advisory Board; $150, 2/16/05, National Republican Congressional Committee; $1,000, 6/22/05, Planned Parenthood Action Fund PAC.

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. COLEMAN (for himself, Mr. DAYTON, Mrs. FEINSTEIN, and Mrs. BOXER):

S. 2096. A bill to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign programs and centers for the treatment of victims of torture, and for other purposes; to the Committee on Foreign Relations.

By Ms. MIKULSKI:

S. 2097. A bill to assist members of the Armed Forces in obtaining United States citizenship, and for other purposes; to the Committee on the Judiciary.

By Ms. MURKOWSKI (for herself, Mr. AKAKA, and Mr. BINGAMAN):

S. 2098. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to clarify the eligibility of certain employees of the Department of Energy under that Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. REID (for himself, Mr. ENSIGN, Mr. BENNETT, and Mr. HATCH):

S. 2099. A bill to amend the Nuclear Waste Policy Act of 1982 to require commercial nuclear utilities to transfer spent nuclear fuel from spent nuclear fuel pools into spent nuclear fuel dry casks and convey to the Secretary of Energy title to all spent nuclear fuel thus safely stored; to the Committee on Environment and Public Works.

By Mr. SMITH (for himself and Mr. KERRY):

S. 2100. A bill to amend the Internal Revenue Code of 1986 to improve the deduction for depreciation; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 2101. A bill for the relief of Charles Nyaga; to the Committee on the Judiciary.

By Mr. ALLARD (for himself and Mr. SALAZAR):

S. 2102. A bill to amend the Cache La Poudre River Corridor Act to designate a new management entity, make certain technical and conforming amendments, enhance private property protections, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. REID (for Mr. LIEBERMAN):

S. 2103. A bill to impose a temporary windfall profits tax on crude oil and provide a rebate to each household from the revenues resulting from such tax; to the Committee on Finance.

By Mr. REID (for Mr. LIEBERMAN (for himself, Mr. COCHRAN, Mr. CARPER, and Mrs. HUTCHISON)):

S. 2104. A bill to amend the Public Health Service Act to establish the American Center for Cures to accelerate the development of public and private research efforts towards tools and therapies for human diseases with the goal of early disease detection, prevention, and cure, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. LANDRIEU (for herself, Mr. BURR, Mr. BINGAMAN, Mrs. FEINSTEIN, and Mr. ISAKSON):

S. Res. 331. A resolution expressing the sense of the Senate regarding fertility issues facing cancer survivors; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DEMINT (for himself and Mr. GRAHAM):

S. Res. 332. A resolution honoring the life of former Governor Carroll A. Campbell, and expressing the deepest condolences of the Senate to his family; considered and agreed to.

By Mr. AKAKA (for himself, Mr. INOUYE, and Mr. LAUTENBERG):

S. Res. 333. A resolution recognizing the centennial of sustained immigration from the Philippines to the United States and acknowledging the contributions of our Filipino-American community to our country over the last century; considered and agreed to.

By Mr. ISAKSON:

S. Con. Res. 69. A concurrent resolution supporting the goals and ideals of a Day of Hearts, Congenital Heart Defect Day in order to increase awareness about congenital heart defects, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 333

At the request of Mr. THOMAS, his name was added as a cosponsor of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 408

At the request of Mr. DEWINE, the name of the Senator from New Mexico

(Mr. BINGAMAN) was added as a cosponsor of S. 408, a bill to provide for programs and activities with respect to the prevention of underage drinking.

S. 678

At the request of Mr. REID, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 678, a bill to amend the Federal Election Campaign Act of 1971 to exclude communications over the Internet from the definition of public communication.

S. 691

At the request of Mr. DOMENICI, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 691, a bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names.

S. 716

At the request of Mr. AKAKA, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 716, a bill to amend title 38, United States Code, to enhance services provided by vet centers, to clarify and improve the provision of bereavement counseling by the Department of Veterans Affairs, and for other purposes.

S. 765

At the request of Mr. WARNER, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 765, a bill to preserve mathematics- and science-based industries in the United States.

S. 959

At the request of Mr. SARBANES, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 959, a bill to establish the Star-Spangled Banner and War of 1812 Bicentennial Commission, and for other purposes.

S. 981

At the request of Mr. DURBIN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 981, a bill to ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred.

S. 1033

At the request of Mr. MCCAIN, the names of the Senator from Florida (Mr. MARTINEZ) and the Senator from Illinois (Mr. OBAMA) were added as cosponsors of S. 1033, a bill to improve border security and immigration.

S. 1035

At the request of Mr. INHOFE, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1035, a bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

S. 1315

At the request of Mr. LUGAR, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1315, a bill to require a report on progress toward the Millennium Development Goals, and for other purposes.

S. 1317

At the request of Mr. HATCH, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1317, a bill to provide for the collection and maintenance of cord blood units for the treatment of patients and research, and to amend the Public Health Service Act to authorize the Bone Marrow and Cord Blood Cell Transplantation Program to increase the number of transplants for recipients suitable matched to donors of bone marrow and cord blood.

S. 1378

At the request of Mr. TALENT, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of S. 1378, a bill to amend the National Historic Preservation Act to provide appropriation authorization and improve the operations of the Advisory Council on Historic Preservation.

S. 1399

At the request of Mr. THOMAS, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1399, a bill to improve the results the executive branch achieves on behalf of the American people.

S. 1479

At the request of Mr. REED, his name was added as a cosponsor of S. 1479, a bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee.

S. 1523

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1523, a bill to amend the Internal Revenue Code of 1986 to make permanent increased expensing for small businesses.

S. 1604

At the request of Mr. CRAIG, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1604, a bill to restore to the judiciary the power to decide all trademark and trade name cases arising under the laws and treaties of the United States, and for other purposes.

S. 1687

At the request of Ms. MIKULSKI, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1687, a bill to amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

S. 1779

At the request of Mr. AKAKA, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Washington (Mrs. MURRAY) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1779, a bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 1791

At the request of Mr. SMITH, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1791, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for qualified timber gains.

S. 1930

At the request of Mr. REID, the names of the Senator from Rhode Island (Mr. REED) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1930, a bill to expand the research, prevention, and awareness activities of the National Institute of Diabetes and Digestive and Kidney Diseases and the Centers for Disease Control and Prevention with respect to inflammatory bowel disease.

S. 2012

At the request of Mr. STEVENS, the names of the Senator from Texas (Mrs. HUTCHISON), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Massachusetts (Mr. KERRY) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 2012, a bill to authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2006 through 2012, and for other purposes.

S. 2071

At the request of Ms. SNOWE, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 2071, a bill to amend title XVIII of the Social Security Act to clarify congressional intent regarding the counting of residents in the nonhospital setting under the medicare program.

S. 2082

At the request of Mr. LEAHY, the names of the Senator from New York (Mrs. CLINTON), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 2082, a bill to amend the USA PATRIOT Act to extend the sunset of certain provisions of that Act and the lone wolf provision of the Intelligence Reform and Terrorism Prevention Act of 2004 to March 31, 2006.

S. 2085

At the request of Mr. BAUCUS, the name of the Senator from Montana

(Mr. BURNS) was added as a cosponsor of S. 2085, a bill to provide a supplemental payment to assist agricultural producers in mitigating increasing input costs, including energy and fertilizer costs.

S. 2088

At the request of Mr. ALLARD, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 2088, a bill to assist low-income families, displaced from their residences in the States of Alabama, Louisiana, and Mississippi as a result of Hurricane Katrina, by establishing within the Department of Housing and Urban Development a homesteading initiative that offers displaced low-income families the opportunity to purchase a home owned by the Federal Government, and for other purposes.

S. RES. 33

At the request of Mr. LEVIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Res. 33, a resolution urging the Government of Canada to end the commercial seal hunt.

S. RES. 283

At the request of Mr. ALLEN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. Res. 283, a resolution recognizing the contributions of Korean Americans to the United States and encouraging the celebration of ''Korean American Day''.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MIKULSKI:

S. 2097. A bill to assist members of the Armed Forces in obtaining United States citizenship, and for other purposes; to the Committee on the Judiciary.

Ms. MIKULSKI. Mr. President, I am here today to talk about a bill I will be introducing that rights a wrong and corrects a terrible injustice. I am introducing legislation called the Kendell Frederick Citizenship Assistance Act of 2005. This is legislation was inspired by a young man from the State of Maryland, who was in the Army, had a green card, was serving this country, though not a citizen, and was killed while serving in Iraq. He was killed by a roadside bomb on his way to be fingerprinted, on his way to become a U.S. citizen. He died on his way to become a U.S. citizen because of the failed and flawed information he was given by our immigration system.

He was a terrific young man, who came to this country when he was fifteen from Trinidad. He joined his mother here in the U.S. and wanted so much to be part of this country. He wanted to serve this country and so he joined the ROTC when he was in high school. In fact, Randallstown High School has one of the best high school ROTCs programs that Maryland has. After graduation, he then joined the Army and off he went to train to serve this country.

He was killed by the botched bureaucracy of the U.S. Government, by their incompetence, by their indifference, by their ineptitude; and this is absolutely inexcusable. Every military death in Iraq is a tragedy, but this one did not need to happen. I am going to tell you a little bit about him and then tell you what happened.

As I said, he graduated from high school and he decided to join the Army with hopes that he would go back to school. In the Army he was a generator mechanic assigned to a heavy combat battalion. His job was to keep that battalion running. All he wanted was to do a good job, help his buddies stay alive, stay alive himself, defend what we were doing in Iraq and, along the way, become an American citizen and come back home and resume his life. He had been trying to become an American citizen for a while. He started working on it when he joined the Army.

Mr. President, because I know of your keen interest in national security, I understand that you know when you join the Army you are fingerprinted and a background check is run. We just don't let anybody join the United States Army. You can't get in if you are a drug dealer, if you have an extensive criminal record or if you would be a threat to the security of the United States. You can't get in if there is even a hint that you might be connected to a terrorist organization. So Kendell Frederick was accepted into the Army after all these security checks were run and his background was vetted. Then he sent in his citizenship application but, guess what, he checked the wrong box. What did that mean? Here he was, training for war, packing up to go to Iraq, saying goodbye to his mom, his brother and two sisters and in the middle of this he checked the wrong box saying that he was not in the military. So his application was derailed, not once but three different times.

The first time was after his mother checked the correct box saying that Kendell was in the military. Immigration sent the application to the wrong office, not the one that handles military applications that is on a fast track but the general one where all the applications are all stacked up. Second, Immigration rejected the fingerprints that were sent from the military. There was no explanation. His mother did not know why the fingerprints had been rejected. He had sent in the paperwork from Iraq. As I said, Kendell had already been fingerprinted, had already had his background vetted when he joined the military. So here was a guy who had been fingerprinted and cleared to join the military. The Army had said, you are OK, Kendell. He had an FBI background check run. The FBI said you are OK, Kendell. The Army wants somebody like you. But when he tried to get through Immigration, they said no, the fingerprints he had taken when he joined the military and even the fingerprints he sent into immigration were not enough.

Finally, when his mother called this 1–800 Immigration number—you try to call that number—she got no help. It is like trying to make a call from the Superdome in the middle of Katrina. You are not going to get help going to get the right answer. His mother called that number. They told his mother that he had to return from Baghdad and go to Baltimore to get his fingerprints. His mother got on the phone again, because he can't call from Baghdad—he is being shot at, he is trying to defend himself and the troops of the United States of America—so he was a little busy, couldn't afford to get a busy signal from Immigration.

When his mother called and said, ''My boy is in Baghdad,'' Immigration at the 800 number told her, there was nothing they could do. They didn't even know their own rules. They didn't know their own system. They didn't know their own laws. Immigration was wrong. They gave his mother the wrong information.

So here is Kendell, still keeping in touch, still trying to do his job, trying to get his fingerprints taken to become a U.S. citizen. Finally, there was an arrangement made. His staff sergeant came to his rescue and made arrangements for him to be fingerprinted at a nearby air base so he could complete this application. On October 19, with the help of his staff sergeant, he was traveling in a convoy to get his fingerprints. He didn't usually go in convoys, but that day he was on that convoy to get his fingerprints to become an American citizen—to compensate for the botched mistakes of Immigration—and on his way a roadside bomb killed him.

They told his mother that immigration would give Kendell U.S. citizenship. They granted his citizenship a week after he died. He was buried at Arlington, as he should have been. He was trying to do the right thing, yet he was given the wrong information.

As I said, his staff sergeant tried to help him, his mother tried to help him, but the system, the immigration system, failed him time and time again.

When I called his mother—and I try to call all the families of our military from Maryland who die; some I reach, some I do not—I spoke to his mother. She said to me that she did not want another mother to go through what she went through, to go through what her son went through. Service members and their moms and dads should not be worrying about what box to check, where the fingerprints are, et cetera. She said Immigration should know their own rules. When we explained to her the rules of Immigration, that he should have been fast tracked, that these fingerprints should have been OK, that he did not have to pay a $400 fee, she said, ''Nobody told me that.'' Every time I called, I got different information.

I am introducing legislation today to prevent this from happening again. His mother asked me to introduce legislation, and she asked me to call it the

Kendell Frederick law. I am doing that today, and over in the House Congressman ELIJAH CUMMINGS is doing the same thing. We made this promise when we stood in the church, a small, humble church in an African-American community in Baltimore. We made this pledge to his mother that we would do this for her and we are here today to do just that.

The legislation I am introducing today makes it easier for military servicemembers to become citizens. The provisions cut through the redtape. It requires Immigration to use the fingerprints the military takes when the person enlists in the military.

It requires the creation of a military citizen advocate to inform the servicemembers about the citizenship process and help with the application.

It also means they won't leave boot camp unless they are absolutely apprised of all of the rules and all of the regulations about how to apply to become a U.S. citizen.

The very process they have to go through to join the military, fingerprinting and FBI background check, should be good enough. Because you see, deep down inside, we believe that if you are good enough to fight for this country, you are good enough to become a citizen of this country.

There is a pileup of 3,000 people with green cards fighting in our military today who have applied to become American citizens. You should not have to be standing in that kind of line. We are not saying let anyone become a U.S. citizen, but these are men and women who joined the military and fighting for this country. They have a green card, they have been fingerprinted, and they have passed an FBI check. Why do they have to go through it all over again?

We are passing a law that would stop this needless bureaucracy, and we are establishing a special 800 number for our military and their families.

We talk a lot about standing up for our troops, and we certainly should stand up for our troops. This means we should stand up for them and enable them to follow their dreams. They are certainly standing up for us.

Today, we introduced the Kendell Frederick bill to make sure that anyone in the military who wants to be a U.S. citizen, who has a green card, and who passed the fingerprint checks will be able to do so quickly and easily. If they are willing to fight for America and die for America, they should be able to become an American citizen.

I will be circulating a ''Dear Colleague'' to my colleagues to join it. I hope we can pass this legislation on a bipartisan basis so that as men and women such as Kendell Frederick fight for freedom, we ensure that their memory is not in vain.

I thank the Chair.

By Ms. MURKOWSKI (for herself, Mr. AKAKA, and Mr. BINGAMAN):

S. 2098. A bill to amend the Energy Employees Occupational Illness Compensation Program Act of 2000 to clarify the eligibility of certain employees of the Department of Energy under that Act; to the Committee on Health, Education, Labor, and Pensions.

Ms. MURKOWSKI. Mr. President, I send to the desk for appropriate reference legislation that will clarify that citizens of the former Trust Territory of the Pacific Islands are eligible for coverage and potential compensation under the Energy Employees Occupational Illness Compensation Program Act, EEOICPA, for workers who developed radiogenic cancers and other ailments after working at the Pacific Test Site in the Marshall Islands.

An estimated up to 500 Republic of Marshall Islanders and other Micronesian workers may have been employed by the Department of Energy, or its predecessor agency, or Department subcontractors prior to 1986 when the Trusteeship was terminated for all areas except Palau. Both Bikini and Enewetak Atolls were the sites for numerous nuclear and thermonuclear tests. Other atolls, such as Rongelap and Utrik, were affected by fallout from the Bravo hydrogen bomb test in March 1954.

Congress, in 2000, approved a compensation program to provide aid and pay medical bills for those who suffered radiation-caused illnesses because of working on the nuclear weapons program. Congress specifically set up a ''Special Exposure Cohort'' to provide compensation to certain workers with radiogenic cancer and other illnesses because it was presumed that their illnesses resulted from workplace exposure to radiation caused by their Government work. Congress, in 2004, amended the act, first approved in the 2001 Military Construction Authorization Act, to speed payments of compensation, including funds for lost wages to workers or their heirs, to those who worked for the Department of Energy and its predecessor agency on nuclear weapons programs.

Earlier this year the Committee on Energy and Natural Resources held an oversight hearing to review a number of issues raised by the government of the Republic of the Marshall Islands related to the effects of the nuclear testing program. One of the issues was coverage for residents of the then-trust territory who were employed during the testing and subsequent cleanup. During that period, the United States was the administering authority over the area under a United Nations Trusteeship Agreement and exercised all the powers of a sovereign. It seems somewhat incongruous for the Congress to have established a program that applied to U.S. citizens but not to those who lived and worked under U.S. administration.

That also seems reasonable, since there is little other reason for the specific inclusion of the Pacific Test Site if the workers were not to be covered. During Senate debate, Senator BINGAMAN, a conferee on the amendment, submitted a list of DOE facilities intended to be covered by the act—a list which included the Marshall Islands, 146 Cong. Rec. S. 4754–7.

While most of the issues raised by the Minister of Foreign Affairs for the Marshall Islands during our oversight hearing are now being discussed with various Federal agencies under the auspices of Secretary of the Interior Norton, this is an issue that will require congressional action, given the interpretations from Federal agencies that questioned whether Congress intended the Act to apply extraterritorially. The act, of course, applies to individuals not jurisdictions and the specific mention of the Pacific Test Site and Enewetak would seem to indicate that Congress intended to include workers at the site.

Subsequent to the hearing, I had the privilege to meet privately with the President of the Marshall Islands when he visited Washington in early September. We had a good meeting and at the time I offered my assistance in ensuring that the proper agencies or groups would review the issues they had raised. As I indicated, most of these issues are properly now being discussed with representatives of the Marshalls through a multi-agency dialogue headed by Secretary Norton. This issue, however, may be one that is best handled directly through the congressional process. Therefore, when I was asked by the Marshall's Embassy here in Washington if I would introduce a bill to clarify worker eligibility so that the proper congressional committees could review it, I agreed.

Given the paperwork, record and radiation dosage requirements for receipt of compensation, it is far from clear how many Marshallese and Micronesian workers will actually qualify for the up to $150,000 in compensation, plus medical benefits and lost wage compensation for ailments caused by radiation stemming from the weapons tests. That is an issue that I hope the congressional committees will consider sympathetically. But it is only just that the program be opened equally to all Department of Energy workers or subcontract workers who labored to produce nuclear weapons to help this Nation's national defense at a critical period of the Cold War. As an Alaskan from a State whose workers have been compensated for injuries they gained resulting from underground weapons testing at Amchitka Island in the Aleutian Chain almost immediately after the ending of weapons testing in the atmosphere over the Marshall Islands, it is impossible not to support aid for the Marshallese.

While Congress and the administration continue to weigh additional aid to the Republic of the Marshall Islands, passage of this measure would be a sign of this Nation's continued commitment to aid the islanders who in February 1946 followed the advice of Bikinian leader, King Juda, and agreed to leave the Bikini Atoll so America could use

it for weapons testing saying, ''We will go believing that everything is in the hands of God.''

I appreciate the understanding and the patience shown by the Marshall's Government and their citizens as we proceed to review the issues raised concerning the effects of the nuclear testing program, and I hope the introduction of this legislation will be seen as an example of our commitment to see that those issues receive a full and fair review and discussion.

By Mr. REID (for himself, Mr. ENSIGN, Mr. BENNETT, and Mr. HATCH):

S. 2099. A bill to amend the Nuclear Waste Policy Act of 1982 to require commercial nuclear utilities to transfer spent nuclear fuel from spent nuclear fuel pools into spent nuclear fuel dry casks and convey to the Secretary of Energy title to all spent nuclear fuel thus safely stored; to the Committee on Environment and Public Works.

Mr. REID. Mr. President, I rise today for Senator ENSIGN, Senator BENNETT and myself to introduce a bill to increase the safety and security of our Nation's nuclear power infrastructure, The Spent Nuclear Fuel On-Site Storage Security Act of 2005.

I am convinced that the proposed Yucca Mountain nuclear waste dump will never be built because of the myriad of scientific, safety and technical problems in which it is mired. It simply is neither safe nor secure, as illustrated by several significant scientific, legal, and budgetary setbacks this past year.

Here are some of the highlights: On July 9, 2004, the DC Circuit Court of Appeals sided with the people of Nevada in a lawsuit to stop the proposed Yucca Mountain project. The court decided that U.S. Environmental Protection Agency's radiation standard for the site was not stringent enough to protect the public from the significant risks associated with nuclear waste and failed to follow the recommendation by the National Academy of Sciences.

On August 31, 2004, the Nuclear Regulatory Commission's Atomic Safety and Licensing Board rejected Department of Energy's Yucca Mountain document database, saying it had failed to make public many of the documents that it had in its possession. The Board said, ''Given the 15 years that DOE had to gather, review, and produce its documents and the fact that the date of production, and the incompleteness of its privilege review, it is clear to us that DOE did not meet its obligation, in good faith, to make all reasonable efforts to make all documentary materials available.''

On October 4, 2004, the DOE Inspector General found that DOE has given away more than $500,000 worth of Yucca Mountain construction equipment in 2003. Half a million dollars is a tremendous amount of the people's money to waste.

On November 22, 2004, the Nuclear Waste Technical Review Board said DOE does not have a plan for safely transporting nuclear waste to the proposed repository.

On February 7, 2005, Dr. Margaret Chu, most recently the Director of the Office of Civilian Radioactive Waste Management, said the project would be delayed until 2012 and that DOE's license application to the Nuclear Regulatory Commission would not be filed until December 2005, delayed a year. To date, the license application still has not been filed.

On February 8, 2005, the Nuclear Waste Technical Review Board have called for hearings to review concerns over the corrosion of the titanium drip shields that are intended to keep water from leaking into casks inside Yucca Mountain.

On February 28, 2005, a DOE official said the proposed Yucca Mountain repository may not open until 2015.

On March 16, 2005, DOE revealed that documents and models about water infiltration at Yucca Mountain, a key issue, had been falsified.

On July 18, 2005, DOE announced that it will use dedicated train service for its rail transport of spent nuclear fuel and high-level waste to Yucca Mountain, a shift from two decades of administration policy that ignores the fact that about one-third of reactor sites are not capable of shipping fuel by rail.

On August 22, 2005, EPA published its revised radiation standards for the proposed Yucca Mountain high-level waste dump. These standards are wholly inadequate, do not meet the law's requirements and do not protect public health and safety.

On October 13, 2005, DOE began a series of actions to overhaul the Yucca Mountain project. We are going back to the drawing board, frequently revisiting proposals discarded decades ago as unsafe or unworkable.

On October 25, 2005, DOE announced that it would be redesigning the spent fuel storage process, both the containers and facilities.

On November 16, 2005, the DOE Inspector General announced that DOE has ignored numerous admitted instances of falsification of technical and scientific date on the project, showing that years of quality assurance problems continue.

On November 17, 2005, DOE sent a detailed letter to its contractor specifying some of the desired changes in the site proposal.

At the December 7, 2005, at the NRC–DOE quarterly meeting on Yucca Mountain, DOE announced that it expects to re-baseline the project mid-2006, requiring many of the technical and scientific analyses to be redone.

On November 19, 2005, the Energy and Water Appropriations bill became law, cutting the Yucca Mountain budget to $577 million, half of what DOE said it would need to keep the project on track.

In numerous media reports, DOE has confirmed that it is preparing a legislative package that addresses Yucca Mountain. Clearly, DOE cannot meet the current public health, safety and technical requirements.

It should be clear to anyone that the proposed Yucca Mountain project is scientifically unsound and that it cannot meet the requirements of law. It is not going anywhere. Delay after delay costs the taxpayers billions and billions of dollars for a project that the courts have ruled does not meet sufficient safety or public health standards. I do not believe that Yucca Mountain will ever open, and Nevada and the country will be safer for our successful efforts to stop the project.

Yet, we must safely store spent nuclear fuel.

A 1979 study by the Sandia National Laboratory determined that, if all the water were to drain from a spent fuel pool, dense-packed spent fuel would likely heat up to the point where it would burst and then catch fire, releasing massive quantities of volatile radioactive fission products into the air. Both the short-term and the long-term contamination impacts of such an event could be significantly worse than those from Chernobyl. The consequences would be so severe and would affect such a large area that all precautions must be taken to preclude them. This is the type of serious, avoidable risk against which all the Nation's nuclear sites can and should be protected to counter terrorist threats.

It is time to look at other nuclear waste alternatives. Fortunately, the technology to realize a viable, safe and secure alternative is readily available and can be fully implemented within 6 years if we act now. That technology is dry cask storage.

The technology for long-term storage of spent nuclear fuel in dry storage casks has improved dramatically in the past 20 years. Seventeen cask designs have. been licensed by the Nuclear Regulatory Commission, which says that spent nuclear fuel can be safely stored using dry cask storage on-site at the nuclear power plants for at least 100 years. Already, dry casks safely store spent nuclear fuel at 34 sites throughout the country, many of them near communities, water ways and transportation routes. The Nuclear Energy Institute has projected 83 of the 103 active reactors will have dry storage by 2050.

Compared to water-filled pools, dry storage casks are significantly less vulnerable to natural and human-induced disasters, including floods, tornadoes, temperature extremes, sabotage, and missile attacks. In addition, dry storage casks are not subject to drainage risks, whether intentional or accidental.

On March 28, 2005, the Washington Post revealed that a classified National Academy of Sciences report concluded that the government does not fully understand the risks a terrorist attack

could pose to spent nuclear fuel pools and that it ought to expedite the removal of the fuel to dry storage casks that are more resilient to attack.

Our bill requires commercial nuclear utilities to safely transfer spent nuclear fuel from temporary storage in water-filled pools to secure storage in licensed, on-site dry cask storage facilities. After transferal, the Secretary of Energy will take title and full responsibility for the possession, stewardship, maintenance, and monitoring of all spent fuel thus safely stored. Finally, our bill establishes a grant program to compensate utilities for expenses associated with transferring the waste. The costs of transferring the waste and providing the grants will be offset by withdrawals from the utility-funded Nuclear Waste Fund.

Nuclear facilities currently provide 20 percent of our Nation's electricity, but in light of the events of September 11, they also present a security risk that we simply must address. There cannot be any weak links in the chain of security of our Nation's nuclear power infrastructure. There is absolutely no justification for endangering the public by densely packing nuclear waste in vulnerable spent fuel pools when it can be stored safely and securely in dry casks. This bill guarantees all Americans that our Nation's nuclear waste will be stored in the safest way possible.

I ask unanimous consent that the text of the bill printed in the RECORD.

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

S. 2099

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 ''Spent Nuclear Fuel On-Site Storage Security Act of 2005''.

SEC. 2. DRY CASK STORAGE OF SPENT NUCLEAR FUEL.

(a) IN GENERAL.—Title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10121 et seq.) is amended by adding at the end the following:

''Subtitle I—Dry Cask Storage of Spent Nuclear Fuel

''SEC. 185. DRY CASK STORAGE OF SPENT NUCLEAR FUEL.

''(a) DEFINITIONS.—In this section:

''(1) CONTRACTOR.—The term 'contractor' means a person that holds a contract under section 302(a).

''(2) SPENT NUCLEAR FUEL POOL.—The term 'spent nuclear fuel pool' means a water-filled container in which spent nuclear fuel rods are stored.

''(3) SPENT NUCLEAR FUEL DRY CASK.—The term 'spent nuclear fuel dry cask' means the container, and all the components and systems associated with the container, in which spent nuclear fuel is stored at a Commission-licensed independent spent fuel storage facility located at the power reactor site. The design of any such spent nuclear fuel dry cask shall be approved by the Commission.

''(b) TRANSFER OF SPENT NUCLEAR FUEL.—

''(1) IN GENERAL.—A contractor shall transfer spent nuclear fuel from spent nuclear fuel pools to spent nuclear fuel dry casks at a Commission-licensed independent spent fuel storage facility located at the power reactor site.

''(2) SPENT NUCLEAR FUEL STORED AS OF DATE OF ENACTMENT.—A contractor shall complete the transfer of all spent nuclear fuel that is stored in spent nuclear fuel pools as of the date of enactment of this subsection not later than 6 years after the date of enactment of this subsection.

''(3) SPENT NUCLEAR FUEL STORED AFTER DATE OF ENACTMENT.—A contractor shall complete the transfer of any spent nuclear fuel that is stored in a spent nuclear fuel pool after the date of enactment of this subsection not later than 6 years after the date on which the spent nuclear fuel is discharged from the reactor.

''(4) INADEQUATE FUNDS.—If funds are not available to complete a transfer under paragraph (2) or (3), the contractor may apply to the Commission to extend the deadline for the transfer to be completed.

''(c) FUNDING.—The Secretary shall make grants to compensate a contractor for expenses incurred in carrying out subsection (b), including costs associated with—

''(1) licensing and construction of an independent spent fuel storage facility located at the power reactor site;

''(2) construction and delivery of spent nuclear fuel dry casks;

''(3) transfers of spent nuclear fuel;

''(4) documentation relating to the transfers;

''(5) security; and

''(6) hardening.

''(d) CONVEYANCE OF TITLE.—

''(1) DETERMINATION.—Not later than 30 days after the transfer of spent nuclear fuel from a spent nuclear fuel pool to a spent nuclear fuel dry cask, the Commission shall determine whether the contractor carried out the transfer in full compliance with regulations promulgated by the Commission.

''(2) NONCOMPLIANCE.—If the Commission determines that any technical standard or compliance provision under the regulations was not complied with, the Commission shall—

''(A) notify the contractor; and

''(B) take such actions as are necessary to obtain full compliance.

''(3) CERTIFICATION AND CONVEYANCE OF TITLE.—When the Commission determines that the contractor has fully complied with the regulations—

''(A) the Commission shall certify that safe transfer has been accomplished; and

''(B) the Secretary shall accept the conveyance of title to the spent nuclear fuel dry cask (including the contents of the cask) from the contractor.

''(4) RESPONSIBILITY.—A conveyance of title under paragraph (3)(B) shall confer on the Secretary full responsibility (including financial responsibility) for the possession, stewardship, maintenance, and monitoring of all spent nuclear fuel transferred to the Secretary.''.

(b) FUNDING.—Section 302(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(d)) is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(7) the provision of grants under section 185(d).''.

SEC. 3. IMMEDIATE CONVEYANCE OF TITLE TO SPENT NUCLEAR FUEL PREVIOUSLY CERTIFIED TO BE IN COMPLIANCE.

Not later than 30 days after the date of enactment of this Act, the Secretary of Energy shall accept the conveyance of title to all spent nuclear fuel with respect to which, before the date of enactment of this Act, the Nuclear Regulatory Commission has certified that a contractor under section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) has completed transfer to spent nuclear fuel dry casks in compliance with applicable regulations in effect as of the date of transfer.

By Mr. SMITH (for himself and Mr. KERRY):

S. 2100. A bill to amend the Internal Revenue Code of 1986 to improve the deduction for depreciation; to the Committee on Finance.

Mr. SMITH. Mr. President, our economy has changed dramatically in recent years as a result of the development of new technologies and industries. However, we have not updated our tax depreciation system to reflect these advancements. In fact, the recovery periods used to calculate depreciation allowances have not been adjusted since 1986—and in some cases not since 1962. For example, a personal computer has a depreciable life of 5 years even though its economic life is only 2 to 3 years.

Today, I am introducing legislation that will respond to these changes by modernizing and simplifying the tax depreciation rules. Senator KERRY has joined me in introducing the Tax Depreciation, Modernization and Simplification Act of 2005, which will encourage capital investment and make it easier for companies to comply with the tax law.

This legislation will allow the Treasury Department, in consultation with Congress, to modify and create new class lives for capital assets. Any new classification created by the Treasury Department must reflect the anticipated useful life and decline in value over time of the asset. In addition, it should take into account when the asset is technologically or functionally obsolete for its original purpose. With this new regulatory authority, Treasury will be able to develop class lives that are more in line with assets' economic lives.

Another provision in this legislation deals with the mid-quarter convention. The mid-quarter convention is one of the placed-in-service conventions that directs when depreciation for an asset begins or ends. The mid-quarter convention, however, creates significant complexity. Taxpayers must wait until after the tax year ends to determine whether to use the half-year or mid-quarter convention. Therefore, consistent with a Joint Committee on Taxation recommendation, the bill eliminates the mid-quarter convention for simplification purposes.

Small businesses are the heart of our economy. We, in Congress, should do everything we can to ease the administrative burdens for small businesses. That is why we should make small business expensing permanent. These rules permit small businesses to expense immediately up to $100,000 of the cost of property each year. This proposal will maintain this important simplification which is set to expire at the end of 2007.

Finally, this legislation will allow for mass asset accounting. Currently, companies must generally calculate depreciation on an item-by-item basis. For example, if a company has 200 desks or 200 computers, they must account for and depreciate each item separately. This can be a challenge and an administrative burden for companies—especially with small items, like chairs and telephones. Therefore, the bill will permit all companies to elect to use mass asset accounting for property that costs less than $10,000.

The bipartisan Tax Depreciation, Modernization and Simplification Act of 2005 will make much needed changes to the tax depreciation system. I look forward to working with my colleagues to enact these important reforms and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2100

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 ''Tax Depreciation, Modernization, and Simplification Act of 2005''.

SEC. 2. AUTHORITY TO MODIFY CLASS LIVES.

(a) IN GENERAL.—Paragraph (1) of section 168(i) of the Internal Revenue Code of 1986 is amended to read as follows:

''(1) CLASS LIFE.—

''(A) IN GENERAL.—Except as provided in this section, the term 'class life' means the class life (if any) which would be applicable with respect to any property as of January 1, 1986, under subsection (m) of section 167, as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990 (determined without regard to paragraph (4) thereof and as if the taxpayer had made an election under such subsection).

''(B) SECRETARIAL AUTHORITY.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Secretary, after consultation with Congress, may prescribe by regulation—

''(I) a new class life for any property, or

''(II) a class life for any property which does not have a class life within the meaning of subparagraph (A).

''(ii) EXCEPTIONS.—Clause (i) shall not apply to—

''(I) residential rental property or nonresidential real property, or

''(II) property for which a class life, classification, or recovery period is assigned under subsection (e)(3) (other than subparagraph (C)(v) thereof) or subparagraph (B), (C), or (D) of subsection (g)(3).

''(iii) STANDARDS.—Any class life prescribed or modified under clause (i) shall reasonably reflect the anticipated useful life and the anticipated decline in value over time of the property to the industry or other group, and shall take into account when the property is technologically or functionally obsolete for the original purpose under which it was acquired.

''(iv) CONSULTATION.—Not later than 60 days before the date on which the Secretary publishes any proposed regulation under clause (i), the Secretary shall submit to Congress the proposed regulation together with a report containing the information considered by the Secretary in modifying or prescribing any class life under the regulation.

''(v) MONITORING.—The Secretary, through an office established in the Treasury, shall monitor and analyze actual experience with respect to depreciable assets to which this subparagraph applies.

''(C) EFFECT OF MODIFICATION.—Any class life with respect to any property prescribed or modified under subparagraph (B) shall be used in classifying such property under subsection (e) and in applying subsection (g).''.

(b) APPLICATION OF CONGRESSIONAL REVIEW ACT.—For purposes of applying chapter 8 of title 5, United States Code, to any regulation prescribed under section 168(i)(1)(B) of the Internal Revenue Code of 1986, each class life prescribed under such section shall be considered to be a separate rule.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 3. ELIMINATION OF MID-QUARTER CONVENTION.

(a) IN GENERAL.—Subsection (d) of section 168 of the Internal Revenue Code of 1986 is amended—

(1) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3), and

(2) in paragraph (3), as redesignated by paragraph (1), by striking subparagraph (C).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 4. MASS ASSET ACCOUNTING.

(a) IN GENERAL.—Section 168 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(l) MASS ASSET ACCOUNTING.—

''(1) ELECTION.—

''(A) IN GENERAL.—In lieu of the deduction otherwise allowed under this section with respect to an item of qualified property, the taxpayer may elect to add the adjusted basis of such property to the mass asset account of the taxpayer to which such qualified property is assigned and to determine the deduction under this section using the applicable depreciation method with respect to such mass asset account.

''(B) ELECTION TO APPLY TO ALL ASSETS OF THE TAXPAYER WITH SAME RECOVERY PERIOD.—An election made under subparagraph (A) shall be made in such manner as the Secretary may by regulations prescribe and shall apply to all qualified property of the taxpayer which has the same applicable recovery period for such taxable year and all subsequent taxable years.

''(C) ELECTION IRREVOCABLE.—Any election made under this paragraph shall be irrevocable except with the consent of the Secretary. The Secretary shall prescribe rules for the proper accounting of assets in a mass asset account in the case of any such revocation.

''(2) SPECIAL RULES.—

''(A) MODIFICATION OF DEPRECIATION METHOD.—In applying the applicable depreciation method to any mass asset account, subsection (b) shall be applied without regard to paragraph (1)(B) thereof.

''(B) ADJUSTMENT TO REFLECT HALF-YEAR CONVENTION.—In applying the deduction allowable under subsection (a) to any mass asset account, the amount of the deduction under subsection (a) shall be—

''(i) 100 percent of the deduction otherwise allowed under this section in the case of qualified property placed in service before the beginning of the taxable year, and

''(ii) 50 percent of the deduction otherwise allowed under this section with respect to qualified property placed in service during the taxable year.

''(C) SALE OF QUALIFIED PROPERTY.—

''(i) IN GENERAL.—In the case of the sale of any property the adjusted basis of which has been added to a mass asset account, the balance of the mass asset account to which such property was assigned shall be reduced (but not below zero) by the amount of the proceeds from such sale.

''(ii) RECOGNITION OF GAIN.—If the proceeds from the sale of any property the adjusted basis of which has been added to a mass asset account exceed the balance of such mass asset account, then the excess shall be treated as ordinary income.

''(3) QUALIFIED PROPERTY.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified property' means any tangible property—

''(i) to which an applicable depreciation method under paragraph (1) or (2) of subsection (b) applies, and

''(ii) the cost of which is not more than $10,000.

''(B) INFLATION ADJUSTMENT.—

''(i) IN GENERAL.—In the case of any taxable year beginning after 2006, the $10,000 amount under subparagraph (A)(ii) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

''(ii) ROUNDING.—If any amount as adjusted under the clause (i) is not a multiple of $1,000, such amount shall be rounded to the next lowest multiple of $1,000.

''(4) MASS ASSET ACCOUNT.—The term 'mass asset account' means an account of the taxpayer which reflects the adjusted basis of all qualified property to which the same applicable depreciation method and applicable recovery period applies.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

SEC. 5. PERMANENT EXTENSION OF EXPENSING FOR SMALL BUSINESSES.

(a) DOLLAR LIMITATION.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1986 is amended by striking ''$25,000 ($100,000 in the case of taxable years beginning after 2002 and before 2008)'' and inserting ''$100,000''.

(b) REDUCTION IN LIMITATION.—Paragraph (2) of section 179(b) of such Code is amended by striking ''$200,000 ($400,000 in the case of taxable years beginning after 2002 and before 2008)'' and inserting ''$400,000''.

(c) INFLATION ADJUSTMENTS.—Subparagraph (A) of section 179(b)(5) of such Code is amended by striking ''and before 2008''.

(d) ELECTION.—Paragraph (2) of section 179(c) of such Code is amended by striking ''and before 2008''.

(e) COMPUTER SOFTWARE.—Clause (ii) of section 179(d)(1)(A) is amended by striking ''and before 2008''.

Mr. KERRY. Mr. President, today Senator SMITH and I are introducing the Tax Depreciation, Modernization, and Simplification Act of 2005. Last July, the Senate Finance Subcommittee on Long-Term Growth and Debt Reduction, on which Senator SMITH is chairman and I am ranking member, held a hearing on updating our depreciation system. During the hearing, we heard that the current depreciation system is out of date and that changes should be made.

Our tax system allows, as a current expense, a depreciation deduction that represents a reasonable allowance for the exhaustion, wear and tear of property used, or of property held for the production of income. Since 1981, the

depreciation deduction for most tangible property has been under rules specified in section 168 of the Internal Revenue Code. The Modified Accelerated Cost Recovery System, or MACRS, specified under section 168 applies to most new investment in tangible property. MACRS depreciation allowances are computed by determining a recovery period called a class life and an applicable recovery method for each asset.

The current depreciation system has not kept pace with technological advances. Several industries were not even contemplated when class lives were assigned in 1981, and some class lives even date back to 1962.

In the 1980s it would have been difficult to imagine what our reliance on computer and wireless technology would be today. At that time, for example, the wireless industry was in its infancy, and there was no specifically assigned life for wireless equipment. As a result, today's depreciation system is like playing ''audit roulette.'' There is no certainty in how these assets should be depreciated.

All this matters because it impacts investment, innovation, competitiveness, and ultimately the quality and quantity of jobs in America. My home State of Massachusetts is a leader in the high tech industry. Massachusetts employs hundreds of thousands of skilled workers in key technology sectors, including computer hardware, life sciences, software, medical products, semiconductor, defense technology and telecommunications. We have learned in Massachusetts that a strategic tax policy can have a positive effect on economic competitiveness.

For these reasons, we are introducing the Tax Depreciation, Modernization, and Simplification Act of 2005. This legislation makes four important changes to the current depreciation system.

First, the legislation creates a process that provides the Department of Treasury with the authority to modernize class lives. The Secretary of the Treasury will prescribe regulations to provide a new class life for certain eligible property. Eligible property does not include residential rental property, nonresidential real property, or property for which Congress has specifically legislated the recovery period.

The purpose of this provision is to provide Treasury with a mechanism to modify class lives that reasonably reflect the anticipated useful life and the anticipated decline in value over time of the property to the industry and take into account when the property becomes technologically or functionally obsolete to perform its original purpose. Treasury will also have the authority to modify class lives in order to more accurately reflect economic depreciation. For example, a personal computer has a depreciable life of 5 years, but it has an economic life of only 2 to 3 years. Even though a computer can be used for 5 years, it becomes economically obsolete after a couple of years because of the newer, faster, and more advanced computers on the market.

Our depreciation system has not been adequately updated since Congress revoked Treasury's rule making authority in 1988. When the MACRS system was enacted in 1986, Congress directed Treasury to establish an office to monitor and analyze the actual experience with class lives and to modify class lives if the new class life reasonably reflected the anticipated useful life and the anticipated decline in value over time of the property to the industry. The authority was then revoked because Congress did not agree with all of the decisions made by Treasury.

The authority provided in this legislation addresses this previous problem by requiring Treasury to consult with Congress 60 days prior to publishing any proposed regulations. In addition, the Congressional Review Act would apply to any regulation proposed by Treasury and each class life prescribed by Treasury would be considered a separate rule.

Providing Treasury with the authority to modify class lives would allow the process to move more efficiently than allowing Congress to make piecemeal changes to the current depreciation system. Congress would provide guidelines, and Treasury would have the role of administering the guidelines. Under the legislation, Treasury would monitor and analyze the actual experience of depreciable assets and report their findings to Congress. We expect Treasury to establish guidelines that will take into consideration the fact that some assets lose a significant percentage of their original value in the early part of their lives. This legislation specifically provides consultation with Congress in order for Congress to continue to have a role in this important tax policy issue.

We do not expect Treasury within the first year or two to review all classes of assets. Rather, we expect Treasury to begin with new assets that do not fit into the system, assets that have underdone technological advances, and existing assets that do not really fit into the current system. For example, the current system creates an irrational result for fiber optic lines. The class life of a fiber optic line depends upon whether if it is used for one-way or two-way communications.

Second, the legislation would eliminate the mid quarter convention. The placed-in-service conventions determine the point in time during the year that the property is considered ''placed in service'' and this determines when depreciation for an asset begins or ends. Under current law, there are the half-year, mid month, and mid quarter conventions. The mid quarter convention is a source of complexity because it requires an analysis of the depreciable basis of property placed in service during the last 3 months of any taxable year. The Joint Committee on Taxation recommended the elimination of the mid-quarter convention in its 2001 recommendations on simplifying the Federal tax system. The calculation of the mid-quarter convention is burdensome, and it requires taxpayers to wait until after the end of the taxable year to determine whether the proper placed-in-service convention was used to calculate depreciation for assets during the taxable year.

Third, the legislation would allow taxpayers to elect to use mass asset accounting for assets with a cost of less than $10,000. Generally, taxpayers calculate depreciation on an item-by-item basis. The bill would allow taxpayers to elect to use mass asset accounting for all assets with the same recovery period. This provision will help simplify the recordkeeping associated with depreciation.

Fourth, the legislation would permanently extend increased expensing for small businesses. In lieu of depreciation, a taxpayer with a small amount of annual investment may elect to deduct such costs. The Jobs and Growth Tax Relief Reconciliation Act of 2003 increased the amount a taxpayer may deduct from $25,000 to $100,000 and increased the total amount of investment a business can make in a year and still qualify for expensing from $200,000 to $400,000. In addition, the Act allows off-the-shelf computer software to be eligible for the provision. These changes originally were effective for 3 years. The American Jobs Creation Act of 2004 provided an additional 2 year extension of this provision through 2007.

The Tax Depreciation, Modernization, and Simplification Act of 2005 would make the $100,000 and $400,000 amounts permanent and index them for inflation. Off-the-shelf computer software would be eligible for the provision. Increased expensing for small businesses helps lower the cost of capital for small businesses and eliminates complicated recordkeeping. In addition, it should reduce administrative costs for small businesses.

The provisions in this legislation will not be the only recommendations made on how to improve our current depreciation system, but the four components of this legislation will result in updating and simplifying the current depreciation system. The Tax Depreciation, Modernization, and Simplification Act of 2005 will provide certainty for taxpayers and put an end to ''audit roulette.''

By Mr. REID (for Mr. LIEBERMAN (for himself, Mr. COCHRAN, Mr. CARPER, and Mrs. HUTCHISON)):

S. 2104. A bill to amend the Public Health Service Act to establish the American Center for Cures to accelerate the development of public and private research efforts towards tools and therapies for human diseases with the goal of early disease detection, prevention, and cure, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

Mr. LIEBERMAN. Mr. President, today, Senator COCHRAN, Senator CARPER, Senator HUTCHISON, and I are introducing the American Center for CURES Act of 2005, which would establish the American Center for Cures, within the National Institutes of Health (NIH). The purpose of the Center would be to bring promising and novel diagnostics, therapies, drugs, and tools to treat disease faster to the public.

We continue to face significant health challenges. In the US today, chronic diseases account for 7 out of 10 deaths, with the major killers being heart attack, cancer and stroke. Seventy percent of the $1.7 trillion dollars we spend on healthcare each year goes to chronic disease care. Around the world, HIV, tuberculosis, and malaria kill 4, 3, and 2 million people a year. On the horizon are emerging manmade and natural threats such as SARS, flu and bioterrorism. There are other diseases that we need better treatments and cures for, but that we do not devote enough attention to. Diseases of social stigma, such as depression, which is the most frequent reason people visit their physician, and seizure disorder, which is the primary neurological disorder in children, are often neglected. We have bacteria growing and spreading in our hospitals that do not respond to our antibiotic supply. These are the health challenges facing us in the 21st century.

Fortunately, the United States has no equal in the biomedical sciences. This is due in large part to our nation's premier biomedical research investment the—NIH, which receives $28 billion per year after a doubling of their budget of $14 billion from 1998 to 2003. The NIH is comprised of 27 major institutes and centers, leading the way for the world in cancer, cardiovascular, infectious disease and allergy advancements for health promotion and relief from the burdens of disease. US biomedical advances are also due to our dynamic biotechnology and pharmaceutical sectors.

In our search for answers to our pressing health problems, the NIH has grown in the number of Institutes and Centers and in funding. At the same time, Congress and others have wanted to ensure that we are building on NIH's strengths to respond to complex health problems requiring interdisciplinary and collaborative work. Therefore, Congress commissioned the 2003 National Academy of Sciences report, ''Enhancing the Vitality of the National Institutes of Health: Organizational Change to Meet New Challenges'', that examined whether and how we could optimize the NIH's organizational structure to meet our next set of health challenges.

The report stated that ''no organization as important as NIH should remain frozen in organization space''. At the same time, the report cautioned that any changes in organizational structure to achieve greater progress in chronic and emerging diseases were not without some difficulty and risk. The NAS report made a number of recommendations and our CURES legislation addresses the six major points.

First, CURES seeks to strengthen the clinical research process by streamlining the clinical trials process by creating Centralized Internal Review Boards (CIRB). CIRB's would focus on simplifying the human subjects review processes for multi-institutional clinical trials. CURES also significantly augments current NIH investments to train the clinical research workforce of the future, and provides additional funding for multidisciplinary teams of researchers examining issues of quality and design of clinical trials. We need to continue to bring safe and effective diagnostics and therapeutics, but more efficiently.

Secondly, our proposal enhances and increases trans-NIH strategic planning and funding. Currently, the NIH's 27 Centers and Institutes each have their own directors and budgets and thus, operate independently. The resulting structural and organizational stovepipes are limited in their ability to capitalize on the NIH's collective research capacity to address complex problems using the expertise of multiple fields. For example, the problem of diabetic retinopathy could be tackled by researchers in the Institutes of the Eye, Diabetes, Digestive and Kidney disease, Biomedical Imaging and Bioengineering, and Allergy Immunology and Infectious disease. However, there are few mechanisms for such trans-Institute initiatives that could lead to a cure or treatment. To address this problem, CURES has created multiple funding mechanisms for trans-Institute research and cross-fertilization of ideas. Strategic planning and prioritizing disease research is also integral to achieving progress more quickly. Therefore, the American Center for CURES Act would establish a CURES council, comprised of key health stakeholders to produce a translational research agenda for the Center based on research breakthroughs and areas of health need.

Thirdly, the American Center for CURES Act of 2005 strengthens the Office of the NIH Director. Our legislation emphasizes the need for greater budgetary support and flexibility in the area of translational research. This follows much of the NIH Director's current efforts with the NIH Roadmap. Our legislation further supports the spirit of the NIH Roadmap with organizational and funding commitments that bring translational research investment to a necessary and appropriate scale, which has not been the case to date. The NIH Director, with the CURES Advisory Council, would play a key role in these efforts by recommending appointees for the Director of the American Center for CURES to the President. The NIH Director will also be a co-chair of the Center's Council and have a leading role in setting the research and funding priorities for translational research projects at the NIH. The NIH Director will also head other initiatives outlined in the legislation, such as launching a publicly accessible electronic database for all published NIH funded research.

Fourth, our legislation creates a Director's Special Projects Program, called the Health Advanced Research Projects Agency (HARPA). The NAS committee recommended the creation of a program to support high-risk, high-potential payoff research. The Department of Defense has had significant success with its Defense Advanced Research Program Agency (DARPA), where a group of expert portfolio managers invest in and oversee innovative, multidisciplinary, collaborative projects to advance specific fields or to develop needed technologies. DARPA has lead to the creation of stealth technology, satellite surveillance, lasers, internet, and e-mail. Based on this model, HARPA would be housed within the Center and would help lead breakthrough advances using a translational ''challenge model'' in biomedical research. Breakthroughs could include a vaccine or other treatment against HIV or genetic probes pivotal to the elucidation of disease producing genes. HARPA would also be the key funding mechanism for trans-Institute research to prioritize and foster collaborative and trans-Institute research initiatives.

Fifth, the NAS report recommended that the NIH intramural research program be more unique, innovative, and risk-taking. In response, CURES creates an Office of Intramural Risk Mapping, within the Office of Technology Transfer, which will oversee NIH's intramural research programs to help assure they are complementary to extramural and private sector research. The Office will also ensure that intramural research is also innovative and risk-taking to produce more novel and promising biomedical breakthroughs. The office will also make funds available to trans-Institute and center initiatives that focus on health risk analysis and corresponding scientific risk opportunity.

Sixth, our legislation addresses the NAS report recommendation to standardize data and information management systems. The report was clear that the NIH must increase its capacity for data gathering and reporting to meet its obligations ''. . . for effective management, accountability, and transparency.'' Cures seek to improve the sharing of information by providing funding to the National Library of Medicine to create and maintain a publicly accessible database of all publications resulting from NIH-funded research and by establishing a national electronic registry and results database to increase enrollment in public and private clinical trials and to share

efficacy and safety outcomes emanating from NIH-funded clinical research endeavors. Cures focuses on the need to expand the NLM facilities according to the demands of new scientific discoveries and fields, especially within the areas of genomics and proteinomics.

In addition to the NAS report recommendations, other changes in the biomedical research landscape demand more targeted investments in promising and novel treatments. Our current response to research on important health problems is arguably dichotomous. We invest public money into the NIH or we hope the private market will produce essential drugs and tools. However, there needs to be greater collaboration between the private and public sectors. Private sector investment in biomedical research has grown to approximately $46 billion per year—far more than our public sector investment in NIH. For new and effective therapies to become available, we need to build better public and private partnerships. Cures includes key provisions to accomplish this. Cures promotes the innovative efforts of small to medium sized biotechnology and bioengineering firms who require additional support in key traditionally under-funded stages of product development—the so called R&D ''Valley of Death.'' It expands the NIH's current small business support and rapid access to interventional development programs to move basic science through the product development pipeline faster. These programs would facilitate NIH partnerships with private industry in the preclinical stage of the R&D process so as to formulate a plan for health research translation and commercialization from the outset. Additionally, our legislation would move the NIH's Office of Technology Transfer into the American Center for Cures, where it would survey research being conducted in the private and public sectors to avoid duplication, target promising research investments, and broker more flexible and productive agreements for licensing and patents between the public and private sectors. The HARPA entity within the center is also designed to promote public-private joint R&D efforts.

Today, we are proposing the establishment of the American Center for Cures, whose mission would be to promote more rapid translation of public and private research into therapies, diagnostics and tools, which can effectively treat and possibly cure diseases of critical importance to domestic and global health. With more targeted investment in translating our basic science research into diagnostics and therapeutics, we hope to bring more tangible health benefits to Americans and people all over the world.

I ask unanimous consent that explanatory materials on the legislation including, ''Short Summary of the American Center for CURES Act of 2005,'' ''Explanation of How the American Center for CURES Act of 2005 Addresses the Findings of the 2003 National Academy of Sciences Report: 'Enhancing the Vitality of the National Institutes of Health: Organizational Change to Meet New Challenges','' ''Section by Section Summary of the American Center for CURES Act of 2005,'' the full text of the legislation, and ''Quotes in Support of the American Center for CURES Act of 2005'' be printed in the RECORD.

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

A SHORT SUMMARY OF THE AMERICAN CENTER FOR CURES ACT OF 2005

A bill to facilitate more rapid development of novel diagnostics, therapies, and cures

From 1998–2003, Congress doubled funding to the world's leader in biomedical research, the National Institutes of Health (NIH), to $28 billion per year. In order to meet 21st century health challenges and optimize the use of this public investment, Senators Lieberman and Cochran have introduced legislation to increase the capacity of the NIH to produce effective treatments, diagnostics and cures for our nation's most burdensome diseases using a novel approach to publicly funded research.

Cures will do the following:

Create an American Center for Cures (ACC) in the NIH to orchestrate focused research and development of solutions to pressing ailments. The ACC, led by a Center Director, will identify and promote translational research, which involves developing basic science research for application purposes, in the public and private sectors. The ACC will fund innovative and collaborative research, breakdown bottlenecks in clinical research, and facilitate information exchange.

Establish an advisory council comprised of key health experts and stakeholders to advise the ACC on national medical needs and novel developments in all sectors. To use public funds effectively, a centralized mechanism to track research on health threats is necessary. A Council will inform the ACC on biomedical needs, technical feasibility issues, and current research breakthroughs.

Create a Health Advanced Projects Agency for research promotion. A research projects agency will promote strategic risk-taking and follow a ''challenge model'' to support innovative multidisciplinary research between NIH Institutes, other federal agencies, grantees and business partners, for projects with the potential for significant health impact. Funding for projects will be flexible and outcomes based.

Promote the innovative efforts of small to medium sized biotechnology and bioengineering firms. The ACC will support firms requiring assistance in key traditionally underfunded stages of research and development, the R&D ''Valley of Death''. Funding will be available to assist companies with promising and novel therapeutics and diagnostics in both preclinical and clinical stages.

Strengthen the clinical research process. Clinical trials are essential to ensuring the safety and efficacy of new products. The ACC will streamline clinical trial protocols to supply the public with new treatments in a timelier, more efficient, and more economical way. It will augment NIH training funds to create a clinical research workforce of the future. It will establish a clinical trial registry and results database to promote information sharing and to avoid duplicative efforts.

Facilitate complete and efficient transfer of intellectual property from development at the molecular level to clinical trials and into production. Active participation of the commercial sector in development is critical. An Office of Technology Transfer in the ACC will catalog and disseminate the NIH translational research portfolio and oversee NIH intellectual property licensing.

EXPLANATION OF HOW THE AMERICAN CENTER FOR CURES ACT OF 2005 ADDRESSES THE FINDINGS OF THE 2003 NATIONAL ACADEMY OF SCIENCES REPORT: ''ENHANCING THE VITALITY OF THE NATIONAL INSTITUTES OF HEALTH: ORGANIZATIONAL CHANGE TO MEET NEW CHALLENGES''

BACKGROUND

The health challenges facing the U.S. and the world today are a mix of infectious diseases, such as HIV, tuberculosis and malaria, long-standing chronic such as diabetes and cancer, and new emerging threats, such as SARS and avian influenza. In the context of these growing concerns, Congress commissioned the National Academy of Sciences (NAS) in 2001 to report on ''whether the current structure and organization of NIH are optimally configured for the scientific needs of the 21st century.'' Indeed, NIH is America's premier public research investment and between 1998 and 2003, the NIH budget of $14 billion dollars doubled to $28 billion. By commissioning the NAS report, Congress asked how it might optimize its burgeoning research investment. Congress solidified its support for the NIH but simultaneously posed questions of NIH can best address domestic and global health needs:

Are the 27 NIH Institutes and Centers able to coordinate their research goals and priorities to reflect the multidisciplinary nature of today's health problems?

How is the NIH producing and sharing biomedical knowledge from multiple disciplines to spur the development of clinical tools, drugs, and other therapies to battle long-standing and emerging diseases?

Can the NIH respond effectively to acute health threats, such as to burgeoning HIV infection rates and the threat of a bioterrorism attack?

Is the NIH cultivating the next generation of researchers to build upon the great works of NIH past?

The end result was the 2003 NAS and Institute of Medicine (IOM) report, ''Enhancing the Vitality of the National Institutes of Health: Organizational Change to Meet New Challenges''. The report reinforced NIH successes over the last 50 years as the national and global leader in biomedical research. NIH accomplished this by developing a cutting edge internal research infrastructure and a democratic extramural grant program that almost single-handedly supports University-based research in the biological sciences. However, the report also cautioned that ''no organization as important as NIH should remain frozen in organizational space'' and any changes in organizational structure to achieve greater progress in chronic and emerging diseases, however essential, would face difficulty and risk.

NAS REPORT FINDINGS

The NAS report made a total of 14 recommendations. In the final analysis, the NAS report recommended maintaining the general structure of NIH to ensure NIH's strengths would be protected: conducting essential basic science, and disease, behavioral, organ, and system based research in its intramural program and funding peer-reviewed grants to University researches in its extramural program. However, the report also recognized the need for organizational changes which could help institutes work across their respective stovepipes, foster a culture of risk-taking and innovation, and

give the NIH director, other leadership, and the public the power to prioritize NIH research to solve the Nation's most burdensome health problems. Collectively, these changes would enhance the capacity of the NIH to not only pursue fundamental knowledge about the nature and behavior of living systems, but to apply that knowledge to extend healthy life and reduce the burdens of illness and disability. This is NIH's mission.

CURES ADDRESSES THE SIX KEY RECOMMENDATIONS OF THE NAS REPORT

1. Strengthen Clinical Research: The NAS report recommended that the NIH ''pursue a new organizational strategy to better integrate leadership, funding, and management of its clinical research enterprise''. Senators Lieberman, Cochran, Carper, and Hutchison are introducing a proposal that creates the American Center for Cures (ACC), headed by a Cures Director. One of the new Director's key charges will be to promote and simplify the clinical research endeavor. The Director will establish a national electronic registry and results database for clinical trials in order to increase enrollment of research subjects and improve sharing efficacy and safety outcomes emanating from the clinical research endeavor. The Director will fund multidisciplinary clinical research teams in the academic and private sector, create Centralized Internal Review Boards (CIRB) to simplify the human subjects review processes for multi-institutional clinical trials, and augment NIH investments in training the clinical research workforce of the future.

2. Enhance and Increase Trans-NIH Strategic Planning and Funding: The 27 NIH Centers and Institutes with their own directors and budgets generally operate independently. The resulting structural and organizational stovepipes are limited in their ability to capitalize on the NIH's collective research capacity to address complex problems from different fields. For example, the problem of diabetic retinopathy could be tackled by researchers in the Institutes of the Eye, Diabetes, Digestive and Kidney disease, Biomedical Imaging and Bioengineering, and Allergy Immunology and Infectious disease. To address this problem, Cures funds innovative multidisciplinary collaborative research across NIH institutes and centers. NIH Institute and Center Directors on the Cures Council will be entrusted to coordinate the intramural research agenda with that of the ACC.

3. Strengthen the Office of the NIH Director: The NAS report emphasizes the need for the NIH Director to have more budgetary support and flexibility. Dr. Zerhouni's office has taken these steps with the NIH Roadmap. The Cures legislation further supports the spirit of the NIH Roadmap with organizational and funding commitments that bring the translational research investment to necessary and appropriate scale. The NIH Director and the Cures Advisory Council will recommend appointees for the Cures Director to the President. The NIH Director will be a co-chair of the ACC Council that will set the research and funding priorities for translational research projects at the NIH. The NIH Director will head efforts to establish a publicly accessible electronic database for all published NIH funded research, among other initiatives.

4. Create a Director's Special Projects Program: The NAS committee recommended the creation of a program to support high-risk, high-potential payoff research. The Department of Defense has had significant success with its Defense Advanced Research Program Agency (DARPA), where a group of expert portfolio managers invest in and oversee innovative, multidisciplinary, collaborative projects to advance specific fields or to develop needed technologies. DARPA has lead to the creation of the stealth technology, satellite surveillance, lasers, internet, and email. A Health Advanced Research Program Agency (HARPA) will be established within the ACC to help lead breakthrough advances, using a translational ''challenge'' model in biomedical research, such as a vaccine against HIV or genetic probes pivotal to the elucidation of disease producing genes.

5. Promote Innovation and Risk-Taking in Intramural Research: The NAS report recommended that the NIH intramural research portfolio be distinct from that of the extramural program and private sector. Cures creates an Office of Intramural Risk Mapping which will oversee the intramural research programs of the NIH to be certain they are complementary to extramural and private programs. The office will make funds available to groups of institutes and centers to promote engagement in multi-institute projects that focus on health risk analysis and corresponding scientific risk opportunity.

6. Standardize Data and Information Management Systems: The NAS committee recommended that the NIH must increase its capacity for data gathering and reporting to meet its obligations ''. . . for effective management, accountability, and transparency''. Cures seeks to improve the sharing of information by providing funding to the National Library of Medicine to create and maintain a publicly accessible database of all publications resulting from NIH-funded research and by establishing a national electronic registry and results database to increase enrollment in public and private clinical trials and to share efficacy and safety outcomes emanating from the clinical research endeavor. Cures focuses on the need to grow the NLM facilities according to the demands of new scientific discoveries and fields, especially within the areas of genomics and proteinomics.

CURES BUILD ON THE NIH ROADMAP

In response to the NAS report, NIH Director Dr. Elias Zerhouni launched the NIH Roadmap in FY 2004 with $128 million in funding from existing NIH budget allocations. Funding increases every year until FY 2009 and tops out at $507 million. The NIH Roadmap consists of:

New Pathways to Discovery to obtain a deeper understanding of biological systems based on new models.

Research Teams of the Future to facilitate collaboration across institutes by awarding grants to support institutional partnerships and cutting-edge research.

Re-engineering the Clinical Research Enterprise reforms the clinical trial process to allow for broader participation from community-level patients and providers.

While the NIH roadmap addresses some of the concerns of the NAS report, it does not address key provisions including increasing the power of the NIH Director, establishing an advanced research projects agency, and establishing a new leadership that can facilitate the research essential to moving products faster from bench to bedside. Unlike CURES, the roadmap relies on traditional academic-government relationships. CURES builds on the Roadmap to cultivate new relationships between NIH researchers and innovative industrial partners. Unlike the roadmap, which asks the NIH to focus on new priorities with old tools and funds, Cures provides much higher levels of funding for a Center uniquely devoted to translating research to produce new therapies and even cures to the most important diseases.

SECTION BY SECTION SUMMARY OF THE AMERICAN CENTER FOR CURES ACT OF 2005

A bill to facilitate more rapid development of novel diagnostics, therapies and cures critical to national and global health

Background

When it comes to investments and advancements in biomedical research, the United States has no equal. Its National Institutes of Health (NIH) is the world's largest public source of biomedical research funding with an annual budget of over $28 billion. The NIH is comprised of 27 major institutes and centers, leading the way in cancer, cardiovascular, infectious disease and allergy advancements for health promotion and relief from the burdens of disease.

The private sector is also investing substantial resources in increasing both longevity and quality of life. These companies now invest more than the federal government in biomedical research and development (R&D). Potent pharmaceuticals and cutting edge medical devices provide health care professionals with a therapeutic arsenal that has increased lifespan seven years since 1960 and dropped neonatal mortality four fold. Partnerships between NIH and private industry are not often recognized for their key roles in bringing new treatments to the public, but are of great importance as they have led to life-changing therapies from to Taxol to Claritin to HIV anti-retrovirals.

But how can biomedical R&D proceed even faster? How can partnerships between NIH's Institutes and Centers, disease-based NGO's, biotech companies and small and large pharmaceuticals occur even more frequently? Towards which diseases should our resources be prioritized in the first place? How can NIH and the private sector be more responsive to emerging public health threats such as bioterrorism, an avian flu pandemic, antibiotic resistance, and a waning vaccine supply?

Center for Cures

In response to these pressing questions and the capacity of the NIH to address our health needs, Senators Lieberman, Cochran, Carper and Hutchison are proposing a $5 billion dollar annual investment to create the American Center for Cures (ACC). The mission of this new NIH Center will be to promote more rapid translation of public and private research into therapies, diagnostics and tools, which can effectively treat and possibly cure diseases of critical importance to domestic and global health. The ACC will enhance NIH's ability to not only pursue fundamental knowledge about the nature and behavior of living systems, but to apply that knowledge to extend healthy life and reduce the burdens of illness and disability. This is NIH's mission.

Specifically, the American Center for Cures will:

(1) Direct new resources towards the world's most burdensome diseases and towards biomedical, bioengineering, and biotechnological research with the greatest therapeutic impact and promise.

(2) Create an ACC national advisory board consisting of key health experts and stakeholders, who will help identify the critical diseases and health threats requiring greater public and private investment.

(3) Create a special Health Advanced Research Projects Agency (HARPA) to support innovative multidisciplinary collaborate research between NIH Institutes, between NIH and other federal agencies and between NIH grantees and business partners, for projects with the potential for significant health impact.

(4) Create health-centered Federally Funded Research and Development Centers (FFRDC) which will bring together interdisciplinary teams of experts including scientists, clinicians, epidemiologists, and

pharmacists for a time limited period to focus on developing therapeutic breakthroughs for important disease entities.

(5) Invest further in the development of an expert workforce which will augment the nation's translational research capacity. Such an effort will include training new clinical researchers and bioinformatics professionals.

(6) Promote risk-taking and collaboration between NIH Institutes and Centers.

(7) Streamline the clinical research process essential to determining if new treatments are effective and safe.

(8) Promote the innovative efforts of small to medium sized biotechnology and bioengineering firms who require additional support in key traditionally under-funded stages of product development—the so called R&D ''Valley of Death''.

(9) Facilitate NIH partnerships with private industry in the preclinical stage of the R&D process so as to formulate a plan for health research translation and commercialization from the outset.

(10) Standardize NIH information management systems and reporting requirements of publicly funded research to improve information sharing between the applied science, translational research and business communities.

A section by section summary of the legislation is included below.

Section 1: Short title.

Section 2: Table of contents.

Section 3: Findings.

Section 4: Amends Title IV of the Public Health Services Act to establish a new Center at the National Institutes of Health (NIH) called the American Center for Cures (ACC).

PART J—AMERICAN CENTER FOR CURES

Section 499A: Definitions.

Section 499B(a): States the mission of the proposed American Center for Cures (ACC), which is to increase the capacity of the NIH to promote translational research between its Institutes and Centers, between the NIH and other Federal agencies and between NIH grantees and business partners so as to speed the development of effective diagnostics, therapies and cures essential to human health and well being.

The ACC shall formulate and implement a strategy for the nation's translational research investment based on (1) a prioritization of biomedical research based on disease burden and research promise, and (2) funding for innovative, multi-disciplinary, and collaborative research.

The ACC will be guided in part by a series of ''Grand Challenges'' or strategic challenges that direct the health research community towards multi-staged projects with the potential to transform the healthcare landscape. Examples include: the creation of laboratory diagnostics that enable the country to detect quickly and accurately to acute health threats, such as an avian flu pandemic or a bioterrorism attack; a commitment by researchers and manufacturers from public and private sectors to develop vaccines for the world's most deadly infectious diseases including HIV, tuberculosis, and malaria. Other examples are provided in this section.

Section 499B(b): Establishes a Director of Cures (to be called in this document the ''Director'') who will administer the ACC. The President of the United States will appoint the Director. The NIH Director in consultation with the Cures Advisory Council (Section 499B(c)) will recommend candidates for the Director to the President. The NIH Director will work with the Director to promote the nation's translational research efforts.

The Director will have at his disposal an annual acceleration fund of $5 billion dollars to provide support for research and development of breakthrough biomedical discoveries and to carry out the purposes of the ACC. No less than one half of the acceleration fund will be allocated to a Health Advanced Research Projects Agency described in Subpart II.

Section 499B(c): Establishes a Cures Council to advise and direct the translational research efforts of the ACC. The Council will be co-chaired by the Director of Cures and the Director of NIH. Membership will include NIH Institute and Center Directors; leaders from at least 9 federal agencies including the Director of the Agency for Healthcare Research and Quality (AHRQ), the Director of the Defense Advanced Research Projects Agency (DARPA), and the President of the Institute of Medicine (IOM); no fewer than three leaders from the small business community; three leaders from large pharmaceutical or biotechnology companies; and three leaders from academia. All Council members will be appointed by the President.

The Council shall establish subcommittees including one of NIH Institute and Center Directors to coordinate research priorities in, and ensure sharing of research agendas among, the Institutes and Centers. The subcommittee shall also coordinate the ACC research agenda with that of the NIH Institutes and Centers.

The Council will make recommendations that help the Director set research priorities for the ACC. The Council shall consider risk and burden of disease as well as lines of research uniquely poised to deliver effective diagnostics and therapies.

The Council shall be aided by the Office of Intramural Risk Opportunity and Mapping of the Office of Technology Transfer established in subpart V.

The Council shall conduct an annual assessment of ACC priorities and progress and make this available to the public in written and electronic forms.

Section 499B(d): The Director of Cures shall prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate for the Center.

The Director will receive directly all funds appropriated by Congress for obligation and expenditure by the Center.

SUBPART 1—FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS

Section 499C: Federally Funded Research and Development Centers (FFRDC's) will serve as sites for multidisciplinary and cross-scientific research within particular areas of health. The Director may establish one or more FFRDC's to carry out activities related to the mission of the ACC. These Centers will establish, as appropriate, technology test beds and incubators, utilize cooperative agreements with the private sector, and conduct large-scale multi-disciplinary translational research projects in health or disease areas which are essential to medical advancement, but lack adequate private sector funding.

The FFRDC's shall consult widely with representatives from private industry, institutions of higher education, nonprofit institutions, other federal governmental agencies, and other federally funded research and development centers.

The Director shall ensure that competitive mechanisms are used to select and to promote the ongoing quality and performance of the FFRDC's.

Contracts between the ACC and FFRDC's shall be for no longer than 7 years, after which time refunding shall be contingent upon approval by the Director and the Cures Council.

Each FFRDC shall biannually submit a report on the activities carried out by the Centers under this section to the Director and the appropriate committees of Congress.

For any fiscal year, the Director may use not more than 25 percent of the funds available in the Director's Acceleration Fund for FFRDC's.

SUBPART 2—HEALTH ADVANCED RESEARCH PROJECTS AGENCY

Section 499d. Technological and scientific innovations often require strategic risk taking and significant funding streams that are rapid and are outcomes based. Funds must also encourage expert multidisciplinary collaboration. This section establishes at the ACC a Health Advanced Research Projects Agency (HARPA) for these purposes.

HARPA will be headed by a Director of the Research Projects Agency who will be appointed by the Director of Cures.

HARPA shall be composed of not more than 100 expert portfolio managers in key health areas, as determined by the Director of HARPA in conjunction with the Director and Cures Council.

HARPA shall undertake the grand challenges formulated by the Center and encourage innovative, multidisciplinary, and collaborative research between NIH Institutes and Centers, between the NIH and other Federal agencies, and between NIH grantees and business partners.

Management and organizing principles include an agency which is small, flexible, entrepreneurial, and non-hierarchical; which empowers portfolio managers to foster research opportunities free from bureaucratic impediments; which seeks to employ the strongest scientific and technical talent in the Nation; which rotates a significant portion of the staff every 3–5 years, which leverages comparable matching investment from other NIH institutes and centers, federal agencies, and from the private and non profit sectors; which creates a translational research model that supports fundamental research breakthroughs, early and late stage applied development, prototyping, knowledge diffusion, and technology deployment; which establishes metrics to evaluate research success; which ensures that revolutionary research dominates HARPA's agenda and portfolio. Other management and organizing principles are provided.

HARPA activities will include supporting basic and applied research to promote revolutionary technology changes which address health needs. It will advance the development, testing, evaluation, prototyping and deployment of critical health products. Multiple other activities are provided.

HARPA will have flexible hiring practices as described in the Strom Thurmond National Defense Authorization Act, 1999.

HARPA will have the authority to flexibly fund projects, including the prompt awarding, releasing, enhancing and withdrawal of monies.

HARPA will be funded through the Director's acceleration fund at a minimum of $2.5 billion dollars annually.

SUBPART 3—CLINICAL TRIALS

Clinical trials are an essential part of the research and development process. This is where the effectiveness and safety of products are scientifically and systematically investigated. However, clinical trials are complex, expensive, and time-consuming, making it difficult for individuals to perform all the functions necessary to successfully organize and implement clinical trials. This subpart improves how clinical trials are conducted and how their results are disseminated. It also promotes the development of a future clinical research workforce.

Section 499E. Increasing Research Study Participation: The Director of NIH shall create a national electronic clinical trial registry with the National Library of Medicine

(NLM) as specified in Subpart 6, Section 499H (b). The ACC shall publicize the registry with special attention given to minority groups, who are frequently underrepresented in clinical trials.

Section 499E–1. Grants for Quality Clinical Trial and Execution: The Director shall provide grants for clinical trial design and execution to academic centers or to private firms with highly promising therapeutic entities to fund multidisciplinary clinical research teams, whose members may include project managers, clinicians, epidemiologists, and nursing staff.

Section 499E–2. Streamlining the Regulatory Process Governing Clinical Research: This section streamlines the regulatory process governing clinical research, which has become increasingly unwieldy due to necessary but complex patient privacy and safety rules. The ACC shall establish a series of Centralized Institutional Review Boards (CIRB) to ensure human subject safety and well-being for multi-institutional clinical trials. CIRB's shall be established in accordance with professional best practices and Good Clinical Practice (GCP) guidelines.

A CIRB shall be housed at the Institute or Center with expertise on the subject of the clinical trial or outside of the NIH in a public or private institution with comparable expertise and organizational capacity.

CIRB's will be available at the request of public or private institutions and funded through user fees or Center funds.

The CIRB shall act on behalf, in whole or in part, of the bodies ordinarily responsible for the safety of research subjects in a locality, on a contractual basis.

The CIRB will review and package research applications for facilitated electronic review by local IRB's participating in multi-center clinical trials. Local IRB review can be performed by a subcommittee that is empowered to make decisions in a timely manner. Local IRB's can either accept or reject the CIRB review.

Local IRB's which are part of the CIRB network shall be responsible for taking into consideration local characteristics such as educational level of research subjects to assure sound selection of research subjects and to minimize risks to vulnerable populations.

Each CIRB shall regularly communicate important information electronically to the local institutional review boards.

Section 499E–3. Training Clinical Researchers of the Future: The ACC will augment NIH's investment into programs developing the nation's clinical research workforce. These programs include: the NIH's Mentored Patient-oriented Research Career Development Award, NIH grants to help institutions develop curricula for clinical researchers, and NIH grants to fund participants in clinical science programs, which shall include but not be limited to clinical science certificates or clinical science Masters' Degrees.

Section 499E–4. Clinical Research Study and Clinical Trial: The Director shall commission the Institute of Medicine (IOM) to study the regulations protecting patient safety and anonymity so that in a contemporary clinical research context, a more realistic balance can be achieved between clinical research promotion and regulatory requirements governing research subject safety and privacy. The IOM will issue a written report within eighteen months of the passage of the Cures act which shall consider changes to the current Health Insurance Portability and Accountability Act (HIPAA) to further promote the clinical research endeavor.

Section 499E–5. Authorization of Appropriations from the Directors Acceleration Fund. $100 million dollars for Sections 499E–1(1), $50 million dollars for Section 499E–2, $200 million dollars for Section 499E–3, $2.5 million dollars for Section 499E–4.

SUBPART 4—VALLEY OF DEATH

Small businesses are major drivers of innovation. Facile, motivated, numerous, and creative, these small businesses can extend the limits of R&D in a way large companies with secure product lines are unable to do. However, small businesses often encounter difficulty securing capital in the so called, ''Valley of Death''—the period between a research idea with possible application to the time the safety and efficacy of a product is demonstrated in human clinical trials. Common end-pathways within the Valley of Death include development of pharmacological assays, scale-up of production from lab-scale to clinical-trials scale, development of suitable formulations, evaluation of chemical stability, evaluation of materials testing for durability or reactivity, undertaking initial toxicology studies, and planning and implementation of clinical trials.

Section 499F. Small Business Partnerships: The Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs are effective major investments in promoting the R&D portfolios of small businesses. SBIR and STTR receive 2.5% and 0.3% of the budgets, respectively, of federal agencies with R&D budgets greater than $100 million dollars. SBIR/STTR grants and contracts consist of three phases. Phase I plans for product development and procurement. Phase II addresses implementation of the plan. Phase III involves commercialization yet by law is ineligible for SBIR/STTR funding. Management and orientation of SBIR/STTR programs at the NIH can be improved.

This section moves the NIH's SBIR and STTR programs from the Extramural Research Office to the new Office of Bioscientific Enterprise Development (OBED) in the ACC Office of Technology Transfer (OTT).

The NIH currently awards its SBIR and STTR grants and contracts through a peer review process. Now, not less than 35% of SBIR and STTR grants and contracts shall be rewarded on a competitive basis by an OBED program manager with significant managerial, technical, and translational research experience to expertly assess the quality of a SBIR or STTR proposal.

Program managers will place special emphasis on partnering grantees with potential purchasers or investors of technology from the start of the research and development process with potential purchasers or investors including federal agencies such as the NIH.

ACC shall reduce the time between Phase I and Phase II funding to 6 months or less. Currently, grantees can wait up to 5 years to learn whether or not they are a recipient of a phase II grant.

An SBIR/STTR project manager may petition the OTT for Phase III funding from the Director's acceleration fund for projects requiring a supplementary funds to finalize product commercialization. The maximum funding for Phase III funding of a project shall be $2,000,000 for a maximum of 2 years.

All recipients of SBIR/STTR funding are required to report to the OTT whether there was eventual commercial success of the product. OTT shall keep a publicly accessible electronic record of all SBIR/STTR investments in research and development. The record shall include at minimum the following information: the grantee, a description of the funded research, the amount of money awarded in each phase of SBIR/STTR research, and if applicable, the nature of the products developed.

For each fiscal year, the two grants program managers who have had the greatest success in helping to commercialize products may be awarded a bonus up to $10,000.

Section 499F–1. Rapid Access to Intervention Development: The National Cancer Institute of the NIH has a successful translational research program called RAID (Rapid Access to Interventional Development). RAID lends essential expertise and resources including access to laboratories and facilities to researchers outside of the NIH. OTT shall expand upon this program and establish other RAID programs, designed to accelerate the process of bringing promising and novel discoveries from the laboratory to the pre-clinical trial stage.

RAID awardees have traditionally been selected to receive access to laboratories, facilities and other NIH supports for the preclinical development of drugs, biologics, diagnostics and devices, using the peer review process. Now, not less than 35% of RAID awards shall be awarded on a competitive basis by a program manager with significant managerial, technical, and translational research experience to adequately assess the quality of a project proposal.

Eligible awardees include university researchers, non-profit research organizations, and firms of less than 100 employees in collaboration with one or more university or non-profit organizations.

The Office may discontinue support at any point when the entity fails to meet commercialization success criteria established by the Office.

Examples of RAID support are given. These include advice regarding the investigational new drug or investigational new device filing with the Food and Drug Administration.

The Office shall not support products past proof-of-principle clinical trials.

Section 499F–2. Toxicity Studies: Toxicity studies are essential to the development of any drug therapy, but are difficult to stage. The Center for Cures shall support ongoing research into the most efficient methods of screening for human toxicity, including using cell-based and animal model technologies.

OTT may offer support for toxicity studies to private companies licensing NIH intellectual property.

Section 499F–3. Additional funding sources and models: The Director of the Center for Cures may provide acceleration funds for flexible contracts for translational research development to entities that license intellectual property from NIH where such contracts support innovation and commercialization.

Section 499F–4. Authorization of Appropriations from the Directors Acceleration Fund. $400 million dollars for Sections 499F for $100 million dollars for 499F–1.

SUBPART 5—OFFICE OF TECHNOLOGY TRANSFER

The Office of Technology Transfer (OTT) should be one of the NIH's most active entities. It is within the process of technology transfer where basic science research informs applications to health and where ideas are brought from bench to bedside and back to the bench. The OTT should be a library of innovation administered by experts who have experience in linking the translational research community with industry. This subpart improves upon the current research translation authorities of NIH's OTT.

Section 499G. Restructuring: The NIH Office of Technology Transfer in the NIH Director's Office shall be transferred to a new OTT Office in the American Center for Cures.

Section 499G–1. Marketing Function: The OTT office shall create a program for transfer management & support that cultivates industry interest in NIH funded research, reaches out to potential industry partners, coordinates patents from different NIH Institutes and Centers, and manages Cooperative Research and Development Agreements (CRADA's), biological licensing agreements,

material transfer agreements, and intellectual property licensing.

To promote government-industry partnerships, the OTT shall create an electronic database within the National Library of Medicine that tabulates translational research efforts occurring at the NIH. The OTT shall hold an annual translational research conference the bring together public and private stakeholders.

The OTT shall develop a program for transfer management & support which will be familiar with the NIH's intramural and extramural research portfolio as well as with the interests of small and large biotech and pharmaceutical industries. For those Institutes or Centers with their own OTT offices, the new OTT program for transfer management & support will work closely with those offices to coordinate industry outreach efforts.

As appropriate, OTT shall register CRADA's within a publicly accessible electronic database maintained by NLM.

Section 499G–2. Office of Intramural Risk Opportunity and Mapping: An Office of Intramural Risk Mapping within OTT shall oversee the intramural research programs of the NIH to be certain they are complementary, non-duplicative, and distinct from extramural and private programs.

The Office shall identify and map health risks and scientific opportunities and update the data on these topics as necessary to ensure they are current. This information is to be provided to the Cures Council on a biannual basis to help them prioritize the nation's translational research investment.

The Office shall make funds available to groups of NIH Institutes and Centers to promote multidisciplinary projects that focus on health risk analysis and corresponding scientific risk opportunity. Preference will go to projects that demonstrate a high degree of collaboration and which address diseases with the great burden or research promise, and that are most likely to result in the development of a diagnostic or therapeutic prototype.

$150 million dollars is authorized to be appropriated from the Director's Acceleration Fund to fund the Office.

Section 499G–3. Patenting and Licensing Incentives: The OTT shall make every effort to increase licensing to stimulate the availability of products for clinical use. The OTT shall recommend to the Director incentives that create private sector, financial, commercial, and academic interest in the NIH's IP portfolio. These incentives may include extensions of NIH health patents, restoration of NIH health patents, and partnering options to pursue exclusive and nonexclusive licensing to one or multiple partners in the government, industrial, and/or academic sectors.

The Director shall encourage OTT to develop flexible models for contracts that fulfill the needs of industry and the public.

Section 499G–4. Translational Researcher Development: The Director shall oversee development of a curriculum for internships in translational research encompassing rotations through multiple NIH Institutes and Centers, the clinical trial design process, the NLM, and other related disciplines with an emphasis on practical experience.

Tuition grants for extramural translational research programs shall be administered under the supervision of the Director.

The ACC shall train interdisciplinary scientists in the science of risk analysis & mapping through a program of internships and fellowships.

Section 499G–6. Translational Research Training Program: The NIH Director shall ensure that each NIH Institute or Center establishes a translational research training program.

SUBPART 6—DEVELOPING INFORMATION SYSTEMS

The NIH's National Center for Biotechnology Information (NCBI) at the NLM provides essential information resources to scientists worldwide and is the underpinning of much of NIH conducted biomedical research. The NCBI's databases and computational and linkage tools nurture information sharing and are critical to identifying interconnections, developing insights, and accelerating biomedical breakthroughs.

Section 499H. Advancing National Health Information Infrastructure.

The NLM shall develop new computational methods to assist in the processing of genomic data. There is authorized to be appropriated $2.5 million dollars to support the computational infrastructure and $5.5 million dollars to hire expert biologists and computer scientists trained in bioinformatics.

Secretary of Health and Human Services acting through the Director of NIH will work with the NLM to construct a clinical trial registry and clinical results database tracking all phase III clinical trials taking place in the United States. This registry and database will expand upon the NLM's current information system and database.

The registry of clinical trials shall include at least the following: clinical trial title, description of the product under study, the hypothesis to be tested, brief description of the intervention, the study design, methodology, duration and location, participation criteria, contact information and sponsoring organization.

The databank of clinical trial results shall consist of at least the following: trial start date and completion date, summary of the results of the trial, summary data tables with respect to the primary and secondary outcome measures, information on the statistical significance of the results, links to publications in peer reviewed journals relating to the trial, a description of the process used to review the results of the trial, and safety data concerning the trial.

Public or private entities shall register a phase III clinical trial not later than 3 months after submitting the Food and Drug Administration (FDA) approves the clinical trial protocol and report phase III clinical trial results not later than 3 months after completing the trial. Information provided to the NLM must be accurate and updated.

Penalties for not registering clinical trials or reporting clinical trial results can be loss of future public funding or in cases where an entity does not receive public funding, a fine of up to $2,000,000 dollars.

The Secretary may waive clinical trial submission requirements upon a written request from the responsible person if the Secretary determines that providing the waiver is in the public's interest or consistent with protection of the public's health.

Section 499H–1. Publication Requirement for Research: The Director of the NIH shall require that for any research funded by the NIH, Centers for Disease Control and Prevention (CDC), and the Agency for Healthcare Research and Quality (AHRQ), there will be a standardized report of this research for public viewing. Department of Health and Human Services (DHHS) grantees shall provide the NLM an electronic copy of the final version of all peer-reviewed manuscripts accepted for publication for display on their digital library archive, PubMed Central, within 6 months from the date of its publication.

Failure to submit required information to the NLM within 6 months from the date of publication may result in loss of public funding for investigators.

Section 499H–2. Informatics Training and Workforce Development. 21st Century technologies for analyzing DNA, RNA, proteins, and other biologically important molecules are generating a ''tsunami of data'' which are far beyond the understanding of unaided human cognition, but hold the key to improved understanding of human health and disease. Training of individuals in ''clinical bioinformatics''—translational research that applies computerized analytic methods of molecules, cells, tissues, and body systems to the prevention, diagnosis and treatment of human disease—will be pivotal to fostering this emerging and important data-intensive field.

The NIH shall develop a multi-faceted approach to increasing the number of persons trained in clinical bioinformatics. This shall include but not be limited to augmenting secondary school science programs, undergraduate degree programs in Bioinformatics, NIH bioinformatics graduate training programs, and Centers of Excellence in Clinical Bioinformatics.

Authorization of Appropriations from the Cures Acceleration Fund is $50 million dollars for this section.

Section 499H–3. NLM Expansion of Facilities. In 2002, Congress authorized an expansion of the NLM. These facilities may be essential to the NLM's capacity to fill its numerous informatics functions. The Director will commission the IOM to report to Congress on the impact of not funding the expansion of facilities.

SUBPART 7—RESEARCH TOOLS

Innovation requires proper tools for discovery. These include animal models that can be surrogates for human systems and markers that illuminate otherwise invisible cells, DNA, proteins and viruses. Arguably, the development of research tools is subject to the same market forces as more common end products—drugs, medical devices, and vaccines.

Section 499I. NIH Research Tool Inventory: The Director of NIH shall direct the head of each NIH Institute and Center to perform an annual review of its research tool inventory for the specific purpose of enabling each Institute and Center to understand processes for research tool distribution, frequency of use, IP status, and utility. Each NIH Institute and Center shall also describe in its review the type and quantity of research tools it desires to obtain in order to better fulfill its R&D goals.

The ACC shall enter this inventory into an electronic research tool database and use this database to oversee the prioritization and funding of new projects to fulfill pressing needs and to encourage promising technologies.

Section 499I–1. Exceptions to Tool Guidelines: The Director of NIH may advise the OTT to provide exceptions to prohibition against patenting and licensing research tools under some appropriate circumstances when exclusive or non-exclusive licensing provides the swiftest, and most efficacious final development of an important health care technology.

S. 2104

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 ''American Center for Cures Act of 2005''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

SEC. 3. FINDINGS.

Congress finds the following:

(1) The National Institutes of Health (referred to in this section as the ''NIH'') is the United States premier biomedical research investment with annual appropriations exceeding $28,000,000,000.

(2) The mission of the NIH is science in pursuit of fundamental knowledge about the nature and behavior of living systems and the application of that knowledge to extend healthy life and reduce the burdens of illness and disability.

(3) The pace of knowledge application to promote health and reduce disease can be influenced through strategic funding and reorganization of some aspects of the traditional research endeavor. This process is known as translational research investment.

(4) The United States translational research investment will be key to the Nation responding effectively—

(A) to acute man-made or natural health threats;

(B) to the complexity and multi-disciplinary nature of chronic diseases, which are responsible for 7 out of every 10 deaths in the United States and for more than 70 percent of the $1,700,000,000,000 spent in the United States on health care each year; and

(C) to research and development vacuums in the private for-profit market, such as in the fields of vaccine and antibiotic production, drugs for Third World diseases, and medical tools for pediatric populations.

(5) Key components of the translational research process include research prioritization, an expert workforce, multidisciplinary collaborative work, facilitated information exchange, strategic risk taking, support of small innovative businesses caught along common pathways in the research and development Valley of Death, simplification and promotion of the clinical research endeavor, and involvement of private entities early on in the translational research endeavor that are skilled in the manufacturing and marketing process.

SEC. 4. AMERICAN CENTER FOR CURES.

(a) AMERICAN CENTER FOR CURES.—Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following:

''PART J—AMERICAN CENTER FOR CURES

''SEC. 499A. DEFINITIONS.

''In this part:

''(1) CENTER.—The term 'Center' means the American Center for Cures established under section 499B.

''(2) COUNCIL.—The term 'Council' means the Cures Council established under section 499B.

''(3) DIRECTOR.—The term 'Director' means the Director of the American Center for Cures.

''(4) INCUBATOR.—The term 'incubator' means an economic development organization designed to accelerate the growth and success of entrepreneurial individuals, concepts, and companies.

''(5) RESEARCH TOOL.—The term 'research tool' means a resource that scientists use in their laboratories that has no immediate therapeutic or diagnostic value, including cell lines, monoclonal antibodies, reagents, laboratory equipment and machines, databases, and computer software.

''(6) TEST BED.—The term 'test bed' means the pilot environment to prototype innovation.

''(7) TRANSLATIONAL RESEARCH.—The term 'translational research' means investigation in which knowledge obtained from fundamental research such as with genes, cells, or animals, is transformed through early and late stage development prototyping and testing into diagnostic or therapeutic interventions that can be applied to the treatment or prevention of disease or frailty.

''SEC. 499B. ESTABLISHMENT OF AMERICAN CENTER FOR CURES.

''(a) IN GENERAL.—There is established within the National Institutes of Health an American Center for Cures—

''(1) whose mission shall be to increase the capacity of the National Institutes of Health to promote translational research, including between the institutes and centers of the National Institutes of Health, between the National Institutes of Health and other Federal agencies, and between grantees and business partners of the National Institutes of Health, so as to speed the development of effective therapies, diagnostics, and cures essential to human health and well being;

''(2) that shall formulate and implement a strategy for the Nation's translational research investment, which strategy shall include—

''(A) a prioritization of biomedical research on diseases based on disease burden and research promise; and

''(B) funding for innovative, multidisciplinary, and collaborative research across the institutes and centers of the National Institutes of Health, across Federal agencies, and between public and private partners of the National Institutes of Health;

''(3) that shall be guided, in part, by a series of 'Grand Challenges' formulated through collaboration between the Director of Cures and the Council, that shall be strategic challenges that direct the public and private health research community towards collaborative multi-staged projects that have the potential to transform the healthcare environment, such as—

''(A) the creation of laboratory diagnostics that enable the Nation to detect quickly and accurately acute health threats such as an avian flu pandemic or a bioterrorism attack;

''(B) a focus on therapeutic delivery systems targeting individual viruses or hard to reach cells in the body, such as the brain, using advances in nanotechnology;

''(C) accelerated research into the potential of stem cells to replace the form and function of tissues lost to patients suffering from diseases such as spinal cord injury, Parkinson's disease, and insulin-dependent diabetes;

''(D) creation of a biomedical informatics infrastructure that can organize the human genome and the proteins for which the genome codes in ways that scientists can better understand the genetic contribution to phenotypic disease;

''(E) the elaboration of adjuvant technology that can bolster the effectiveness of vaccines;

''(F) development of antigen sparing vaccines such as those based on triggering the innate immune response;

''(G) development of rapid vaccine manufacturing capacity from new production methods such as viral cell culture or bioengineering technology;

''(H) creation of a fast track clinical trial infrastructure that incorporates a national doctor and patient registry, centralized investigational review boards, electronic medical records, and other health information technologies;

''(I) a focus on addressing less profitable conditions for which research and development efforts are insufficient, such as—

''(i) orphan, small population, and third world diseases;

''(ii) antibiotic resistance;

''(iii) a threat of a flu epidemic or pandemic;

''(iv) diseases associated with social stigma such as depression and seizure disorders; or

''(v) other comparable problems;

''(J) a commitment by researchers and manufacturers from all sectors to develop vaccines for the world's most deadly infectious diseases, including HIV, tuberculosis, and malaria; and

''(K) other appropriate challenges; and

''(4) that shall have other appropriate purposes.

''(b) DIRECTOR OF THE CENTER AND THE DIRECTOR OF NIH.—

''(1) IN GENERAL.—The Center shall be administered by a Director of Cures who shall be appointed by the President with the advice and consent of the Senate. The Director of the NIH, in consultation with the Council, shall recommend candidates for the Director of Cures to the President.

''(2) ACTIVITIES.—

''(A) DIRECTOR OF NIH.—The Director of NIH shall—

''(i) work with the Director of Cures to promote translational research efforts; and

''(ii) serve as a co-chair of the Council.

''(B) DIRECTOR OF CURES.—

''(i) ACCELERATION FUND.—

''(I) IN GENERAL.—The Director of Cures shall have at the Director's disposal an annual acceleration fund to provide support for research and development of breakthrough biomedical discoveries and to carry out the purpose of the Center. Amounts in the fund may be available through grants, contracts, and cooperative agreements to public sector entities, private sector entities, and non-governmental organizations. The Director of Cures shall allocate not less than ½ of the acceleration funds to the Health Advanced Research Projects Agency described in subpart 2. The remainder of such funds shall be available to the Federally Funded Research and Development Centers described in subpart 1 and other activities of the Center.

''(II) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to fund the acceleration fund under subclause (I) $5,000,000,000 for fiscal year 2007 and each succeeding fiscal year.

''(ii) DIRECT OTHER OFFICES.—The Director of Cures shall direct other offices within the Center that are established under this part.

''(c) COUNCIL.—

''(1) ESTABLISHMENT.—There is established within the Center a Cures Council that shall convene not less frequently than twice a year to help advise and direct the translational research efforts of the Center.

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The Council shall be composed of the following members:

''(i) The Director of NIH and the Director of Cures who shall be Council co-chairs.

''(ii) The heads of the institutes and centers of the National Institutes of Health.

''(iii) Heads from not less than 9 Federal agencies, including—

''(I) the Administrator for the Substance Abuse and Mental Health Services Administration;

''(II) the Under Secretary for Science and Technology of the Department of Homeland Security;

''(III) the Commanding General for the United States Army Medical Research and Materiel Command;

''(IV) the Director of the Centers for Disease Control and Prevention;

''(V) the Commissioner of Food and Drugs;

''(VI) the Director of the Office of Science of the Department of Energy;

''(VII) the President of the Institute of Medicine;

''(VIII) the Director of the Agency for Healthcare Research and Quality; and

''(IX) the Director of the Defense Advanced Research Projects Agency.

''(B) OTHER MEMBERS.—Membership of the Council shall also include not fewer than 3 leaders from the small business community, 3 leaders from large pharmaceutical or biotechnology companies, and 3 leaders from academia, all of whom shall be appointed by the President.

''(3) SUBCOMMITTEES.—The Council or the Council co-chairs may form subcommittees of the Council as needed.

''(4) RECOMMENDATIONS; COORDINATION.—The Council shall make recommendations that help the Director of Cures set research priorities for the Center. In making recommendations, the Council shall consider risk and burden of disease as well as lines of research uniquely poised to deliver effective diagnostics and therapies. The Council shall also coordinate research priorities in, and ensure sharing of research agendas among, the institutes and centers of the National Institutes of Health.

''(5) OFFICE OF INTRAMURAL RISK OPPORTUNITY AND MAPPING.—The Council shall be aided by the Office of Intramural Risk Opportunity and Mapping of the Office of Technology Transfer of the Center established in subpart 5.

''(6) ANNUAL ASSESSMENT.—The Council shall make an annual assessment of the priorities and progress of the Center and shall make the assessment available to the public in written and electronic form.

''(d) BUDGET AND FUNDS.—The Director of Cures shall—

''(1) prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate for the Center, after reasonable opportunity for comment (but without change) by the Secretary, the Director of NIH, and the Council; and

''(2) receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the Center.

''Subpart 1—Federally Funded Research and Development Centers

''SEC. 499C. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

''(a) IN GENERAL.—The Director of Cures is authorized to establish 1 or more Federally Funded Research and Development Centers that shall carry out activities related to the mission of the Center, as described in section 499B(a)(1).

''(b) DUTIES.—

''(1) IN GENERAL.—The Federally Funded Research and Development Centers shall serve as sites for the performance of multidisciplinary and cross-disciplinary research and shall—

''(A) establish, as appropriate, technology test beds and incubators;

''(B) utilize cooperative agreements with the private sector; and

''(C) conduct large-scale multidisciplinary translational research projects in health or disease areas that are essential to medical advancement but lack adequate private sector funding.

''(2) CONSULTATION.—In carrying out the duties described in paragraph (1), the Federally Funded Research and Development Centers shall consult widely with representatives from private industry, institutions of higher education, nonprofit institutions, other Federal governmental agencies, and other federally funded research and development centers.

''(c) COMPETITION.—The Director of Cures shall ensure that competitive mechanisms are used to select and to promote the ongoing quality and performance of the Federally Funded Research and Development Centers.

''(d) TERM OF FUNDING.—Federally Funded Research and Development Centers shall be funded for not more than 7 years, after which time the Federally Funded Research and Development Centers' re-funding shall be contingent upon approval by the Director of Cures and the Council.

''(e) REPORTS.—Each Federally Funded Research and Development Center receiving funding under this section shall submit a biannual report to the Director and the appropriate committees of Congress on the activities carried out by the Federally Funded Research and Development Center under this section.

''(f) FUNDING FOR SUPPORT.—For any fiscal year, the Director of Cures may use not more than 25 percent of the funds available to the Director under the acceleration fund under section 499B(b)(2)(B)(i)(II) to establish Federally Funded Research and Development Centers under this section.

''Subpart 2—Health Advanced Research Projects

''SEC. 499D. HEALTH ADVANCED RESEARCH PROJECTS AGENCY.

''(a) ESTABLISHMENT.—There is established within the Center a Health Advanced Research Projects Agency (referred to in this section as the 'Research Projects Agency') that shall—

''(1) carry out activities related to the mission of the Center, as described in section 499B(a)(1); and

''(2) be headed by a Director of the Research Projects Agency who is appointed by the Director of Cures.

''(b) COMPOSITION.—The Research Projects Agency shall be composed of not more than 100 portfolio managers in key health areas, which areas are determined by the Director of the Research Projects Agency in conjunction with the Director of Cures and the Council.

''(c) GUIDANCE.—The Research Projects Agency shall be guided by and shall undertake grand challenges formulated by the Center that encourage innovative, multi-disciplinary, and collaborative research across institutes and centers of the National Institutes of Health, across Federal agencies, and between public and private partners of the National Institutes of Health.

''(d) MANAGEMENT GUIDANCE.—The Research Projects Agency shall be guided by the following management and organizing principles in directing the Research Projects Agency:

''(1) Keep the Research Projects Agency small, flexible, entrepreneurial, and nonhierarchical, and empower portfolio managers with substantial autonomy to foster research opportunities with freedom from bureaucratic impediments in administering the manager's portfolios.

''(2) Seek to employ the strongest scientific and technical talent in the Nation in research fields in which the Research Projects Agency is working.

''(3) Rotate a significant portion of the staff after 3 to 5 years of experience to ensure continuous entry of new talent into the Research Projects Agency.

''(4) Use whenever possible research and development investments by the Research Projects Agency to leverage comparable matching investment and coordinated research from other institutes and centers of the National Institutes of Health, from other Federal agencies, and from the private and non-profit research sectors.

''(5) Utilize supporting technical, contracting, and administrative personnel from other institutes and centers of the National Institutes of Health in administering and implementing research effort to encourage participation, collaboration, and cross-fertilization of ideas across the National Institutes of Health.

''(6) Utilize a challenge model in Research Projects Agency research efforts, creating a translational research model that supports fundamental research breakthroughs, early and late stage applied development, prototyping, knowledge diffusion, and technology deployment.

''(7) Establish metrics to evaluate research success and periodically revisit ongoing research efforts to carefully weigh new research opportunities against ongoing research.

''(8) Tolerate risk-taking in research pursuits.

''(9) Ensure that revolutionary and breakthrough technology research dominates the Research Projects Agency's research agenda and portfolio.

''(e) ACTIVITIES.—Using the funds and authorities provided to the Director of Cures, and the authorities provided to the Director of NIH, the Research Projects Agency shall carry out the following activities:

''(1) The Research Projects Agency shall support basic and applied health research to promote revolutionary technology changes that promote health needs.

''(2) The Research Projects Agency shall advance the development, testing, evaluation, prototyping, and deployment of critical health products.

''(3) The Research Projects Agency, consistent with recommendations of the Council, with the priorities of the Director of Cures, and with the need to discuss challenges described in section 499B(a)(3), shall emphasize—

''(A) translational research efforts, including efforts conducted through collaboration with the private sector, that pursue—

''(i) innovative health products that could significantly and promptly address acute health threats such as a flu pandemic, spread of antibiotic resistant hospital acquired infections, or other comparable problems;

''(ii) remedies for diseases afflicting lesser developed countries;

''(iii) remedies for orphan and small population diseases;

''(iv) alternative technologies with significant health promise that are not well-supported in the system of health research, such as adjuvant technology or technologies for vaccines based on the innate immunological response; and

''(v) fast track development, including development through accelerated completion of animal and human clinical trials, for emerging remedies for significant public health problems; and

''(B) other appropriate translational research efforts for critical health issues.

''(4) The Research Projects Agency shall utilize funds to provide support to outstanding research performers in all sectors and encourage cross-disciplinary research collaborations that will allow scientists from fields such as information and computer sciences, nanotechnology, chemistry, physics, and engineering to work alongside top researchers with more traditional biomedical backgrounds.

''(5) The Research Projects Agency shall provide selected research projects with single-year or multi-year funding and require researchers for such projects to provide interim progress reports to the Research Projects Agency on not less frequently than a biannual basis.

''(6) The Research Projects Agency shall award competitive, merit-reviewed grants, cooperative agreements, or contracts to public or private entities, including businesses, federally-funded research and development centers, and universities.

''(7) The Research Projects Agency shall provide advice to the Director of Cures concerning funding priorities.

''(8) The Research Projects Agency may solicit proposals for competitions to address specific health vulnerabilities identified by the Director and award prizes for successful outcomes.

''(9) The Research Projects Agency shall periodically hold health research and technology demonstrations to improve contact among researchers, technology developers, vendors, and acquisition personnel.

''(10) The Research Projects Agency shall carry out other activities determined appropriate by the Director of Cures.

''(f) EMPLOYEES.—

''(1) HIRING.—The Research Projects Agency, in hiring employees for positions with the Research Projects Agency, shall have the same hiring and management authorities as described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note).

''(2) TERM.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term of such appointments for employees of the Research Projects Agency may not exceed 5 years.

''(B) EXTENSION.—The Director of the Research Projects Agency may, in the case of a particular employee of the Research Projects Agency, extend the term to which employment is limited under subparagraph (A) by up to 2 years if the Director of the Research Projects Agency determines that such action is necessary to promote the efficiency of the Research Projects Agency.

''(g) FLEXIBILITY.—The Research Projects Agency shall have the authority to flexibly fund projects, including the prompt awarding, releasing, enhancing, or withdrawal of monies in accordance with the assessment of the Research Projects Agency and project manager.

''(h) FUNDING.—The Research Projects Agency shall utilize funds received from the acceleration fund, described in section 499B(b)(2)(B)(i), for the Agency's research and development activities. There is authorized to be appropriated from such fund $2,500,000,000 to carry out the activities of the Research Projects Agency.

''Subpart 3—Clinical Trials

''SEC. 499E. INCREASING RESEARCH STUDY PARTICIPATION.

''The Director of NIH shall establish a national clinical study registry within the National Library of Medicine of the National Institutes of Health in accordance with section 499H. The Center shall publicize the registry, with attention given to minority groups that are frequently underrepresented in clinical trials.

''SEC. 499E–1. GRANTS FOR QUALITY CLINICAL TRIAL DESIGN AND EXECUTION.

''The Director of Cures—

''(1) shall award grants for clinical trial design and execution to academic centers to fund multi-disciplinary clinical research teams, which clinical research teams may be composed of members who include project managers, clinicians, epidemiologists, social scientists, and nursing staff; and

''(2) may award grants for clinical trial design and execution to researchers from small firms with highly promising novel therapeutic entities.

''SEC. 499E–2. STREAMLINING THE REGULATORY PROCESS GOVERNING CLINICAL RESEARCH.

''(a) ESTABLISHMENT OF CENTRALIZED INSTITUTIONAL REVIEW BOARDS.—

''(1) IN GENERAL.—The Director of Cures shall establish a series of Centralized institutional Review Boards (referred to in this section as 'CIRBs') to serve as human subject safety and well being custodians for multi-institutional clinical trials that are funded partially or in full by public research dollars.

''(2) EXISTING GUIDELINES AND BEST PRACTICES.—CIRBs shall be established in accordance with professional best practices and Good Clinical Practice (GCP) guidelines so that institutions involved in multi-institutional studies may—

''(A) use joint review;

''(B) rely upon the review of another qualified institutional review board; or

''(C) use similar arrangements aimed to avoid duplication of effort and to assure a high quality of expert oversight.

''(b) HOUSED.—Each CIRB shall be housed—

''(1) at the institute or center of the National Institutes of Health with expertise on the subject of the clinical trial; or

''(2) at a public or private institution with comparable organizational capacity, such as the Department of Veterans Affairs.

''(c) SERVICE.—The use of CIRBs shall be available, as appropriate, at the request of public or private institutions and shall be funded through user fees of the CIRBs or the Center's funds.

''(d) REVIEW PROCESS.—

''(1) IN GENERAL.—Each CIRB shall review research protocols and informed consent to ensure the protection and safety of research participants enrolled in multi-institutional clinical trials.

''(2) PROCESS.—The CIRB review process shall consist of contractual agreements between the CIRB and the study sites of multi-institutional clinical trials. The CIRB shall act on behalf, in whole or in part, of the bodies ordinarily responsible for the safety of research subjects in a locality. In the case in which a locality does not have such a body, the locality shall depend solely on the CIRB to oversee the protection of human subjects and the CIRB shall assume responsibility for ensuring adequate assessment of the local research context.

''(e) RESEARCH APPLICATIONS.—

''(1) IN GENERAL.—Each CIRB shall review and package research applications for facilitated electronic review by local institutional review boards participating in a multi-institutional clinical trial.

''(2) LOCAL REVIEW.—Local institutional review board review may be performed by a subcommittee of the local institutional review board that is empowered to make decisions in a timely manner.

''(3) CIRB REVIEW.—A local institutional review board may accept or reject a CIRB review. In the case in which a local institutional review board accepts a CIRB review, the CIRB shall assume responsibility for annual, amendment, and adverse event reviews.

''(f) WORK IN CONCERT.—In the case in which a local institutional review board works in concert with a CIRB, the local institutional review board shall be responsible for taking into consideration local characteristics (including ethnicity, educational level, and other demographic characteristics) of the population from which research subjects will be drawn, which influence, among other things, whether there is sound selection of research subjects or whether adequate provision is made to minimize risks to vulnerable populations.

''(g) COMMUNICATION OF IMPORTANT INFORMATION.—Each CIRB shall regularly communicate important information in electronic form to the local institutional review boards or, in cases where a local institutional review board does not exist, to the principal investigator, including regular safety updates or changes in research protocol to improve safety.

''(h) COORDINATION.—Each CIRB shall fully coordinate with the institute or center of the National Institutes of Health that has specialized knowledge of the research area of the clinical trial. Other Federal agencies and private entities undertaking clinical trials may contract with the Center to use a CIRB.

''SEC. 499E–3. TRAINING CLINICAL RESEARCHERS OF THE FUTURE.

''The Center shall augment the National Institutes of Health's investment into programs dedicated to developing the clinical research workforce for tomorrow. The programs shall include:

''(1) The National Institutes of Health's Mentored Patient-Oriented Research Career Development Award to support the career development of investigators who have made a commitment to focus their research endeavors on patient-oriented research.

''(2) The National Institutes of Health's award to encourage mentorship among particularly talented early- and mid-career investigators doing clinical research who want to train new investigators.

''(3) The National Institutes of Health grants to help institutions develop curricula for clinical researchers leading to a clinical science certificate or master's degree.

''(4) The National Institutes of Health grants to fund participants in clinical science programs, including clinical science certificates or clinical science masters' degrees.

"SEC. 499E–4. CLINICAL RESEARCH STUDY AND CLINICAL TRIAL.

''The Director of NIH shall—

''(1) commission the Institute of Medicine of the National Academies to study the rules that protect patient safety and anonymity so that in a contemporary clinical research context, a better balance can be achieved between clinical research promotion and regulatory requirement governing research subject safety and privacy; and

''(2) request that the Institute of Medicine issue a written report not later than 18 months after the date of enactment of this part that shall—

''(A) consider changes to the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191) and the amendments made by such Act that further promote the clinical research endeavor; and

''(B) include recommendations for changes that shall not be limited to legislation but shall include changes to health care systems and to researcher practice that facilitate the clinical research endeavor.

"SEC. 499E–5. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated from the acceleration fund of the Director of Cures described in section 499B(b)(2)(B)(i)—

''(1) $100,000,000 to carry out section 499E–1(1) for fiscal year 2007 and each succeeding fiscal year;

''(2) $50,000,000 to carry out section 499E–2 for fiscal year 2007 and each succeeding fiscal year;

''(3) $200,000,000 to carry out section 499E–3 for fiscal year 2007 and each succeeding fiscal year; and

''(4) $2,500,000 to carry out section 499E–4.

"Subpart 4—Valley of Death

"SEC. 499F. SMALL BUSINESS PARTNERSHIPS.

''(a) ESTABLISHMENT OF THE OFFICE OF BIOSCIENTIFIC ENTERPRISE DEVELOPMENT.—

''(1) ESTABLISHMENT.—There is established within the Office of Technology Transfer of the Center (as established in subpart 5) an Office of Bioscientific Enterprise Development (referred to in the subpart as the 'OBED').

''(2) TRANSFERS.—

''(A) IN GENERAL.—The OBED shall include the functions (including related personnel and resources) of the following programs of the Office of Extramural Research in the Office of the Director of the National Institutes of Health:

''(i) The Small Business Innovation Research program (referred to in this subpart as the 'SBIR').

''(ii) The Small Business Technology Transfer program (referred to in this subpart as the 'STTR').

''(B) TIME FOR TRANSFERS.—The Secretary shall ensure that the programs described in subparagraph (A) are transferred to the OBED not later than 6 months after the date of enactment of this part.

''(b) SBIR AND STTR GRANTS AND CONTRACTS.—

''(1) IN GENERAL.—Not less than 35 percent of the grants and contracts awarded by the SBIR and STTR shall be awarded on a competitive basis by an OBED program manager with sufficient managerial, technical, and translational research expertise to expertly assess the quality of a SBIR or STTR proposal. The OBED, through such project manager, shall place special emphasis on SBIR and STTR grant and contract applications that identify from the onset products with commercial potential that influence human health.

''(2) POTENTIAL PURCHASERS OR INVESTORS.—The OBED shall administer non-peer reviewed grants and contracts under this subsection through program managers who shall place special emphasis on partnering grantees and entities awarded contracts from the very beginning of the research and development process with potential purchasers or investors of the products, including large pharmaceutical or biotechnology companies, venture capital firms, and Federal agencies (including the National Institutes of Health).

''(3) PHASE I AND II.—The OBED shall reduce the time period between Phase I and Phase II funding of grants and contracts under the SBIR and STTR to—

''(A) 6 months; or

''(B) less than 6 months if the grantee or entity awarded a contract demonstrates that the grantee or entity awarded a contract has interest from third parties to buy or fund the product developed with the grant or contract.

''(4) PHASE III.—

''(A) FUNDING.—A program manager under this subsection may petition the Director of Cures for Phase III funding of the grant or contract for a project that requires a boost to finalize procurement of a product. The maximum funding for Phase III funding of a project shall be $2,000,000 for a maximum of 2 years. Such Phase III funding shall come from the acceleration fund, as described in section 499B(b)(2)(B)(i), of the Director of Cures.

''(B) REPORT SUCCESS.—Each recipient of a SBIR or STTR grant or contract, as a condition of receiving such grant or contract, shall report to the OBED whether there was eventual commercial success of the product developed with the assistance of the grant or contract.

''(5) RECORD.—

''(A) IN GENERAL.—The OBED shall keep a publicly accessible electronic record of all SBIR or STTR investments in research and development.

''(B) CONTENTS.—The record described in subparagraph (A) shall include, at minimum, the following information:

''(i) The grantee or entity awarded a contract.

''(ii) A description of the research being funded.

''(iii) The amount of money awarded in each phase of SBIR or STTR funding.

''(iv) If applicable, the purchaser of the product, current use of the product, and estimated annual revenue resulting from the procurement.

''(6) BONUS.—For each fiscal year, for the non-peer reviewed SBIR and STTR grants or contracts, the 2 program managers who are most successful in terms of the number of grantees or entities awarded a contract who complete Phase III shall each be awarded a $10,000 bonus.

"SEC. 499F–1. RAPID ACCESS TO INTERVENTION DEVELOPMENT.

''(a) ESTABLISHMENT OF OFFICE.—The Office of Technology Transfer of the Center shall establish an Office of Rapid Access to Intervention Development (referred to in this subpart as the 'RAID') that—

''(1) is designed to assist translating promising, novel, and scientifically meritorious therapeutic interventions to clinical use by providing support to help investigators navigate the product development pipeline;

''(2) shall aim to remove barriers between laboratory discoveries and clinical trials of new molecular therapies, technologies, and other clinical interventions;

''(3) shall aim to progress, augment, and complement the innovation and research conducted in private entities to reduce duplicative and redundant work using public funds; and

''(4) shall coordinate with the offices of the National Institutes of Health that promote translational research in the pre-clinical phase across the National Institutes of Health.

''(b) PROJECTS.—

''(1) IN GENERAL.—The RAID, in collaboration with the Director of Cures, shall carry out a program that shall select, in accordance with paragraph (2), projects of eligible entities that shall receive access to laboratories, facilities, and other support resources of the National Institutes of Health for the pre-clinical development of drugs, biologics, diagnostics, and devices.

''(2) SELECTION.—Not less than 35 percent of the projects selected under paragraph (1) shall be selected on a competitive basis by a program manager with sufficient managerial, technical, and translational research expertise to adequately assess the quality of a project proposal. Projects under paragraph (1) may also be selected from a peer review process.

''(3) ELIGIBLE ENTITIES.—In this subsection, the term 'eligible entity' means—

''(A) a university researcher;

''(B) a nonprofit research organization; or

''(C) a firm of less than 100 employees in collaboration with 1 or more universities or nonprofit organizations.

''(4) DISCONTINUE SUPPORT.—The RAID may discontinue support of a project if the project fails to meet commercialization success criteria established by the RAID.

''(c) DISCOVERIES FROM LAB TO CLINIC.—The program under subsection (b) shall accelerate the process of bringing discoveries from the laboratory to the clinic through—

''(1) the development of pharmacological assays;

''(2) the scale-up of production from lab scale to clinical-trials scale;

''(3) the development of suitable formulations;

''(4) the evaluation of chemical stability;

''(5) the evaluation of materials testing for durability or reactivity;

''(6) undertaking initial toxicology studies;

''(7) planning clinical trials; and

''(8) advice regarding the investigational new drug or investigational new device filing with the Food and Drug Administration.

''(d) ONGOING REVIEW.—The RAID shall review, on an ongoing basis, potential products and may not support products past the proof-of-principle stage.

"SEC. 499F–2. TOXICITY STUDIES.

''(a) ONGOING RESEARCH.—The Center shall support ongoing research into the most efficient methods of screening for in vivo toxicity, including using cell-based and animal model technologies.

''(b) OFFER OF STUDIES.—The Director of Cures shall direct the Office of Technology Transfer of the Center to offer toxicity studies as an available feature to precede completion of licensing agreement contracts because toxicity studies are expensive and rate-limiting barriers to the licensing of intellectual property from the National Institutes of Health.

"SEC. 499F–3. ADDITIONAL FUNDING SOURCES AND MODELS.

''The Director of Cures may provide acceleration funds, described in section 499B(b)(2)(B)(i), for innovative custom contracts for translational research development to entities that license intellectual property from the National Institutes of Health where such contracts support innovation and new models of cooperation and commercialization.

"SEC. 499F–4. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated from the acceleration fund of the Director of Cures described in section 499B(b)(2)(B)(i)—

''(1) $400,000,000 to carry out section 499F for fiscal year 2007 and each succeeding fiscal year; and

''(2) $100,000,000 to carry out section 499F–1 for fiscal year 2007 and each succeeding fiscal year.

''Subpart 5—Office of Technology Transfer

''SEC. 499G. RESTRUCTURING.

''(a) ESTABLISHMENT.—There is established within the Center an Office of Technology Transfer (referred to in this subpart as the 'OTT').

''(b) TRANSFERS.—The OTT shall include the functions (and related personnel and resources) of the Office of Technology Transfer in the Office of the Director of the National Institutes of Health.

''SEC. 499G–1. MARKETING FUNCTION.

''(a) IN GENERAL.—The OTT shall establish a program that—

''(1) cultivates industry interest in funded research of the National Institutes of Health;

''(2) reaches out to potential industry partners;

''(3) coordinates patents from the other institutes and centers of the National Institutes of Health; and

''(4) manages Cooperative Research and Development Agreements, biological licensing agreements, material transfer agreements, and intellectual property licensing.

''(b) PROMOTION.—The program under subsection (a) shall assist in promoting the success of government and industry partnerships for the development of new technologies by soliciting involvement of the private sector from the beginning of the translational research process, including by creating an electronic database within the National Library of Medicine, which shall be updated regularly, that tabulates translational research efforts occurring at the National Institutes of Health. The OTT shall hold an annual national translational research conference that brings together researchers and industry representatives from across fields from both the private and public sectors.

''(c) TRANSFER MANAGEMENT AND SUPPORT.—The OTT shall develop a program for transfer management and support that is familiar with the National Institutes of Health's intramural and extramural research portfolio, which program's mission is to reach out to potential industry partners to cultivate interest in collaboration with public researchers with the goal of product development and procurement. For those Institutes or Centers with their own Office of Technology Transfer Offices, the OTT shall work closely with those offices to coordinate industry outreach efforts. Those offices, on a biannual basis, shall meet with the OTT and shall submit a report to the OTT describing the translational research efforts of the Center or Institute and corresponding efforts to attract commercial interest in their research portfolio.

''(d) MANAGEMENT.—

''(1) IN GENERAL.—The OTT shall manage the Cooperative Research and Development Agreements between industry and public research partners.

''(2) REGISTRATION.—The OTT shall—

''(A) as appropriate, register the agreements within a publicly accessible electronic database maintained by the National Library of Medicine of the National Institutes of Health; and

''(B) oversee the collaborative process in terms of pre-determined outputs, negotiating problems that may occur between collaborating entities, and assuring intellectual property protections necessary for successful product development.

''SEC. 499G–2. OFFICE OF INTRAMURAL RISK OPPORTUNITY AND MAPPING.

''(a) ESTABLISHMENT.—There is established in the Office of Technology Transfer of the Center, an Office of Intramural Risk Opportunity and Mapping that shall oversee the intramural research programs of the National Institutes of Health to be certain they are complementary and distinct from extramural and private programs.

''(b) REVIEWS AND REPORTS.—The Office of Intramural Risk Opportunity and Mapping shall—

''(1) conduct regular reviews of the intramural research programs of the National Institutes of Health; and

''(2) report every 2 years on such reviews.

''(c) HEALTH RISKS AND OPPORTUNITIES.—The Office of Intramural Risk Opportunity and Mapping shall—

''(1) identify and map public health risks and scientific opportunities and keep data on such topics current and updated; and

''(2) provide the information described in paragraph (1) to the Council on a biannual basis to help the Council prioritize the Nation's translation research investment.

''(d) TRANS-NIH COLLABORATIVE RESEARCH.—

''(1) IN GENERAL.—The Office of Intramural Risk Opportunity and Mapping shall make, in coordination with the Director of Cures and the Director of NIH, funds available to groups of institutes and centers of the National Institutes of Health to promote engagement in multi-institute projects that focus on translational research endeavors.

''(2) FUNDING.—Funding levels and periods of funding under paragraph (1) shall be flexible as necessary to achieve trans-institute project objectives. Preference for funding shall be given to projects that promote high levels of cross-disciplinary collaboration, that address diseases with the greatest burden or research promise, and that are most likely to result in the development of a diagnostic or therapeutic prototype.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, from the acceleration fund of the Director of Cures described in section 499B(b)(2)(B)(i), to carry out this subsection $150,000,000.

''SEC. 499G–3. PATENTING AND LICENSING INCENTIVES.

''(a) IN GENERAL.—The OTT shall make every effort to increase licensing throughput in order to stimulate the availability of useful products for patients.

''(b) INCENTIVES.—The OTT shall develop incentives that create private sector, financial, commercial, and academic interest in the National Institutes of Health's intellectual property portfolio, which incentives may include the following:

''(1) The patent extension of National Institutes of Health's health patents, in which there is an extension of the time during which the licensee has exclusive right to the intellectual property.

''(2) The patent restoration of National Institutes of Health's health patents, in which there is restoration of the full patent life, or another agreed upon term, of a technology to the licensee from the time of Food and Drug Administration passage or other agreed upon milestone.

''(3) Partnering options, which are options to pursue exclusive and nonexclusive licensing to 1 or more partners in the government, industrial, or academic sectors.

''(c) CUSTOMIZED MODELS.—The Director of Cures shall encourage the OTT to cultivate customized models for contracts that fulfill the needs of industry and the public.

''SEC. 499G–4. TRANSLATIONAL RESEARCHER DEVELOPMENT.

''(a) IN GENERAL.—The Director of Cures shall oversee the development of a curriculum for internships in interdisciplinary research that will encompass rotations through multiple institutes and centers of the National Institutes of Health (including the National Library of Medicine), the clinical trial design process, and other related disciplines with an emphasis on practical experience.

''(b) TUITION GRANTS.—The Director of Cures shall award tuition grants for extramural interdisciplinary research programs.

''(c) TRAINING.—The Center shall train interdisciplinary scientists in the science and art of risk analysis and mapping through a program of internships and fellowships.

''SEC. 499G–5. TRANSLATIONAL RESEARCH TRAINING PROGRAM.

''The Director of NIH shall ensure that each institute and center of the National Institutes of Health has established, or contracted for the establishment of, a translational research training program at the institute or center.

''Subpart 6—Developing Information Systems

''SEC. 499H. ADVANCING NATIONAL HEALTH INFORMATION INFRASTRUCTURE.

''(a) GENOMIC DATA.—

''(1) IN GENERAL.—The National Center for Biotechnology Information of the National Library of Medicine of the National Institutes of Health shall develop new computational methods to aid in the processing of genomic data by novice and experienced researchers.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, from the acceleration fund of the Director of Cures described in section 499B(b)(2)(B)(i), to carry out paragraph (1) $8,000,000, of which—

''(A) $2,500,000 is authorized to be appropriated to support the program's computational infrastructure; and

''(B) $5,500,000 is authorized to be appropriated for hiring biologists and computer scientists who are trained in bioinformatics.

''(b) DATABASE.—The Secretary, acting through the Director of NIH, shall undertake, in collaboration with the National Library of Medicine of the National Institutes of Health, construction of a clinical study registry and results database that may expand upon the National Library of Medicine's information system and database.

''(c) CLINICAL TRIAL INFORMATION.—

''(1) IN GENERAL.—

''(A) IN GENERAL.—The clinical study registry and results database, described in subsection (b), shall consist of a registry of phase III clinical trials taking place in the United States and a database of their results.

''(B) CLINICAL STUDY REGISTRY.—Participation in the clinical study registry shall be mandatory for both public and private entities.

''(C) RESULTS DATABASE.—Participation in the clinical trial results database shall be mandatory for both public and private entities. The clinical trial results database shall include even negative studies, which demonstrate no therapeutic effect.

''(2) REGISTRY OF CLINICAL TRIALS.—The registry of clinical trials shall include not less than the following:

''(A) The clinical trial title.

''(B) A description of the product under study.

''(C) The hypothesis to be tested.

''(D) The intervention.

''(E) The study design, methodology, duration, and location.

''(F) Participation criteria.

''(G) Contact information.

''(H) Sponsoring organization.

''(3) CLINICAL TRIAL RESULTS.—The database of clinical trial results shall consist of not less than the following:

''(A) The trial start date and completion date.

''(B) A summary of the results of the trial in a standard, non-promotional summary format.

''(C) Summary data tables with respect to the primary and secondary outcome measures.

''(D) Information on the statistical significance of the results and publications in peer reviewed journals relating to the trial, with, when available, an electronic link to the journal article.

''(E) A description of the process used to review the results of the trial, including a statement about whether the results have been peer reviewed by reviewers independent of the trial sponsor.

''(F) Safety data concerning the trial, including a summary of all adverse events specifying the number and type of events.

''(G) Reference information to the clinical trial in the clinical registry.

''(d) REGISTRATION OF TRIALS AND REPORTING OF RESULTS.—

''(1) WEBSITE PUBLICATION.—Each principal investigator of a public clinical trial or responsible person for a private clinical trial shall register phase III clinical trials in accordance with paragraph (2) and report phase III clinical trial results in accordance with paragraph (2) with the National Library of Medicine of the National Institutes of Health. The National Library of Medicine shall make the information available for viewing on the Library's Website, www.clinicaltrials.gov. The National Library of Medicine shall electronically link each registered clinical trial with its database of results and link each database of results with its registered clinical trial.

''(2) TIMELINE OF REGISTRATION.—

''(A) IN GENERAL.—An entity described in paragraph (1) shall register a clinical trial not later than 3 months after the Food and Drug Administration has approved the entity's clinical trial protocol and report clinical trial results not later than 3 months after completing the clinical trial, which shall be defined as the point where the specified trial duration has been surpassed and the analysis of the data is complete or the trial is stopped because of vital positive or negative findings, or as the point determined by the judgment of the Secretary. All information submitted to the National Library of Medicine shall be accurate and updated

''(B) LOSS OF FUNDING.—In the case in which an entity described in paragraph (1) does not register a clinical trial or report on clinical trial results in accordance with subparagraph (A), the Secretary may—

''(i) not award a grant, contract, cooperative agreements, or any other award to the principal investigators of such entity until the principal investigators comply with the requirements under subparagraph (A); and

''(ii) in the case of an entity that does not receive Federal funding for the clinical trial, fine the entity $10,000 a day for a sum not to exceed $2,000,000 until the responsible person for the clinical trial complies with the requirements under subparagraph (A).

''(C) WAIVER.—The Secretary may waive the requirements of subparagraph (A) upon a written request from the responsible person if the Secretary determines that extraordinary circumstances justify the waiver and that providing the waiver is in the public's interest or consistent with the protection of public health.

''SEC. 499H–1. PUBLIC ACCESS REQUIREMENT FOR RESEARCH.

''(a) IN GENERAL.—The Secretary shall require all funded investigators, whether direct employees of the Department of Health and Human Services or recipients of grants, contracts, or other support of the National Institutes of Health, the Centers for Disease Control and Prevention, or the Agency for Healthcare Research and Quality, to submit to the National Library of Medicine of the National Institutes of Health (referred to in this section as the 'National Library of Medicine'), upon acceptance for publication in a journal or other publication included in the PubMed directory, final manuscripts resulting from research in which direct costs are supported in whole or in part by the National Institutes of Health, the Centers for Disease Control and Prevention, or the Agency for Healthcare Research and Quality.

''(b) PUBLIC AVAILABILITY.—

''(1) IN GENERAL.—The National Library of Medicine shall include all such manuscripts described in subsection (a), after peer review, for display in the National Library of Medicine's digital library archive, PubMed Central. The copyright holder of a manuscript described in subsection (a) may request the author's manuscript be replaced with final published text.

''(2) TIMELINE.—A manuscript described in subsection (a) shall become publicly available on the Internet through PubMed Central not later than 6 months after the date of publication of the manuscript.

''(3) LOSS OF FUNDING FOR FAILURE TO SUBMIT ON TIME.—Failure to submit required information under this section to the National Library of Medicine within 6 months of the date of publication of the manuscript involved shall be considered by the Secretary in the context of grant compliance review and may result in the loss of public funding for the investigators involved as determined appropriate by the agency involved.

''SEC. 499H–2. INFORMATICS TRAINING AND WORKFORCE DEVELOPMENT.

''(a) IN GENERAL.—The Director of NIH shall develop a multi-faceted approach to increasing the number of persons trained in clinical bioinformatics by implementing appropriate programs, including the programs described in subsection (b).

''(b) PROGRAMS.—The programs under this subsection are the following:

''(1) K–12 SCIENCE PROGRAM.—The National Library of Medicine of the National Institutes of Health shall develop with the National Science Foundation a kindergarten through grade 12 clinical informatics education curriculum that shall include an assessment component. The National Library of Medicine shall award not more than 500 schools each $30,000 to implement the curriculum.

''(2) UNDERGRADUATE DEGREE PROGRAMS IN BIOINFORMATICS.—The National Library of Medicine of the National Institutes of Health shall—

''(A) award grants to academic health centers and graduate training programs to collaborate with an undergraduate institution of higher education's department of biology, chemistry, or computer science to develop curricula leading to a bachelor's degree in bioinformatics; and

''(B) encourage grantees to form an inter-institutional consortium.

''(3) INCREASING THE NUMBER OF NIH BIOINFORMATICS GRADUATE TRAINING PROGRAMS.—The National Library of Medicine of the National Institutes of Health shall increase the number of bioinformatics graduate training programs through funding existing graduate training programs of the National Institutes of Health to meet the expanding needs for training and outreach to the biomedical community. The programs shall focus on the skills needed to apply bioinformatics methods specifically to problems of human health and disease. The Director of NIH shall hire 12 individuals with a doctorate in molecular biology and expertise in training and developing educational programs to assist in carrying out the programs under this paragraph.

''(4) CENTERS OF EXCELLENCE IN CLINICAL BIOINFORMATICS.—The National Library of Medicine of the National Institutes of Health, through the Center, shall establish Centers of Excellence in Clinical Bioinformatics that shall have state-of-the-art computational methods and tools applicable to human disease prevention, diagnosis, and treatment. The Centers of Excellence in Clinical Bioinformatics shall provide graduate student and postdoctoral support, through distinguished faculty, in order to contribute to the highest level of training in the bioinformatics workforce pipeline.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, from the acceleration fund of the Director of Cures described in section 499B(b)(2)(B)(i), to carry out this section $50,000,000 for fiscal year 2007 and each succeeding fiscal year of which—

''(1) $15,000,000 is authorized to be appropriated for fiscal year 2007 and each succeeding fiscal year to carry out subsection (b)(1); and

''(2) $2,000,000 is authorized to be appropriated to carry out subsection (b)(3).

''SEC. 499H–3. NATIONAL LIBRARY OF MEDICINE EXPANSION OF FACILITIES.

''(a) SENSE OF CONGRESS.—It is the sense of Congress that Congress should make special effort to fund the expansion of facilities of the National Library of Medicine of the National Institutes of Health. These facilities are essential to the National Library of Medicine being able to fulfill its many informatics functions, which include providing essential informational resources to scientists worldwide and advancing the underpinning of much of the National Institutes of Health conducted biomedical research.

''(b) REPORT.—The Director shall request that the Institute of Medicine of the National Academies report to Congress on the impact of not providing funding for the expansion of facilities described in subsection (a).

''Subpart 7—Research Tools

''SEC. 499I. NIH RESEARCH TOOL INVENTORY.

''(a) ANNUAL REVIEW.—The Director of NIH shall direct the head of each institute and center of the National Institutes of Health to perform an annual review of the institute or center's research tool inventory for the specific purpose of enabling each institute or center to understand the research tool distribution, frequency of use, intellectual property status, and utility. Each institute and center of the National Institutes of Health shall describe in the institute or center's annual review the type and quantity of research tools the institute or center desires to obtain to better fulfill the institute or center's research and development goals.

''(b) DATABASE.—The Director of Cures shall—

''(1) enter the information obtained from the annual review under subsection (a) into an electronic research tool database; and

''(2) use such database to oversee the prioritization and funding of new projects to fulfill pressing needs and promising technologies.

''SEC. 499I–1. EXCEPTIONS TO TOOL GUIDELINES.

''The Director of Cures may advise the Office of Technology Transfer of the Center to provide exceptions to prohibitions against patenting and licensing research tools under some circumstances of customized contracts when exclusive or non-exclusive licensing provides the swiftest and most efficacious final development of an important health care technology.''.

(b) CONFORMING AMENDMENT.—Section 401(b)(1) of the Public Health Service Act (42 U.S.C. 281(b)(1)) is amended by adding at the end the following:

''(S) The American Center for Cures.''.

QUOTES IN SUPPORT OF THE AMERICAN CENTER FOR CURES ACT OF 2005

''The American Center for Cures will be a tremendous addition to our nation's valuable tradition of biomedical research. By emphasizing translational and applications research as well as discovery of diagnostic markers, the ACC will bring the hope of basic science discovery to the reality of patient care. The mandate and goal will be to prevent, early diagnose, or cure the diseases that cause such suffering to humanity. This effort will promote health diplomacy that will bring the genius and resources of our nation to better the health of all Americans.''—Secretary Tommy Thompson, Former Secretary, Department of Health and Human Services, Former Governor, State of Wisconsin.

''The need for a federal focus on finding cures has long been a top priority for all of us who seek the rapid translation of scientific advances into personal health benefits. With their landmark legislative proposal, Senators Cochran and Lieberman have taken a critical step along our path to cures.''—S. Robert Levine MD, Chairman of the Health Priorities Project of the Progressive Policy Institute.

''As Governors around the country look to transform our complex health care system, we must seek new cost-effective solutions that continue to improve our overall health and productivity,'' said Michigan Governor Jennifer M. Granholm. ''The American Center for Cures represents a bi-partisan effort to devote significant and lasting resources toward an innovative approach to disease treatment and management, offering Americans grappling with chronic and debilitating diseases the lasting gift of hope.''—Governor Jennifer Granholm, Michigan.

''Finding cures will improve the health of mankind. As an example, by simply delaying the onset of Alzheimer's disease by five years, the health and productivity of older Americans will be enhanced. Developing cures will provide American families with a better quality of health care that can be sustained over a longer period of time. That is why I urge the establishment of the American Center for Cures.''—Governor Tom Vilsack, Iowa.

The American Center for Cures is a timely and creative proposal for tackling an urgent national challenge: the skyrocketing costs of treating and preventing chronic diseases. The confluence of such diseases and a graying population not only threatens to make health care unaffordable, but also jeopardizes prospects for healthy and successful aging. The Center would focus the prodigious talents of our scientific community on specific strategies to cure disease, saving lives and money over the long run.—Will Marshall, President, Progressive Policy Institute.

''The American Center for Cures is a simple, bold, breakthrough idea: A can-do country ought to have the capacity to solve chronic problems, not just treat them.''—Bruce Reed, President, Democratic Leadership Council.

''I think this goes a long way toward improving NIH's ability to do large projects across institutes and to facilitate translational research. I am happy to support this concept . . . there are already a lot of good ideas here.''—Leland Hartwell, Ph.D., Nobel Laureate, Medicine and Physiology, President, Fred Hutchinson Cancer Research Center.

''I believe the American Center for Cures (ACC) is a wonderful effort that focuses physicians and scientists on bringing the discoveries of the laboratory to the patient. The lives of many Americans will be improved by having the ACC bring to bear new resources in the fight against chronic neurological diseases such as Alzheimer's, Parkinson's, multiple sclerosis, and other neurodegenerative disorders. I enthusiastically support the American Center for Cures and hope that my colleagues in biomedical research will join me.''—Stanley Prusiner, M.D., Nobel Laureate, Medicine and Physiology, University of California, San Francisco.

''The proposed ACC offers a blend of existing federal activities in health research with several new initiatives, all aimed at speeding the move from discovery to products that help human health. The proposal has multiple components including strengthening existing NIH authorities in support of small business. When enacted and in operation the results of this new focused activity should be very visible with improvements to the public health that would not be possible without this new money with mandates on how it is spent.''—Robert Day, M.D., Ph.D., M.P.H., Emeritus Professor and Dean, University of Washington School of Public Health and Community Medicine, Emeritus Professor and Director, Fred Hutchinson Cancer Research Center, Member, Public Health Sciences, Member, National Cancer Advisory Board, National Cancer Policy Board.

''The establishment of an American Center for Cures with its emphasis, prominence and integration into the rest of the United States organization of health care related ventures would represent an enormous step forward. The focus of the Center on translation of basic science initiatives to the clinical arena will benefit those whose support has taken us to the present date. I applaud the initiative.''—Fritz H Bach, M.D., Lewis Thomas Distinguished Professor, Harvard Medical School.

''Medical discoveries over the past century have greatly increased the quality and quantity of human life. New insights into biology will make even more advances possible. The American Center for Cures will make the translation of biological discoveries to the patient occur not only faster but much more likely to happen. It is hard to imagine another investment that would extend the quality and quantity of life than fully funding the American Center for Cures.''—James O. Armitage, M.D., Joe Shapiro Professor of Medicine, University of Nebraska College of Medicine, Member, National Cancer Advisory Board.

''I am pleased to support the American Center for Cures (ACC) proposed legislation that you introduced to the United Sates Senate on Wednesday, December 7. This legislation is critical and in the translation of advances in fundamental biomedical science to improvements in the care of people. Please let me know if I can help make this dream a reality.''—Lee Goldman, M.D., MPH, Julius R. Krevans Distinguished Professor and Chair, Associate Dean for Clinical Affairs, University of California San Francisco School of Medicine, President, Association of Professors of Medicine.

''I enthusiastically support The American Center for Cures (ACC) Senate legislation. The ACC will focus our nation's scientists and doctors on applying basic scientific discoveries to help the patient. This critical approach to research will not only help our friends and loved ones with their health, it will be the 21st Century American approach to solving the health care financial crisis. By eliminating or reducing certain diseases for all Americans, the looming federal and state Medicare and Medicaid financial tsunami will be markedly reduced. There is no time to lose. I urge the immediate passage of the ACC legislation.'' —Stephen Gleason, D.O., Ph.D., Former CEO Mercy Clinics, Former VP Medical Operations for Catholic Health Initiatives, Former White House advisor, Former chief of staff, Governor Tom Vilsack, Former Presidential Representative to the World Health Organization, Assistant Professor, Mayo Graduate School of Medicine.

''The American Center for Cures will be the engine that brings basic science discoveries and apply them to the patient. It has been said that women and minorities are not dying from the lack of research, they are dying from the lack of research being applied to them. The ACC will focus the talent of the greatest scientists and clinicians for one singular purpose: to cure, prevent, or diagnose earlier diseases that afflict so many in the world. As a mother, nurse, researcher, and educator, I believe that the ACC will bring better health to all of us. The time is now . . . let us not waste another moment.''—Sandra Underwood, RN, PhD, University of Wisconsin School of Nursing.

''The American Center for Cures is a remarkable idea that will be the bridge between the promise of scientific opportunities and the reality of our nation's health needs—to deliver cures. Americans deserve a center that is totally dedicated to finding cures for our most devastating and debilitating chronic diseases. The ACC is the natural extension of the doubling of the NIH budget. Now we must have as a top national priority an accountable, mission-driven Center for Cures to rapidly identify ''cure opportunities'' already created by federal, academic and private research laboratories and proactively accelerate and rapidly translate these opportunities into real cures.

In an era of expanding needs, exploding knowledge of the biomedical sciences, and demands of the public to have the knowledge applied to their loved ones' ailments, the American Center for Cures offers new hope and dynamic reality to Americans. The American Center for Cures is the opportunity to commit the American genius, resources, and ethic to a greater cause in a ''moonshot'' approach to diseases.''—Richard J. Boxer, M.D., Clinical Professor, Health Policy, Medical College of Wisconsin, Clinical Professor, Family and Community Medicine, Medical College of Wisconsin, Clinical Professor, Surgery/Urology, University of Wisconsin-Madison.

''Having reviewed the material you so kindly sent me, I want to applaud this pioneering, entrepreneurial approach which will undoubtedly accelerate the process by which we discover and implement cures for diseases and improve and enrich the quality of life of tens of millions of Americans. I hope that this bold solutions-oriented approach will have overwhelmingly bi-partisan support in Congress and that it will be signed into law by the President at the earliest possible moment.''—Steve Grossman, Former Chair, Democratic National Committee, C.E.O. Massachusetts Envelope Company.

''The American Center for Cures is the best new idea in Washington DC in a generation. It is timely, creative and compelling.''—Joe Andrew, Former Chair, Democratic National Committee, Sonnenschein, Nath and Rosenthal, LLP.

''The combination of NIH and industry-supported research, combined with venture capital, has been very successful in bringing new drugs based on fundamental biological discoveries into commercial reality. In areas that combine fundamental biology and physical science and engineering—biomedical devices, analytical, genomic, and diagnostic tools, bioinformation systems, tissue engineering—the current system works substantially less well.''—George Whitesides, Ph.D., Professor of Chemistry, Harvard Medical School, (given in 2004).

''The concept of the new institute is exciting.''—Arthur W. Nienhuis, M.D., Director,

St. Jude Children's Research Hospital, (given in 2004).

''The concept and its underlying philosophy are right on target. We need to open cancer research in prevention, early diagnosis, and cure to scientists in diverse fields that include physicists, chemists, computer scientists and mathematicians.''—Frederick P. Li, M.D., Director, Division of Cancer Epidemiology and Control, Dana-Farber Cancer Institute, (given in 2004).

''The 20th Century saw a 100-percent increase in worldwide life expectancy—one of the greatest achievements in history. Today's children face different challenges, including a higher risk of dying from cancer and other diseases of aging than their grandparents did. In the 21st Century, our challenge is to use incredible advancements in information technology and biology to defeat such diseases as cancer, Alzheimer's, diabetes, Parkinson's and many other afflictions that take years of quality life from our loved ones. The most-important benefit will be reduced human suffering. And the value to our economy will be measured in trillions of dollars. The American Center for Cures (ACC) legislation recognizes and responds to the imperative of defeating these deadly diseases in our lifetimes. I believe we can do that if we summon the will to change the way we pursue new medical solutions. FasterCures supports passage of the ACC legislation and urges its rapid implementation. There is not a moment to lose.''—M. Millken, Chairman, FasterCures/The Center for Accelerating Medical Solutions.

''The American Center for Cures will be extraordinarily important for all Americans, and indeed all humanity. The new Center will combine scientific disciplines that have previously not been brought to bear upon biomedical problems. This is a unique and desperately needed approach will break through the impasse and finally bring the formidable power of all science to focus and solve the diseases that plague the world. The American Center for Cures has been designed to bring accountability and responsibility for ultimate cures. Its success will be measured by cures and cures alone. As a father, husband, entrepreneur, and one who has seen too much suffering, I believe it is incumbent upon us to take a bold approach to biomedical research that will make our children and future generations free of the diseases that have afflicted us and our ancestors. Let our descendents look back at our generation and say, 'They reached for the stars, and found they were capable of conquering old paradigms, fears, and diseases.' ''—Lou Weisbach, C.E.O. Stadium Capital Associates, Founder, HA-LO Industries, Inc.

''Oscar Wilde once wrote, ''Morality, like art, begins with a line being drawn someplace.'' With tremendous suffering and disease so prevalent in our country, the American Center for Cures' (ACC) proposed legislation being introduced by Senators Lieberman and Cochran draws a line in the sand for health and extending the lifetime of every individual. From a religious point of view, this certainly responds to the notion that we are identified with life affirmation. I heartily endorse this legislation.''—Rabbi Steven B. Jacobs, Temple Kol Tikvah, Woodland Hills, CA—Rabbi Michael Lerner, Editor, Tikkun Magazine, Rabbi, Beyt Tikkun Synagogue, San Francisco, California.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 331—EXPRESSING THE SENSE OF THE SENATE REGARDING FERTILITY ISSUES FACING CANCER SURVIVORS

Ms. LANDRIEU (for herself, Mr. BURR, Mr. BINGAMAN, Mrs. FEINSTEIN, and Mr. ISAKSON) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 331

Whereas there are more than 10,000,000 cancer survivors in the United States, and approximately 1,000,000 of those survivors were diagnosed during their reproductive years;

Whereas approximately 130,000 people under the age of 45 are diagnosed with cancer each year;

Whereas up to 90 percent of patients diagnosed with cancer under the age of 45 will undergo potentially sterilizing treatments, such as surgery, chemotherapy, or radiation;

Whereas survivorship rates have dramatically increased so that 71 percent of patients who are diagnosed with cancer under the age of 45 can expect to live at least five years beyond the diagnosis of their disease;

Whereas long-term consequences of cancer treatment are of increasing concern to patients since they are increasingly likely to survive their cancer;

Whereas the diagnosis of infertility can be as devastating for many patients as the cancer diagnosis itself;

Whereas successful fertility preservation options for men and women exist and include: sperm banking, oocyte (egg) freezing, and ovarian and testicular tissue freezing;

Whereas many cancer patients have the option of taking steps to preserve their fertility before their potentially sterilizing cancer treatment begins;

Whereas many patients do not take steps to preserve their fertility before treatment because they are not informed by their health care professionals that their fertility is at risk, or, if they are informed of the risk, they are generally not counseled on their fertility preservation options;

Whereas unrelated factors such as marital status or poor prognosis should not preclude certain patients from being informed about their fertility risks and options; and

Whereas the 2003–2004 President's Cancer Panel Report recognized that comprehensive written and verbal information regarding fertility side effects and fertility preservation options for all reproductive-age patients should be provided before treatment: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) cancer-related infertility is a serious quality of life issue for reproductive-age cancer patients;

(2) national and community organizations should be recognized and applauded for their work in promoting awareness of the risks of infertility and fertility preservation options for cancer survivors;

(3) the medical community should increase its efforts to ensure that discussions about the risk of infertility and fertility preservation options are an integral part of pretreatment planning and consent for treatment for all reproductive-age patients; and

(4) the Federal Government, acting through the National Institutes of Health, should endeavor to—

(A) encourage research that will strengthen fertility preservation technologies for cancer patients;

(B) continue to consider ways to improve access to fertility preservation options for cancer patients; and

(C) endeavor to raise awareness about the fertility side effects and fertility preservation options for cancer patients.

SENATE RESOLUTION 332—HONORING THE LIFE OF FORMER GOVERNOR CARROLL A. CAMPBELL, AND EXPRESSING THE DEEPEST CONDOLENCES OF THE SENATE TO HIS FAMILY

Mr. DEMINT (for himself and Mr. GRAHAM) submitted the following resolution; which was considered and agreed to:

S. RES. 332

Whereas the Senate has learned with sadness of the death of Governor Carroll Campbell;

Whereas Carroll Campbell dedicated a lifetime of service to the State of South Carolina and the United States;

Whereas Carroll Campbell served most honorably as the Governor of South Carolina from 1987 to 1995;

Whereas from 1979, and until he was elected Governor of South Carolina, Carroll Campbell served with high moral character and integrity in the United States House of Representatives;

Whereas Carroll Campbell was the first Republican elected to the House of Representatives for the 4th Congressional District since the Reconstruction period;

Whereas during his service as Governor, Carroll Campbell provided extraordinary leadership and comfort to the citizens of South Carolina throughout the devastating aftermath of Hurricane Hugo and the rebuilding of the coast;

Whereas Carroll Campbell improved the economy of South Carolina and the livelihood of its citizens by attracting world class businesses;

Whereas Carroll Campbell worked diligently to restructure the Government of South Carolina, making it more accessible and responsive to its citizens;

Whereas Carroll Campbell focused on improving the quality of public education provided by the State of South Carolina to all of its citizens;

Whereas Carroll Campbell was as devoted to his principles as he was to his loving family, which included his wife Iris, his sons Carroll and Mike, and his grandchildren ''Blakeney'' Herlong Campbell, Carroll ''Berrett'' Campbell, Michael ''Rhodes'' Campbell, and Marie ''Riley'' Campbell; and

Whereas Carroll Campbell was a visionary who worked to improve the lives of all South Carolinians: Now, therefore, be it

Resolved, That the Senate—

(1) extends its prayers and deepest condolences to the entire Campbell family;

(2) honors the life of Carroll Campbell and expresses profound gratitude for his years of public service; and

(3) acknowledges with appreciation the unfaltering commitment and loyalty of Carroll Campbell to his family and the State of South Carolina.

SENATE RESOLUTION 333—RECOGNIZING THE CENTENNIAL OF SUSTAINED IMMIGRATION FROM THE PHILIPPINES TO THE UNITED STATES AND ACKNOWLEDGING THE CONTRIBUTIONS OF OUR FILIPINO-AMERICAN COMMUNITY TO OUR COUNTRY OVER THE LAST CENTURY

Mr. AKAKA (for himself, Mr. INOUYE, and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 333

Whereas the peoples of the Philippine archipelago have a long and proud history, and today, as the Republic of the Philippines, embrace democracy, occupy a central strategic position in Asia and the Pacific, and nurture a rich and diverse cultural heritage;

Whereas the United States and the Philippines have enjoyed a long and productive relationship, including the period of United States governance between 1898 and 1946, and the period post-independence starting in 1946, during which the Philippines has taken its place among the community of nations and has been one of our country's most loyal and reliable allies internationally;

Whereas the bonds between our 2 countries have been strengthened through sustained immigration from the Philippines to the United States;

Whereas the 2000 census counted almost 2,400,000 Americans of Filipino ancestry living in all parts of our country, including the top 2 States, California, with almost 1,100,000 Filipino Americans, and Hawaii, with some 275,000;

Whereas the contributions of Filipino Americans to the United States include achievement in all segments of our society, including, to name a few, labor, business, politics, medicine, media and the arts;

Whereas Filipino Americans have especially served with distinction in the Armed Forces of the United States throughout the history of our long relationship, from World Wars I and II through the Korean War, the Vietnam War, the Gulf War, and today in Afghanistan and Iraq;

Whereas within the United States, Filipino Americans retained many of their country's proud cultural traditions and contribute immeasurably to the diverse tapestry of today's American experience;

Whereas Filipino Americans have also maintained close ties to their friends and relatives in the Philippines and in doing so play an indispensable role in maintaining the strength and vitality of the United States-Philippines relationship;

Whereas both the Filipino experience in the United States and the resultant ties between our 2 great countries began in earnest in 1906, when 15 Filipino contract laborers arrived in the then-Territory of Hawaii to work on the islands' sugar plantations, the beginnings of an emigration from the Philippines to Hawaii which, during the subsequent century, has sometimes exceeded 60,000 a year, making Filipinos the largest immigrant group from the Asia-Pacific region;

Whereas 1906 also saw the first class of 200 ''pensionados'' arrive from the Philippines to obtain United States educations with the intent of returning, although many later became United States citizens and helped form the foundation of today's Filipino-American community;

Whereas the story of America's Filipino-American community is little known and rarely told, yet is the quintessential immigrant story of early struggle, pain, sacrifice, and broken dreams, leading eventually to success in overcoming ethnic, social, economic, political, and legal barriers to win a well-deserved place in American society;

Whereas our Filipino-American community will recognize a century of achievement in the United States in 2006 through a series of nationwide celebrations and memorials honoring the centennial of sustained immigration from the Philippines; and

Whereas this centennial is for all Americans of whatever ethnic origin to celebrate both with and in order to understand and appreciate our Filipino-American community, but also as a remembrance of the struggles and triumphs of all of our predecessors and in honor of our common national experience: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the centennial of sustained immigration from the Philippines to the United States;

(2) acknowledges the achievements and contributions of Filipino Americans over the past century; and

(3) urges the people of the United States to observe this milestone with appropriate celebratory and educational programs, ceremonies and other activities.

SENATE CONCURRENT RESOLUTION 69—SUPPORTING THE GOALS AND IDEALS OF A DAY OF HEARTS, CONGENITAL HEART DEFECT DAY IN ORDER TO INCREASE AWARENESS ABOUT CONGENITAL HEART DEFECTS, AND FOR OTHER PURPOSES

Mr. ISAKSON submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 69

Whereas congenital heart defects are structural problems with the heart that are present at birth;

Whereas such defects range in severity from simple problems, such as ''holes'' between chambers of the heart, to very severe malformations, such as the complete absence of one or more chambers or valves of the heart;

Whereas more than one million Americans have some form of a congenital heart defect and such defect is the number one cause of death in infants;

Whereas out of 1000 births, eight babies will have some form of a congenital heart disorder, and approximately 35,000 babies are born with such defects each year;

Whereas twice as many children die each year from congenital heart disease compared with childhood cancers, yet funding for pediatric cancer research is five times higher than such funding for congenital heart disease;

Whereas cardiovascular disease is the Nation's leading killer in both men and women among all racial and ethnic groups;

Whereas the United States has a severe shortage of cardiac centers that are fully equipped to provide care for adults living with complex heart defects;

Whereas almost one million Americans die of cardiovascular disease each year, resulting in up to 42 percent of all deaths in the United States;

Whereas the presence of a serious congenital heart defect often results in an enormous emotional and financial strain on young families who are already in a vulnerable stage of their lives;

Whereas severe congenital heart disease requires that families dedicate extensive financial resources for assistance and care both within and outside of a hospital environment;

Whereas congenial heart defects exceed more than $2.2 million a year for inpatient surgery alone; and

Whereas February 14, 2006 would be an appropriate day to recognize A Day for Hearts: Congenital Heart Defect Awareness Day: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress supports the goals and ideals of A Day of Hearts: Congenital Heart Defect Awareness Day to—

(1) increase awareness about congenital heart defects;

(2) encourage research with respect to the disease; and

(3) support the millions of Americans who are affected by this disease.

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GREGG. Mr. President. I ask unanimous consent that the Committee on Environment and Public Works be authorized to hold a hearing on Wednesday, December 14 regarding EPA's Spill Prevention Control and Countermeasure program, specifically the issues addressed by proposed rule and guidance document issued Friday, December 2.

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

COMMITTEE ON FINANCE

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Wednesday, December 14, 2005, 11 a.m., to consider the nominations of Antonio Fratto, to be Assistant Secretary of the Treasury for Public Affairs, U.S. Department of the Treasury, Washington, DC; David M. Spooner, to be Assistant Secretary of Commerce for Import Administration, U.S. Department of Commerce, Washington, DC; Vincent J. Ventimiglia, Jr., to be Assistant Secretary of Health and Human Services for Legislation, U.S. Department of Health and Human Services, Washington, DC; Richard T. Crowder, to be Chief Agricultural Negotiator, Office of the United States Trade Representative, Washington, DC; Jeffrey Robert Brown, to be Member of Social Security Advisory Board, Social Security Administration, Baltimore, MD; and David Steele Bohigian, Assistant Secretary of Commerce, Market Access and Compliance, U.S. Department of Commerce, Washington, DC.

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

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent Jon Miles of my staff be granted floor privileges for the duration of today's session.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that John Haffner and Molly Askin, legal interns in my

Judiciary Committee office, be given privileges of the floor during the PATRIOT Act conference report.

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

UNANIMOUS-CONSENT AGREEMENT—H. R. 3010

Mr. SESSIONS. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to the consideration of the conference report to accompany H.R. 3010, the Labor-HHS appropriations bill. I further ask consent that there be 90 minutes of debate under the control of Senator HARKIN, 30 minutes under the control of Senator SPECTER, and 10 minutes for Senator COBURN; further, that following that time, it be temporarily set aside with the vote to occur on the conference report at a time to be determined by the majority leader, after consultation with the Democratic leader, with no intervening action or debate.

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

EXPRESSING CONDOLENCES ON DEATH OF CARROLL CAMPBELL

Mr. SESSIONS. I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 332, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 332) honoring the life of former Governor Carroll A. Campbell, and expressing the deepest condolences of the Senate to his family.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SESSIONS. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 332) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 332

Whereas the Senate has learned with sadness of the death of Governor Carroll Campbell;

Whereas Carroll Campbell dedicated a lifetime of service to the State of South Carolina and the United States;

Whereas Carroll Campbell served most honorably as the Governor of South Carolina from 1987 to 1995;

Whereas from 1979, and until he was elected Governor of South Carolina, Carroll Campbell served with high moral character and integrity in the United States House of Representatives;

Whereas Carroll Campbell was the first Republican elected to the House of Representatives for the 4th Congressional District since the Reconstruction period;

Whereas during his service as Governor, Carroll Campbell provided extraordinary leadership and comfort to the citizens of South Carolina throughout the devastating aftermath of Hurricane Hugo and the rebuilding of the coast;

Whereas Carroll Campbell improved the economy of South Carolina and the livelihood of its citizens by attracting world class businesses;

Whereas Carroll Campbell worked diligently to restructure the Government of South Carolina, making it more accessible and responsive to its citizens;

Whereas Carroll Campbell focused on improving the quality of public education provided by the State of South Carolina to all of its citizens;

Whereas Carroll Campbell was as devoted to his principles as he was to his loving family, which included his wife Iris, his sons Carroll and Mike, and his grandchildren ''Blakeney'' Herlong Campbell, Carroll ''Berrett'' Campbell, Michael ''Rhodes'' Campbell, and Marie ''Riley'' Campbell; and

Whereas Carroll Campbell was a visionary who worked to improve the lives of all South Carolinians: Now, therefore, be it

Resolved, That the Senate—

(1) extends its prayers and deepest condolences to the entire Campbell family;

(2) honors the life of Carroll Campbell and expresses profound gratitude for his years of public service; and

(3) acknowledges with appreciation the unfaltering commitment and loyalty of Carroll Campbell to his family and the State of South Carolina.

EXECUTIVE CALENDAR

NOMINATIONS DISCHARGED

Mr. SESSIONS. As in executive session, I ask unanimous consent that the following committees be discharged from further consideration of the nominations mentioned and that they be placed on the calendar.

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

Mr. SESSIONS. From the Foreign Relations Committee, Marilyn Ware, PN 1015; from the HELP Committee, Stephanie Monroe, PN 651; from the Homeland Security Committee, Donald Gambatesa, PN 870.

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

RECOGNIZING CENTENNIAL OF SUSTAINED IMMIGRATION FROM PHILIPPINES TO UNITED STATES

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 333 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 333) recognizing the centennial of sustained immigration from the Philippines to the United States and acknowledging the contributions of our Filipino-American community to our country over the last century.

There being no objection, the Senate proceeded to consider the resolution.

Mr. AKAKA. Mr. President, I rise to speak about the resolution submitted today with the senior Senator from Hawaii; DAN INOUYE. This resolution formally recognizes the 2006 centennial of Filipino immigration to Hawaii, acknowledges the contributions of the Filipino-American community to our country, and celebrates the long and productive relationship between the Philippines and the United States.

On December 20, 1906, the first Filipino ''sakadas,'' or farm workers, arrived at Honolulu Harbor. Over the years Filipino workers provided an invaluable service for Hawaiian sugarcane and pineapple plantations. Other Filipino immigrants who arrived on the West Coast contributed to the workforce on farms in California and Washington, lumber operations in the North West, and salmon canneries in Alaska. Three years earlier, following the passage of the Pensionado Act, about 200 Filipino ''pensionados,'' or government scholars, were brought to the U.S. to receive an American education. Though many of the ''sakadas'' and ''pensionados'' intended to return to the Philippines, a number of them stayed to become American citizens, forming the foundation of today's Filipino-American community.

Despite being the second-largest Asian-American group in the United States, the story of the Filipino-American community is largely unknown. This resolution pays tribute to the sacrifice of Filipino-Americans and their perseverance in the face of political, social, and ethnic adversity.

Throughout our Nation, there are about 2.4 million Americans of Filipino ancestry. Hawaii has the second largest population of Filipino-Americans with 275,000 residing there today. Our country has benefitted greatly from the many accomplishments of the Filipino-American community, in all areas of society.

As a Nation with a rich immigrant heritage, it is only right that our country recognizes the struggles and triumphs experienced by the Filipino community. I would also like to commend my other colleagues in Hawaii's Congressional delegation, Representatives ED CASE and NEIL ABERCROMBIE, for sponsoring this resolution in the other body. I would like to thank my intern, Sylvia Wan, for her assistance in preparing this statement. I urge my colleagues to support this resolution to honor the centennial of Filipino migration to Hawaii and their contributions to our country.

Mr. SESSIONS. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The resolution (S. Res. 333) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 333

Whereas the peoples of the Philippine archipelago have a long and proud history, and today, as the Republic of the Philippines, embrace democracy, occupy a central strategic position in Asia and the Pacific, and nurture a rich and diverse cultural heritage;

Whereas the United States and the Philippines have enjoyed a long and productive relationship, including the period of United States governance between 1898 and 1946, and the period post-independence starting in 1946, during which the Philippines has taken its place among the community of nations and has been one of our country's most loyal and reliable allies internationally;

Whereas the bonds between our 2 countries have been strengthened through sustained immigration from the Philippines to the United States;

Whereas the 2000 census counted almost 2,400,000 Americans of Filipino ancestry living in all parts of our country, including the top 2 States, California, with almost 1,100,000 Filipino Americans, and Hawaii, with some 275,000;

Whereas the contributions of Filipino Americans to the United States include achievement in all segments of our society, including, to name a few, labor, business, politics, medicine, media and the arts;

Whereas Filipino Americans have especially served with distinction in the Armed Forces of the United States throughout the history of our long relationship, from World Wars I and II through the Korean War, the Vietnam War, the Gulf War, and today in Afghanistan and Iraq;

Whereas within the United States, Filipino Americans retained many of their country's proud cultural traditions and contribute immeasurably to the diverse tapestry of today's American experience;

Whereas Filipino Americans have also maintained close ties to their friends and relatives in the Philippines and in doing so play an indispensable role in maintaining the strength and vitality of the United States-Philippines relationship;

Whereas both the Filipino experience in the United States and the resultant ties between our 2 great countries began in earnest in 1906, when 15 Filipino contract laborers arrived in the then-Territory of Hawaii to work on the islands' sugar plantations, the beginnings of an emigration from the Philippines to Hawaii which, during the subsequent century, has sometimes exceeded 60,000 a year, making Filipinos the largest immigrant group from the Asia-Pacific region;

Whereas 1906 also saw the first class of 200 ''pensionados'' arrive from the Philippines to obtain United States educations with the intent of returning, although many later became United States citizens and helped form the foundation of today's Filipino-American community;

Whereas the story of America's Filipino-American community is little known and rarely told, yet is the quintessential immigrant story of early struggle, pain, sacrifice, and broken dreams, leading eventually to success in overcoming ethnic, social, economic, political, and legal barriers to win a well-deserved place in American society;

Whereas our Filipino-American community will recognize a century of achievement in the United States in 2006 through a series of nationwide celebrations and memorials honoring the centennial of sustained immigration from the Philippines; and

Whereas this centennial is for all Americans of whatever ethnic origin to celebrate both with and in order to understand and appreciate our Filipino-American community, but also as a remembrance of the struggles and triumphs of all of our predecessors and in honor of our common national experience: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the centennial of sustained immigration from the Philippines to the United States;

(2) acknowledges the achievements and contributions of Filipino Americans over the past century; and

(3) urges the people of the United States to observe this milestone with appropriate celebratory and educational programs, ceremonies and other activities.

SHAREHOLDER CONSIDERATION OF PROPOSALS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 182, S. 449.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 449) to facilitate shareholder consideration of proposals to make Settlement Common Stock under the Alaska Native Claims Settlement Act available to missed enrollees, eligible elders, and eligible persons born after December 18, 1971, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 449) was read the third time and passed, as follows:

S. 449

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL AMENDMENT TO ALASKA NATIVE CLAIMS SETTLEMENT ACT.

Section 36(d)(3) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629b) is amended—

(1) by striking ''(d)(3)'' and inserting ''(3)'';

(2) in the matter preceding subparagraph (A), by striking ''of this section'' and inserting ''or an amendment to articles of incorporation under section 7(g)(1)(B)'';

(3) in subparagraph (A)—

(A) by striking '', or'' and inserting ''; or''; and

(B) by striking ''such resolution'' and inserting ''the resolution or amendment to articles of incorporation''; and

(4) in subparagraph (B), by striking ''such resolution'' and inserting ''the resolution or amendment to articles of incorporation''.

ALLOWING BINDING ARBITRATION CLAUSES TO BE INCLUDED IN ALL CONTRACTS AFFECTING LAND WITHIN THE GILA RIVER INDIAN COMMUNITY RESERVATION

Mr. SESSIONS. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 327, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 327) to allow binding arbitration clauses to be included in all contracts affecting land within the Gila River Indian Community Reservation.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements related to the bill be printed in the record.

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

The bill (H.R. 327) was read the third time and passed.

ORDERS FOR THURSDAY, DECEMBER 15, 2005

Mr. SESSIONS. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. on Thursday, December 15. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to the conference report to accompany the Labor-HHS bill, as under the order.

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

Mr. SESSIONS. Mr. President, I further ask unanimous consent that the first 90 minutes be under the control of Senator HARKIN. I further ask unanimous consent that following the use or yielding back of that time, the conference report be set aside, the Senate resume consideration of the PATRIOT conference report, and that the next 2 hours be equally divided between the two leaders or their designees; provided further that following that 2-hour time period, the Senate stand in recess until 2:15 for the policy lunch to meet. I also ask unanimous consent that the time from 2:15 to 3:30 be equally divided between the two leaders or their designees; provided further that at 3:30 the Senate resume consideration of the House message to accompany S. 1932, with all time having been considered used, and the Senate proceed to a series of votes in relation to the remaining motions in the order offered; that the order of motions would be DeWine, Kohl, Kennedy, and Reed; and finally, I ask unanimous consent there be 2 minutes equally divided between each of those votes.

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

PROGRAM

Mr. SESSIONS. Mr. President, tomorrow we will be considering several measures throughout the day. We will begin the day with debate on the Labor-HHS appropriations conference report. We will resume debate on the

PATRIOT Act conference report. At 3:30 we will begin the final series of votes with respect to the remaining motions to instruct on the deficit reduction bill. We also expect to stack the Labor-HHS conference report in that series of votes. Other votes may occur as we work on either executive items or on other legislative issues.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:59 p.m., adjourned until Thursday, December 15, 2005, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate December 14, 2005:

THE JUDICIARY

PATRICK JOSEPH SCHILTZ, OF MINNESOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA, VICE RICHARD H. KYLE, RETIRED.

JACK ZOUHARY, OF OHIO, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF OHIO, VICE DAVID A. KATZ, RETIRED.

FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASS STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF AGRICULTURE

LISA M. ANDERSON, OF VIRGINIA
RICHARD A. BATTAGLIA, OF VIRGINIA
ANN E. MURPHY, OF VIRGINIA
KATHRYN A. SNIPES, OF CALIFORNIA
CHRISTINE M. STROSSMAN, OF NEW YORK

DEPARTMENT OF COMMERCE

J. GREGORY BRISCOE, OF TENNESSEE
BRADLEY A. HARKER, OF NEVADA
KELLIE L. HOLLOWAY JARMAN, OF OREGON
ERIC K.P. HSU, OF OREGON
STEPHEN P. KNODE, OF FLORIDA
JAMES W. MAYFIELD, JR., OF MARYLAND
KEITH L. SILVER, OF NEW HAMPSHIRE

DEPARTMENT OF STATE

DAVID B. FOLEY, OF CALIFORNIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

WANDA BARQUIN, OF CALIFORNIA
ARTINA M. DAVIS, OF MARYLAND
JOHN M. FLEMING, OF MARYLAND
DIANE JONES, OF FLORIDA
MILLAR J.C. WHITE III, OF CALIFORNIA

DEPARTMENT OF STATE

BRIDGET M. ALWAY, OF IDAHO
DANNIELLE RENEE ANDREWS, OF CALIFORNIA
GEOFFREY JAMES ANISMAN, OF NEW YORK
DARIAN LAWRENCE ARKY, OF NEVADA
ELIZABETH MCGEE BAILEY, OF TEXAS
NOLAN E. BARKHOUSE, OF TEXAS
HEIDI-HAKONE L. BARRACHINA, OF VIRGINIA
WENDY K. BARTON, OF NEVADA
BARBARA A. BARTSCH-ALLEN, OF TEXAS
JONATHAN R. BAYAT, OF PENNSYLVANIA
FRANCES J. BELISLE, OF VIRGINIA
JUSTIN DAVID BERG, OF VIRGINIA
MELISSA ANNE BISHOP, OF CALIFORNIA
CHERYL BODEK, OF NEW JERSEY
KRISTIN BONGIOVANNI, OF WASHINGTON
JEFFREY DAVID BORENSTEIN, OF VIRGINIA
ROBERT J. BRENNAN, OF FLORIDA
JENNIFER M. BROWN, OF VIRGINIA
JASON E. BRUDER, OF NEW YORK
ALEXANDER THADDEUS BRYAN, OF FLORIDA
ERIN MARIE BUTLER, OF WASHINGTON
ALFRED THOMAS CANAHUATE, OF MARYLAND
THOMAS SCOTT CARNEGIE, OF VIRGINIA
JANE H. CARPENTER-ROCK, OF MARYLAND
ADAM M. CENTER, OF GEORGIA
MATTHEW ANTHONY CENZER, OF VIRGINIA
ANGELA M. CERVETTI SAAVEDRA, OF VIRGINIA
CAROL-ANNE CHANG, OF NEW YORK
DWAYNE L. CLINE, OF NEVADA
MELISSA ROSS CLINE, OF NEW YORK
RACHEL LEE COOKE, OF VERMONT
ANDREW KENNETH COVINGTON, OF ILLINOIS
FLEUR SOPHIE COWAN, OF THE DISTRICT OF COLUMBIA
C. AMANDA CRANMER, OF CALIFORNIA
JOSEPH L. CROOK, OF WASHINGTON
PETER N. D'AMICO, OF NEW YORK
R. CHRISTOPHER W. DAVY, OF TEXAS
MELISA MARIE DOHERTY, OF MINNESOTA
JACK DOUTRICH, OF WASHINGTON
WILLIAM R. DOWERS, OF FLORIDA
TOD EARL DURAN, OF TEXAS
PATRICIA ELLIS, OF PENNSYLVANIA
BARBARA I. ENSSLIN, OF FLORIDA
KATHERINE L. ESTES, OF FLORIDA
ERIN K. EUSSEN, OF WASHINGTON
MARY SUE FIELDS, OF VIRGINIA
JOSEPH J.O. FITZGERALD, OF WASHINGTON
MATTHEW J. FLANNIGAN, OF WYOMING
AARON P. FORSBERG, OF OREGON
COLIN P. FURST, OF VIRGINIA
JEANNE MICHELLE GALLO, OF NEW YORK
STEPHEN J. GEE, OF OHIO
BRENNAN MICHAEL GILMORE, OF VIRGINIA
MARY ELIZABETH GLANTZ, OF VIRGINIA
ABIGAIL DRESSEL GONZALEZ, OF CONNECTICUT
MICHAEL ANDREW GRAHAM, OF MISSOURI
KRISTEN KAROL GRAUER, OF MICHIGAN
KAREN ELIZABETH GRISSETTE, OF CALIFORNIA
MAUREEN E. HAGGARD, OF WASHINGTON
SUZANNE K. HALL, OF NEW HAMPSHIRE
STACIE RENEE HANKINS, OF VIRGINIA
ZACHARY V. HARKENRIDER, OF NEW YORK
KIMBERLY D. HARRINGTON, OF NEW JERSEY
ELIZABETH J. HARRIS, OF OKLAHOMA
LINDSAY NICOLE HENDERSON, OF OREGON
NATASHA M. HENDERSON, OF PENNSYLVANIA
DAVID ANTHONY HENRY, OF WASHINGTON
THOMAS R. HINES, OF CALIFORNIA
DOVIE A. HOLLAND, OF TEXAS
JAMES ARLEN HOLT, OF FLORIDA
NEIL WILLIAM HOP, OF OREGON
LAURA PHIPPS HRUBY, OF OHIO
BRYCE ALLISON ISHAM, OF WASHINGTON
ELIZABETH EVELYN JAFFEE, OF VIRGINIA
MANAV JAIN, OF CALIFORNIA
AMANDA LYN JOHNSON, OF MONTANA
SHERRY C. KENESON-HALL, OF KENTUCKY
THADDEUS L. KONTEK, OF VIRGINIA
JOEL A. KOPP, OF ALASKA
PAUL W. KREUTZER, OF MARYLAND
THOMAS MARTIN KREUTZER, OF WASHINGTON
LALE KUYUMCU, OF VIRGINIA
CHERIE J. LENZEN, OF ILLINOIS
JOHN ANTHONY LEWANDOWSKI, OF MISSOURI
KEVIN D. LEWIS, OF TEXAS
GENEVIEVE LIBONATI, OF MARYLAND
TIMOTHY EDWARD LISTON, OF VIRGINIA
MATTHEW WILLIAM LONG, OF MASSACHUSETTS
RICHARD N. LYONS III, OF COLORADO
STACY DEE MACTAGGERT, OF WISCONSIN
GREGORY RAGAN MARCUS, OF FLORIDA
R. BRYAN MARCUS, OF ALABAMA
NICOLE M. MARTIN, OF FLORIDA
KAMANA MATHUR, OF TEXAS
MARISSA MAURER, OF DELAWARE
DAVID CHRISTIAN MCFARLAND, OF TEXAS
BRIAN GERALD MCINERNEY, OF INDIANA
ROBERT AARON MCINTURFF, OF VIRGINIA
LEE MCMANIS, OF CALIFORNIA
SUZANNE MCPARTLAND, OF NEW YORK
GENEVE ELIZA MENSCHER, OF NEW JERSEY
JENNIFER T. MERGY, OF CALIFORNIA
KENNETH LEE MEYER, OF OHIO
DEBORAH A. MILLER, OF VIRGINIA
ALLISON MARGARET MONZ, OF CALIFORNIA
JAMES WALTER MOON IV, OF SOUTH CAROLINA
JUDY S. MOORE, OF TEXAS
KRISTINA MOORE, OF ARIZONA
CHARLES H. MORRILL, OF NEW HAMPSHIRE
ELIZABETH ANN MURPHY, OF PENNSYLVANIA
TRACEY B. NEWELL, OF VIRGINIA
VALERIE COLETTE O'BRIEN, OF VIRGINIA
THOMAS ALFRED O'KEEFFE III, OF VIRGINIA
CRAIG OLSON, OF VIRGINIA
MYRNA M. ORTIZ KERR, OF NEW YORK
NICOLE IRELAND OTALLAH, OF VIRGINIA
REBECCA KIMBRELL PATRICK, OF TENNESSEE
ELIZABETH A. PELLETREAU, OF MASSACHUSETTS
KIMBERLY JOY PENLAND, OF FLORIDA
RAFAEL A. PEREZ, OF FLORIDA
QUINN N. PLANT, OF WASHINGTON
TIMOTHY F. PONCE, OF FLORIDA
GAUTAM A. RANA, OF NEW JERSEY
JOHN ANTHONY REGAN, OF PENNSYLVANIA
ANNELIESE LOUISE REINEMEYER, OF TEXAS
TIMOTHY JOE RELK, OF IDAHO
STEVEN MATTHEW RIDER, OF SOUTH DAKOTA
MICHAEL ROMAN ROUSEK, OF OHIO
AMY B. SCANLON, OF VERMONT
ADAM WILLARD SCARLATELLI, OF NEW JERSEY
JOAN PERKINS SHAKER, OF VIRGINIA
SCOTT E SMITH, OF INDIANA
LORELEI GRAYCE SNYDER, OF CALIFORNIA
JENNIFER SARAH PLEUSS SPANDE, OF VIRGINIA
NICOLE E. SPECIANS, OF ILLINOIS
TANYA K. SPENCER, OF TEXAS
VINCENT D. SPERA, OF DELAWARE
TERRY R. STEERS-GONZALEZ, OF TEXAS
KRISTIN M. STEWART, OF COLORADO
GUY T. STRANDEMO, OF MINNESOTA
RICHARD E. SWART III, OF NEW JERSEY
HOLLY LINDQUIST THOMAS, OF MINNESOTA
BENJAMIN A. THOMSON, OF UTAH
EDWARD LEWIS WATERS, OF NEVADA
ELIZABETH WILSON WEBSTER, OF VIRGINIA
CATHERINE J. WESTLEY, OF ILLINOIS
ANTJE L. WEYGANDT, OF VIRGINIA
SCOTT EDWARD WOODARD, OF FLORIDA
JOSEPH LAURENCE WRIGHT II, OF FLORIDA
JANINE S. YOUNG, OF CALIFORNIA
CHRISTOPHER THOMAS ZIMMER, OF FLORIDA
EARL JAY ZIMMERMAN, OF FLORIDA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

CYNTHIA A. BIGGS, OF FLORIDA
LOUISA H. CHIANG, OF CALIFORNIA

DEPARTMENT OF STATE

ALLYSON MCCOLLUM ALGEO, OF CALIFORNIA
JEFFREY ROBERT ALLEN, OF TEXAS
TODD DAVID ANDERSON, OF KENTUCKY
ANDREA APPELL, OF CALIFORNIA
SELIM ARITURK, OF THE DISTRICT OF COLUMBIA
DAVID PRATHIPAN ARULANANTHAM, OF CALIFORNIA
WILLIAM DONALD BAKER, OF ARKANSAS
BRIAN R. BAUMAN, OF VIRGINIA
LEE BELLAND, OF WASHINGTON
NICOLE N. BLAND, OF MARYLAND
THOMAS R. BREWSTER, OF VIRGINIA
JUDITH ALEXANDRIA BRIDGES, OF TEXAS
SARAH L. BRUTLAG, OF VIRGINIA
BRENT D. BRYSON, OF VIRGINIA
KATHERINE A. CARO, OF FLORIDA
WILLIAM J. CAVANAUGH, OF VIRGINIA
CHRISTINA MICHELLE CHESHIER, OF ARIZONA
ANN MARIE CHIAPPETTA, OF CALIFORNIA
KATHERINE J. CHISHOLM, OF VIRGINIA
JASON CHUE, OF NEW YORK
JONATHAN CLAUS, OF VIRGINIA
GREGORY D. COFFEY, OF VIRGINIA
CECELIA MASON COLEMAN, OF TEXAS
STEVEN M. CONLON, OF PENNSYLVANIA
WAYNE H. CRAWFORD, OF COLORADO
MARTHA A. CRUNKLETON, OF FLORIDA
RICHARD DAVID DAMSTRA, OF MICHIGAN
CHRISTIAN JAEGER DEITCH, OF ILLINOIS
SARA ELIZABETH DEVLIN, OF KENTUCKY
JASON DROGO, OF CALIFORNIA
ALLEN DUBOSE, OF FLORIDA
JOHN E. DUNLOP, OF MARYLAND
MATTHEW JOHN EASTER, OF NEW YORK
JON NICHOLAS EISENLOHR, OF VIRGINIA
GINA ELKOURY, OF NEW JERSEY
ELLEN M. ENGLEHART, OF VIRGINIA
MARIALICE B. EPERIAM, OF ILLINOIS
ADELLE ALLISON FAY, OF WASHINGTON
JOSEPH J. FERRERO, OF CALIFORNIA
EMILY M. FLECKNER, OF NEW YORK
MELINDA J. FOUNTAIN, OF INDIANA
NORMAN GALIMBA, OF ILLINOIS
KATHEY-LEE GALVIN, OF OREGON
TIMOTHY JOHN GILLEN, OF TEXAS
MARGARET GOLDFADEN, OF THE DISTRICT OF COLUMBIA
LAWRENCE GRIPPO, OF NEW JERSEY
GARTH C. GROCE, OF VIRGINIA
CHRISTOPHER G. GROSSMAN, OF OKLAHOMA
KATHLEEN MARIE GUERRA, OF WASHINGTON
KATHRYN A. HARTY, OF VIRGINIA
JASON HEUNG, OF THE DISTRICT OF COLUMBIA
DEREK WILLIAM HOFFMANN, OF INDIANA
JAMES E. HOGAN, OF FLORIDA
JAMES L. HOLLERAN, OF VIRGINIA
SHANE EDWARD HOLMES, OF MARYLAND
YUEN-HAO HUANG, OF THE DISTRICT OF COLUMBIA
MARC I. HURWITZ, OF VIRGINIA
RANDOLPH FOSTER JOHNSON, OF COLORADO
CHRISTOPHER KANE, OF TEXAS
MATTHEW KEENER, OF CALIFORNIA
CHAD M. KELLER, OF VIRGINIA
LUBNA KHAN, OF UTAH
KATHRYN ANN KISER, OF FLORIDA
ELIZABETH VIRGINIA KUHSE, OF COLORADO
ANDREW F. KYLE, OF GEORGIA
SHELBIE CHANDELLE LEGG, OF FLORIDA
GLENN K. LEWIS, OF VIRGINIA
JORGE E LIZARRALDE, OF TEXAS
JEREMY LONG, OF CALIFORNIA
HILARY A. LOOSEMORE, OF VIRGINIA
JOLENE MARIE LOWRY, OF VIRGINIA
ANDREW ROBERT LUCCHESE, OF VIRGINIA
SANTIAGO LUGO, OF MARYLAND
TODD P. MACLER, OF VIRGINIA
DANIEL EDWARD MANGIS, OF TEXAS
SHAILA B. MANYAM, OF FLORIDA
JAMIE MARTIN, OF THE DISTRICT OF COLUMBIA
DONALD G. MAYNARD, OF VIRGINIA
MAUREEN YVONNE MIMNAUGH, OF CALIFORNIA
RONALD WAYNE MITCHELL, OF VIRGINIA
TODD KIYOSHI MIYAHIRA, OF VIRGINIA
LANCE P. MOORE, OF VIRGINIA
MOHAMMED MOTIWALA, OF CALIFORNIA
MICHAEL P. MULROY, OF FLORIDA
ERICA J. MURRAY, OF CALIFORNIA
MARNI A. MYERS, OF THE DISTRICT OF COLUMBIA
REBECCA J. NASLUND, OF TEXAS
BRADLEY J. NIEMANN, OF VIRGINIA
S. SOPHIA O'DONNELL, OF ILLINOIS
WON K. OH, OF VIRGINIA
MARIA ALLEN OLSON, OF VIRGINIA
MICHELLE Y. OUTLAW, OF ARIZONA

DANIEL PAYTON, OF FLORIDA
ERIN ELIZABETH PELTON, OF MINNESOTA
HEIDI MARAE REES, OF VIRGINIA
NINA J. ROBINSON, OF CALIFORNIA
NATHANIEL B. ROTCHFORD, OF VIRGINIA
MELANIE B RUBENSTEIN, OF OHIO
RYAN J. RUSSELL, OF VIRGINIA
AUGUSTO SANCHEZ, OF WEST VIRGINIA
CHRISTA M. SCHNEIDER, OF WISCONSIN
HELENA P. SCHRADER, OF MAINE
CHARLES R. SELLERS, OF OREGON
ERIK R. SHAFER, OF THE DISTRICT OF COLUMBIA
DERRIN RAY SMITH, OF COLORADO
HEATHER M. SMITH, OF MICHIGAN
JENNIFER L. SOLTYS, OF VIRGINIA
HEATHER STEIL, OF CALIFORNIA
KENNETH LAMARR STILES, OF VIRGINIA
JEFFREY D. STONE, OF MARYLAND
JAMES ROBERT STRANGE, OF CALIFORNIA
VIRGIL B. STROHMEYER, OF CALIFORNIA
EASTOR Y. SU, OF NEVADA
MICHAEL B. SULLIVAN, OF VIRGINIA
HEATHER NOEL TIMBERLAKE, OF CALIFORNIA
CAROL TIRADO, OF WEST VIRGINIA
JOSEPH ROBINSON TRUESDALE IV, OF NEW HAMPSHIRE
PETER C. TWINING, OF VIRGINIA
JASON HOWARD ULLNER, OF OHIO
AMY C. WALLA, OF COLORADO
ROGER CROIX WEBB, OF MISSOURI
CRISTINA B. WILLIAMSON, OF VIRGINIA
JON C. WILLIAMSON, OF VIRGINIA
PHILIP DOUGLAS WILSON, OF TEXAS
CHAD LEE WILTON, OF ALASKA
MATTHEW L. WOOD, OF THE DISTRICT OF COLUMBIA
WILLIAM J. WOTOWIEC, OF FLORIDA
GREGORY C YEMM, OF KANSAS

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD RESERVE UNDER TITLE 10 U.S.C., SECTION 12203(A):

To be captain

JAMES R. MONTGOMERY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 276:

To be commander

RICHARD E. PETHERBRIDGE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 271:

To be commander

BENES Z. ALDANA
ROBERT J. BACKHAUS
ROBERT E BAILEY
CHRISTOPHER A. BARTZ
EMILE R. BENARD
DAVID C. BILLBURG
ELIZABETH D. BLOW
FRANCIS T. BOROSS
JAMES M. BOYER
MICHAEL C. BRADY
CRAIG S. BREITUNG
JEFFREY M. BROCKUS
JACOB E. BROWN
SCOTT A. BUDKA
MATTHEW C. CALLAN
NICHOLAS D. CARON
JEFFREY T. CARTER
DAVID K. CHAREONSUPHIPHAT
JOSEPH A. CHOP
RICHARD S. CRAIG
DAVID H. CRONK
MARK T. CUNNINGHAM
ANTHONY C. CURRY
KENNETH D. DAHLIN
JOHN M. DANAHER
CHRISTOPHER L. DAY
RONALD R. DEWITT, JR.
JEFFREY F. DIXON
BRIAN J. DOWNEY
DAVID A. DRAKE
DARREN A. DRURY
KEVIN P. DUNN
ANDREW G. DUTTON
JAMES L. DUVAL
DAVID W. EDWARDS
ERIC S. ENSIGN
BRAD J. ERVIN
DAVID M. FLAHERTY
ERIC J. FORD
THEODORE B. GANGSEI
TIMOTHY J. GILBRIDE
BRIAN S. GILDA
JOSEPH J. GLEASON
THOMAS J. GLYNN
MARK E. HAMMOND
DAVID C. HARTT
CHARLES A. HATFIELD
DIANE J. HAUSER
JOHN R. HELTON
STEVEN B. HENDERSHOT
JEROME H. HILTON
GREGORY A. HOWARD
JOSE L. JIMENEZ
DANIEL C. JOHNSON
JEFFREY W. JOHNSON
JAMES J. JONES
JEFFREY D. KOTSON
MARK A. LEDBETTER
GEORGE A. LESHER
STEPHEN A. LESLIE
BRIAN R. LINCOLN
BRIAN M. LISKO
KEVIN W. LOPEZ
ERIN D. MACDONALD
THOMAS I. MACDONALD
MARTIN L. MALLOY
KYLE J. MARUSICH
MARK J. MCCADDEN
THOMAS MCCORMICK
ANDREW S. MCGURER
REGINA A. MCNAMARA
PAUL MEHLER
CHRISTOPHER P. MOORADIAN
WILLIAM J. MOORE
DAVID C. MORTON
CHRISTOPHER C. MOSS
DAVID MOYNIHAN
DOUGLAS E. NASH
THOMAS A. NORTON
BRENDAN E. O'BRIEN
MICHAEL A. O'BRIEN
TODD J. OFFUTT
MARK A. PANICEK
ROBERT G. PEARCE
STEVEN T. PEARSON
FRANK E. PEDRAS
BRIAN K. PENOYER
PHIL M. PERRY
JAMES B. PRUETT
DAVID E. PUGH
ROBERT E. PURINGTON
RICHARD J. RAKSNIS
JOEL L. REBHOLZ
RICHARD J. REINEMANN
FREDERICK C. RIEDLIN
JAMES B. ROBERTSON
DANIEL C. ROCCO
LANCE A. ROCKS
DANIEL J. SCHIFSKY
KIRK N. SCHILLING
DAVID B. SCOTT
PATTI S. SEEMAN
JOSEPH H. SNOWDEN
REED A. STEPHENSON
THOMAS S. SWANBERG
ANDREW E. TUCCI
TRACY J. WANNAMAKER
MARK D. WARD
JENNIFER F. WILLIAMS
DELWIN R. WITTERS
ANDREW P. WOOD
CHRISTOPHER J. WOODLEY
MICHAEL L. WOOLARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C. SECTION 271:

To be lieutenant commander

STEPHEN ADLER
KRISTINA M. AHMANN
MICHAEL W. ALBERT
RYAN D. ALLAIN
BRIAN R. ANDERSON
JEFF M. APARICIO
DAVID L. ARRITT
REGINALD I. BAIRD
JONATHAN D. BAKER
ALAIN V. BALMACEDA
CLIFFORD R. BAMBACH
TIMOTHY J. BARELLI
MICHELLE C. BAS
LAMONT S. BAZEMORE
CAROLYN M. BEATTY
JASON L. BEATTY
ANNE M. BECKER
ERIC M. BELLEQUE
KAILIE J. BENSON
SCOTT D. BENSON
JOHN BERRY
ROBERT H. BICKERSTAFF
JEFFREY B. BIPPERT
CHAD E. BLAND
CHRISTOPHER L. BOES
ELIZABETH A. BOOKER
CURTIS E. BORLAND
MARK A. BOTTIGLIERI
JOSEPH R. BOWES
RUSSELL E. BOWMAN
THOMAS L. BOYLES
SEAN T. BRADY
RACHAEL B. BRALLIAR
LANCE J. BRANT
PAUL BROOKS
ANDY S. BROWN
HEATH M. BROWN
THOMAS R. BROWN
TIMOTHY T. BROWN
WILLIAM A. BUDOVEC
MARC A. BURD
RICHARD J. BURKE
TRAVIS L. BURNS
VICTOR G. BUSKIRK
COLIN E. CAMPBELL
DONALD B. CAMPBELL
CLINTON S. CARLSON
TRAVIS L. CARTER
DANA M. CASWELL
JOHN T. CATANZARO
ANTHONY CELLA
ADAM A. CHAMIE
CASEY L. CHMIELEWSKI
BRADLEY CLARE
ROBERT S. CLARKE
KATHRYN N. CLEVENGER
ERIC M. COOPER
PHILLIP A. CRIGLER
TIMOTHY P. CRONIN
PAUL J. CROOKSHANK
MICHAEL J. DAPONTE
QUINCY L. DAVIS
JOHN P. DEBOK
SETH J. DENNING
MARTIN J. DIETSCH
BRIAN J. DONAHUE
PATRICK DOUGAN
MARK M. DRIVER
WILLIAM A. DRONEN
WILLIAM E. DUNCAN
BRYAN L. DUNLAP
MICHAEL P. DUREN
MICHAEL A. EDWARDS
HERBERT H. EGGERT
TOM ENGBRING
MICHAEL J. ENNIS
NELL B. ERO
PHILIP A. ERO
SALVATORE J. FAZIO
MICHAEL S. FREDIE
GINA L. FREEMAN
JEFFREY R. FRYE
TYRON V. GADSDEN
ERNIE T. GAMENG
KENDALL L. GARRAN
RILEY O. GATEWOOD
MICHAEL R. GESELE
WILLIAM R. GIBBONS
PETER W. GOODING
MICHAEL P. GROSS
ANTHONY D. GUILD
MICHAEL P. GULDIN
MARK A. HAAG
CHRISTOPHER E. HALEY
KELLEY S. HALL
JOHN E. HALLMAN
TIMOTHY D. HAMMOND
MARK K. HARRIS
ROBERT HENGST
MARK D. HEUPEL
SCOTT T. HIGMAN
NAKEISHA B. HILLS
FRANK L. HINSON
ERIC E. HOERNEMANN
LINDA M. HOERSTER
WALTER L. HORNE
ROBERT A. HUELLER
JOHN P. HUMPAGE
JACK W. JACKSON
MARK A. JACKSON
THOMAS A. JACOBSON
BENJAMIN A. JANCZYK
ANTHONY R. JONES
GRETCHEN A. JONES
KIM D. KEEL
STEVEN R. KEEL
ADAM L. KERR
TIMOTHY J. KERZE
FAIR C. KIM
CHRIS KLUCKHUHN
JAMES B. KNAPP
JASON A. KREMER
KARL D. LANDER
JAMES W. LARSON
PATRICK J. LEE
CAROLYN L. LEONARDCHO
ANDREA K. LOGMAN
VIVIANNE W. LOUIE
STEPHEN A. LOVE
EILEEN M. LUTKENHOUSE
ZACHARY J. MALINOSKI
CEFERINO W. MANANDIC
ROBERT J. MANNING
CHARLES MARINO
STEPHEN MATADOBRA
GREGORY A. MATYAS
BRIAN K. MCCAUL
GABRIELLE G. MCGRATH
SUZANNE M. MCNALLY
BRIAN A. MEIER
DARREN F. MELANSON
PETER N. MELNICK
ERICA L. MOHR
BRIAN E. MOORE
ROBERT T. MOORHOUSE
FERDINAND MORALES
JOE L. MORGAN
MICHAEL S. MOYERS
MARTIN J. MUELLER
SCOTT W. MULLER
MICHAEL J. MUNNERLYN
PAUL D. MURPHY
JONATHAN E. MUSMAN
ADAM E. NEBRICH
KATHERINE M. NILES
PETER S. NILES
BLAKE L. NOVAK
WILLIAM M. NUNES
CRAIG M. OBRIEN
DAVID E. OCONNELL
THOMAS A. OLENCHOCK
MATTHEW ORENDORFF
BRIAN PALM
MICHAEL J. PARADISE
ANDREW T. PECORA
JOSE A. PENA
DIANE D. PERRY
SCOTT T. PETEREIN
JEFFREY C. PETERSON
RICHARD C. POKROPSKI
KAREN QUIACHON
KEITH D. RAUCH
JOHN C. REARDON

KEVIN B. REED
DAVID J. ROBERTS
KEITH M. ROPELLA
MICHAEL R. ROSCHEL
JAMES B. RUSH
ANTHONY L. RUSSELL
ROSARIO M. RUSSO
GEORGE A. RUWISCH
OLAV M. SABOE
ANDREA L. SACCHETTI
EMILY C. SADDLER
MATTHEW J. SALAS
DAVID P. SANDAHL
AARON M. SANDERS
BRIAN S.C. SANTOS
DEREK T. SCHADE
DANIEL SCHAEFFER
MICHAEL SCHOONOVER
MARK J. SHEPARD
SAMUEL L. SLAY
JASON E. SMITH
JEREMY C. SMITH
LAWRENCE W. SOHL
LANE A. SOLAK
DAN T. SOMMA
EDWARD L. SONGER
LAURINA M. SPOLIDORO
JALYN G. STINEMAN
SCOTT A. STOERMER
ERIC R. STPIERRE
RODERICK A. STROUD
JONATHAN THEEL
MICHAEL D. THOMAS
ROBERTO H. TORRES
TERRY R. TRELFORD
ALEXIS L. TUNE
HEATHER K. TURNER
MICHAEL L. TURNER
PAUL W. TURNER
TODD D. VANCE
KENNETH VAZQUEZ
PAUL G. VOGEL
ERIC WARD
LINDSAY N. WEAVER
DAVID C. WELCH
ANTHONY W. WILLIAMS
DOUGLAS E. WILLIAMS
TORRENCE B. WILSON
CHARLES WOJACZYK
PATRICIA L. WOOLCOTT
SCOTT A. WOOLSEY
JONAS C. YANG
MAURICE S. YORK
PETER E. ZOHIMSKY

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be lieutenant colonel

MARTIN E. KEILLOR

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant colonel

ROBERT W. DESVERREAUZ
KIRK B. STETSON

To be major

CHETAN U. KHAROD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

JULIE S. MILLER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

KARA A. GORMONT

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS A PERMANENT PROFESSOR OF THE UNITED STATES MILITARY ACADEMY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 4333(B):

To be colonel

CINDY R. JEBB

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

RICHARD L. CHAVEZ

THE FOLLOWING NAMED INDIVIDUALS TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

SAMUEL CASSCELLS
SLOBODAN JAZAREVIC

THE FOLLOWING NAMED OFFICERS IN THE GRADES INDICATED IN THE REGULAR ARMY JUDGE ADVOCATE GENERAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be lieutenant colonel

JOSEPH J. IMPALLARIA

To be major

ITALIA A. CARSON
ANTHONY T. FEBBO
STEPHEN L. HARMS
ARTHUR E. LEES

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR TEMPORARY APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 6222:

To be captain

MICHELLE A. RAKERS

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVAL RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

LLOYD G. LECAIN