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Senate

The Senate met at 10 a.m. and was called to order by the Honorable BENJAMIN L. CARDIN, a Senator from the State of Maryland.

PRAYER

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

Let us pray.

Eternal Spirit, thank You for the promise of this new day, a gift from Your bounty. We praise You for opportunities to solve problems that keep so many people in life's margins. Please make Your presence felt today on Capitol Hill.

May the whisper of Your wisdom fill our Senators with peace, power, and praise. Infuse them with confidence in Your providence, and in the ultimate triumph of Your purposes. Empower them to see their challenges from Heaven's perspective, and to rejoice that no weapon formed against them will prosper. Give each lawmaker a heightened sense of the special role You have for him or her to play in Your unfolding drama of human history.

We pray in Your righteous Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 18, 2007.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, this morning, following any time used by Senator MCCONNELL and me, the Senate will be in a period of morning business for an hour, with Republicans controlling the first half and the majority controlling the second half.

After this period of morning business, the Senate will proceed to H.R. 1124, the DC College Access bill. The bill will be considered under a very short time agreement. Members should expect a rollcall vote around noon or maybe even before that. Upon disposition of the DC College Access bill, the Senate will recess for the regular party meetings.

This afternoon, when the Senate resumes at 2:15, there will be 15 minutes of debate prior to a vote on the motion to invoke cloture on the underlying bill, the DC Voting Rights bill. Of course, if cloture is invoked, the Senate will remain on the motion. If cloture fails, the Senate will resume consideration of the Department of Defense authorization measure.

Mr. President, I would also say with respect to the schedule we have this week, we have a lot of work to do, but the most religious, the most important holiday of the year for those of the Jewish faith, begins this Friday at sundown. Yom Kippur is the holiest of days for Jews all around the world, and there are a number of the Jewish faith who need to be on the west coast by sundown on Friday. Therefore, we will probably not have any votes after about 10:30 or quarter to 11 on Friday. We have a lot of work to do, but this is something that is important and necessary that we do.

LEAVE OF ABSENCE

Mr. REID. Mr. President, Senator BYRD is necessarily absent from the Senate today until approximately 6 p.m. because he is accepting an honorary degree for his late wife Erma at Wheeling Jesuit University in Wheeling, WV.

DC VOTING RIGHTS AND COLLEGE ACCESS

Mr. REID. Mr. President, let me also say this about the remarks I am about to give. This has no negative reflection on my distinguished colleague, the Senator from Kentucky. He and I disagree on a number of issues. We have had longstanding debates here on the Senate floor about how he feels about campaign finance reform. He approaches this on an intellectual basis. I think I am right; he thinks he is right. But it doesn't take away from my respect for his having the right to have an opinion here in the Senate about the issue of campaign finance. The same, I think, on the issue of flag burning, for example. He will disagree with me on the DC Voting Rights bill. That is his privilege. He does it on an intellectual basis, a conclusion that he has reached. So my remarks have nothing to do, in any way, with an intention to denigrate my friend's feelings about this bill.

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

Yesterday we celebrated the 220th anniversary of the signing of our Constitution, and I talked about it yesterday. In its preamble, our Founders laid out the values to which our Nation has aspired: justice, domestic tranquility, common defense, general welfare, the blessings of liberty. The Government which has endured, our Government, and served us so well, recognized these goals could only be secured by equal representation. That means the right to vote, the right to elect individuals who will protect and promote our personal rights as well as the national interest.

The universal right to vote was established a long time ago with the 15th amendment, which barred discrimination based on race, with the 19th amendment, which guaranteed the right for women to vote, and with the Voting Rights Act, which ensured enforcement of these laws for people no matter their color.

In 1873, Susan B. Anthony faced trial for voting illegally, a woman who voted. In her defense she said:

> In the first paragraph of the Declaration of Independence is an assertion of the natural right of all to the ballot; for how can ''the consent of the governed'' be given, if the right to vote be denied?

Today the right to equal representation is still denied to residents of the District of Columbia. These nearly 600,000 Americans pay Federal taxes, sit on juries, serve in our Armed Forces. Yet they are given only a delegate in the Congress, not a real voting Member. This is nothing more than shadow representation. This injustice has stood for far too long. We haven't voted on this matter for some 50 years. It is time we did that again. Shadow representation is shadow citizenship.

This afternoon we will move to vote on a bill that honors the residents of the District who responsibly meet every single expectation of American citizenship but are denied this basic civil right in return. I commend Senator LIEBERMAN, who has taken the leadership on this issue for no reason or agenda other than he thinks it is the right thing to do.

I urge all my colleagues to vote for cloture so we can guarantee the full rights of citizenship for District residents.

I also urge my colleagues to support reauthorization of the DC College Access Act, which we will vote on this morning. This provides to District students who would otherwise be unfairly disadvantaged by the lack of in-State universities. It provides scholarships to make up the difference between in-State and out-of-State public universities. It doesn't allow any student to get in who is not qualified. It does allow a differential in the method of paying. The DC College Access Act levels the playing field and unlocks the doors to education and all the opportunity it affords to thousands of American students right here in the District of Columbia.

RECOGNITION OF THE REPUBLICAN LEADER

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

TODAY IN HISTORY

Mr. MCCONNELL. Mr. President, historians tell us that George Washington's decision to preside over the Constitutional Convention lent instant credibility and respect to the document it produced, and yesterday we recalled the signing of that document upon which this Nation's laws and institutions are firmly built.

Six years later, George Washington would lend his reputation to another enduring work, a white beacon of stone and mortar that inspires us and others around the world more than two centuries later. On this day in 1793, George Washington laid the cornerstone to the United States Capitol. The building would take nearly a century to complete, but the magnificence of the finished product would stand as a testament to the perseverance of generations of Americans, and to the enduring principles it was meant to embody and project. So we pause today to reflect on the many contributions of our first President, not only to this Nation but also to the city that bears his name, not the least of which is this gleaming symbol at its heart.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with Republicans controlling the first 30 minutes and the majority controlling the final 30 minutes.

The Senator from Kansas is recognized.

DISTRICT OF COLUMBIA HOUSE VOTING RIGHTS ACT

Mr. BROWNBACK. Mr. President, I rise to speak on the DC Voting Rights Act today. It is a tough issue. It is one with which I am familiar. I have chaired the DC Subcommittee both on the authorizing and the appropriating side. I have worked in the District of Columbia on a number of different issues. I reside here when I am not in my home State of Kansas. My home is in Kansas, but I have an apartment that is here, so I am living in the District. I have talked with many people about the Voting Rights Act issue. I am sympathetic with the people of the District of Columbia not having an elected delegate to represent them, although I know very well the lady who is representing them in the House, ELEANOR HOLMES NORTON, who is an outstanding Representative for the District of Columbia, although she does not have the right to vote on the floor. I have worked with her on many issues to rebuild the family structure in Washington, DC with things such as Marriage Development Accounts. I worked with her on revitalizing the District of Columbia with an economic revitalization bill that passed when I first came into the Senate in 1996. I worked with her and others on the schools in Washington, DC, and the deplorable state of the schools in Washington, DC.

I have worked on all these issues and I am familiar with this issue and the Voting Rights Act of 2007. Yet I cannot support this bill. I can and would support a constitutional amendment allowing the District of Columbia the right to vote in the House of Representatives, but I cannot support this Voting Rights Act. I want to speak here on the floor this morning and outline why I cannot vote for it.

Congress has long recognized we can only grant District residents the ability to participate in Federal elections through constitutional amendment. Congress has recognized that. Prior to 1961, for example, District residents were not permitted to vote in Presidential elections. Article II, section 1 of the Constitution expressly provides that the electoral college should be comprised of electors from each State, in a number equal to the State's combined congressional delegation. In the face of this express constitutional language, Congress recognized that a change in the law would require a change in the Constitution itself, looking at the plain meaning of the statute and the plain meaning of the Constitution. That is why, when we granted DC residents the right to participate in Presidential elections, we went about it the right way, by passing what would become the 23rd amendment to the Constitution, allowing DC residents the right to participate in a Presidential election.

We saw the plain meaning of the Constitution and we did the right thing; we amended the Constitution. Just as article II of the Constitution, which deals with the Presidency, limited the right to appoint Presidential electors to the States, article I, which deals with the Congress, clearly and repeatedly limits representation in the House and the Senate to the States. That is what it says. Article I says that the House:

> shall be composed of members chosen every second year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

It requires that each Representative:

> when elected, be an Inhabitant of that State in which he [was] chosen.

It mandated that:

each state . . . have at Least one Representative,

and provides that:

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

Rarely do we have an issue in the Senate that has so much plain language from the Constitution involved. This one has a lot of plain language from the Constitution. I believe in strict construction of the Constitution. I think it would be hard for me to call myself a strict constructionist and say that we can, as a Congress, bypass the clear words in the U.S. Constitution and say we are just going to grant these rights to the District of Columbia to have an elected representative voting in the House of Representatives, even though I support that. That is something we should do, but we should do it the right way by amending the Constitution and not the wrong way by passing a law here that is clearly unconstitutional—and I will go through the court cases that have declared it unconstitutional—and then say: We will let the courts sort it out. I am a Federal officer, sworn to uphold the Constitution. I need to do so in this body and not just say I will hand it off to the courts.

Congressional Democrats in 1978 recognized this fact. That year, Congress passed an amendment giving District residents a voting seat in the House. When the House Judiciary Committee, under the leadership of Democratic chairman Peter Rodino, reported out the amendment, the accompanying report properly recognized that ''[i]f the citizens of the District are to have voting representation in the Congress, a constitutional amendment is essential; statutory action alone will not suffice.'' Sadly, the 1978 amendment failed to garner the support needed from the States to secure ratification.

We all recognize that amending the Constitution is difficult, but it still remains the right way to deal with something of this nature. I am certainly not alone in concluding that this bill, although well intentioned, violates the plain language of the Constitution. The very court that will hear challenges to this bill under its expedited judicial review provision has previously ruled that District residents do not have a constitutional right to congressional representation.

In Adams vs. Clinton in 2000, a three-judge panel of the Federal District Court for the District of Columbia concluded that the Constitution plainly limited congressional representation to the States. The court explained that ''the overlapping and interconnected use of the term 'state' in the relevant provisions of Article I, the historical evidence of contemporary understandings, and the opinions of our judicial forebears all reinforce how deeply congressional representation is tied to the structure of statehood. . . . There is simply no evidence that the Framers intended that not only citizens of states, but unspecified others as well, would share in the congressional franchise.''

The District residents who brought suit in Adams v. Clinton appealed their case all the way to the Supreme Court, and the Supreme Court affirmed the trial court's ruling. That is the same court which would hear this case.

When Congress granted the DC and territorial delegates a broader role in the House by allowing them to vote in committee, several House Members sued to challenge the delegates' expanded power. In Michael v. Anderson, the Federal court for the District of Columbia Circuit took care to note that their expanded roles passed constitutional muster only because they did not give the essential qualities of House Representatives to the delegates.

In light of the Constitution's clear limitation on House membership to representatives from the States, I cannot vote for cloture on the motion to proceed to this bill. I don't believe we in Congress should act to pass legislation that we know violates the Constitution, essentially passing the buck to the Federal courts to strike down what we never should have enacted in the first place and to strike down what they have already spoken on as recently as 2000. When we neglect our duty to the Constitution, we fail to uphold our oath as Senators to defend this great document.

My friends in the Senate who support this bill rely primarily on two arguments, neither of which outweighs the clear mandate of article II.

First, they claim that another provision in the Constitution, the so-called District clause, allows Congress to essentially grant any sort of legislation related to the District of Columbia, including legislation to give DC residents a voting House Member. This clause permits Congress to pass laws to provide for the general welfare of District residents. This bill, however, does not propose to provide for the welfare of DC residents; it seeks to alter the fundamental composition of the House.

Second, they correctly point out that there are certain instances in the Constitution where references to ''citizens of the states'' have been interpreted to include District residents. Many of these cases, though, involve individual rights, and it is obvious that DC residents do not lose their rights as citizens of the United States by choosing to live in the District. For example, they retain the right to trial by jury. They may bring civil suits in Federal courts against citizens of other States. This bill, however, is not a bill about individual rights such as the right to free speech, freedom of religion, or due process of law. This is a bill about the makeup of the House of Representatives itself. It is about the delicate balance our constitutional Framers struck in affording representation to the States in the House and the Senate. It is about the fundamental structure of our Government. We simply cannot override the clear language of the Constitution which limits congressional representation to the States simply by legislative fiat.

While I sympathize with the supporters of this bill, I also take seriously my duty to the law, to upholding the Constitution. I will support and do support a constitutional amendment allowing DC the right to gain the vote. I do not support this bill as I do not believe it to be constitutional under the clear reading of the Constitution and under recent interpretations by the court.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Louisiana is recognized for 6 minutes.

Mr. VITTER. Thank you very much, Mr. President.

WATER RESOURCES DEVELOPMENT ACT

Mr. VITTER. Mr. President, I rise today to again urge the entire Senate, and particularly the majority leader, to get the WRDA bill, the Water Resources Development Act, onto the floor of the Senate absolutely as soon as possible for passage.

Of course, I represent the State of Louisiana. A little while ago, on August 29, we commemorated—certainly did not celebrate but properly commemorated—the 2-year anniversary of Hurricane Katrina. A little while from now, on September 24, we will similarly commemorate the 2-year anniversary of Hurricane Rita, which devastated southwest Louisiana, South Acadiana, as well as southeast Texas.

Of course, the Nation and this Congress, this Senate, has done an enormous amount with regard to hurricane recovery. But we all know that challenge and that work continues. There is nothing more important with regard to that work, with regard to ensuring good, strong hurricane flood protection in the future—unlike we have had in the past, clearly, in light of Hurricane Katrina—than passing this water resources bill.

As you know, it has gone through every stage of the process except passage on the floor of the Senate. We had a Senate bill. We had a House bill. We had a conference committee. We had deliberations of the conference committee. I was honored to serve on that conference committee and helped finalize the final conference committee report.

Even before the August recess, the House of Representatives passed that conference committee report. So now all eyes are on the floor of the Senate. That is where we must finish the job. That is why I urge Senator REID and others to put the WRDA bill on the floor of the Senate as soon as possible.

Recently, on September 6, I sent Senator REID a letter, following up on numerous discussions we have had with other Members, urging him to put the bill on the floor as soon as possible, certainly during September. Again, I come to the floor of the Senate to urge the Senate leadership to do that in light of the crucial nature of this bill for continued recovery, hurricane flood protection in Louisiana.

I am particularly disappointed this week that is not happening while we go to other business, including the DC voting rights bill. Now, there are folks very interested and focused and committed to that DC voting rights bill. That is their right. I have no particular quarrel with that. I am going to vote against it because I sincerely believe it is clearly contrary to the U.S. Constitution. But that is a legitimate disagreement, and we can debate about that and have that legitimate disagreement. I do not quarrel with their focus and their passion. I do, quite frankly, quarrel with putting that on the floor of the Senate before the WRDA bill, when that WRDA bill and significant provisions in it are life and death to south Louisiana, to our recovery in the wake of Hurricanes Katrina and Rita.

Those events, 2 years ago last month and this month, make passage of the WRDA bill a true emergency priority for this body. The same cannot be said of the DC voting rights bill or other things that are being considered for Senate floor action. Again, those other measures—the DC voting rights bill, in particular—have their proponents, and that is their right. I do not quarrel with their passion for that. But that is not the sort of real emergency as we face in Louisiana with regard to the protection we need.

We are in the midst of a hurricane season. We are at the peak of a hurricane season. Yet we continue to be years and years overdue for this WRDA bill and all the very significant provisions it contains for our people, for our State, for our vanishing coastline.

So, in closing, I again urge the majority leader to put the WRDA bill on the floor of the Senate as soon as possible, and absolutely this month, and to establish the right priorities for this body and for this country, including that very important effort which I believe should be on the floor of the Senate, should gain action, should gain focus before other measures, including the DC voting rights bill.

With that, I yield the floor. I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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

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

PRIVATE SECURITY CONTRACTORS IN IRAQ

Mr. DURBIN. Mr. President, there was an event that occurred yesterday in Iraq which is significant. A decision was made by the Iraqi Government to order a private security firm known as Blackwater USA to leave the country. It involved the fatal shooting of eight Iraqi civilians following a car bomb attack against the State Department convoy. I don't know the circumstances of that attack, nor do I know the circumstances that led to the killing of these innocent civilians. Only a thorough and fair investigation will bring us to any kind of closure on this particular matter.

What happened yesterday is going to dramatize to the American people something significant that has occurred in this war in Iraq. For the first time, we are seeing massive numbers of private security contractors who are at work for the U.S. Government in Iraq. They are in a security or quasi-military capacity. I have been to Iraq three times. They are often dispatched to provide security for visiting members of the Cabinet and Members of Congress. I will say at the outset that although I have serious misgivings about Blackwater as an organization, the individual men who have dedicated their lives to this service are risking their lives in the process, and their courage and bravery to step up is something that should be acknowledged and never diminished.

But what this matter will bring to light is the fact that this security contractor, Blackwater, has enjoyed a charmed existence with the Bush administration from the start. This is another example of a firm which has been given millions of taxpayers' dollars to do a job in Iraq without accountability, without the kind of disclosure—basic disclosure—which American taxpayers deserve and demand. The circumstances of these contracts, the particulars involved in them, and the standards that are applied to them are in a shadowy world that has been kept away from the public eye by the Bush administration from the start. That is not only unfortunate, it is unfair, and we need to do something about it as a government.

This operation, Blackwater USA, started by Mr. Erik Prince of Michigan, has been politically affiliated with this administration for a long time. Now that there have been questions raised about the conduct of their operations, they have brought in some of the biggest political heavy-hitters in Washington to keep their operations cloaked in secrecy and veiled so that the American people don't know what they are all about. They do it in the name of security and classified information at a time when we need more transparency and more openness and more accountability.

These security contractors are often paid three times what ordinary soldiers receive. The rules they operate under are much different than those our military faces every single day in Iraq. They are given mundane tasks in many instances and paid enormous sums of money to perform them—to transport kitchen equipment, for example—in Iraq at great expense to our Government.

Several years ago in Fallujah, there was a terrible incident involving several Blackwater contractors. These contractors were guarding kitchen equipment that was being transported across Fallujah when they were ambushed and killed. It is hard for anyone to forget the images that followed. Their bodies were dragged out of their vehicles, and they were beaten and burned and hanged on a local bridge. There were newscasts and videotape around the world of this heinous and barbaric act. As a result of it, our Government made an invasion of Fallujah and put at risk thousands of American troops to bring some order to that scene.

What is not well known is that the families of those Blackwater security forces—contractors—who were killed in Fallujah believe their loved ones were put in harm's way by this company, by Blackwater. Blackwater had promised to these contractors that if they would come to Iraq, they would be given armored vehicles, adequate protection, and adequate equipment. In fact, that was not the case. Many of the same contractors who were at risk were complaining about this. In fact, one who died that day had made a formal request of the leadership of Blackwater to make good on their promise to protect their employees who worked for Blackwater. They lost their lives.

Their families then went to court trying to make sure Blackwater was held accountable. As the mother of one of these contractors and former Navy SEAL said, it wasn't about the money, it was about accountability and to make sure Blackwater, a company that was very profitable through this administration and this war, actually protected its employees. Well, I need not tell you that they faced an uphill struggle with their lawsuit, which is still pending. Blackwater refused discovery, refused to disclose information, made every effort they could to keep material witnesses away from this trial and this proceeding, and unfortunately, the facts have never come forward as they should for all of us to understand.

Where the Blackwater security contractors were promised armored vehicles, in fact, they were given SUVs with little protection. Where they were promised to have groups to protect them, they were sent into harm's way with inadequate numbers of forces.

Time and again, this contractor, profiting from our Government, profiting from this administration, didn't provide the basic protection it promised to its own employees.

I believe it is time for this Congress to open this door, to lift this lid and look inside, about the security contractors who are at work in Iraq today at the expense of our Government. We need to know how many are working. We need to know what rules they operate by. We need to know what incidents they have been involved in. America is held accountable for their conduct. Even though they may be private sector employees, for every Iraqi, I am sure they look at them as symbolizing and representing the United States of America.

It is our responsibility to ask the hard questions about these security contractors, what they are doing, and whether anything improper has occurred. The Iraqi Government has reached this conclusion and asked them to leave. I will be surprised at the end of the day if they do leave. They are so closely connected to the highest levels of this administration, it is hard to imagine they will actually leave the country even after the Iraqi Government has called publicly for that to happen.

So I have asked the leadership on the Democratic side to look into the security contractor arrangements, as well as the Blackwater USA company in particular, to get down to the bottom line and the basic question as to whether these people who are involved in this conduct have done things that really don't advance the cause of peace and stability in Iraq. That is a legitimate question which should be asked of every contractor involved in business in Iraq.

We know for the last 5 years on Capitol Hill hard questions were not asked. There was little or no oversight by this Congress asking whether our taxpayers' dollars were being well spent, whether the right decisions were being made. Sadly, we find ourselves mired in a war that has cost us almost 3,800 American lives, with more than 30,000 injured, with no end in sight. It has been a colossal foreign policy mistake—one that we will pay for for generations.

Despite the heroism of our men and women in uniform day-in and day-out, policymakers in Washington have let them down. This President made an appeal to the American people the other night to allow him to stay the course until he can leave office. To think that 130,000 soldiers will still be in Iraq next year is really unacceptable. We have pushed our military to the absolute limit. I have been there. I have talked to them. I have met with their families. I have talked to the support groups back home. I have visited the veterans hospitals. I have seen these soldiers on the battlefront as well as back home, and they have paid a heavy price for this war. The President suggests that we just keep 130,000 troops there indefinitely until he finds what he can define as success, but that isn't good enough. We have to make sure we are sensitive to these soldiers and the toll that is being taken on them personally.

I am sorry to report that the divorce rates among American enlisted personnel now are twice what they are normally, and among officers three times. The suicide rate is the highest it has been since Vietnam and, unfortunately, those who are subject to multiple deployments come back and face many needs for health care and counseling. That is the reality. We are now paying the highest cash incentives ever in our history for people to enlist and to reenlist. Mr. President, $10,000 is common. If a 19-year-old soldier will agree to show up in 6 weeks or so, they double it to $20,000 in cash—to someone fresh out of high school. We have changed a lot of rules of eligibility for service in our military. Unfortunately, we are pushing them to the absolute limit. That is part of the reality of where we are today in Iraq. It is a reality which the President did not address when he spoke to the American people last week.

This event yesterday, where Blackwater was expelled by Iraq's Government, should be a wake-up call to this administration and this Congress to provide the kind of meaningful oversight of these private security operations, to ask whether these men and women who were under our employ, as employees of our Government through private contractors, have stood up and done the right thing for our Nation. Many have, but those who have not have to be held accountable.

Mr. President, SPC Darryl Dent died in Iraq on August 26, 2003, when an IED exploded under his humvee. Specialist Dent—21 years old—had hoped to go to medical school one day. He was the first National Guard member from his hometown to die in combat since Vietnam.

LCpl Greg MacDonald died in Iraq on June 25, 2003, when his humvee rolled as he and six other marines raced to rescue American soldiers caught in an ambush. Lance Corporal MacDonald—29 years old—had a master's degree and hoped to make a career in foreign affairs and help create peace in the Middle East.

MAJ Kevin Shea, a veteran of the first gulf war, was killed by rocket fire in Al Anbar province on September 14, 2004—his 38th birthday. He was promoted posthumously to lieutenant colonel, making him the highest-ranking marine killed in the war in Iraq at that time.

Army Reserve LTC Paul Kimbrough was a lawyer who once worked for a Member of the House of Representatives and even ran unsuccessfully for a House seat himself. He was in Afghanistan, overseeing improvements to living conditions for our soldiers at Bagram Air Base, when he suffered a fatal heart attack on October 3, 2003. He was 44 years old.

CAPT Darrell Lewis grew up in a tough housing project, earned a scholarship to a private high school and another scholarship to college. He graduated, joined the Army and rose quickly through the ranks. Three months ago, on June 23, he died in Vashir City, Afghanistan, when his unit was attacked by insurgents using RPGs, mortars and small arms fire. Captain Lewis was 31 years old.

What did these five fallen warriors all have in common, besides their devotion to duty and to our Nation? A hometown. At the time of their deaths, all five were residents of the District of Columbia. They died trying to bring democracy to Afghanistan and Iraq, but they did not have the legal right to participate fully in our American democracy. That is wrong. This week, we have an opportunity to right this wrong.

This week, for the first time in nearly 30 years, the U.S. Senate will take up a bill to grant the citizens of the District of Columbia, our Nation's Capital, a voting member—one voting representative—in the U.S. House of Representatives. I am one of the cosponsors of the bipartisan District of Columbia House Voting Rights Act of 2007.

Our aim is to not to strengthen the hand of either political party, but to strengthen American democracy. For that reason, the DC House Voting Rights Act would also create an additional House seat for the State of Utah.

DC VOTING RIGHTS

Mr. DURBIN. Mr. President, a little later this morning, we are going to face an important debate on the DC House Voting Rights Act. It is one that I support. It is a cause that I have supported for a long time. It is unimaginable that nearly 600,000 Americans have no voice and no vote in Congress today. But it is a fact. It reflects decisions made long ago about whether the District of Columbia and its residents would be represented in Congress. There is good reason why they should be.

I was saddened to learn this morning that President Bush has threatened to veto this bill. He will ask men and women in the District of Columbia to fight and risk their lives so the people of Iraq and Afghanistan have a right to vote, but he has threatened to veto the bill which gives those same soldiers the right to vote for congressional representation of their own. That is unacceptable.

The President says he has constitutional concerns. He and other opponents of the DC House Voting Rights Act point to language in the Constitution that says that the House of Representatives will be composed of members chosen by ''the people of the several states.'' They argue that the District of Columbia is a district, not a State.

It is a weak argument at best. Our Federal judiciary has long treated the District of Columbia as a ''State'' for many purposes. For example, the 16th amendment of the Constitution grants Congress the power to tax our incomes, ''without apportionment among the several states.'' The 16th amendment has been interpreted to apply to DC residents; the Federal Government can and does require residents of Washington, DC, to pay Federal income taxes.

DC residents are also required to serve on Federal juries and register for selective service. Why should the right to vote be any different?

I think when we look at this basic purpose, the right to vote for congressional representation, the people who live in Washington, DC, deserve it.

Do opponents of DC voting rights believe that residents of America's Capital City should bear the full responsibilities of citizens but do not deserve the full rights of citizens?

It is not just Democrats who believe the DC voting bill is constitutional. Several prominent Republicans, including Kenneth Starr, Jack Kemp, and Viet Dinh, principal author of the PATRIOT Act, have testified that the bill meets constitutional muster.

Yesterday, September 17, marked the 220th anniversary of the signing of the U.S. Constitution. This is a time to celebrate the genius of the Framers who had the vision and insight—in the year 1789—to lay the foundation for what has become the world's oldest democracy.

The Constitution our Framers gave us was a brilliant document—but not a flawless one. It denied full participation in our democracy to the people of Washington.

Over the past two centuries, we have refined the Constitution to expand the right to vote to all Americans. We have expanded freedom. Some expansions of voting rights have come as a result of constitutional amendment. In other cases, Congress has expanded the right to vote by statute.

Just last year, this Congress reauthorized the Voting Rights Act, which another, courageous Congress first passed in 1965. The Voting Rights Act is often considered the most important civil rights law ever passed by Congress. It removed poll taxes and dismantled Jim Crow.

A few weeks ago, on September 5, the Senate Judiciary Committee—on which I serve—held a hearing to celebrate the 50th anniversary of the Civil Rights Act of 1957. One of the witnesses at that hearing was a hero of mine and a giant of our civil rights movement: Representative JOHN LEWIS of Georgia.

Representative LEWIS testified about discrimination against African Americans when he was growing up in Alabama. He talked about the inspiration he drew from meeting Martin Luther King, Jr. and Rosa Parks. He talked about how far we have come as a nation when it comes to the treatment of African Americans and persons of color. And he talked about the progress we have made when it comes to voting rights.

JOHN LEWIS was nearly beaten to death on the Edmund Pettus Bridge in Selma, AL, marching for voting rights in 1965. He put his life on the line for the right to vote. So I think we should take special note of what JOHN LEWIS had to say when he was asked at the Judiciary Committee hearing about the bill that would create voting rights for the residents right here in Washington, DC.

JOHN LEWIS said the following:

[W]e are going to say to the District of Columbia, where people leave this district, leave this city, they go and fight in our wars, and then they cannot participate in the democratic process. That is wrong.

The Senate can heed those words this week. The Senate can give the residents of Washington, DC, a voice in Congress.

For two centuries, Washington, DC, residents have fought and died in this Nation's wars, often suffering among the highest casualty rates.

Twenty-three Washington, DC, residents have been killed or wounded in Iraq and Afghanistan.

Haven't the residents of this city earned the right to have their voices heard, and their vote count, in the House of Representatives? Haven't the people of Washington, DC, waited long enough?

Washington, DC, is the only capital city in the world whose citizens do not have voting representation in their national legislature.

For over 200 years, Washingtonians have been mere spectators to our great democracy.

In the course of our Nation's history, we have many times expanded freedom and expanded voting rights to people whom our Founders, in their incomplete genius, left out.

This week, we have an opportunity, and an obligation, to take another important and long overdue step forward in the historic struggle for voting rights by giving the residents of the District of Columbia a vote in the U.S. House of Representatives. Let us vote for the right to vote.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DISTRICT OF COLUMBIA COLLEGE ACCESS ACT OF 1999

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of H.R. 1124, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 1124) to extend the District of Columbia College Access Act of 1999.

Mr. AKAKA. Mr. President, I rise to speak in support of H.R. 1124 and the opportunity it provides for DC's college-bound students. The reauthorization of the District of Columbia College Access Act of 1999 would continue a successful and effective scholarship program.

The DC tuition assistance grant program, or DCTAG, provides scholarships to cover the difference between in-State and out-of-State tuition for eligible DC residents attending any public college or university in the country. DCTAG awards those recipients up to $10,000 annually and $50,000 total in tuition assistance.

The original purpose of the bill was to address concern that college-bound students in the District were at a disadvantage because DC lacks a State university system. DCTAG expanded higher education opportunities by allowing students to attend public universities and colleges nationwide at in-State tuition rates.

The original bill also allows students to attend a limited number of nonprofit private schools to receive scholarships of up to $2500 annually and $12,500 total. Students who attend any historically black college or university or any private school in the District, Maryland, or Virginia qualify for private school grants. The 2002 reauthorization clarified that the grants were only for U.S. citizens residing in DC.

The success of the program is clear. Since the launch of DCTAG in 2000, participation among DC residents more than doubled from 1,900 recipients to 4,700 recipients. DCTAG has awarded 26,000 grants totaling over $141 million to 9,769 District students. I am pleased to say that a few of those grants went to students attending the University of Hawaii at Manoa in my home State.

Not only are more students receiving grants; more are going to college. The college enrollment rate for DC public school students has doubled to 60 percent and 38 percent of students in the program are the first ones in their family to attend college. DCTAG affords many District residents a chance to go to college when they otherwise would not be able to afford it.

In July, my Subcommittee on the District of Columbia held a hearing with the Mayor and his education leadership team on their reform proposal for the public school system. They offered a realistic picture of DC public schools and a realistic vision for accountability and reform.

The Chancellor of Education, Michelle Rhee, and the Mayor are working very hard to improve the unacceptably low performance of DC students by recruiting talented teachers, reforming the administrative offices, and repairing crumbling schools. They deserve all the support that the Congress can provide in their efforts.

As the cost of college tuition continues to rise at both public and private institutions, this scholarship program offers the District's students hope that if they perform well in high school they can have the same opportunity to access affordable, public, higher education as students in Virginia, in Maryland, and across the country.

Students who know they have the opportunity to go to college are more likely to perform well in high school. The DCTAG program supports the Mayor's efforts to improve DC public schools by offering students the chance to go to college at a minimal cost to the Federal Government.

The DCTAG bill was reported out of committee in February, and now is the time to finally get it passed. I understand my colleague and fellow committee member, Senator COBURN, has asked that two amendments to the legislation be considered.

The first amendment would modify the eligibility standard for the scholarship recipients to exclude any student whose family earns an income of $1 million or more. Despite the high income threshold, I am concerned about starting down the road of making this a needs-based scholarship program. The program is designed to provide all DC residents access to a range of higher education institutions. I have agreed to accept this amendment despite my misgivings for the sake of the entire program's reauthorization.

The second amendment, however, I am not prepared to accept. It would threaten the integrity and success of the program by increasing the grant amounts for private schools. Nearly 10 times the number of students in the program attend public schools versus private schools, and an increase in the grant amounts for private schools would reduce the overall available funding. Fewer students would be able to participate in the program, and lower income students trying to attend more affordable public schools, in particular, would be significantly burdened, in some cases, potentially, being forced to forego college altogether.

For many students, the importance of this program in defraying out-of-State tuition costs means the difference between attending college or not. I cannot support this amendment, and I urge my colleagues to vote against this amendment as well.

DCTAG has helped thousands of DC students who receive postsecondary education. Its credibility and its effectiveness is evident.

I urge my colleagues to support the bill and oppose Senator COBURN's second amendment.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, today the Senate considers, as my good friend, Senator AKAKA, has mentioned, H.R. 1124 that will reauthorize the District of Columbia Tuition Assistance Grant Program. Senator AKAKA and I have been working on this legislation for quite some time and both believe it is one of the most significant efforts the Congress has made to help students of the District of Columbia.

I thank both the majority leader and the minority leader for allowing us to move this bill forward today. This bill passed the House in May by a vote of 268 to 100. Earlier this year, we introduced the Senate companion bill sponsored by Senator AKAKA, Senator BROWNBACK, Senator LANDRIEU, Senator LIEBERMAN, and Senator WARNER offering this needed reauthorization. I thank the Senator from Hawaii for his cosponsorship of this legislation.

I understand the special relationship between the Federal Government and the District. Congress shares the responsibility of making certain that the Nation's Capital remains a socially, economically, and culturally vibrant city. As a former mayor and Governor, I also believe that education is one of the most important factors in ensuring this Nation's future. Thus, one can imagine my dismay when I came to Washington, the shining city on the Hill, and learned that only 43 percent of students entering the ninth grade graduated from high school and even fewer go on to college. One would have thought that our Nation's Capital, the most powerful city in the world, would be the home for a first-class education system.

I am very concerned about the dropout rate in our Nation. America cannot afford to have urban schoolchildren drop out of school and become wards of society. Unless this situation changes, we are planting the seeds for social unrest. As the United Negro College Fund says, a mind is a terrible thing to waste.

Concerned with the future of the District's children, Representative TOM DAVIS and I crafted the District of Columbia College Access Act which created the DCTAG Program, tuition assistance program. I consider the creation of the DCTAG Program to be one of the most worthwhile efforts I have done since my time in the Senate.

The aim of the DCTAG Program is to level the playing field for high school graduates in the District of Columbia who do not have access to a comprehensive, State-supported education system by assisting them in attending college. Before the DCTAG Program, DC students were the only students in the United States—the only ones in the United States—with a limited State higher education system. As a result, few District graduates went on to attend college.

Beginning in 2000, DCTAG scholarships have been used by District students to cover the difference between instate and out-of-State tuition at State universities. Senator AKAKA has already explained the limitations on the program, but it provides up to $10,000 per year for out-of-State tuition, with a cap of $50,000, and $2,500 for private schools, with a cap of $12,500.

Again, the way this has worked out is the District has seen an unprecedented increase, a 60-percent increase in college attendance. No other State in the Union can make this claim. Think about that: a 60-percent increase in college attendance. More than 1,500 DCTAG recipients have graduated from college. In my State of Ohio, there are currently 74 District students attending 11 universities, including Ohio State, Kent State, and Bowling Green State University. I truly believe the majority of the students would not be attending colleges and universities in Ohio without the DCTAG Program.

I am particularly proud of the fact that many DCTAG recipients are the first in their family to attend college. In a survey of students attending the District's H.D. Woodson High School, 75 percent of the respondents felt DCTAG made a difference in their decision and ability to continue their education beyond high school.

I know how important this is because in my own situation, my father was raised by foster parents. It didn't look as if he would have a chance to go on to college. His principal and social studies teacher came out to see the man who was the foster parent, who wanted my dad to quit school at 16 and be a laborer. The principal and social studies teacher said: No, keep your George in school. They found him a job at night. Then they also helped him obtain a scholarship from Kroger. He went on to Carnegie Tech to become an architect. I don't know what would have happened if it had not been for those teachers intervening and for that Kroger scholarship. His life would have been quite different.

Sixty-five percent of the kids indicated that the existence of the program enabled them to choose a college that would best suit their needs.

Erica, who attends Virginia State University and is supported by her grandparents living on a fixed income, said:

> Without the help of DCTAG, I would not be able to attend college.

And Randa, a full-time single working mother, said:

> The support I received is unmatched. DC–TAG made my future come true. Before hearing of the grants that existed, I had no intention of pursuing higher education, let alone attending a private school that ranks in the top 10 across the Nation. This contribution to my life has inspired me to help others as I have been so richly blessed.

These stories and many other successes of the TAG Program have resulted—and this is really important, Mr. President—in the private sector taking a vested interest in improving opportunities for the kids in the District.

A public-private partnership modeled after the Cleveland Scholarship Program, called the District of Columbia Access Program, or DC–CAP, was established in 1999 by Don Graham of the

Washington Post and other Washington area corporations and foundations to assist the District high school students with their enrollment in and graduation from college.

DC–CAP is privately funded, a nonprofit organization. It provides full-time counseling and financial assistance, available throughout their college career, to students who otherwise might never have the opportunity to go on to college.

To date, DC–CAP has disbursed more than $10 million, funded 5,300 students, and provided counseling services to 71,000 people. Similar to the population served by the DCTAG Program, the majority of students served are from low-income, minority, single-parent households, with many the first in their family to attend college.

It is important to understand that without the DCTAG Program, we would not have the DC–CAP program. They were so impressed with the fact that we were willing to step up and do something and give these kids an opportunity for higher education that they said the private sector ought to step in, and they created the public-private partnership.

Building on the success of the DCTAG and the public-private CAP program, the Bill and Melinda Gates Foundation announced this year a $122 million grant program aimed at improving urban education in the District. The program, known as the DC Achievers Program, represents one of the foundation's largest investments to date in education, with the intention of becoming a model for other communities throughout the United States. They chose the District because of the fact that we had DCTAG and the CAP program.

The scholarships are designed to jump-start the low high school and college graduation rates among students living in certain DC neighborhoods. They are going to concentrate their attention in two regions of the District where there is a 66-percent dropout rate. Think of that. I am hopeful that with these programs continuing, we are going to really make a big difference in the District.

In addition to the programs I have just mentioned, we have America's first federally funded scholarship program that was created as part of the DC Choice Incentive Act of 2003. Under this program, each District scholarship student receives up to $7,500 per year for tuition, transportation, and fees so they may attend a nonpublic school. Last year, more than 1,800 kids participated in this program at 66 nonpublic schools in the District, and a number of these students have used the DCTAG tuition grants to help their dream of a higher education become a reality. And it was available to them.

In 1996, we created the charter schools in the District. Today, over 13,000 students are attending 34 charter schools in the District. In other words, we are really starting to make some progress. Supporting the Charter Schools Program is the Federal City Council, a nonprofit organization composed of and funded by approximately 200 local businesses and educational leaders. It is chaired by former Oklahoma Gov. Frank Keating. Members of the President's Cabinet and a number of key Federal officials serve as trustees. That council has spearheaded the business community's support for reforming the District's public school system. In other words, we are bringing together tremendous resources today where we are going to try to make a difference in an urban district in this country—there are about 65,000 kids today in the District—make a difference in their lives so that maybe in the next several years, we can start talking about an urban education system that actually works.

That is why this reauthorization is so very important not only to the District, but it could be the model for the rest of the United States of America. We have to break this dropout rate we are having in urban school districts or this country is in deep trouble.

So I say that it is successful because we have brought together the public and private sectors to make a difference. That is what it is. In other words, we realized that the District's school system is just one thread in this community, and if it is going to be successful, it is going to take their Federal partner and it is going to take their private partner working together to make a real difference for the kids in this community.

The Senator from Hawaii, Mr. AKAKA, mentioned the fact that we brought on Michelle Rhee, who, by the way—I tell you, if it wasn't for DCTAG, if it wasn't for CAP, if it wasn't for the Gates Foundation, if it wasn't for some of the other efforts, I do not think we would have been able to land her. She is terrific. She sees this potential—this young woman, dynamic as all get out—she sees the potential.

I yield the floor, Mr. President. The Senator from Oklahoma has an amendment.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Mr. President, my reason for offering amendments is not in opposition to this bill's goal. I think the Senator from Ohio and the Senator from Hawaii know that. But there are two really blatant things wrong with this bill.

There is a limited amount of money. Everybody will agree we have allocated—it is going to be about $38 million this year that is going to go for this program. That is what the spend-out is going to be. Right now, 20 families who make over $1 million a year are taking an opportunity from 20 families who are below the poverty level. Twenty families right now with household income greater than $1 million a year are taking this program. Why would we have a program that says to the richest in this country that we are going to pay for their college education and we are going to do it on the backs of the poorest in this country? These 20 people who are in college today whose families make more than $1 million a year are stealing an opportunity from 20 kids. Nineteen percent of the District lives under the poverty level. So we are taking from them because we do not have an earnings test on this program.

I put in an amendment, which I am going to call up in a minute, because it is ridiculous to think that somebody earning $1 million a year cannot afford to pay for their kid's college. But the amendment should have been at $300,000 or $400,000 a year, because when you extrapolate that number, you get 400 or 500 kids who are now taking the opportunity from kids who have no income or are living below the poverty level.

So the idea of helping people in the District and enticing people to come to the District to get an education is a great idea. There is not a thing wrong with this program. But it is very shortsighted to say we don't want to put an earnings test on something because it might change the program. The fact is the program is being changed by the wealthy taking advantage of it to the disadvantage of the kids who can't get this grant.

I read in the paper this morning that the House is going to object to a million-dollar-per-year earnings test on this program. Just do a little finger commonsense poll and talk to the American people. Do they think their taxpayer dollars ought to be spent on sending somebody to college whose parents make $1 million a year? The answer to that is a resounding ''no.'' So why would we have any resistance at all in the House or this body to putting an earnings limit at $1 million? It makes no sense.

The second problem with this bill is we have discriminated against historically Black, private, nonprofit universities because they are private: Morehouse State, Spelman College, Stillman College, Tuskegee. Yes, we will let you go if you are from Washington, DC, if you want to go to those, but we are only going to give you $2,500. We are not going to give you $10,000 because it is a private nonprofit. We are going to limit your ability to embrace your culture at one of the historically Black colleges because it happens to be a private, nonprofit university. We are going to say you can only have $2,500. And by the way, if you have a good reason that you might want to pursue a field of study that is not offered at one of the universities, the State publicly supported universities, but is offered at a private college, we are going to discriminate against you again. We are going to say we will give you $2,500.

What we are doing is we are putting a carrot out there and saying, you can't quite get to the carrot. You can't quite get to that carrot. Why would we

discriminate against private and nonprivate, if a child wants to seek a certain level of education that is not available anywhere except that? If we want opportunity for these kids, we ought to give them opportunity and we ought to let the choice be theirs. Let them choose where to go.

If they want to go into bioneurologic sciences, where can they get that? A private university. They can't get it at a public university. If they want to go into some other area that is not available to them in a public fashion, through a public university, we are going to say, yes, you can, but you get 75 percent less benefit than everybody else gets because you choose to go into a field of endeavor that may be highly sought after but it is not offered at a public university.

So the idea behind the bill is good. The goal of increasing what the chairman and ranking member wanted to do in terms of DC is right, it is right-headed, but if we were thinking about how do we help the most kids, we wouldn't let the first dollar go to parents making $500,000 a year or $300,000 a year. We would let it go to the kids, this 20 percent of the population who lives under the poverty level. That is where we would send the money.

What we are saying here is, in the namesake of not wanting to change and not allow the flexibility for more impoverished children to get that college education, we don't want to change. We don't want to allow a young African-American male to go to Morehouse College, because we are going to give him $7,500 less a year to go there than if he chose some other university. Why would we not want to enhance that culture for him?

AMENDMENT NO. 2888

Mr. President, I ask unanimous consent that any pending amendment be set aside, and I call up amendment No. 2888 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CASEY). The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2888.

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

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

The amendment is as follows:

(Purpose: To prohibit the Federal Government from favoring public colleges and universities over private colleges and universities under the District of Columbia College Access Act of 1999)

At the end of the bill, add the following:

SEC. 2. NON-DISCRIMINATION FOR PRIVATE SCHOOL STUDENTS.

Section 6 of the District of Columbia College Access Act of 1999 (113 Stat. 1327; Public Law 106–98) is amended by adding at the end the following:

''(i) NON-DISCRIMINATION FOR PRIVATE SCHOOL STUDENTS.—In awarding grants under this Act to eligible institutions, the Mayor shall pay amounts, on behalf of eligible students, that are equivalent regardless of whether the students attend a public or private eligible institution.''.

Mr. COBURN. Mr. President, this is the amendment that says, let's don't discriminate against the private schools. Let us let the kids go where they want. Let us give them an equal shot at Morehouse, at Tuskegee, at Spelman, and Stillman. Let us let them have an equal shot to go there as well as everywhere else. We have decided you can't. We are going to make you more disadvantaged to go to someplace that is culturally better for you.

So I would ask reconsideration on the part of the chairman and the ranking member for this amendment. It makes sense, it is equal, and it treats every sought-after degree the same. We don't discriminate between private and public. It doesn't change where the restrictions are already. It doesn't say every private university in America can have it. What it says is, if we are going to hold this apple out in front of you and say here is your education, we are going to give you a fair shot whether you want to go to a private school or a public school that is on the list. We are going to treat you the same, and we are going to hope that no matter which one you attend that you finish that education and come back and become a productive citizen contributing to DC.

That is what this is about. It is not about expanding the realm of private universities. It is saying that if I choose to go to Morehouse State, I should get the same treatment as if I choose to go to Oklahoma State or Ohio State or the University of Hawaii. I get the same treatment. Don't give me part of an apple, give me the whole apple. Give me everything.

AMENDMENT NO. 2887

Mr. President, I ask unanimous consent that amendment No. 2888 be set aside, and I call up amendment No. 2887.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2887.

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

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

The amendment is as follows:

(Purpose: To exempt millionaires from receiving educational scholarship funds intended for needy families)

At the end of the bill, add the following:

SEC. 2. MEANS TESTING.

(a) IN GENERAL.—Section 3(c)(2) of the District of Columbia College Access Act of 1999 (113 Stat. 1324; Public Law 106–98) is amended—

(1) in subparagraph (E), by striking ''and'' after the semicolon at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(G) is from a family with a taxable annual income of less than $1,000,000.''.

(b) CONFORMING AMENDMENT.—Section 5(c)(2) of the District of Columbia College Access Act of 1999 (113 Stat. 1328; Public Law 106–98) is amended by striking ''through (F)'' and inserting ''through (G)''.

Mr. COBURN. Mr. President, this amendment says if you make $1 million a year, we shouldn't be paying for your kids to go to college. The rest of the American taxpayers shouldn't.

I am disappointed to hear from the House that when they get this, when we get to conference, they are not going to accept it. It is amazing to me that anybody in this country would think that the Federal Government—all of us collectively—ought to pay for their children's education. If we are going to do that, then let us pay for everybody's education across the country.

But that is not what this bill is about. This bill is about trying to direct funds to those kids who won't have an opportunity for college without these funds. And by giving those funds to the well-to-do families who do not need or require our help to send their children to college, we are stealing opportunity from those kids. There is a limited amount of money. Everybody knows that. There is a limited pie here. And for those 20 times 50,000, that $1 million is not going to be spent on somebody living below the poverty level wanting to get out and wanting to move up.

I understand it is the chairman and ranking member's opinion that they will accept this amendment, so I graciously thank them for that, and my hope is you would hold this as we discuss this with the House. It is ludicrous to take this away from people who don't have means.

Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. Under the previous order, amendment No. 2887 is adopted.

The amendment (No. 2887) was agreed to.

The PRESIDING OFFICER. Who yields time?

The Senator from Ohio.

Mr. VOINOVICH. Mr. President, the Senator from Hawaii and I have accepted the amendment that limits the participation of people in this program to those who earn less than $1 million, but the fact is what we tried to do when we put this program together was to mimic what we were doing in States today around the country. In my State, we have a very robust higher education system, but we do not have an income level that establishes who can participate and who can't. I suspect there are people in Ohio who have kids at Ohio State University who are subsidized and who may make over $1 million or make $350,000. But our State has chosen not to have an earnings limit as a matter of public policy. I suspect if you go around the country, you will find that is the case just about everywhere you go.

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

Mr. VOINOVICH. Let me finish, and then I will yield for a question.

Second, in terms of the private colleges, we looked at what we do around the country, and if you are in the State of Ohio and you are a resident of Ohio, we have a special program that says if you go to a private school, you don't get the full subsidy you would get if you go to a public school, but we provide the private schools up to $2,500 so you can attend a private school. When we put this program together, we had a limitation saying, as we have in the State—and we took certain areas of Virginia and Maryland and brought them in as part of a State—and we said if you go to the University of Maryland, if you go to the University of Virginia, then you can participate in this program. But what we realized at the time was that the number of people trying to get into Maryland and Virginia was so large it wouldn't give these kids the chance they needed to have so they could get into school, and so we opened it up to public colleges all over the United States of America. As Senator AKAKA says, there are people in Hawaii, I am sure we have people in Pennsylvania and all over America, in Oklahoma, and we are trying to do what a State would do.

The other thing we did, which was unusual, is that because we have historical Black colleges around the country, we provided a special program that at those private colleges, even though they are outside of the region of the District of Columbia, the children would be able to receive up to $2,500, and that lays out why this whole program came together. What the Senator from Oklahoma is making mention of is that he wants everybody to get the same amount of money. If we provide equal funding for private and public colleges, as proposed by the amendment, we would be limiting the reach of what is, by all accounts, a very successful program.

The current level of funding of the DCTAG is about $33.2 million. If we expanded that to allow District schools to receive grants of up to $10,000, funding would have to be increased significantly to serve the existing population served by the DCTAG. As mentioned earlier in the debate, the average grant amount per student is $6,500. They do not get the $10,000, they get the average of $6,500, and the difference of $3,500 would have to be made up somewhere. Of the 6,400 students enrolled in the DCTAG today, 886 are attending private colleges. These students are receiving about $2 million. If this amendment were to pass, funding would have to increase by over $5 million to cover these students, or the District would have to reduce the number of students attending public universities by 875 students. So it is a matter of money and dividing it. My guess is that would result in fewer students attending college because the pool of available money would shrink.

I would hope none of my colleagues is willing to ask 875 students not to attend college. This program has been an unprecedented success since the first grants were handed out in 2000. There is an old saying, and I have believed in it my entire years in Government—over 40 years—''If it ain't broken, don't fix it.'' This program is not broken. This program is one of the most successful programs in the United States of America to reduce dropout rates and increase the attendance of youngsters to get a college education. I hope my colleagues who are listening and paying attention right now will vote against this amendment because I don't think it is going to add one iota to this program except to take away from it.

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

Mr. VOINOVICH. I am glad to yield.

Mr. COBURN. Do the people of upper income in Ohio pay higher taxes in the State of Ohio?

Mr. VOINOVICH. Yes, and I am sure the people in the District of Columbia are paying higher income taxes to the United States of America.

Mr. COBURN. So the people of Ohio, who send their children to Ohio State, even though they pay in-State tuition, actually pay more for that college because they pay a much higher percentage of the State budget and the State of Ohio, similar to the State of Oklahoma, has decided that with that increased income, we will grant everybody. But it doesn't cost the same. So the argument is, in terms of the difference in incomes: Those people who make exceptional incomes in Ohio and Oklahoma actually pay more for their kids to go to college in their States because they pay a much higher percentage of the total income taxes in the State.

The second point is I think the Senator is right. If it ain't broke, don't fix it. This is one of the rare programs that ought to be expanded, but we have terrible priorities in this Senate and in this Government. So we will not take another $10 million to make sure more kids go and get rid of some duplicitous earmark somewhere that is a favor for some politician somewhere so we can, in fact, enhance it.

This is a very straightforward amendment. It says why would you discriminate against somebody who wants to go to a private college over a public college? That is what we are doing. The answer is because we don't have enough money. That is the answer. The answer is we do not have enough money, so therefore, if we give the same amount of scholarship to private schools as we give to public, we would not have enough money for 886 people who are getting a full boat now.

The answer to that is here is a program that is working, here is where we ought to have priorities, here is where we ought to be putting more money rather than less. But the answer, our closed-minded answer in Washington is: That is all the money we have. Even though this is working and a lot of other programs are not working, we are not going to defund those programs that are not working. We are not going to measure with a metric whether they are effective. We are going to let them go. Here is a good program that is making a difference in people's lives, and we are not going to go fight for more money.

To me, that says it all about where we are in Washington today.

Mr. VOINOVICH. Mr. President, I would like to say—and I am pleased the junior Senator from Oklahoma is talking about a Federal program where he wants to see more money spent. I think that is terrific. The fact is, he does agree this is a very special program. I would like to point out so do the appropriators, because year after year, they have provided more money for this program.

Initially, it started out at about $17 million. They are up to about $33.3. In their consideration of the importance of this program, they have, in fact, provided more money for it because it is a very worthwhile, successful program. The fact of the matter is we all believe that if we evened it out across-the-board, fewer of our youngsters, the socially deprived kids in the District, would be able to take advantage of the program.

Again, I wish to emphasize we tried to copy what we do in States such as Ohio, where we say to the private schools: You are here. God bless you. And we give them, not the total subsidy, $6,500—they get up to $2,500 for those students.

If you are thinking about kids who need help, I know in my State if you have a youngster who has some potential—by the way, these youngsters who have the potential are taking advantage of the college assistance program the private sector set up here, set up by Don Graham over at the Washington Post. So they come in with this little extra money for them. We also have the Pell Grant Programs available to these individuals.

I can tell you this. If we had a bright kid in the District who was qualified to go to Georgetown—we mentioned a young lady who is at one of the top universities. They have special programs that reach out and say here is a youngster—such as my dad—who is bright, hard-working, and we are going to give them some extra, such as dad got at Carnegie Tech so he could go on to get his architectural degree.

I think we are talking about reality here. We are talking about a program that is making a difference. I respectfully say I think the proposal doesn't help the program but rather takes away from it.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, reclaiming my time, I wish to echo the remarks of my good friend and ranking member, Senator VOINOVICH. Senator COBURN's amendment threatens to reduce the number of participants in the program by nearly 1,000 students and

would increase the costs of the program by more than $5 million.

Furthermore, it conflicts with the intent of the legislation. Because of the high number of private schools in the District, Congress allowed students who chose to stay close to home a greater range of options, similar to a State school program. However, it was never intended to supplement the private education to the same degree as public education.

Once again, I urge my colleagues to vote against his amendment and in support of the underlying bill.

At this time, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. I will finish up with this. I thank the Senators for their debate and points of view.

The reason the average is $6,500 is because you only give $2,500 to the private. If you took all the private schools out, the average would be $10,000. That is what you get. So to play the game with numbers is not accurate because when you filter in the $2,500, you get that average of $6,500.

I would make the point again, you, in fact, are discriminating against a young DC minority child who says I want to go to Morehouse State, and I want to major in X at Morehouse State. I know heroes of mine who went to Morehouse State.

Under this bill, you say you can't do that. They may be bright, but $2,500 compared to that education, versus $10,000 in public, doesn't begin to accomplish the level of financing and scholarships—it will be next to impossible. I ask you to reconsider. The intent of what you are trying to do—we can, in fact, appropriate more money for this. If I and GEORGE VOINOVICH and DANNY AKAKA go for a spending increase on an appropriations bill, that will make history in the Senate. That would make history. We could do that. We could find the money to do that.

The point is, why should we take away opportunity? Why should we be the parlayers of somebody's lost opportunity? We ought to give it to all, it ought to be equally based and ought to be based on their aspirations, their hopes for what they want to do. We should not artificially say because you want to go here, this is all the opportunity you get. But if you want to go somewhere that doesn't excite you, doesn't stimulate you, isn't going to give you as good an education, we will give you more money.

I think that is inherently wrong and disadvantageous to the very people we are trying to help. Not only should we want them to get the education, we should want them to get the best education, so they can be the best that they can be.

I will yield the floor.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

Mr. AKAKA. Mr. President, I yield the remainder of my time.

Mr. VOINOVICH. 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. AKAKA. I ask unanimous consent that the order for the quorum call be rescinded.

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

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to Coburn amendment No. 2888.

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

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from New Mexico (Mr. DOMENICI).

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

The result was announced—yeas 38, nays 59, as follows:

[Rollcall Vote No. 337 Leg.]

YEAS—38

Alexander	Crapo	Lugar
Allard	DeMint	Martinez
Bennett	Dole	McCain
Bond	Ensign	McConnell
Brownback	Graham	Roberts
Bunning	Gregg	Sessions
Burr	Hagel	Shelby
Chambliss	Hatch	Smith
Coburn	Hutchison	Stevens
Cochran	Inhofe	Sununu
Corker	Isakson	Thune
Cornyn	Kyl	Vitter
Craig	Lott	

NAYS—59

Akaka	Feingold	Murray
Barrasso	Feinstein	Nelson (FL)
Baucus	Grassley	Nelson (NE)
Bayh	Harkin	Pryor
Biden	Inouye	Reed
Bingaman	Johnson	Reid
Boxer	Kennedy	Rockefeller
Brown	Kerry	Salazar
Cantwell	Klobuchar	Sanders
Cardin	Kohl	Schumer
Carper	Landrieu	Snowe
Casey	Lautenberg	Specter
Clinton	Leahy	Stabenow
Coleman	Levin	Tester
Collins	Lieberman	Voinovich
Conrad	Lincoln	Warner
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Mikulski	Wyden
Enzi	Murkowski	

NOT VOTING—3

Byrd	Domenici	Obama

The amendment (No. 2888) was rejected.

Mr. AKAKA. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. BUNNING. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

At the moment, there is not a sufficient second.

Mr. BUNNING. Mr. President, I ask for the yeas and nays, please.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virgina (Mr. BYRD), the Senator from Connecticut (Mr. DODD), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. LOTT. The following Senator is necessarily absent: the Senator from New Mexico (Mr. DOMENICI).

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 338 Leg.]

YEAS—96

Akaka	Dorgan	McCaskill
Alexander	Durbin	McConnell
Allard	Ensign	Menendez
Barrasso	Enzi	Mikulski
Baucus	Feingold	Murkowski
Bayh	Feinstein	Murray
Bennett	Graham	Nelson (FL)
Biden	Grassley	Nelson (NE)
Bingaman	Gregg	Pryor
Bond	Hagel	Reed
Boxer	Harkin	Reid
Brown	Hatch	Roberts
Brownback	Hutchison	Rockefeller
Bunning	Inhofe	Salazar
Burr	Inouye	Sanders
Cantwell	Isakson	Schumer
Cardin	Johnson	Sessions
Carper	Kennedy	Shelby
Casey	Kerry	Smith
Chambliss	Klobuchar	Snowe
Clinton	Kohl	Specter
Coburn	Kyl	Stabenow
Cochran	Landrieu	Stevens
Coleman	Lautenberg	Sununu
Collins	Leahy	Tester
Conrad	Levin	Thune
Corker	Lieberman	Vitter
Cornyn	Lincoln	Voinovich
Craig	Lott	Warner
Crapo	Lugar	Webb
DeMint	Martinez	Whitehouse
Dole	McCain	Wyden

NOT VOTING—4

Byrd	Domenici
Dodd	Obama

The bill (H.R. 1124), as amended, was passed.

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

The motion to lay on the table was agreed to.

RECESS

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

Thereupon, the Senate, at 12:53 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

DISTRICT OF COLUMBIA HOUSE VOTING RIGHTS ACT OF 2007—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, there will now be 15 minutes equally divided between the two leaders or their designees on the motion to invoke cloture on the motion to proceed to S. 1257.

Who seeks time? The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to urge my colleagues to support the legislation before us today which was reported out of our committee on a 9-to-1 vote, bipartisan support.

In some sense, it is unbelievable that we are here today in 2007 trying, against some odds at this moment, to give to the residents of the Capital City of the United States, the District of Columbia, the right to have a voting representative in the Congress of the United States. To me, it is unbelievable, it is palpably unjust and, in my opinion, a national embarrassment.

This bill, comparable to a bill that passed the House of Representatives—bipartisan—cosponsored by Delegate ELEANOR HOLMES NORTON and Congressman TOM DAVIS—basically rights this grievous wrong by giving the District of Columbia, more than a half a million of our fellow Americans, a voting Member of Congress in the House of Representatives and to, frankly and directly, overcome concerns of the partisan impact of giving a House seat to the District because it tends to vote Democratic, and correcting another injustice, saying that the State of Utah, which came very close—less than 900 citizens—from having another seat in the Congress in the House as a result of the 2000 census also gets a seat. So one for the District of Columbia, one for Utah.

The situation is this: The residents of the Capital City of the greatest democracy in the world do not have voting representation in Congress. And yet, they have to pay the taxes we adopt—this is taxation without representation—their budget uniquely has to be approved by the Congress, and their sons and daughters today are serving, and I add dying in disproportionate numbers, in Iraq and Afghanistan in the war on terrorism, and yet they do not have a voting representative in Congress to pass judgment on appropriations and other matters related to that war.

It is time to end the injustice, to end the national embarrassment that the citizens of this great Capital City do not have voting representation in Congress.

I ask all my colleagues to vote for cloture. Do not let a filibuster kill a voting rights act, as used to happen too often around here.

I have been honored to join as a cosponsor of this measure my dear friend, a great Senator, Senator ORRIN HATCH of Utah.

I yield the remaining time we have to Senator HATCH.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, we have had a lot of people talking about, oh, let's not do this because it is unconstitutional. I want everybody to know there are conservative and liberal advocates on both sides of this issue with regard to the District of Columbia and, I might add, I think most people will know Utah was not treated fairly after the last census. Naturally, Senator BENNETT and I are for adding a seat in Utah.

Let's go back to that point. There are good people on both sides of this issue, Democrats and Republicans on each side. There are decent arguments on each side of this issue, although I think our side has been given short shrift by some. And those who are so sure this is unconstitutional, that which the distinguished Senator from Connecticut, Mr. LIEBERMAN, and I have been advocating, then why do they fear the expedited provision in this bill that will get us to the Supreme Court of the United States of America in what would be a very appropriate decision on who is right and who is wrong in this matter?

We all know the argument that we should do this as a constitutional amendment is not a valid argument. It is a good argument, but the fact is it will never pass that way. There are 600,000 people in the District of Columbia, never contemplated by the Founders of this country to be without the right to vote. They are the only people in this country who do not have a right to vote for their own representative in the House of Representatives. This bill would remedy that situation.

Those who argue it would be a presage to getting two Senators don't know the people in America or in this body. The fact is that Senators are elected by States with equal rights of suffrage. This representative, should this bill pass both Houses of Congress, would represent 600,000 people as the people's representative in the House of Representatives, which is what that is supposed to be.

I might add, Supreme Court decision after Supreme Court decision has said the Congress has plenary power in this area, unique power in this area. It says Congress has authority over the District of Columbia. If Congress wants to give the District of Columbia a representative, Congress has the power to do so, and I believe the Supreme Court would uphold it. I do not believe the Supreme Court would uphold an attempt to try and get two Senators for something that is clearly not a State requiring equal rights of suffrage.

I compliment my good friend from Connecticut, Senator LIEBERMAN, for the hard battle he waged and for those in the House who worked so hard on this issue. I hope we can at least debate this matter. All we are doing today is deciding whether we are even going to allow a debate to occur. My gosh, when has the Senate been afraid to debate a constitutional issue as important as this one? This is an important issue. We are prepared to debate. We are prepared to see what happens.

We know if it passes, it is going to have expedited review by the Supreme Court. We are prepared to accept whatever the Supreme Court decides to do, and those who say this is unconstitutional, per se, should not be afraid then. I am willing to go to the Supreme Court, and I will abide by whatever the Supreme Court says. I believe the Supreme Court would uphold this legislation because there are 600,000 people without a right to vote for their own representative.

I used to be opposed to this issue. The more I studied it, the more I agreed with the conservative and liberal constitutional proponents and the more I have become an advocate for it, and I am going to continue to do so. I hope we can at least debate this matter and then, hopefully, get it out of this body and go to the Supreme Court and have them finally decide what should be done.

I yield the floor.

The PRESIDING OFFICER. Who seeks time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from Maine is recognized.

Ms. COLLINS. Mr. President. I rise to speak in support of S. 1257, the District of Columbia House Voting Rights Act of 2007. It is a measure introduced by Senator LIEBERMAN and Senator HATCH and favorably reported by the Committee on Homeland Security and Governmental Affairs.

After carefully considering the constitutional issues, I have come to believe, on balance, that S. 1257 is a legitimate mechanism for providing voting representation in the U.S. House of Representatives for the 600,000 Americans who live in the District of Columbia—citizens who serve in the Armed Forces, pay Federal taxes, participate in Federal programs, and support a local government overseen by Congress—yet who cannot choose a representative with voting rights for the House that meets in their midst.

S. 1257 would also correct an inequity affecting the State of Utah. That State fell just short of qualifying for an additional House seat in the last apportionment—a margin that likely would have disappeared had the census counted the thousands of Mormons who were out of State performing their religious duty as missionaries.

As the Senate considers this legislation, much hinges on our view of the powers assigned, and the rights protected, by our Constitution. Those

powers and rights were discussed at length in the May 15 hearing that our committee conducted on this bill.

We heard vigorous debate from legal experts on whether the enclave clause of the Constitution enables Congress to provide voting representation in the House for the District of Columbia—as a corollary of its exclusive power of legislation in Federal enclaves, including the District. We also heard an impassioned argument that the bill would pass constitutional muster purely on its merits as an equal-representation measure consistent with court rulings in civil rights cases.

I recognize that other lawmakers, and some constitutional scholars, have expressed sincere doubts about this measure. For those who have such concerns, the bill now offers a powerful safeguard. During our June markup, the committee adopted my amendment providing for expedited judicial review of this legislation in the event of a legal challenge. Thus, the new law's legitimacy could be determined promptly by our Federal courts.

My colleagues on the committee also adopted an amendment that I proposed concerning the scope and implications of the bill. The text now carries an explicit statement that the District of Columbia shall not be considered a State for purposes of representation in the Senate. This is an important distinction. Our Constitution links House representation to population, but it links Senate representation to statehood. The residents of the District of Columbia are Americans entitled to House representation, but they are not residents of an entity admitted to the Union as a State. The language added by the committee simply clarifies that the bill does not contemplate or provide support for a legislative grant of Senate representation.

The District of Columbia House Voting Rights Act of 2007 is a carefully crafted measure that provides for speedy review of any legal challenge. The bill's 21 sponsors and cosponsors span the liberal-to-conservative spectrum and includes two independent Senators, as well as Republicans and Democrats—eloquent testimony to the fact that this is not a partisan measure.

I urge my colleagues to support S. 1257, a simple matter of fundamental fairness for American citizens.

Mr. President, I wish to make a final point and say again that there are legitimate arguments about the constitutionality of the measure that is before us, and that is why, when it was before the Homeland Security Committee, I offered an amendment which is incorporated into the bill to allow for expedited judicial review of its constitutionality. I suggest to my colleagues that we should proceed with this measure. If, in fact, it fails on constitutional grounds, that is up to the courts. But today we can stand for an important principle of providing a vote to the residents of the District of Columbia.

I hope my colleagues will allow this bill to go forward, and I urge their support of this measure.

Mr. CARDIN. Mr. President, I rise in strong support of S. 1257, the District of Columbia House Voting Rights Act. This bill would provide the 580,000 residents of our Nation's Capital the voting representation in the House of Representatives that is so long overdue. It would also give the State of Utah a temporary at-large seat in the House through the next reapportionment.

Today's vote presents us the opportunity to grant District of Columbia residents the voice in ''the people's House'' that other Americans possess. It is time to remember the cry of our Founders that ''taxation without representation is tyranny'' and end the discriminatory treatment of our Capital City's residents.

District of Columbia citizens pay Federal taxes, and they deserve their full say in determining the direction of our country. They should have as much influence on the House and Senate floors as any other American over the policies that shape this Nation: our Tax Code, our involvement in Iraq and Afghanistan, and our laws affecting Social Security, health care, and childcare.

The right to representation is a basic civil right, and this is no less than a moral issue. Since coming to Congress, I have supported full voting representation for the citizens of the District of Columbia that would comprise one voting member of the House of Representatives and two Senators. The authors of this bill have, after much deliberation, crafted a compromise that they believe can pass both Chambers and be sent to President Bush for his signature. I will support that compromise with the hope that one day we will be able to enact legislation providing full representation to the District.

Mr. DODD. Mr. President, today we will vote on whether or not to take up one of the most important pieces of civil rights and voting rights legislation the Senate will consider in this Congress: the DC House Voting Rights Act of 2007. After months of careful consideration by the Committee on Homeland Security and Governmental Affairs, floor action on this bill has been blocked by a filibuster. We will soon see if there are sufficient votes to break that filibuster and enable it to move forward. We are in this procedural position because some of my Republican colleagues have persistently refused to even allow the Senate to take up and debate this measure, insisting on throwing up procedural roadblocks all along the way. I urge my colleagues to vote to bring this bill to the floor, and if that effort succeeds, to support its adoption.

There is nothing more fundamental to the vitality and endurance of a democracy of the people, by the people, and for the people than the people's right to vote. In the words of Thomas Paine: ''The right of voting for representatives is the primary right by which other rights are protected.'' It is, in fact, the right on which all others in our democracy depend. The Constitution guarantees it, and the U.S. Supreme Court has repeatedly underscored that it is one of our most precious and fundamental rights as citizens.

Although not all Americans were entitled to vote in the early days of the Republic, virtually all legal restrictions on the franchise have since been eliminated, including those based on race, sex, wealth, property ownership, and marital status. Americans living in the Nation's Capital also deserve to have voting representation in the body that makes their laws, taxes them, and can call them to war.

Even with most explicit barriers to voting removed, we still have a way to go before we get to the point where all Americans are able to participate without obstacle in our elections, and with confidence in the voting systems they use. In the 2000 Presidential election, 51.2 percent of the eligible American electorate voted. And although in the 2004 Presidential election voting participation reached its highest level since 1968, only 60.7 percent of eligible Americans voted. That dropped back down, in the 2006 off-year elections, to just over 40 percent. We should do everything we can to strengthen voter registration efforts and to move the election reform process forward in this Congress, and at the same time to extend voting representation to the nearly 600,000 people—hard-working, tax-paying U.S. citizens who fight for our country and serve on juries and fulfill their other civic duties—who live within the borders of the District of Columbia.

I know that some opponents argue that the reasons the Founders made the Nation's Capital a separate district, rather than locate it within a State, remain sound, and therefore we should not tinker with their work, even at the cost of continued disenfranchisement of DC's citizens. That argument ignores the fundamental commitment we all must have to extending the franchise to all Americans. And it ignores the fact that article I of the Constitution explicitly gives Congress legislative authority over the District ''in all cases whatsoever.'' The courts have over time described this power as ''extraordinary and plenary'' and ''full and unlimited,'' and decades of legislative and judicial precedents make clear that the simple word ''states'' in article I (which provides that the House of Representatives ''shall be composed of members chosen . . . by the people of the several states''), does not trump, Congress's legislative authority to grant representation in the House to citizens of the District.

I know that Senator HATCH, LIEBERMAN, and others have already thoroughly covered this important legal ground, so I will not belabor the history. But when even conservative legal scholars—from Judges Ken

Starr and Patricia Wald to former Assistant Attorney General Viet Dinh—have done exhaustive legal analyses which outline the positive case for Congress ceding representational rights to citizens of the District, you know there is a strong case to be made. In any event, it is clear to me that these important constitutional questions should ultimately be resolved by the U.S. Supreme Court, and enactment of this bill would enable us to do just that. If opponents of the bill are so certain of their constitutional arguments, they should, it seems to me, allow those arguments to be tested in the full light of day, in the courts, and resolved once and for all. The bill provides for expedited consideration of appropriate court challenges. If it were to be enacted and then struck down because of constitutional infirmities, it would then be clear that a constitutional amendment is the only viable alternative left to DC citizens.

This is the latest in a series of proposals to extend full rights of representation to voters in the District. In 1978, with overwhelming bipartisan support, both Chambers of Congress passed the DC voting rights constitutional amendment, which would have given District residents voting representation in the House and the Senate, by two-thirds majority in each Chamber. The amendment required 38 States to ratify it, but it fell short. In 1993, the House voted to give partial voting representation to the DC delegate in the ''Committee of the Whole'' of the House, unless her vote actually determined the outcome, in which case it would not be counted. That is obviously no real voting ''right'' at all, if it can be taken away when it really counts.

There have been many differing proposals over the years to extend the right to vote to DC citizens, from constitutional amendments to statehood legislation to retrocession proposals. Since many Americans would be shocked to learn that something as basic as voting representation is now withheld from certain of our citizens, and it is coming in a particular historical context in which Utah is poised to gain an additional House seat due to its growing population, let me describe briefly what this bill would actually do.

First, it would create two new permanent seats in the House of Representatives, one for the District of Columbia and the other for Utah. An election for the seat in DC would be held in 2008 and the new representative would be sworn in for the 111th Congress. The bill explicitly states that DC can only be considered one district and receive only one seat in all future censuses.

It also repeals the District of Columbia delegate and other related language once a full voting representative is sworn into the 111th Congress. Finally, it would allow the State of Utah to create a Fourth District, not an at-large seat, using census data from 2000. The election for that seat would be held in 2008. This seat would be guaranteed to Utah for the 111th Congress and the 112th Congress until another census is done and new districts are made in 2012. It also explicitly says that the District should not be considered a State for the purpose of representation in the Senate; that question is left for another day.

Mr. President, as my colleague Senator HATCH has observed, there are really two fundamental questions here for the Senate to consider. The first is the constitutional question about whether Congress may enact legislation to address this issue. The second is an essentially political question about whether we should enact such legislation. I have briefly addressed the first. On the second, I think there really should not be much of a debate. Citizens of the District, a majority of them African-Americans, who fulfill all of the duties of citizenship, ought to have the right to vote and be represented in Congress as decisions are made about their taxes, about war and peace, or about any of the myriad other questions that Congress faces every day.

This is not a perfect bill. There are provisions of it that some oppose, and that I might have drawn differently. But it is an exquisitely balanced compromise, and I believe it deserves our support. I commend Chairman LIEBERMAN and Ranking Minority Member COLLINS for developing the bill, and I congratulate the majority leader for bringing it to the floor today. We know it enjoys the support of a large majority of Americans—over 80 percent in national polls support the proposition that DC residents should be represented in Congress. I hope it will garner the broad support in the Senate it deserves. I urge my colleagues on both sides of the aisle to vote aye to enable this measure to come to the floor, and to support it when it does.

Mr. KENNEDY. Mr. President, today's debate involves one of the most important issues in our democracy. Dr. Martin Luther King called the right to vote ''civil right number one.'' Yet hundreds of thousands of Americans who live in the Nation's Capital have been denied an equal voice in our democracy. Citizens in the District of Columbia live in the very shadow of the Capitol Building, but they have no representative who can vote their interests within these halls. It is long past time for us to finally correct this basic wrong.

I commend Senators LIEBERMAN, HATCH, and BENNETT for their strong leadership on this legislation.

Since the Revolutionary War, ''No taxation without representation'' has been a fundamental American principle. It is a famous phrase in our history. James Otis said it first in a historic speech in Massachusetts in 1763, and it was so inspiring that John Adams later said, ''Then and there, the child 'independence' was born.''

Yet more than two centuries later, citizens who live in the Nation's Capital still bear the unfair burden of taxation without representation. The more than half a million District of Columbia residents pay significant Federal taxes each year. In fact, DC residents have the second-highest per capita tax burden in the Nation. Yet they have no say in how Federal taxes are spent, and they have no role in writing the Nation's tax laws.

Residents of the District have fought and died in every war to defend American interests. Two hundred thirty seven DC residents died in the Vietnam war. Today, while we debate whether DC citizens deserve a vote in Congress, many brave Americans who live in the District are fighting for voting rights in Iraq. Since the beginning of the current wars in Iraq and Afghanistan, 2813 DC residents—2110 members of the Active Duty military and 703 members of the Reserve Forces—have been deployed in Iraq and Afghanistan. In the course of these conflicts, 28 DC residents have been wounded or killed.

Citizens of the District of Columbia have no voice when Congress considers whether to go to war. The brave soldiers from the Nation's Capital have no representation in Congress when the votes are counted on funding levels for our troops and other issues relating to the war. When Congress debates assistance to war veterans or considers how to improve conditions at Walter Reed Hospital, the patriotic veterans who live in this city have no vote. It is unconscionable.

If we are for democracy in Iraq and Afghanistan, we should certainly be for democracy in the District of Columbia as well.

I have long been a strong supporter of DC representation in Congress. In 1978, I worked with Walter Fauntroy and many others on a constitutional amendment to correct this basic injustice. We finally passed the constitutional amendment in Congress, but we weren't able to get it ratified by a sufficient number of States to take effect. Because we weren't successful then, the issue remains just as urgent today.

Fortunately, a constitutional amendment isn't the only option. The Constitution's District clause provides another, legal means for providing citizens of the District of Columbia a vote in Congress. As respected constitutional scholars have made clear, article I, section 8 of the Constitution gives Congress the authority ''to exercise exclusive Legislation, in all Cases whatsoever, over such District'' of Columbia. The Supreme Court has ruled that Congress's exclusive authority over the District of Columbia is broad and ''national in the highest sense.''

Some have questioned the constitutionality of this approach. Although I supported a constitutional amendment in the past, I disagree that a constitutional amendment is the only valid option. Nothing in the Constitution explicitly denies residents of this city a

voice in Congress. Judges Patricia Wald and Kenneth Starr, both of whom served on the respected U.S. Court of Appeals for the DC Circuit, have studied this approach to giving the District a vote in the House of Representatives. Both have concluded that it is constitutional. As they and others have noted, the Supreme Court has recognized that Congress has the power to treat District of Columbia citizens as citizens of a State in other contexts. For instance, the District is treated as a State for purposes of diversity jurisdiction in Federal courts, although article III, section 2 of the Constitution provides for diversity jurisdiction in suits ''between citizens of different States.''

It is impossible to believe that the Founding Fathers, having just finished a war to ensure democratic representation in America, would then insist on denying that representation to citizens living in the capital of their new Nation. Granting the District a vote in Congress is consistent with the spirit, as well as the letter, of our Constitution.

Even if you disagree about the bill's constitutionality, we should not filibuster this important measure. Surely even my colleagues who have a different view of the constitutionality can agree that this issue is important enough to deserve an up-or-down vote. The Senate's filibuster of the landmark Voting Rights Act of 1965 was one of its darkest days. We should not repeat that mistake now.

This is not a Republican or a Democratic issue. When we passed the constitutional amendment in 1978, we had strong support from Republicans like Senators Goldwater, Dole, and Thurmond, in addition to Democrats. Today, the bill has strong bipartisan support in both the House and Senate. That is because this issue is so obviously an issue of simple justice.

The Senate Judiciary Committee recently held a hearing to celebrate the 50th anniversary of the Civil Rights Act of 1957. We heard moving testimony in favor of this bill from Congressman JOHN LEWIS, our distinguished colleague in the House of Representatives and a leader in the continuing struggle for equal voting rights. At the age of only 23, Congressman LEWIS headed the Student Nonviolent Coordinating Committee and helped organize a march on Washington. He and others were brutally assaulted during the fateful voting rights march at the Edmund Pettis Bridge, but their sacrifices helped inspire the progress that was to come.

Congressman LEWIS reminded us of the sacrifices of those who gave their lives for equal voting rights in this country, and called on us to pass the DC Voting Rights Act. He reminded us of our obligation to give the District a vote in Congress.

I urge my colleagues to vote for cloture on this important bill and then vote for final passage of the bill so that we can finally correct this historic wrong and to do it on our watch.

Mrs. FEINSTEIN. Mr. President, S. 1257, the District of Columbia House Voting Rights Act of 2007, is an important and consequential bill.

The bill before us would increase the 435-seat House of Representatives to 437 seats, by providing one seat for a voting member in DC, which is predominately Democratic, and one additional seat for Utah, which is predominately Republican. And it does it in a way that doesn't give advantage to one political party over the other.

The time has come to give the District a voice and a vote in the House of Representatives.

I encourage my colleagues to support this legislation.

The legislation is sponsored by Senator JOSEPH LIEBERMAN, chairman of the Homeland Security and Governmental Affairs Committee; Senator ORRIN HATCH; and my distinguished ranking member on the Rules Committee, Senator ROBERT BENNETT. I am a cosponsor this legislation.

The District of Columbia occupies an interesting and unique place in the United States:

It covers just 61.4 square miles, sandwiched between Virginia and Maryland: Yet with more than 580,000 residents, the population of the District surpasses that of the entire State of Wyoming. The District of Columbia is the seat of American government. The U.S. Congress determines the laws for the District; the Federal Government impacts the District's transportation system, health system, and police function. DC residents pay the second highest per capita Federal income taxes in the country. And District residents have sacrificed their lives defending our Nation. During World War I, World War II, Vietnam, the Korean war, and today in Iraq, they have fought for our democracy. Despite all this, DC residents have no vote in how the Federal Government operates.

''No taxation without representation,'' the colonists told King George in the late 1700s. We cannot allow this lack of representation to continue during the 21st century.

Today, the District of Columbia has a nonvoting representative in Congress—Representative ELEANOR HOLMES NORTON. She has been vocal in representing the interests of the residents of DC, but she is unable to cast a vote on the House floor to ensure that voice is heard. This makes little sense.

We now have an opportunity to change this and to strike the right balance while doing it. The bill before us would add two seats to the House of Representatives, one for the District of Columbia and one for Utah.

Utah was next in line for a fourth congressional district representation in the House, according to 2000 population census data. At that time, Utah was only 856 residents away from becoming eligible for an additional seat.

So this legislation strikes the appropriate balance by allowing additional representation for both DC and Utah without disadvantaging either national political party.

In the last 200 years, Congress has not granted House representation to the District of Columbia by statute. Whether such a Federal law is constitutional has never been before the courts. As a result, critics of the legislation have argued that a bill providing for a vote for the District representative is unconstitutional. However, a bipartisan group of academics, judges, and lawyers argue that Congress has the authority and historical precedents to enact Federal law, and I agree with their view.

The Constitution vests in Congress broad power to regulate national elections and plenary authority over DC under the District clause, article I, section 8, clause 17. This clause permits Congress wide discretion to grant rights to the District of Columbia, including for the purposes of congressional representation.

From 1790 to 1800, Congress allowed District residents to vote in congressional elections in Virginia and Maryland. This was allowed not because they were residents of those States but because Congress acted within its District clause authority.

Constitutional scholars from the right and the left, the most notable conservatives being Judge Kenneth Star and Professor Viet Dinh, believe this legislation is constitutional. These scholars reference the sweeping authority of the District clause, which provides that ''The Congress shall have power . . . to exercise exclusive legislation in all cases whatsoever'' over the District of Columbia.

In addition to believing that Congress can pass this legislation, I believe there are strong reasons why it should pass this legislation.

DC is affected, perhaps more directly than any other U.S. jurisdiction, by the actions of Congress.

Citizens of the District, rich and poor, work in this town and work in the industries of law, policy, business, tourism, academia and medicine. They pay high taxes; they face the challenges of living in one of the major cities in the United States.

This legislation would provide DC with permanent voting rights for the first time in over 200 years.

From the Boston Tea Party and ''no taxation without representation'' to the suffragettes and struggles over voting rights in the 1960s, the goal of American society has been to bring a voice to citizens who were voiceless.

Voting is the voice of democracy.

This political limbo that Congress has placed on the District has run its course.

It is time to give the District a voice and a vote in the House of Representatives.

This important step can not only right this wrong but can do it without causing partisan rancor or disadvantage to any party. What is at stake

here is nothing less than a fundamental fairness voting issue.

This bill is consistent with the historical precedents of Congress's role in protecting and preserving the right to vote, regardless of color or class, age or gender, disability or original language, party or precinct, and geography domestic or foreign.

It is the right thing to do, and the 21st century is the right times to do it.

I urge my colleagues to join me in taking up and passing this bill on a majority vote in the full Senate.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

● Mr. BYRD. Mr. President, in 1978, as the majority leader of the United States Senate, I strongly supported and voted for H.J. Res. 554, a joint resolution that proposed amending the Constitution to provide for representation of the District of Columbia in Congress. Unfortunately, over the next 7 years, that resolution, which had passed the Senate by a vote of 67 to 32, failed to obtain the approval of the 38 States it needed for ratification under Article V of the Constitution.

Today, the Senate seeks to obtain the same commendable goal of granting voting rights to representatives of the District of Columbia. The Senate seeks to do so by passing S. 1257. However, Art. 1, Sec. 2 of the Constitution states that the House of Representatives shall be composed of Members chosen by the people of the several States. The Constitution does not refer to the people of the District of Columbia in this context. While I recognize that others believe that Art.1, Sec. 8 of the Constitution authorizes the Congress to ''exercise exclusive legislation'' over the District, including legislation that would grant the District's representatives voting rights, the historical intent of the Founders on this point is unclear.

I oppose S. 1257, because I doubt that our Nation's Founding Fathers ever intended that the Congress should be able to change the text of the Constitution by passing a simple bill. The ability to amend the Constitution in only two ways was provided with particularity in Article V of the Constitution for a reason. If we wish to grant representatives of the citizens of the District of Columbia full voting rights, let us do so, once again, the proper way: by passing a resolution to amend the Constitution consistent with its own terms.

Now is certainly not the time for us to make it easier, rather than more difficult, to alter the text of the Constitution. We serve with a President who already believes that he can ignore the rule of law by issuing a simple directive, a signing statement, or an order that undermines the delicately balanced separation of powers, which the Framers so painstakingly included in the Constitution. A series of Federal judges is now confirming what many of us have known from the start: that this Administration believes it can write 200 years of civil liberties out of the Constitution with a simple stroke of a pen.

We all seek the same laudable goal: to provide full Congressional representation and voting rights for the citizens of the District of Columbia. But let us accomplish that goal in the way the way the Founders intended—by amending the Constitution. Let us support a resolution to amend the Constitution that would enhance, rather than undermine, the rights of the 600,000 residents of the District of Columbia who seek a stronger voice in their government.●

Mrs. CLINTON. Mr. President, Our Nation was born out of a struggle against taxation without representation. Yet even as we endeavor to promote democracy around the world, it is alarming that we deny our own American citizens who live in the District of Columbia the right to representation in Congress. The nearly 600,000 residents of the District of Columbia have been denied voting representation in Congress for over 200 years. But this is not just an injustice perpetrated on DC residents. Their disenfranchisement tarnishes our democracy as a whole. The right to be represented in the national legislature is fundamental to our core American values, and for that reason, I am proud to cosponsor the District of Columbia House Voting Rights Act of 2007.

There is no principled basis for the disenfranchisement of the District's residents. After the Nation's Capital was founded, citizens who lived in the District were represented by congressmen from Maryland or Virginia. They were able to make themselves heard in Congress. It was only in 1801 that Congress chose to strip the District of voting rights. As a result of this decision, for more than 200 years, the District's residents have been taxed like other Americans but have been denied a vote in the Nation's legislature. It is Congress that took away the District's representation. After two centuries, it is time for us to fix that mistake. The District's residents deserve a voice in how the Nation is governed.

The people of this city are proud Americans. They pay their taxes. They serve with honor and distinction in our military. But yet we deny them the ability to fully participate in our democracy. The legislation before us goes a long way towards righting this wrong by giving the residents of the District representation in Congress that is long overdue.

Mr. LIEBERMAN. Mr. President, I rise to express my strong support for the legislation before us today to ensure that citizens of the District of Columbia and the State of Utah are properly represented in the U.S. House of Representatives.

In the 1964 Wesberry v. Sanders case, Supreme Court Justice Hugo L. Black wrote that ''no right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live.'' The bill we are considering today—S. 1257—serves this purpose. It would, for the first time, give the citizens of the District of Columbia full voting representation in the House of Representatives, while adding a fourth Congressional seat for the state of Utah, based on updated population statistics from the 2000 Census.

I want to thank my good friends Senators HATCH and BENNETT for greatly increasing the possibility of success this year with their support for this effort. Earlier in the year, the three of us introduced S. 1257 as a compromise that would move us beyond the partisan stalemates of the past that have denied the citizens of DC their most precious right.

I must also thank DC Delegate ELEANOR HOLMES NORTON and Congressman TOM DAVIS, whose persistence and bipartisan cooperation has brought us to where we are today. It was they who forged the original compromise that passed the House in April by a vote of 241–177 and is now before us here in the Senate.

Notwithstanding the remarkable service of Congresswoman NORTON, the citizens of the District of Columbia deserve more than a non-voting delegate in the House. They deserve a representative who can vote not only in committee, as Delegate NORTON now does, but also on the House floor, which she is barred from doing.

The fact that District residents have been without voting representation in Congress since the District was formed more than 200 years ago is not only a national embarrassment, it is a grave injustice and at complete odds with the democratic principles on which our great nation was founded. America is the only democracy in the world that denies the citizens of its capital city this most essential right.

And yet, the people of DC have been the direct target of terrorist attacks but they have no voting power over how the federal government provides homeland security. They have given their lives to protect our country in foreign wars—including the current one—but have no say in our foreign policy. They pay taxes, like every other American. In fact, they pay more: Per capita, District residents have the second-highest federal tax obligation in the country. Yet they have no voice in how high those taxes will be or how they will be spent.

The District is also the only jurisdiction in the country that must seek congressional approval—through the appropriations process—before spending locally-generated tax dollars. So when Congress fails to pass appropriations bills before the beginning of the new fiscal year, the District's budget is essentially frozen. And yet DC has no say in our federal appropriations process.

Giving the residents of DC voting representation in the House is not only

the right and just thing to do; it has popular support. A poll conducted by the Washington Post earlier this year found that 61 percent of the nation believes it is time to end centuries of bias against the District by giving its citizens voting representation in Congress.

It helps to take a look back in history to locate the original source of this inequity. In 1800, when the nation's capital was established as the District of Columbia, an apparent oversight left the area's residents without Congressional representation. Maryland and Virginia ceded land for the capital in 1788 and 1789 respectively, but it took another 11 years for Congress to establish the District. In the interim, residents continued to vote either in Maryland or Virginia, but Congress withdrew those voting rights once the District was established. Apparently by omission, Congress neglected to establish new voting rights for the citizens of the new District.

Whatever the reason for this oversight, it has no relevance to reality or national principles today. To have your voice heard by your government is central to a functioning democracy and fundamental to a free society.

The Homeland Security and Governmental Affairs Committee held a hearing on the bill May 15, during which we heard compelling testimony on the need for and constitutionality of S. 1257 from legal scholars, civil rights leaders, and fellow members of Congress. The bill was reported to the full Senate on June 13 by a bipartisan vote of 9–1.

The primary argument against the bill that we heard at our hearing was the question of constitutionality. Opponents cite Article I, Section 2, of the Constitution which states that the House ''shall be composed of members chosen . . . by the people of the several states.'' But those words were not written in a vacuum. Just six sections later, the framers of the Constitution gave Congress authority to ''exercise exclusive legislation in all cases whatsoever'' regarding the District. Numerous legal scholars, including Judge Ken Starr and former Assistant Attorney General Viet Dinh, both of whom have testified before Congress on this issue—said this broad authority is sufficient to give District residents full House representation.

Congress has repeatedly used this authority to treat the District of Columbia as a state. In 1940, the Judiciary Act of 1789 was revised to broaden the definition of diversity jurisdiction, which refers to the authority of the federal courts to hear cases where the parties are from different states, to include the District of Columbia. This revision upheld by the courts when challenged.

The courts have also found that Congress has the authority to impose federal taxes on the District; to provide a jury trial to residents of the District; and to include the District in interstate commerce regulation. These are rights and responsibilities granted to states in the Constitution, yet the District Clause has allowed Congress to apply them to DC.

We should also remember that Congress has granted voting rights to Americans abroad in their last state of residence regardless of whether they are citizens of that state, pay taxes in that state, or have any intent to return to that state. Clearly, the courts have supported broader interpretations of Article I, Section 2 of the Constitution.

If, after listening to these arguments, you still doubt the constitutionality of this legislation, I hope I can persuade you to support it because it is the right thing to do, and we can let the courts resolve the constitutional dispute at a later date, once and for all. S. 1257 requires expedited judicial consideration of any appropriate court challenge, so any question of constitutional interpretation will be answered promptly.

Finally, allow me to reassure skeptics that in no way does this bill open the door to granting the District voting representation in the Senate, as some have contended. In fact, language was added in our Committee markup explicitly stating that DC, and I quote here, ''shall not be considered a state for purposes of representation in the United States Senate.'' End of quote. It can't get any clearer than that.

The vote we are about to cast will decide whether the Senate should proceed to the bill. It is a vote on whether this legislation is worthy of Senate consideration. No matter where you stand on the merits of this bill, surely you must agree that a bill on voting representation and equal rights deserves consideration by the United States Senate. The Senate has not filibustered a civil rights bill since the summer of 1964 when it spent 57 days including six Saturdays on the Civil Rights Act of 1964. Let us together assure the American public that the days of filibustering voting rights bills are over.

The House has acted. It is now time for the Senate to do the same. The legislation introduced in both the House and the Senate is an expression of fairness and bipartisanship, an example of what we can do when we work across party lines as the good people of this nation have so often asked us to do.

Members from both parties and both houses have finally come together to find a solution to break the stalemates of the past that have denied DC residents equal representation in the Congress of the United States. Now is the time to give the residents of the District what they so richly deserve and that is the same civic entitlement that every other federal tax-paying American citizen enjoys, no matter where he or she lives. By giving the citizens of the District of Columbia a genuine vote in the House, we will ensure not only that their voices will finally be fully heard. We will be following the imperatives of our national democratic values.

The PRESIDING OFFICER. Who seeks time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 257, S. 1257, a bill to provide the District of Columbia a voting seat, and for other purposes.

Harry Reid, Joe Lieberman, Patrick Leahy, Russell D. Feingold, Benjamin L. Cardin, Robert P. Casey, Jr., Bernard Sanders, B.A. Mikulski, Byron L. Dorgan, Patty Murray, Dianne Feinstein, Mary Landrieu, Kent Conrad, Robert Menendez, Mark Pryor, Ken Salazar, Jim Webb.

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

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1257, a bill to provide the District of Columbia a voting seat and the State of Utah an additional seat in the House of Representatives, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

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

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

The yeas and nays resulted—yeas 57, nays 42, as follows:

[Rollcall Vote No. 339 Leg.]

YEAS—57

Akaka	Feinstein	Murray
Bayh	Harkin	Nelson (FL)
Bennett	Hatch	Nelson (NE)
Biden	Inouye	Obama
Bingaman	Johnson	Pryor
Boxer	Kennedy	Reed
Brown	Kerry	Reid
Cantwell	Klobuchar	Rockefeller
Cardin	Kohl	Salazar
Carper	Landrieu	Sanders
Casey	Lautenberg	Schumer
Clinton	Leahy	Snowe
Coleman	Levin	Specter
Collins	Lieberman	Stabenow
Conrad	Lincoln	Tester
Dodd	Lugar	Voinovich
Dorgan	McCaskill	Webb
Durbin	Menendez	Whitehouse
Feingold	Mikulski	Wyden

NAYS—42

Alexander	Crapo	Lott
Allard	DeMint	Martinez
Barrasso	Dole	McCain
Baucus	Domenici	McConnell
Bond	Ensign	Murkowski
Brownback	Enzi	Roberts
Bunning	Graham	Sessions
Burr	Grassley	Shelby
Chambliss	Gregg	Smith
Coburn	Hagel	Stevens
Cochran	Hutchison	Sununu
Corker	Inhofe	Thune
Cornyn	Isakson	Vitter
Craig	Kyl	Warner

NOT VOTING—1

Byrd

The PRESIDING OFFICER. On this vote, the yeas are 57 and the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

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

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

The motion to lay on the table was agreed to.

Mr. OBAMA. Mr. President, I rise today to speak about the DC voting rights bill that the Senate just voted on. I am disappointed that this measure failed to receive the necessary 60 votes in order for the bill to be considered.

This is a bill that seeks to protect the most fundamental right of citizens in our democracy the right to vote. Different generations in our Nation's history have struggled to gain and safeguard this universal right—from the 15th amendment, which extended the right to vote to newly freed slaves, to the 19th amendment, which guaranteed the right to women, and finally to the Voting Rights Act, which gave real substance to voting laws that had been previously abused. Yet, as we speak, this most basic right in a democracy is denied to the citizens of the District of Columbia.

Our brave civil rights leaders sacrificed too much to ensure that every American has the right to vote for us to tolerate the disenfranchisement of the nearly 600,000 residents of the District of Columbia. Those who live in our Nation's Capital pay taxes like other Americans. They serve bravely in the Armed Forces to defend our country like other Americans. They are called to sit on Federal juries like other Americans. Yet they are not afforded a vote in Congress. Instead, they are granted a nonvoting Delegate who can sit in the House of Representatives and serve on committees but cannot cast a vote when legislation comes to the floor.

As a community organizer in Chicago and as a civil rights attorney, I learned that disenfranchisement can lead to disengagement from our political system. In many parts of DC, you can look down the street and see the dome of the U.S. Capitol. Yet so many of these streets couldn't be more disconnected from their Government.

If we are to take seriously our claim to a government of, by, and for the people, Washington shouldn't be just the seat of our Government, but it also should reflect the core values and fundamental promise of our democracy. Denying the right to vote to citizens who are equally subject to the laws of this Nation undermines a central premise of our representative Government. The right to vote belongs to every American, regardless of race, creed, gender, or geography.

For these reasons, I fully support this important legislation. Although today's vote is a disappointment, I will continue to work with Mayor Fenty, Congresswoman NORTON, and the sponsors of this bill until the residents of the District of Columbia achieve full representation in Congress.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SMITH. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. MCCASKILL). Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2008

The PRESIDING OFFICER. The Senate will resume consideration of H.R. 1585, which the clerk will report.

The legislative clerk read as follows:

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

Pending:

Nelson (NE) (for Levin) amendment No. 2011, in the nature of a substitute.

Levin (for Specter/Leahy) amendment No. 2022, to restore habeas corpus for those detained by the United States.

Warner (for Graham/Kyl) amendment No. 2064, to strike section 1023, relating to the granting of civil rights to terror suspects.

Mr. SMITH. Madam President, I ask unanimous consent to call up my amendment No. 2067.

Mr. MCCAIN. Madam President, reserving the right to object, I will object. I say to my friend from Oregon, I understand this is the hate crimes bill. I appreciate his passion and commitment on this issue. There is no one more respected in the Senate who has had the situation of my distinguished friend from Oregon. But we are on the Defense bill. We have to move forward with the amendments. We have to get it done. We have both Iraq as well as the impending 1st of October date staring us in the face. At this time I object to the request by the Senator from Oregon.

The PRESIDING OFFICER. Objection is heard.

Mr. SMITH. I thank the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, we have had an informal discussion. I am sad that there is not an opportunity on this bill to bring up the hate crimes bill. I do hope there is a way, following this session, to bring up the hate crimes bill. It has broad support and deserves to be heard and, I hope, passed. I discussed with Senator MCCAIN the possibility that the Senator from Delaware would now be recognized. We agreed that he would at this time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Madam President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 2335.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. Madam President, I reserve the right to object.

Mr. BIDEN. Madam President, I will not call it up at the moment. I withdraw the request.

I do ask unanimous consent that Senators GRAHAM, CASEY, BROWN, and SANDERS be added as cosponsors to amendment No. 2335.

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

Mr. BIDEN. I want to explain briefly what this amendment does. It adds $23.6 billion to allow the Army to replace all of its up-armored HMMWVs with mine resistant ambush protected vehicles, the so-called MRAPs. It also adds a billion dollars to increase the cost of the 8,000 MRAPs we are trying to purchase today. In terms of the specifics of this amendment, the idea is simple. If we can prevent two-thirds or more of our casualties with a vehicle that is basically a modified and armored truck, we have to do all in our power to do it, in my view.

Last, it provides $400 million for better protection against explosively formed penetrators or EFPs. These are those shaped-charges that hit our vehicles from the side and are increasingly deadly.

I want to be straight with my colleagues. This is a very expensive amendment. Twenty-five billion dollars is a lot of money. But compared to saving the lives and limbs of American soldiers and marines, it is cheap.

Our commanders in the field tell us that MRAPs will reduce casualties by 67 to 80 percent.

The lead commander on the ground in Iraq, LTG Ray Odierno, told us months ago that he wanted to replace every Army up-armored HMMWV in Iraq with an MRAP.

Instead of adjusting the requirement immediately, the Pentagon has taken its time to study this issue and just recently they have agreed that the general needs a little over half of what he asked for. 10,000 instead of approximately 18,000.

This makes no sense. Are we only supposed to care about the tactical advice of our commanders in the field when it is cheap?

I don't think that is what the American people or our military men and women expect from us.

More importantly, while we argue about the best strategy for Iraq, we must still protect those under fire. I disagree with the President's strategy in Iraq. I do not believe a strong central government will lead to a stable, self-sufficient Iraq.

I think we need a new strategy that focuses on implementing the Iraqi constitution's call for federalism and refocuses the mission of American forces on fighting al-Qaida, border protection, and continuing to train the Iraqi forces.

While we disagree on strategy, the fight continues in the alleys of Baghdad and the streets of Diyala Province. American soldiers and marines are targets every day they are there. So every day they are there, we must give them the best protection this nation has.

The American political process is designed to make change and decisionmaking a slow and deliberative process. Those of us who want a change in strategy have three options.

One, we must convince enough colleagues to sustain a veto from the President; or, two, we must convince the American people to elect enough new Senators and House Members willing to sustain a veto. Or, finally, three, we must convince the American people to elect a President willing to change strategies. That is reality. I believe in this system, which means I will not walk away from my duty to try to convince both my colleagues and the American people that there is a better path to stability in Iraq.

It also means that I will not give up on my obligation to our military men and women.

While we take the time necessary to move the political process for change, they face improvised explosive devices, rocket propelled grenades, explosively formed penetrators, sniper fire, and suicide bombers every day. We have an obligation to protect each and every one of them to the best of our ability. I agree with the Commandant of the Marine Corps, GEN James Conway when he said, ''Anything less is immoral.''

In terms of the specifics of this amendment, the idea is very simple. If we can prevent two-thirds or more of our casualties with a vehicle that is basically a modified and armored truck, we must do all in our power to do that.

Will it be a challenge to American industry to build close to 23,000 MRAPs in the next 12 to 15 months? Absolutely. Can they do it? Only if we give them a real chance. If we provide funding up front for all that is needed, we give business the ability to increase capacity to produce. If we give little bits here and there, they and their subcontractors will be limited in their ability to produce these life-saving vehicles. Less will be produced and more Americans will return injured or dead.

I gave a statement on July 19, when I first introduced this amendment, that laid out some of the history of the MRAP program. I won't go into all of that again, but I will reiterate the key choice my colleagues have to make: Do we do our best to save American lives, knowing that the only downside is the possible need to reprogram funding at the end of the year, or do we care more about some unknown topline wartime funding number than those lives?

I urge my colleagues to support this amendment.

I thank the managers of the bill and yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Madam President, I have had conversations with the two managers, Senator MCCAIN and Senator LEVIN. I would hope people who feel strongly about the amendment that is pending; that is, the habeas corpus amendment, would come and speak on this amendment. The floor is open for debate on that issue. It is an extremely important amendment. No matter how you feel about it, it is important—whether you are for it or against it. I would hope Senators would come and talk about that amendment.

I have also spoken with Senator LEVIN and Senator MCCAIN about how we proceed from this point forward. We have been somewhat tepid in moving forward because we did not know how the vote would turn out on the DC voting rights. We know that now, so we are moving ahead as quickly as we can on the Defense authorization bill because that matter is out of the way procedurally.

What I have spoken to the two managers about is that we would have the Defense authorization bill, and as a sidetrack, we would have Iraq amendments—a finite number from the Democrats, a finite number from the Republicans. We would work on time agreements for those amendments. Our floor staff is trying to draw something up and submit that to the Republican leader. I have not today—even though I have spoken to him in the past about that—spoken to him about that, although we have spoken to Senator KYL, Senator MCCAIN, Senator LOTT, and others. The distinguished Republican leader was simply off the floor at the time. So our two staffs are coming up with something in writing to see if there is a way we can move forward on that; otherwise, we will offer them as part of the Defense authorization bill.

On this matter, I have the greatest comfort level with Senator LEVIN's ability to manage this bill. He has, in years past, done such a remarkably good job. For many years, it has been Senator WARNER working with him. Now, because of the change in the ranking membership of that committee, it is Senator MCCAIN, who also is very experienced. So we should be able to move this legislation along, I hope, quickly.

There is a lot to do on this bill, and I would hope Members on this side would listen to what Senator LEVIN has to say and come when it is to their interest, and maybe even sometimes when it is not to their interest, but at least in an effort to dispose of this legislation.

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

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

Mr. STEVENS. Madam President, I ask unanimous consent that I be permitted to speak as in morning business for up to about 7 minutes.

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

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MCCAIN. Madam President, I would like to repeat what my friend and distinguished chairman said: We need to get opening statements done. The debate has now begun on the National Defense Authorization Act for Fiscal Year 2008. We are looking at the date of September 18, and we want to get this bill done as quickly as possible and to conference with the House so we can provide the much needed equipment, training, pay, and care for our veterans as well as our military personnel. I urge my colleagues, if they have any statements to make on this bill, that they come over and make them.

I also would like to point out, as my friend from Michigan has, that we will be working on the large number of amendments on the bill as well as the provisions on Iraq. The sooner we complete action on this legislation, the sooner we can get it to conference with the other body and to the President's desk for signature.

This is not the first time we have addressed this bill, and I hope it is the last for the National Defense Authorization Act, at least for fiscal year 2008. I again express my appreciation and admiration for the distinguished chairman, Senator LEVIN, who has not only worked closely with this side of the aisle but also has worked very hard to forge a bipartisan bill that received a unanimous vote from the committee

upon its reporting to the floor of the Senate. Obviously, we have a great debate here again on the issue of Iraq with the consideration of several amendments, so I hope we will be able to also dispose of those as quickly as possible.

As all of my colleagues know, we have received the much anticipated testimony of GEN David Petraeus and Ambassador Ryan Crocker, and the Senate now begins a debate of historic proportions. In my opinion, at stake is nothing less than the future of Iraq, the Middle East, and the security of all Americans for decades to come. The Senate faces a series of stark choices: whether to build on the success of the surge and fight for additional gains or whether to set a date for Americans to surrender in Iraq and thereby suffer the terrible consequences that will ensue. As we consider each of the Iraq-related amendments filed on this bill, let us understand the enormous consequences of decisions that are taken here.

Henry Kissinger framed the debate in a Washington Post article this weekend, saying:

American decisions in the next few months will affect the confidence and morale of potential targets, potential allies, and radical Jihadists around the globe. Above all, they will define the U.S. capacity to contribute to a safer and better world.

I ask unanimous consent to have the article by Dr. Kissinger from the Washington Post over the weekend printed in the RECORD at this time.

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

THE DISASTER OF HASTY WITHDRAWAL

(By Henry A. Kissinger)

Two realities define the range of a meaningful debate on Iraq policy: The war cannot be ended by military means alone. But neither is it possible to ''end'' the war by ceding the battlefield. The radical jihadist challenge knows no frontiers; American decisions in the next few months will affect the confidence and morale of potential targets, potential allies and radical jihadists around the globe. Above all, they will define the U.S. capacity to contribute to a safer and better world. The imperative is for bipartisan cooperation in a coordinated political and military strategy, even while the political cycle tempts a debate geared to focus groups.

The experience of Vietnam is often cited as the example for the potential debacle that awaits us in Iraq. But we will never learn from history if we keep telling ourselves myths about it. The passengers on American helicopters fleeing Saigon were not U.S. troops but Vietnamese civilians. American forces had left two years earlier. Vietnam collapsed because of the congressional decision to reduce aid by two-thirds to Vietnam and to cut it off altogether for Cambodia in the face of a massive North Vietnamese invasion that violated every provision of the Vietnam Peace Agreement.

Should America repeat a self-inflicted wound? An abrupt withdrawal from Iraq would not end the war; it would only redirect it. Within Iraq, the sectarian conflict could assume genocidal proportions; terrorist base areas could reemerge. Lebanon might slip into domination by Iran's ally, Hezbollah; a Syria-Israel war or an Israeli strike on Iranian nuclear facilities might become more likely as Israel attempted to break the radical encirclement; Turkey and Iran would probably squeeze Kurdish autonomy. The Taliban in Afghanistan would gain new impetus. Countries where the radical threat is as yet incipient, such as India, would face a mounting domestic challenge. Pakistan, in the process of a delicate political transformation, would encounter more radical pressures and might even turn into a radical challenge itself. That is what is meant by ''precipitate'' withdrawal—a withdrawal in which the United States loses the ability to shape events, either within Iraq, on the antijihadist battlefield or in the world at large.

The proper troop level in Iraq will not be discovered by political compromise at home. To be sure, no ''dispensable'' forces should be retained there. Yet the definition of ''dispensable'' must be based on strategic and political criteria. If reducing troop levels turns into the litmus test of American politics, each withdrawal will generate demands for additional ones until the political, military and psychological framework collapses. An appropriate Iraq strategy requires political direction. But the political dimension must be the ally of military strategy, not a resignation from it.

Symbolic withdrawals, urged by such wise elder statesmen as Sens. John Warner and Richard Lugar, might indeed assuage the immediate public concerns. They should be understood, however, as palliatives; their utility depends on a balance between their capacity to reassure the U.S. public and their propensity to encourage America's adversaries to believe that they are the forerunners of complete retreat.

The argument that the mission of U.S. forces should be confined to defeating terrorism, protecting the frontiers, preventing the emergence of Taliban-like structures and staying out of the civil war aspects is also tempting. In practice, it will be difficult to distinguish among the various aspects of the conflict with any precision.

Some answer that the best political result is most likely to be achieved by total withdrawal. The option of basing policies on the most favorable assumptions about the future is, of course, always available. Yet nothing in Middle East history suggests that abdication confers influence. Those who urge this course need to put forward their recommendations for action if what occurs are the dire consequences of an abrupt withdrawal foreseen by the majority of experts and diplomats.

The missing ingredient has not been a withdrawal schedule but a political and diplomatic design connected to a military strategy. The issue is not whether Arab or Muslim societies can ever become democratic; it is whether they can become so under American military guidance in a time frame for which the U.S. political process will stand.

American exhortations for national reconciliation are based on constitutional principles drawn from the Western experience. But it is impossible to achieve this in a six-month period defined by the ''surge'' in an artificially created state racked by the legacy of a thousand years of ethnic and sectarian conflicts. Experience should teach us that trying to manipulate fragile political structures—particularly one resulting from American-sponsored elections—is likely to play into radical hands. Nor are the present frustrations with Baghdad's performance a sufficient excuse to impose a strategic disaster on ourselves: However much Americans may disagree about the decision to intervene or about the policy afterward, the United States is in Iraq in large part to serve the American commitment to global order, not as a favor to the Baghdad government.

It is possible that the present structure in Baghdad is incapable of national reconciliation because its elected constituents were chosen on a sectarian basis. A wiser course would be to place more emphasis on the three principal regions and promote technocratic, efficient and humane administration in each. The provision of services and personal security coupled with emphasis on economic, scientific and intellectual development may represent the best hope for fostering a sense of community. More efficient regional government leading to a substantial decrease in the level of violence, to progress toward the rule of law and to functioning markets could over time give Iraqis an opportunity for national reconciliation—especially if no region is strong enough to impose its will on the others by force. Failing that, the country may well drift into de facto partition under the label of autonomy, such as already exists in the Kurdish region. That very prospect might encourage the Baghdad political forces to move toward reconciliation. Much depends on whether it is possible to create a genuine national army rather than an agglomeration of competing militias.

The second and ultimately decisive route to overcoming the Iraqi crisis is through international diplomacy. Today the United States is bearing the major burden for regional security militarily, politically and economically in the face of passivity of the designated potential victims. Yet many other nations know that their internal security and, in some cases, their survival will he affected by the outcome in Iraq. That passivity cannot last. These countries must participate in the construction of a civil society, and the best way for us to foster those efforts is to turn reconstruction into a cooperative international effort under multilateral management.

It will not be possible to achieve these objectives in a single, dramatic move: The military outcome in Iraq will ultimately have to be reflected in some international recognition and some international enforcement of its provisions. The international conference of Iraq's neighbors and the permanent members of the U.N. Security Council has established a possible forum for this. A U.N. role in fostering such a political outcome could be helpful.

Such a strategy is the best path to reduce America's military presence in the long run; an abrupt reduction of American forces will impede diplomacy and set the stage for more intense military crises down the road.

Pursuing diplomacy inevitably raises the question of how to deal with Iran. Cooperation is possible and should be encouraged with an Iran that pursues stability and cooperation. Such an Iran has legitimate aspirations that need to be respected. But an Iran that practices subversion and seeks regional hegemony—which appears to be the current trend—must be faced with lines it will not be permitted to cross: The industrial nations cannot accept radical forces dominating a region on which their economies depend, and the acquisition of nuclear weapons by Iran is incompatible with international security. These truisms need to be translated into effective policies, preferably common policies with allies and friends.

None of these objectives can be realized, however, unless two conditions are met: The United States needs to maintain a presence in the region on which its supporters can count and which its adversaries have to take seriously. The country must recognize that whatever decisions are made now, multiple crises in Iraq, in the Middle East and to

world order will continue after a new administration takes office. Bipartisanship is a necessity, not a tactic.

Mr. McCAIN. Madam President, let us proceed with this debate, keeping in mind that the underlying bill, the National Defense Authorization Act, contains many non-Iraq provisions which constitute good defense policy and which will strengthen the ability of our country to defend itself. That is why the committee voted unanimously to report the bill, which fully funds the President's $648 billion defense budget request, authorizes a 3.5-percent pay raise for all military personnel, increases Army and Marine end-strength, reforms the system that serves wounded veterans, and provides necessary measures to avoid waste, fraud, and abuse in defense procurement. It is a good bill. It is a bipartisan bill. I believe we need to send it to the President's desk.

While the Senate moved off the bill in July and on to other things and then went on to a month-long recess, America's soldiers, marines, sailors, and airmen continued fighting bravely and tenaciously in Iraq in concert with their Iraqi counterparts. Some Senators undoubtedly welcomed the delay in considering the Defense bill, believing that General Petraeus would deliver to Congress a report filled only with defeat and despair. If this was their hope, they were sorely disappointed. As we all now know, General Petraeus and Ambassador Crocker reported what some of us argued before the bill was pulled 2 months ago: that the surge is working, that we are making progress toward our goals, and that success, while long, hard, and by no means certain, is possible. We are succeeding only after 4 years of failures, years which have exacted an enormous cost on our country and on the brave men and women who fight in Iraq on our behalf.

Some of us from the beginning warned against the Rumsfeld strategy of too few troops, insufficient resources, and a plan predicated on hope rather than on the difficult business of stabilization and counterinsurgency. We lost years to that strategy, years we cannot get back. In the process, the American people became saddened, frustrated, and angry. I, too, am heartsick at the terrible price we have paid for nearly 4 years of mismanaged war. But I also know America cannot simply end this effort in frustration and accept the terrible consequences of defeat in Iraq. We cannot choose to lose in Iraq. I believe we must give our commanders the time and support they have asked for to win this conflict.

Ralph Peters, the distinguished military strategist, summed it up best, noting that Congress's failure to support General Petraeus:

> Would be a shame, since, after nearly 4 years of getting it miserably wrong in Iraq, we are finally getting it right.

In 2 days of testimony and countless interviews, General Petraeus and Ambassador Crocker described how we are finally getting it right. We finally have in place a counterinsurgency strategy, one we should have been following from the beginning, which makes the most effective use of our strength and does not advance the tactics of our enemy. This new strategy, backed by a tactical surge in troops, is the only approach that has resulted in real security improvements in Iraq.

General Petraeus reported that the overall number of ''security incidents'' in Iraq has declined in 8 of the last 12 weeks and that sectarian violence has dropped substantially since the change in strategy. Civilian deaths nationwide are down by nearly half since December and have dropped by some 70 percent in Baghdad. Deaths resulting from sectarian violence have come down by 80 percent since December, and the number of car bombings and suicide attacks has declined in each of the past 5 months. Anyone who has traveled recently to Anbar or Diyala or Baghdad can see the improvements that have taken place over the past months. With violence down, commerce has risen, and the bottom-up efforts to forge counterterrorism alliances are bearing tangible fruit. This is not to argue that Baghdad or other areas have suddenly become safe—they have not—but such positive developments illustrate General Petraeus's contention that Americans and Iraqi forces have achieved substantial progress.

There are many challenges remaining, and the road ahead is long and tough. The Maliki government has not taken advantage of our efforts to enable reconciliation and is not functioning as it must. While violence has declined significantly, it remains high, and success is not certain. We can be sure, however, that should the Congress choose to lose by legislating a date for withdrawal, and thus surrender, or by mandating a change in mission that would undermine our efforts in Iraq, then we will fail for certain. Make no mistake, the consequences of America's defeat in Iraq will be terrible and long lasting.

There is in some corners a belief that we can simply turn the page in Iraq, come home, and move on to other things. This is dangerously wrong. If we surrender in Iraq, we will be back—in Iraq and elsewhere—in many more desperate fights to protect our security and at an even greater cost in American lives and treasure. Two weeks ago, General Jim Jones testified before the Armed Services Committee and outlined what he believes to be the consequences of such a course: ''a precipitous departure which results in a failed state in Iraq,'' he said, ''will have a significant boost in the numbers of extremists, jihadists, in the world, who will believe that they will have toppled the major power on Earth and that all else is possible. And I think it will not only make us less safe; it will make our friends and allies less safe. And the struggle will continue. It will simply be done in different and in other areas.''

Some Senators would like to withdraw our troops from Iraq so we can get back to fighting what they believe to be the real war on terror. This, too, is inaccurate. Iraq has become the central front in the global war on terror, and failure there would turn Iraq into a terrorist sanctuary, in the heart of the Middle East, next door to Iran, the world's largest state-sponsor of terrorism. If we fail in Iraq, we will concede territory to jihadists to plan attacks against America and our friends and allies. The region could easily descend into chaos, wider war, and genocide, and we should have no doubt about who will take advantage.

The Iranian President has stated his intentions bluntly. This is the same fellow who announced his dedication and his nation's dedication to the extinction of the state of Israel the same President of the country that is exporting lethal explosive devices of the most lethal and dangerous kind into Iraq, killing American service men and women. This President said this:

> Soon, we will see a huge power vacuum in the region. Of course, we are prepared to fill the gap.

We cannot allow an Iranian dominated Middle East to take shape in the context of wider war and terrorist safehavens. General Jones is just one of many distinguished national security experts who warn against the consequences of a precipitous withdrawal from Iraq. As Brent Scowcroft said, ''The costs of staying are visible; the costs of getting out are almost never discussed . . . If we get out before Iraq is stable, the entire Middle East region might start to resemble Iraq today. Getting out is not a solution.'' Natan Sharansky has, written that a precipitous withdrawal of U.S. forces ''could lead to a bloodbath that would make the current carnage pale by comparison.'' And Henry Kissinger warns that, ''An abrupt withdrawal from Iraq would not end the war; it would only redirect it.''

The proponents of withdrawal counter that none of these terrible consequences would unfold should any of their various proposals become law. On the contrary, they argue, U.S. forces could, when not engaged in training the Iraqi forces, engage in targeted counterterrorism operations. But our own military commanders say that such a narrow approach to the complex Iraqi security environment will not succeed, and that moving in with search and destroy missions to kill and capture terrorists, only to immediately cede the territory to the enemy, is a recipe for failure. How can they be so sure? It's simple—this focus on training and counterterrorism constitutes the very strategy that so plainly failed for the first four years of this war. To return to such an unsuccessful approach is truly ''staying the course,'' and it is a course that will inevitably lead to our defeat and to catastrophic

consequences for Iraq, the region, and the security of the United States.

General Petraeus and his commanders have embraced a new strategy, one that can, over time, lead to success in Iraq. They are fighting smarter and better, and in a way that can give Iraqis the security and opportunity to make decisions necessary to save their country from the abyss of genocide and a permanent and spreading war, and in a way that will safeguard fundamental American interests. They ask just two things of us: the time to continue this strategy and the support they need to carry out their mission. They must have both, and I will fight to ensure that they do.

As we engage in this debate, I hope that each of us will recall our most solemn allegiance, which is not to party or politics but to country. I have heard on this floor the claim that our efforts in Iraq somehow constitute ''Bush's war'' or the ''Republican war.'' Nothing could be farther from the truth. Presidents do not lose wars. Political parties do not lose wars. Nations lose wars and suffer the consequences, or prevail and enjoy the blessings of their success.

All of us want our troops to come home, and to come home as soon as possible. But we should want our soldiers to return to us with honor, the honor of victory that is due all of those who have paid with the ultimate sacrifice. We have many responsibilities to the people who elected us, but one responsibility outweighs all the others, and that is to protect this great and good Nation from all enemies foreign and domestic.

This is a serious debate and one we engage at a time of national peril. The Americans who make the greatest sacrifices have earned the right to insist that we do our duty, as best we can and remember to whom and what we owe our first allegiance—to the security of the American people and to the ideals upon which our Nation was founded.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, earlier in the day, there was the attempt of my friend and colleague, Senator SMITH, to at least try to propose an amendment that deals with hate crimes and try to get it into an order and to be able to have consideration of that amendment during the Defense authorization bill. There has been objection. I can understand the importance of the underlying amendment. I certainly believe that underlying amendment has great significance and importance, and we are going to have an opportunity, I believe, tomorrow to vote on it.

I wish to indicate I have every intention, with Senator SMITH, of offering at some time the hate crimes legislation. I know the question comes up: Why are we offering hate crimes legislation on a Defense authorization bill? The answer is very simple: The Defense authorization bill is dealing with the challenges of terrorism, and the hate crimes issue—to try to get a handle on the problems of hate crimes, we are talking about domestic terrorism. We have our men and women who are over in Iraq and Afghanistan and around the world fighting for American values. One of the values we have as Americans is the recognition that we do not believe individuals ought to be singled out because of their race, religion or sexual orientation and be the subject of hate attack.

This has been an ongoing and continuing issue for our country. At another time, I will get into greater detail about the nature of the challenges we are facing on this particular issue. We passed hate crime legislation at the time of Dr. King, but it was somewhat restrictive in terms of its application. We have been reminded about this challenge probably most dramatically with Mr. Shepard out in the Wyoming countryside, who was selected to be a victim of a hate crime and suffered a horrific death.

I, for one, and I think others do, understand we have voted on this on other Defense authorization bills. It has been carried on other Defense authorization bills. I know my friend and colleague, Senator SMITH, would not have taken an unreasonable period of time. We have voted on this issue. We voted in 2004 and in 2000 on this issue. Members are familiar with the substance of the issue. So we don't need a great deal of time. We are glad to cooperate with the floor managers in terms of the time.

I didn't want to let the afternoon go by and leave any doubt. I have had the opportunity to mention this to Senator LEVIN on other occasions. I mentioned it, as well, to our majority leader, Senator REID, who has been supportive. I know Senator LEVIN has been supportive of the substance of it. It seems to me we are talking about Defense authorization and we are talking effectively about the national security and about the values of our country and why our men and women are involved in defending our country and these values. Certainly, we ought to be able to say, as we are dealing with the problem of hatred and violence around the world, that we will battle hatred and violence as it is applied here at home.

As I mentioned, at another time I will go into detail on the history of the legislation and, again, the reasons for it and the facts on this particular issue in recent times.

At a time when our ideals are under attack by terrorists in other lands, it is more important than ever to demonstrate that we practice what we preach, and that we are doing all we can to root out the bigotry and prejudice in our own country that leads to violence here at home.

Crimes motivated by hate because of the victim's race, religion, ethnic background, sexual orientation, disability, or gender are not confined to the geographical boundaries of our great Nation. The current conflicts in the Middle East and Northern Ireland, the ethnic cleansing campaigns in Bosnia and Rwanda, or the Holocaust itself demonstrate that violence motivated by hate is a world-wide danger, and we have a special responsibility to combat it here at home.

This amendment will strengthen the Defense Authorization Act by protecting those who volunteer to serve in the military. The vast majority of our soldiers serve with honor and distinction. These men and women put their lives on the line to ensure our freedom and for that, we are truly grateful. Sadly, our military bases are not immune from the violence that comes from hatred.

In 1992, Allen Schindler, a sailor in the Navy was viciously murdered by two fellow sailors because of his sexual orientation. Seven years later, PFC Barry Winchell, an infantry soldier in the Army, was brutally slain for being perceived as gay. These incidents prompted the military to implement guidelines to prevent this type of violence, but there is more that we can do. We have to send a message that these crimes won't be tolerated against any member of society.

A disturbing trend has also been discovered in the military. Last year, the Southern Poverty Law Center reported that members of hate groups have been entering into the military. As recruiters struggle to fulfill their quotas, they are being forced to accept recruits who may be extremists, putting our soldiers at higher risk of hate motivated violence. This can't be tolerated. We must stem the tied of hatred and bigotry by sending a loud and clear message that hate crimes will be punished to the fullest extent of the law.

Since the September 11 attacks, we've seen a shameful increase in the number of hate crimes committed against Muslims, Sikhs, and Americans of Middle Eastern descent. Congress has done much to respond to the vicious attacks of September 11. We have authorized the use of force against terrorists and those who harbor them in other lands. We have enacted legislation to provide aid to victims and their families, to strengthen airport security, to improve the security of our borders, to strengthen our defenses against bioterrorism, and to give law enforcement and intelligence officials enhanced powers to investigate and prevent terrorism.

Protecting the security of our homeland is a high priority, and there is more that we should do to strengthen our defenses against hate that comes from abroad. There is no reason why Congress should not act to strengthen our defenses against hate that occurs here at home.

Hate crimes are a form of domestic terrorism. They send the poisonous message that some Americans deserve to be victimized solely because of who they are. Like other acts of terrorism, hate crimes have an impact far greater

than the impact on the individual victims. They are crimes against entire communities, against the whole nation, and against the fundamental ideals on which America was founded. They are a violation of all our country stands for.

Since the September 11 attacks, the Nation has been united in our effort to root out the cells of hatred around the world. We should not turn a blind eye to acts of hatred and terrorism here at home.

Attorney General Ashcroft put it well when he said:

> Just as the United States will pursue, prosecute, and punish terrorists who attack America out of hatred for what we believe, we will pursue, prosecute and punish those who attack law-abiding Americans out of hatred for who they are. Hatred is the enemy of justice, regardless of its source.

Now more than ever, we need to act against hate crimes and send a strong message here and around the world that we will not tolerate crimes fueled by hate.

The Senate should not hesitate in condemning countries that tolerate crimes motivated by the victim's race, religion, ethnic background, sexual orientation, disability, or gender. Hate is hate regardless of what nation it originates in. We can send a strong message about the need to eradicate hate crimes throughout the world by passing this hate crimes amendment to the Defense Department Authorization Bill.

We should not shrink now from our role as the beacon of liberty to the rest of the world. The national interest in condemning bias-motivated violence in the United States is great, and so is our interest in condemning bias-motivated violence occurring world-wide.

The hate crimes amendment we are offering today condemns the poisonous message that some human beings deserve to be victimized solely because of their race, religion, or sexual orientation and must not be ignored. This action is long overdue. When the Senate approves this amendment, we will send a message about freedom and equality that will resonate around the world.

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

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

Mr. LEVIN. Madam President, first, I concur with something Senator MCCAIN said which is that the floor is open now for people to come down and speak, either on the bill, on the pending habeas corpus amendment, or on any other matter on which they wish to speak. There will be no more votes today, I am authorized to say. Also, there will be a cloture vote tomorrow at approximately 10:30 a.m. on the Specter-Leahy-Dodd amendment. Then we hope to take action relative to the Graham amendment. There are some discussions going on relative to that amendment. Then, hopefully, we would promptly move to take up the Webb amendment. It is the intention of this manager that the Webb amendment then be called up immediately after the disposition of, first, the Specter-Leahy-Dodd cloture vote and then the Graham amendment, and it is my intention that Senator WEBB then have his amendment called up. I believe Senator WEBB will be ready to proceed at that time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, will the distinguished chairman yield for a question?

Mr. LEVIN. I will be happy to yield.

Mr. MCCAIN. Madam President, it is my understanding in my conversations with the chairman, we are moving forward in narrowing down amendments so we have an additional managers' package so we have a manageable number of amendments that need to be debated and voted on, and we will try to get time agreements on those, as well as the Iraqi amendments.

Mr. LEVIN. The Senator is correct. I did fail to mention that the leaders are meeting to see if there can't be a unanimous consent agreement worked out relative to the Iraq amendments. Senator REID described that proposed unanimous consent agreement, but that is going on.

The Senator from Arizona is correct, we are going to seek to reduce the number of amendments that require rollcalls. We are going to seek time agreements. We have a huge number of amendments which have been filed, in the two hundreds. We made some progress because we disposed of 50 amendments the other day.

We very much thank Senator MCCAIN, by the way, and his staff, and Senator WARNER, for the efforts they are putting into this legislation. Senator MCCAIN is a very easy person with whom to work. We are used to having people on the committee who are both chairman and ranking member, regardless who is in control of the committee, work on a bipartisan basis. Senator MCCAIN is surely in that tradition. We are grateful for that effort.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, I thank the distinguished chairman for his kind remarks. All things considered, I would rather the situation be reversed, but I certainly do appreciate the opportunity.

One of the nice things about this body is that over a 20-year period, the Senator from Michigan and I have had the honor of working together on behalf of this Nation's defense on this very important committee, the Armed Services Committee. One of the previous chairman's statues presides in the office named after him—the office in which we both work and where we spend our time on the committee. I believe given our past history, I say to the chairman, that it is very possible we could dispose of this bill by the end of the week. One of the reasons why the chairman and I both made the argument to our colleagues to get it done is because we have to go to conference with the House, the other body, which has a number of different provisions that have to be reconciled. Then we have to get it to the President's desk, and October 1 is the beginning of a new fiscal year. So I hope our colleagues all appreciate the urgency.

One of the provisions of this legislation is the Wounded Warriors. We were all appalled at the conditions at Walter Reed. That is why we in the committee, with some guidance from a distinguished commission—a lot of guidance from a distinguished commission, headed by Senator DOLE and former Secretary Shalala. These are very important issues for the medical care of the men and women who are serving. It will not happen unless we get this legislation passed. So we are kind of asking for a higher calling here to understand the necessity to get this bill to the President's desk before the October 1.

Of course, we can have a continuing resolution. We have done that, not on the DOD bill, as I recall. I don't know if the chairman recalls it. That, obviously, does not do what these thousands of hours of hard work on our part and on the part of the military leaders and the members of staff do.

It is my fine hope, I say to the chairman, that we are able to finish this bill this week with the cooperation of all involved.

I yield the floor.

Mr. LEVIN. Madam President, while we hope the Senator from Arizona is right and we can complete the bill this week, we also are aware of the fact that on Friday, we do have to leave here somewhat early because of the Jewish holidays. That will be only part of the day. I hope we can make tremendous progress this week. It may be a bit optimistic in terms of finishing it this week. That is going to depend on the cooperation of our colleagues. We have hundreds of amendments. We need colleagues who can clear many of them, and we need time agreements on the rest. It depends on our colleagues.

We are going to do everything we can to continue a great tradition here. May I say, this is the 46th year in a row that the authorization bill has come to the floor, and we are not going to break the record of having an authorization for every one of those previous 45 years. We always had it because of the provisions of the bill which are so important—the pay and benefits and the support of not only our troops but also their families.

When the Senator from Arizona made reference to the Wounded Warriors legislation, I know our Presiding Officer, Senator MCCASKILL, because of her active role and participation in that legislation, understands precisely what we

are saying. That legislation is so important that it is not only in the bill but it is in a separate bill which was passed that is now awaiting, hopefully, a resolution between the Senate and the House. But in any event, the Senator is correct, the presence of that legislation in this bill may be the greatest assurance we have that legislation is going to become law. There are a lot of reasons, hundreds of reasons, why we need this authorization bill passed. That is surely one of the most important ones, one that has had the support of so many of our Members. So many of our Members and our Veterans' Affairs Committee have been so active with that legislation as well.

I join in the comments of my good friend from Arizona and hope our colleagues will come to the floor now. We can take up matters. We can get unanimous consent. We can even set aside pending matters. There are things we can do this afternoon. I do hope our colleagues will come to the floor and give their speeches on habeas corpus or other subjects.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. Madam President, I rise today in the course of this Defense authorization bill to discuss an amendment which I am working on and preparing to offer. It is an important amendment to this bill. It is a critically important amendment for our Nation. It is an amendment known as the DREAM Act.

The DREAM Act is a narrowly tailored bipartisan measure that I have sponsored with Republican SENATOR CHUCK HAGEL of Nebraska, Republican Senator DICK LUGAR of Indiana, and in past years with Senator ORRIN HATCH of Utah. It would give a select group of students in America a chance to become permanent residents only if they came to this country as children, are long-term U.S. residents, have good moral character, and enlist in the military or attend college for at least 2 years. The DREAM Act is supported by a large coalition in the Senate, and also by military leaders, religious leaders, and educators from across the political spectrum and around the country.

During the 109th Congress, the DREAM Act was adopted unanimously as an amendment to the immigration reform legislation that passed in the Senate. In the 108th Congress, the DREAM Act was the only immigration reform proposal reported to the Senate floor on a bipartisan 16-to-3 vote by the Senate Judiciary Committee.

Now, obviously, in the midst of the Defense authorization bill, some people question why one might bring up an immigration issue. The answer is simple: The DREAM Act would address a very serious recruitment crisis facing our military. Under the DREAM Act, tens of thousands of well-qualified potential recruits would become eligible for military service for the first time. They are eager to serve in the armed services, and under the DREAM Act, they would have a very strong incentive to enlist because it would give them a path to permanent legal status.

First, let us look at the recruitment crisis we face today. Largely due to the wars in Iraq and Afghanistan, the Army is struggling to meet recruitment quotas. Because of these recruitment difficulties, the Army is accepting more applicants who are high school dropouts, have low scores on military aptitude tests, and, unfortunately, have criminal backgrounds.

The statistics tell the story. In 2006, almost 40 percent of Army recruits had below-average scores on the military aptitude test. That is the highest rate of students with low scores since 1985. In 2006, almost 20 percent of Army recruits did not have a high school degree. This is the highest rate of high school dropouts enlisting in the Army since 1981. By comparison, from 1984 to 2004, 90 percent or more of Army recruits had high school diplomas. Why does this matter? The Army said itself that high school graduation is the best single predictor of ''stick-to-itiveness'' that is required to succeed in the military and in life.

Charles Moskos, a Northwestern University sociologist, is an expert in military culture, and he says:

> The more dropouts who enlist, the more discipline problems the Army is likely to have.

Even more disturbing, the number of so-called moral waivers for Army recruits who have committed crimes has increased by 65 percent in the last 3 years, from 4,918 in 2003 to 8,129 in 2006. Many of these waivers are for serious crimes—aggravated assault, burglary, robbery, and even vehicular homicide. In fact, individuals with criminal backgrounds were 11.7 percent of the 2006 recruiting class. Now, in contrast, under the DREAM Act, all recruits would be well-qualified high school graduates with good moral character.

Let me tell you how the DREAM Act would work. Currently, our immigration laws prevent thousands of young people from pursuing their dreams and really becoming part of America's future. Their parents brought these children to the United States when they were under the age of 16. For many, it is the only home they know. They are fully assimilated into American society. They really don't want much more than just to be Americans and to have a chance to succeed. They have beaten the odds all of their young lives. The kids who would be helped by the DREAM Act face a high school dropout rate among undocumented immigrants of 50 percent. So it is a 50–50 chance that they would even qualify to be part of this act.

Incidentally, the dropout rate for legal immigrants is 21 percent and for native-born Americans, 11 percent. So already these young people would have to beat the odds and graduate from high school to even qualify to be considered.

They have also demonstrated the kind of determination and commitment that makes them successful students and points the way to significant contributions they will make in their lives. They are junior ROTC leaders, honor roll students, and valedictorians. They are tomorrow's soldiers, doctors, nurses, teachers, Senators, and Congressmen.

Over the years, I have had a chance to meet a lot of these DREAM Act kids. That is what they call themselves, incidentally. Let me give you one example. Oscar Vasquez was brought to Phoenix, AZ, by his parents when he was 12 years old. He spent his high school years in Junior ROTC and dreamed of one day enlisting in the U.S. military. At the end of his junior year, the recruiting officer told Oscar he was ineligible for military service because he was undocumented. He was devastated.

But he found another outlet for his talent. Oscar, because of the help of two energetic science teachers, was enrolled in a college division robot competition sponsored by the National Aeronautics and Space Administration. With three other undocumented students, Oscar worked for months in a windowless storage room in his high school and tested their invention at a scuba training pool on the weekends. Competing against students from MIT and other top universities, Oscar's team won first place in this robot competition.

Oscar has since graduated from high school. You know what he does? He is not in the military. He is not using his scientific skills. He is an undocumented person in America. He hangs sheetrock for a living. It is the best job he could get without a college education or the opportunity to enlist in the military. He wants to save his money in hopes that someday—just someday—the door will open and give him a chance to be part of this Nation, the only Nation he has really ever known. Couldn't we use his talent? Couldn't the military use someone like Oscar? The DREAM Act would help students just like him. It is designed to assist only a select group of students who would be required to earn their way to legal status.

Now, the fundamental premise of the DREAM Act is that we shouldn't punish children for the mistakes their parents made. That isn't the American way. The DREAM Act says to these students: America is going to give you a chance. It won't be easy, but you can earn your way into legal status. We will give you the opportunity if you meet the following requirements: if you came to the United States when you were 15 years old or younger, if you

have lived here at least 5 years, are of good moral character, and you graduate from high school and then serve in the military or attend college for at least 2 years.

The DREAM Act doesn't mandate military service. There is a college option. A student who is otherwise eligible could earn legal status that way. It would be inconsistent with the spirit of our volunteer military to force young people to enlist as a condition for obtaining legal status, but the DREAM Act creates strong incentives for military service.

Many DREAM Act kids come from a demographic group that is already predisposed to serve the United States in the military. A 2004 survey by the RAND Corporation found that 45 percent of Hispanic males and 31 percent of Hispanic females between ages 16 and 21 were very likely to serve in the Armed Forces, compared to 24 percent of White males and 10 percent of White females.

It is important to note that immigrants have an outstanding tradition of service in the military. There are currently 35,000 noncitizens serving in the military and about 8,000 more will enlist each year. These are not citizens; they are legal residents who are willing to serve our country.

I have met them. The second trip I made to Iraq was to a Marine Corps base west of Baghdad. They lined up a group of young marines from Illinois to whom I could say hello. It was a hot and dusty day. They stood there waiting for this Senator to show up. The last one of them in line was a young Hispanic man from Chicago named Jesus. Jesus had with him a brown envelope. He said: Senator, I would like to ask you a favor. He said: I enlisted in the Marines and I am glad to be a marine, but the one thing I would like to do someday is to vote. I am not a citizen and, he said, I need a chance. He said: I hope you can help me get a chance to become a U.S. citizen.

I said to myself, what more could we ask of this young man? He volunteered for the U.S. Marine Corps to go to a battle zone and risk his life for America.

I listen to speeches on the floor here. My friend from Alabama, Senator SESSIONS, comes to the floor on a regular basis and criticizes the DREAM Act. He criticizes this bill that would give young people who are undocumented and graduate from high school, of good moral character, without a criminal background, who want to serve our Nation in the military on their path to becoming legal. He criticizes this bill. He calls it amnesty.

Do you know what, an amnesty is a giveaway. Amnesty is a card to pass ''Go'' and collect $200 in America. Do you think those who would volunteer for the military, who are willing to risk their lives for our country, are going to receive amnesty? Is this a gift? It is a gift to America that they are willing to risk their lives for our country. It is a gift to America that once having served, they will come back as proud Americans, voting and living in this country. It is a gift to America that they will use their skills and talent to make this a greater nation. For my colleagues to come to the floor and call this amnesty is to, in some ways, denigrate the fantastic sacrifice these young people would be willing to make, who serve in the military to become citizens.

I will concede this is not the only path to citizenship under this DREAM Act. Those who finish 2 years of college would also have a chance. I think that is only fair. To make this contingent only on military service I think would create a situation which is not consistent with a volunteer military. I hate to see us lose these young men and women who want to be part of America and are willing to risk their lives for that opportunity.

A recent study by the Center for Naval Analysis concluded ''non-citizens have high rates of success while serving in the military—they are far more likely, for example, to fulfill their enlistment obligations than their U.S.-born counterparts.''

The study also concluded there are additional benefits to enlisting noncitizens. For example, noncitizens ''are more diverse than citizen recruits—not just racially and ethnically, but also linguistically and culturally. This diversity is particularly valuable as the United States faces the challenges of the global war on terrorism.''

The DREAM Act is not just the right thing to do; it would be good for America. The DREAM Act would allow a generation of immigrants with great potential and ambitions to contribute to the military and other sectors of American society.

I am not just speaking for myself here, as the sponsor of this legislation. The Department of Defense recognizes it, and we have worked with them. Bill Carr, the Acting Under Secretary of Defense for Military Personnel Policy, recently said the DREAM Act is ''very appealing'' to the military because it would apply to the ''cream of the crop'' of students, in his words. Mr. Carr concluded the DREAM Act would be ''good for [military] readiness.''

On the Defense authorization bill, I don't believe it is unusual or improper for us to consider a bill that a leader in the Department of Defense said would be good for military readiness.

Last year at a Senate Armed Services Committee hearing on the contributions of immigrants to the military, David Chu, the Under Secretary of Defense for Personnel and Readiness, said:

> There are an estimated 50,000 to 65,000 undocumented alien young adults who entered the United States at an early age and graduate from high school each year, many of whom are bright, energetic and potentially interested in military service. They include many who participated in high school Junior ROTC programs. Under current law, these young people are not eligible to enlist in the military . . . Yet many of these young people may wish to join the military, and have the attributes needed—education, aptitude, fitness and moral qualifications. . . .

The Under Secretary went on to say:

> . . . the DREAM Act would provide these young people the opportunity of serving the United States in uniform.

Military experts agree. Margaret Stock, a professor at West Point, said:

> Passage of the DREAM Act would be highly beneficial to the U.S. military. The DREAM Act promises to enlarge dramatically the pool of highly qualified recruits for the U.S. Armed Forces . . . passage of this bill could well solve the Armed Forces enlistment recruiting woes.

Do you know what we are offering to young people now to enlist in our military? For many of them, a $10,000 cash bonus, right out of high school, if they will enlist in the military. And if they will show up within 6 weeks, we double it to $20,000, the largest cash incentive we have ever offered. These young people aren't looking for a cash incentive. All they want is a chance to fight for America, to defend our country and to become part of our Nation's future.

Conservative military scholar Max Boot agrees. When asked about the DREAM Act, he said:

> It's a substantial pool of people and I think it's crazy we are not tapping into it.

These experts are right. The DREAM Act kids are ideal recruits. They are high school graduates, they have good moral character, and they desperately want to serve America. At the time when the military has been forced to unfortunately lower many of its standards to meet recruitment targets, we should not underestimate the significance of these young people as a national security asset.

This is the choice the DREAM Act presents us. We can allow a generation of immigrant students with great potential and ambition to contribute more to America, or give them the future of living in the shadows, uncertain about what they can do, uncertain about where life will lead them.

I am going to urge my colleagues to support this legislation and I hope they will, for a moment, pause and reflect. There have been a lot of things said about immigration during the course of this debate. I look back on this issue as one who doesn't come to it objectively. I am the son of an immigrant. My mother came to this country as a young girl at the age of 2 from Lithuania. Her naturalization certificate sits behind my desk upstairs. She became a naturalized citizen at the age of 25. She lived long enough to see me sworn into the Senate, and I was so proud of that day and so proud to be a Senator from the State of Illinois.

I believe in immigration. I believe the diversity of America is our strength; that Black, White, and Brown, from every corner of this Earth we have come together to create something no nation on Earth can rival.

There are those who will always see immigration differently, those who

will question it, and those who will be critical. For those people, I ask them to step back and take an honest look at this. Step back and take an honest look at these young people, meet them, sit down with them, as I have. They will bring tears to your eyes when they talk to you about how hard they are working to make it in this country. They don't get many of the breaks which other kids get, but they keep on trying.

One of my friends is getting his graduate degree in microbiology at the University of Chicago. He keeps going to school because, as he said: Senator, I don't know what to do when I get out of school. I am not a legal American. I am undocumented. My dream is to work for a pharmaceutical company, to do medical research one day. Can we afford to let him go? Can we afford to turn our back on what he will bring to America?

It is interesting to me, before the end of this year we are likely to debate H–1B visas. The debate behind H–1B visas is that we don't have a large talent pool in America. We need to bring the best and brightest from India, from Asia, from Africa, and from Europe. We need to bring them in so our companies in America, starved for talent, that can't find it here, could find it in these visa holders coming in from foreign countries. We will let them work for 3 years or 6 years. Some them may try to stay. Some of them will go home.

But if we are at a point where we don't have a large enough talent pool in America, can we honestly say that these young people, the people who would be benefitted by the DREAM Act, are a talent we can waste? I don't think so.

Just last year I was eating in a restaurant in Chicago. It is a pretty famous breakfast place called Ann Suther's. Tom Tully is an alderman for the city of Chicago, and his family owns the restaurant. He introduced me to a young man with an apron on. He called him Juan and he said: Juan, come over and meet the Senator. He explained to me that Juan, who came to this country illegally, was allowed to stay and become a citizen under the amnesty that was offered by President Reagan 20 years ago. Juan went on to get an engineering degree and went on to work with an engineering firm, but because he remembers that this restaurant offered him a chance to wash dishes when nobody else would give him a job, he shows up every once in a while on a Saturday and works for a few hours for nothing, just to be around his old friends.

Those are heart-warming stories and there are many of them out there. I know there are people who seriously question whether immigration can be debated successfully on the floor of the Senate. I am hoping it can be and I am hoping my colleagues on the Democratic side and the Republican side will join me in this bipartisan effort for these young people, to give them a chance to serve and a chance to excel. It will make their lives better and make America a better nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

(The remarks fo Mr. CONRAD and Mr. GREGG pertaining to the introduction of S. 2063 are printed in today's RECORD under ''Statements of Inroduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Madam President, first of all, let me say I applaud both of the Senators who are working in an exemplary way to try to achieve something that is very difficult to achieve. I applaud them for their effort.

Madam President, what is the pending business?

The PRESIDING OFFICER. The pending amendment is amendment No. 2022 offered by the Senator from Michigan.

Mr. INHOFE. All right. Madam President, I ask unanimous consent to set the pending amendment aside for the purpose of considering my amendment No. 2271 and then to revert back to this pending amendment. It is my understanding that this amendment is one of 10 amendments that is going to be considered.

The PRESIDING OFFICER. Is there objection?

The Senator from North Dakota.

Mr. CONRAD. Madam President, I am constrained to object on behalf of the managers of the bill.

The PRESIDING OFFICER. Objection is heard.

Mr. INHOFE. All right.

Mr. President, I ask unanimous consent that I be recognized as in morning business.

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

Mr. INHOFE. Mr. President, there has been a lot of discussion since last week when MoveOn.org, with a very liberal antiwar stance—which we understand has been their position for quite some time, raising millions of dollars for various Democratic Party candidates—ran an ad. Up until the September 10 ad in the New York Times calling General Petraeus ''General Betray Us,'' MoveOn.org seemed to be in line with the Democrat's public statements supporting the troops but opposing the war.

It is my understanding my good friend, the junior Senator from Texas, is going to be having a resolution that will be coming up shortly. I want a chance to talk a little bit about that resolution.

I believe that MoveOn.org's ad crossed the line by attacking the character and integrity of America's top military leader in Iraq.

General Petraeus is a man of honor, honesty, and integrity. He is a West Point graduate. He has held leadership positions in airborne, mechanized, and air assault infantry units in Europe and the United States, including command of a battalion in the 101st Airborne Division, as well as a brigade in the 82nd Airborne Division.

He was the aide to the Chief of Staff of the Army; battalion, brigade, and division operations officer; he has done it all. He was the Executive Assistant to the Chairman of the Joint Chiefs of Staff.

He was the top graduate—not one of the top graduates, but the top graduate—of the U.S. Army Command and General Staff College. He earned M.P.A. and Ph.D. degrees from Princeton University. We are talking about a Ph.D. from Princeton University. This is not an ordinary officer. This is a man with incredible credentials.

He has won multiple awards and decorations, including being recognized by US News & World Report as one of America's 25 best leaders in the year 2005.

He is our top military commander in Iraq and commander of the Multi-National Force-Iraq, confirmed by the Senate as the right man for the job. He was confirmed, I might add, unanimously by the Senate.

The very day General Petraeus sat before Congress to offer his latest report, MoveOn.org ran a full-page ad in the New York Times attacking his message before they even heard his message.

The ad accused General Petraeus of ''Cooking the Books for the White House'' and called him ''a military man constantly at war with the facts.'' Their shameless attack on his character did not stop there. They accused him of being a traitor, calling him ''General Betray Us.''

Well, anyway, MoveOn.org's attempt to discredit General Petraeus is deplorable, and I join with other Members of the Senate in condemning its actions.

I have no issue with news agencies or individuals offering and debating opposing views. That is what we do on this floor every day. However, MoveOn.org crossed the line when they ran the ad attacking the motives and honor of our No. 1 commander on the ground in Iraq.

I support Senator LIEBERMAN's condemnation of MoveOn.org's attempt at character assassination, and I call on them to retract their scurrilous ad with another full-page ad apologizing for their error in judgment. But they would not do it. You know they would not do it. Still, we can try. They don't have the character to do it.

While no American is above scrutiny, this was clearly a calculated move on the part of this organization to undermine the noble efforts of this patriot to execute his duties that we in Congress unanimously sent him to accomplish.

It amazes me how far some will go to root for American failure in Iraq. MoveOn.org clearly placed their political agenda ahead of the best interests of the United States and particularly the men and women of the military when they chose to run that ad.

Now, something interesting happened. A reporter from the Washington Post came up with this, did a little research. According to the director of public relations for the New York Times, the open rate for an ad of that size and type is $181,000. According to a September 14 Washington Post article, the New York Times dramatically slashed its normal rates for the full-page ad.

A spokesman for MoveOn.org confirmed to the Post they paid only $65,000 for the ad. The Post reporter called the Times advertising department without identifying himself and was quoted a price of $167,000 for a full-page black-and-white ad on a Monday. The New York Times refused to offer any explanation for why the paper would give them a rate one-third of their published rate.

Now, my first visit to Iraq was in August of 2003, and my latest visit was on the August 30, 2007. The Iraq I saw last time is not the Iraq I visited in 2003. I would like to say also that between those years I have actually been to the Iraqi AOR, area of operations, some 15 times. During that period of time I have seen these things.

I knew what General Petraeus was going to say when he came here last week because I was with him a few days before that. I read General Petraeus's and Ambassador Crocker's prepared statements and listened intently to their testimonies. I compared their assessment with the assessments I have made over the past 4 years visiting Iraq. It appears our assessments are based on similar events that have occurred in Iraq.

I watched Ramadi as it changed. You might remember a year ago they claimed Ramadi was going to become the terrorist capital of the world. Ramadi is now totally secured.

I visited Fallujah. I have been there several times. I was there during all the elections. I watched those Iraqi security forces go and vote. I watched the American marines go door to door World War II style. Fallujah now—which was the hotbed in Anbar Province of Iraq—is now under total security, and not with U.S. forces but with Iraqi security forces.

I visited Patrol Base Murray, south of Baghdad, and met with local Iraqis who came forward and established provisional units of neighborhood security volunteers. These individuals heard the Americans were coming and were there and cheering, waiting for them to arrive.

I watched these Neighborhood Watch and Concerned Citizens groups take root in Anbar Province and slowly make their way to other cities spreading across Iraq—local civilians willing to stand up and take back their neighborhoods, their cities, and province.

Citizens are marking IEDs with orange paint—undetonated IEDs and PRGs—identifying al-Qaida in their towns and testifying against them. It is something that was not happening a few months before or prior to the surge. They are guarding critical infrastructure and working side by side with the U.S. forces.

I saw the anti-American messages at the mosques. Our intelligence goes into the mosques for each of their weekly meetings. Up through December of this past year, they averaged that 85 percent of the messages were anti-American messages. Since April of this year, there have been no anti-American messages. I guess I learned something that no one else seems to agree with; that is, we spend entirely too much time talking about the political leaders, when the religious leaders are the ones responsible for these major changes. These are the ones who are standing in the mosques and talking about Americans and the coalition forces as their allies, not as adversaries, as they were before.

I visited the Joint Security Stations in Baghdad. It used to be our kids would go out on a mission during the daytime, and they would come back at night to the green zone. They do not do that anymore. These Joint Security Stations—even as to the report that came in, our goal was to have 34, and there are now 32 of those Joint Security Stations. These guys go out, and instead of coming back, they sit and become friends with the Iraqis and actually sleep in the homes of the Iraqi security forces.

I watched the surge operations take effect, visited a former al-Qaida sanctuary, and saw a strengthening of Iraqi forces resulting in an increase in burden sharing.

I observed a steady decrease in the number of attacks in Anbar from 40 to less than 10 a day.

I visited the markets. There is a lot of talk about that. A lot of people go and visit the markets with all kinds of protection. I went to the markets without any protection, and I talked, through an interpreter, to people. I picked out people holding babies, and they were all glad to see us.

I met with U.S. and coalition leaders and commanders, Iraqi leaders and commanders, and local civilian groups on each trip.

I watched the political, economic, and diplomatic growth over time. It has been uneven and frustrating, but it has been a movement in the right direction.

I guess the bottom line is Iraq is achieving progress. No one can debate that. It is not just General Petraeus. It is what the Iraqis say. It is what they are saying, the religious leaders and the political leaders. It is happening, happening since the surge. The surge is clearly working.

The coalition forces are handing back control of Iraq to the Iraqis and to the Iraqi security forces. Local leaders who want better lives for their people are bravely standing up and rejecting the fatalist, cynical, and hate-filled diet fed to them by al-Qaida and other extremists.

Iraqis are realizing that al-Qaida does not offer a long-term vision of hope or an opportunity for them any more than it would for the average Californian or New Yorker or Oklahoman.

A backlash and rebellion against al-Qaida has been going on over the last 6 months in places such as Anbar Province and Babil Province south of Baghdad. When the tribal leaders and clerics in Anbar made the conscious decision to reject al-Qaida, they virtually overnight transformed their province into a model for the rest of the country to emulate. The ''concerned citizens'' of Babil Province—I was there—recognized the progress made in Anbar and decided they wanted to do the same thing. So it is spreading. It is spreading into areas even up toward Tikrit, the hometown of Saddam Hussein.

So al-Qaida understands the importance of the collective American will when it comes to prosecuting the war on terror. They understand they have absolutely no chance of winning this war over the long run militarily. They understand their only chance of achieving victory is to get the American people to call for a withdrawal. If we pull out of the fight, they win. There is no other way to characterize it. This is a strategic military objective for them. Like with any military objective, they have developed a tactic to achieve it. Their tactic in this case is to tear away the American will to win by committing horrific and brutal attacks against innocent victims. They understand that Americans agonize over the pictures and the news reports of those atrocities.

Let there be no doubt about it, our will as Americans to fight for freedom and democracy around the world is under attack by a brutal and ruthless enemy. That enemy would be emboldened by a victory in Iraq. Iraq would become a safe haven for terrorists and extremists from which they can launch their wicked atrocities around the world.

We could accept the offer of Iran's President to step in and fill the vacuum. He has clearly said: If the Americans pull out, we go in. However, this offer comes from a man who has vowed the extermination of the Jewish State of Israel, and he has vowed to expand his nuclear program and clearly puts us in jeopardy of being held hostage.

It is not in the American ethic to turn our back on people who are striving for a better way of life for their children. It is not in our national interest to leave a failed Iraqi State.

The surge is working, largely due to the leadership of one great American—GEN David Petraeus. MoveOn.Org should just once retreat from their attack on America and apologize to that great American hero, GEN David Petraeus.

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

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

Mr. LEVIN. Mr. President, I see Senator SPECTER on the floor. I ask unanimous consent that after Senator SPECTER is recognized, if Senator GRAHAM is on the floor, he be recognized for debate only on the bill, and then that Senator CHAMBLISS be recognized, if he is on the floor, for debate only, and that then the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes.

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

Mr. LEVIN. I thank the Chair and my friend from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I ask unanimous consent to speak for up to 20 minutes as in morning business.

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

Mr. SPECTER. Mr. President, I have sought recognition to comment on the amendment to restore the constitutional right of habeas corpus—an amendment that is pending before the Senate and will be voted on tomorrow morning at 10:30 on a motion to invoke cloture.

The issue of the availability of habeas corpus for the detainees at Guantanamo is a matter of enormous importance. It is a matter of a fundamental constitutional right that people should not be held in detention unless there is an evidentiary reason to do so, or at least some showing that the person ought to be in detention. It is a constitutional right that has existed since the Magna Carta in 1215, and it has been upheld in a series of cases in the Supreme Court of the United States.

In the decision of Hamdi v. Rumsfeld, Justice O'Connor, speaking for a plurality, said that they ''all agree that, absent suspension, the writ of habeas corpus remains available to every individual detained within the United States.'' What Justice O'Connor was referring to was the express constitutional provision in Article I, Section 9, Clause 2, that habeas corpus may not be suspended except in time of invasion or rebellion. Obviously, if there cannot be a suspension of the writ of habeas corpus, there is a provision in that clause recognizing the existence of the constitutional right of habeas corpus. You cannot suspend a right that doesn't exist.

As amplified by Justice Stevens, in the case of Rasul v. Bush, the statutory right to habeas corpus applies to those held at the United States Naval Base at Guantanamo Bay, Cuba. Although Guantanamo Bay is not within the territory of the United States, it is under the complete jurisdiction and control of the United States.

In that case, Justice Stevens noted that ''application of the [writ of] habeas corpus to persons detained at the base is consistent with the historical reach of the writ of habeas corpus. At common law, courts exercised habeas jurisdiction over the claims of aliens detained within sovereign territory of the realm, as well as the claims of persons detained in the so-called 'exempt jurisdiction,' where ordinary writs did not run, and all other dominions under the sovereign's control.'' That is obviously a conclusive statement of the Supreme Court that in Guantanamo, under the control of the United States, the writ of habeas corpus would apply in accordance with the historic reach of habeas corpus under the common law. Although Justice Stevens wrote as to statutory habeas, his historic analysis implicates the right to habeas under the common law and the Constitution

Justice Stevens went on to point out:

Habeas corpus is, however [citing from Williams v. Kaiser] ''a writ antecedent to statute, . . . throwing its root deep into the genius of our common law.''

And continuing, he said that the writ had ''received explicit recognition in the Constitution, which forbids suspension of '[t]he Privilege of the Writ of Habeas Corpus . . . unless when in Cases of Rebellion or Invasion the public Safety may require it.' ''

Obviously, the exceptions—Rebellion or Invasion—do not apply in the Guantanamo situation.

Justice Stevens went on to say:

[A]t its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.

Justice Stevens then went on to note this—referring to the opinion of Justice Jackson, concurring in the result in the case of Brown v. Allen:

The historic purpose of the writ has been to relieve detention by executive authorities without judicial trial.

And he goes on to say:

Executive imprisonment has been considered oppressive and lawless since John, at Runnymede, pledged that no free man should be imprisoned, dispossessed, outlawed, or exiled save by the judgment of his peers or by the law of the land. The judges of England developed the writ of habeas corpus largely to preserve these immunities from executive restraint.

Going on, Justice Stevens pointed out:

Consistent with the historic purpose of the writ, this Court has recognized the federal court's power to review applications for habeas corpus in a wide variety of cases involving Executive detention, in wartime as well as in times of peace.

In a very curious decision, in Boumediene v. Bush, the Court of Appeals for the District of Columbia ignored the historic common law analysis of the Rasul case in concluding that the Supreme Court's decision was based solely upon the statutory provision for habeas corpus. The Boumediene court reasoned that Rasul could be changed by an act of Congress, the Military Commissions Act, which was passed in 2006. In that case, instead of looking to Rasul, as noted in the New York Times article by Adam Liptak on March 5 of this year, the Boumediene court looked to case law decided before Rasul. Liptak points out:

Instead of looking to Rasul, which was recent and concerned Guantanamo, the appeals court, reverting to the Court of Appeals for the District of Columbia, justified its decision by citing a 1950 Supreme Court decision, Johnson v. Eisentrager. That case involved German citizens convicted of war crimes in China and held at a prison in Germany. The court ruled that they had no right to habeas corpus.

Liptak points out the inapplicability of the Eisentrager case, stating:

The Court's reliance on Eisentrager was curious. Both Antonin Scalia, dissenting in Rasul, and John Yu, an architect of the Bush administration's post-9/11 legal strategy, have written that they understood Rasul to have overruled Eisentrager.

The Boumediene decision seemed to ignore the finding in Rasul that the Naval Base at Guantanamo Bay fell within the jurisdiction and control of the United States. If detainees at Guantanamo Bay fall within United States jurisdiction, as Rasul found, the aliens held at Guantanamo have a greater claim to habeas corpus rights. For example, Courts have held that aliens within the United States cannot be denied habeas corpus without violating the Suspension Clause.

Following its discussion of Rasul and Eisentrager, the Boumediene decision relied upon the proceedings in the Combatant Status Review Tribunals which, realistically viewed, are totally insufficient. The procedures of the Combatant Status Review Tribunals were taken up by the U.S. District Court for the District of Columbia in a case captioned: In re Guantanamo Detainees Cases, 355 F.Supp.2d 443 (2005).

Beginning on page 468 of the opinion, the district court noted a proceeding in the Combatant Status Review Tribunal where an individual was accused of associating with al-Qaida personnel. The court noted:

''. . . [T]he Recorder of the [Combatant Status Review Tribunal] asserted, 'While living in Bosnia, the Detainee associated with a known Al Qaida operative.' ''

The detainee then said:

''Give me his name.''

The Tribunal President said:

''I do not know.''

The detainee then said:

''How can I respond to this?''

The detainee went on to say:

''÷. . . I asked the interrogators to tell me who this person was. Then I could tell you if I might have known this person, but not if this person is a terrorist. Maybe I knew this person as a friend. Maybe it was a person that worked with me. Maybe it was a person that was on my team. But I do not know if this person is Bosnian, Indian or whatever. If you tell me the name, then I can respond and defend myself against this accusation.''

Later in the court's opinion, the detainee is quoted to the following effect:

''That is it, but I was hoping you had evidence that you can give me. If I was in your

place—and I apologize in advance for these words—but if a supervisor came to me and showed me accusations like these, I would take these accusations and I would hit him in the face with them.''

And at that, everyone in the tribunal room burst into laughter.

This is illustrative of what goes on in the Combatant Status Review Tribunals. They charge someone with being an associate of al-Qaida, but they cannot even give the person a name.

There was a very informative declaration filed by Stephen Abraham about what goes on in a Combatant Status Review Tribunal.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks this declaration.

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

(See Exhibit 1.)

Mr. SPECTER. Colonel Abraham identified himself as a lieutenant colonel in the U.S. Army Reserves who served as a member of a Combatant Status Review Tribunal and had an opportunity to observe and participate in the CSRT process.

Among other things, Colonel Abraham points out:

On one occasion, I was assigned to a CSRT panel with two other officers. . . .We reviewed evidence presented to us regarding the recommended status of a detainee. All of us found the information presented to lack substance.

What were purported to be specific statements of fact lacked even the most fundamental earmarks of objectively credible evidence. Statements allegedly made by percipient witnesses lacked detail. Reports presented generalized statements in indirect and passive forms without stating any source of the information or providing a basis for establishing the reliability or the credibility of the source. Statements of interrogators presented to the panel offered inferences from which we were expected to draw conclusions favoring a finding of ''enemy combatant'' but that, upon even limited questioning from the panel, yielded the response from the Recorder, ''We'll have to get back to you.'' The personal representative did not participate in any meaningful way.

On the basis of the paucity and weakness of the information provided both during and after the CSRT hearing, we determined that there was no factual basis for concluding that the individual should be classified as an enemy combatant.

The details of Colonel Abraham's statement are very much in line with the opinion of the U.S. District Court for the District of Columbia in the matter captioned: In re Guantanamo Detainee Cases. They had charges but presented absolutely no information. Consequently, there can be no contention that Combatant Status Review Tribunals are an adequate and effective alternative approach to Federal court habeas corpus. There must be a type of review which presents a fair opportunity for determination as to whether there was any basis to hold a detainee. For such a purpose, Combatant Status Review Tribunals are totally inadequate.

It is for that reason that I urge my colleagues to legislate in the pending Department of Defense authorization bill to reinstate the statutory right of habeas corpus. It is my judgment that the Supreme Court of the United States will act on the case now pending there to uphold the constitutional right, disagreeing with the decision of the Court of Appeals for the District of Columbia in Boumediene v. Bush.

Initially, the U.S. Supreme Court had denied to take certiorari in the case, and it was curious because Justice Stevens did not vote for cert. where three other Justices had. But then after the declaration by Colonel Abraham was filed on a petition for rehearing, which required five affirmative votes by Supreme Court Justices, the petition for rehearing was granted, and the Supreme Court of the United States now has that case.

I have filed a brief as amicus curiae in the case, urging the Supreme Court to overrule the District of Columbia case and to uphold the decision in Rasul v. Bush, which holds that there is a statutory right to habeas corpus and that is rooted in historic common law that predates the Constitution, tracing its roots to the Magna Carta with John at Runnymede in 1215. But pending any action by the Supreme Court of the United States, which is not by any means certain, notwithstanding my own view that the Supreme Court will reaffirm Rasul and reverse the Court of Appeals for the District of Columbia's ruling in Boumediene, the Congress should now alter the statutory provision in 2006 and make it clear that the statutory right to habeas corpus applies to Guantanamo because of the total inadequacy of the fairness of the procedures under the Combatant Status Review Tribunal.

EXHIBIT 1

DECLARATION OF STEPHEN ABRAHAM
LIEUTENANT COLONEL, UNITED STATES ARMY RESERVE

I, Stephen Abraham, hereby declare as follows:

1. I am a lieutenant colonel in the United States Army Reserve, having been commissioned in 1981 as an officer in Intelligence Corps. I have served as an intelligence officer from 1982 to the present during periods of both reserve and active duty, including mobilization in 1990 (''Operation Desert Storm'') and twice again following 9–11. In my civilian occupation, I am an attorney with the law firm Fink & Abraham LLP in Newport Beach, California.

2. This declaration responds to certain statements in the Declaration of Rear Admiral (Retired) James M. McGarrah (''McGarrah Dec.''), filed in Bismullah v. Gates, No. 06–1197 (D.C. Cir.). This declaration is limited to unclassified matters specifically related to the procedures employed by Office for the Administrative Review of the Detention of Enemy Combatants (''OARDEC'') and the Combatant Status Review Tribunals (''CSRTs'') rather than to any specific information gathered or used in a particular case, except as noted herein. The contents of this declaration are based solely on my personal observations and experiences as a member of OARDEC. Nothing in this declaration is intended to reflect or represent the official opinions of the Department of Defense or the Department of the Army.

3. From September 11, 2004 to March 9, 2005, I was on active duty and assigned to OARDEC. Rear Admiral McGarrah served as the Director of OARDEC during the entirety of my assignment.

4. While assigned to OARDEC, in addition to other duties, I worked as an agency liaison, responsible for coordinating with government agencies, including certain Department of Defense (''DoD'') and non-DoD organizations, to gather or validate information relating to detainees for use in CSRTs. I also served as a member of a CSRT, and had the opportunity to observe and participate in the operation of the CSRT process.

5. As stated in the McGarrah Dec., the information comprising the Government Information and the Government Evidence was not compiled personally by the CSRT Recorder, but by other individuals in OARDEC. The vast majority of the personnel assigned to OARDEC were reserve officers from the different branches of service (Army, Navy, Air Force, Marines) of varying grades and levels of general military experience. Few had any experience or training in the legal or intelligence fields.

6. The Recorders of the tribunals were typically relatively junior officers with little training or experience in matters relating to the collection, processing, analyzing, and/or dissemination of intelligence material. In no instances known to me did any of the Recorders have any significant personal experience in the field of military intelligence. Similarly, I was unaware of any Recorder having any significant or relevant experience dealing with the agencies providing information to be used as a part of the CSRT process.

7. The Recorders exercised little control over the process of accumulating information to be presented to the CSRT board members. Rather, the information was typically aggregated by individuals identified as case writers who, in most instances, had the same limited degree of knowledge and experience relating to the intelligence community and intelligence products. The case writers, and not the Recorders, were primarily responsible for accumulating documents, including assembling documents to be used in the drafting of an unclassified summary of the factual basis for the detainee's designation as an enemy combatant.

8. The information used to prepare the files to be used by the Recorders frequently consisted of finished intelligence products of a generalized nature—often outdated, often ''generic,'' rarely specifically relating to the individual subjects of the CSRTs or to the circumstances related to those individuals' status.

9. Beyond ''generic'' information, the case writer would frequently rely upon information contained within the Joint Detainee Information Management System (''JDIMS''). The subset of that system available to the case writers was limited in terms of the scope of information, typically excluding information that was characterized as highly sensitive law enforcement information, highly classified information, or information not voluntarily released by the originating agency. In that regard, JDIMS did not constitute a complete repository, although this limitation was frequently not understood by individuals with access to or who relied upon the system as a source of information. Other databases available to the case writer were similarly deficient. The case writers and Recorders did not have access to numerous information sources generally available within the intelligence community.

10. As one of only a few intelligence-trained and suitably cleared officers, I served

as a liaison while assigned to OARDEC, acting as a go-between for OARDEC and various intelligence organizations. In that capacity, I was tasked to review and/or obtain information relating to individual subjects of the CSRTs. More specifically, I was asked to confirm and represent in a statement to be relied upon by the CSRT board members that the organizations did not possess ''exculpatory information'' relating to the subject of the CSRT.

11. During my trips to the participating organizations, I was allowed only limited access to information, typically prescreened and filtered. I was not permitted to see any information other than that specifically prepared in advance of my visit. I was not permitted to request that further searches be performed. I was given no assurances that the information provided for my examination represented a complete compilation of information or that any summary of information constituted an accurate distillation of the body of available information relating to the subject.

12. I was specifically told on a number of occasions that the information provided to me was all that I would be shown, but I was never told that the information that was provided constituted all available information. On those occasions when I asked that a representative of the organization provide a written statement that there was no exculpatory evidence, the requests were summarily denied.

13. At one point, following a review of information, I asked the Office of General Counsel of the intelligence organization that I was visiting for a statement that no exculpatory information had been withheld. I explained that I was tasked to review all available materials and to reach a conclusion regarding the non-existence of exculpatory information, and that I could not do so without knowing that I had seen all information.

14. The request was denied, coupled with a refusal even to acknowledge whether there existed additional information that I was not permitted to review. In short, based upon the selective review that I was permitted, I was left to ''infer'' from the absence of exculpatory information in the materials I was allowed to review that no such information existed in materials I was not allowed to review.

15. Following that exchange, I communicated to Rear Admiral McGarrah and the OARDEC Deputy Director the fundamental limitations imposed upon my review of the organization's files and my inability to state conclusively that no exculpatory information existed relating to the CSRT subjects. It was not possible for me to certify or validate the non-existence of exculpatory evidence as related to any individual undergoing the CSRT process.

16. The content of intelligence products, including databases, made available to case writers, Recorders, or liaison officers, was often left entirely to the discretion of the organizations providing the information. What information was not included in the bodies of intelligence products was typically unknown to the case writers and Recorders, as was the basis for limiting the information. In other words, the person preparing materials for use by the CSRT board members did not know whether they had examined all available information or even why they possessed some pieces of information but not others.

17. Although OARDEC personnel often received large amounts of information, they often had no context for determining whether the information was relevant or probative and no basis for determining what additional information would be necessary to establish a basis for determining the reasonableness of any matter to be offered to the CSRT board members. Often, information that was gathered was discarded by the case writer or the Recorder because it was considered to be ambiguous, confusing, or poorly written. Such a determination was frequently the result of the case writer or Recorder's lack of training or experience with the types of information provided. In my observation, the case writer or Recorder, without proper experience or a basis for giving context to information, often rejected some information arbitrarily while accepting other information without any articulable rationale.

18. The case writer's summaries were reviewed for quality assurance, a process that principally focused on format and grammar. The quality assurance review would not ordinarily check the accuracy of the information underlying the case writer's unclassified summary for the reason that the quality assurance reviewer typically had little more experience than the case writer and, again, no relevant or meaningful intelligence or legal experience, and therefore had no skills by which to critically assess the substantive portions of the summaries.

19. Following the quality assurance process, the unclassified summary and the information assembled by the case writer in support of the summary would then be forwarded to the Recorder. It was very rare that a Recorder or a personal representative would seek additional information beyond that information provided by the case writer.

20. It was not apparent to me how assignments to CSRT panels were made, nor was I personally involved in that process. Nevertheless, I discerned the determinations of who would be assigned to any particular position, whether as a member of a CSRT or to some other position, to be largely the product of ad hoc decisions by a relatively small group of individuals. All CSRT panel members were assigned to OARDEC and reported ultimately to Rear Admiral McGarrah. It was well known by the officers in OARDEC that any time a CSRT panel determined that a detainee was not properly classified as an enemy combatant, the panel members would have to explain their finding to the OARDEC Deputy Director. There would be intensive scrutiny of the finding by Rear Admiral McGarrah who would, in turn, have to explain the finding to his superiors, including the Under Secretary of the Navy.

21. On one occasion, I was assigned to a CSRT panel with two other officers, an Air Force colonel and an Air Force major, the latter understood by me to be a judge advocate. We reviewed evidence presented to us regarding the recommended status of a detainee. All of us found the information presented to lack substance.

22. What were purported to be specific statements of fact lacked even the most fundamental earmarks of objectively credible evidence. Statements allegedly made by percipient witnesses lacked detail. Reports presented generalized statements in indirect and passive forms without stating the source of the information or providing a basis for establishing the reliability or the credibility of the source. Statements of interrogators presented to the panel offered inferences from which we were expected to draw conclusions favoring a finding of ''enemy combatant'' but that, upon even limited questioning from the panel, yielded the response from the Recorder, ''We'll have to get back to you.'' The personal representative did not participate in any meaningful way.

23. On the basis of the paucity and weakness of the information provided both during and after the CSRT hearing, we determined that there was no factual basis for concluding that the individual should be classified as an enemy combatant. Rear Admiral McGarrah and the Deputy Director immediately questioned the validity of our findings. They directed us to write out the specific questions that we had raised concerning the evidence to allow the Recorder an opportunity to provide further responses. We were then ordered to reopen the hearing to allow the Recorder to present further argument as to why the detainee should be classified as an enemy combatant. Ultimately, in the absence of any substantive response to the questions and no basis for concluding that additional information would be forthcoming, we did not change our determination that the detainee was not properly classified as an enemy combatant. OARDEC's response to the outcome was consistent with the few other instances in which a finding of ''Not an Enemy Combatant'' (NEC) had been reached by CSRT boards. In each of the meetings that I attended with OARDEC leadership following a finding of NEC, the focus of inquiry on the part of the leadership was ''what went wrong.''

24. I was not assigned to another CSRT panel.

I hereby declare under the penalties of perjury based on my personal knowledge that the foregoing is true and accurate.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I rise this afternoon in opposition to the Leahy-Specter amendment on the Defense authorization bill. The Leahy-Specter amendment will strike an important change made by the Military Commissions Act of 2006 that strips courts of jurisdiction to hear habeas corpus petitions from alien unlawful enemy combatants detained by the United States.

This amendment would restore jurisdiction to the Federal courts to hear habeas petitions from detainees who are currently pending trial before a military commission. Essentially, this amendment would grant habeas corpus rights to all non-U.S. citizens, regardless of location, who are detained by the United States.

The amendment would have the effect during the current global war on terrorism or during a large-scale protracted war on the scale of World War II of giving any noncitizen detained by U.S. forces, regardless of where they are detained and regardless of the reason for their detention, the right to challenge that detention in the U.S. court system.

I can think of few better ways to ensure that the United States is defeated in any conflict in which we engage and few better ways to undermine the national security of the United States than to adopt this amendment.

In 2004, the Supreme Court's decision in Hamdi v. Rumsfeld held that the President is authorized to detain enemy combatants for the duration of hostilities based on longstanding law-of-war principles. It also held that Congress could authorize the President to detain persons, including U.S. citizens, designated as enemy combatants without trial for a criminal offense so long as the enemy combatant has a process to challenge that designation.

As a result of the Hamdi decision, the Department of Defense created the

Combatant Status Review Tribunal, a process where detainees may challenge their status designations.

Congress passed and the President signed the Detainee Treatment Act on December 30, 2005, which included the Graham-Levin amendment to eliminate the Federal court statutory jurisdiction over habeas corpus claims by aliens detained at Guantanamo Bay.

After a full and open debate, a bipartisan majority of Congress passed the Military Commissions Act just last fall. The MCA amended the Detainee Treatment Act provisions regarding appellate review and habeas corpus jurisdictions by making the provisions of the DTA the exclusive remedy for all aliens detained as enemy combatants anywhere in the world, including those detained at Guantanamo Bay, Cuba. The MCA's restrictions on habeas corpus codified important and constitutional limits on captured enemies' access to our courts.

The District of Columbia Circuit upheld the MCA's habeas restrictions in Boumediene v. Bush earlier this year. The Supreme Court, in a rare move, reconsidered their denial of certiorari and will make a decision on this case in the near future. In the meantime, Congress should not act hastily.

Before the Supreme Court decision in Rasul v. Bush in June 2004, the controlling case law for over 50 years was set out in the Supreme Court case of Johnson v. Eisentrager, a 1950 case which held that aliens in military detention outside the United States were not entitled to judicial review through habeas corpus petitions in Federal courts. The Court recognized that extension of habeas corpus to alien combatants captured abroad ''would hamper the war effort and bring aid and comfort to the enemy,'' and the Constitution requires no such thing.

The Rasul case changed the state of the law for detainees held at Guantanamo Bay, Cuba, due to the unique nature of the long-term U.S. lease of that property. The Supreme Court reasoned that the habeas corpus statute and the exercise of complete jurisdiction and control over the Navy base in Cuba were sufficient to establish the jurisdiction of U.S. Federal courts over habeas petitions brought by detainees.

The Supreme Court ruled that the status of a detainee as an enemy combatant must be determined in a way that provides the fundamentals of due process—namely, notice and opportunity to be heard. The executive branch established Combatant Status Review Tribunals, or CSRTs, to comply with this mandate. Judicial review of CSRT determinations of enemy combatant status by article III courts is provided by the Detainee Treatment Act. Under the DTA, appeals of CSRT decisions may be made to the U.S. Court of Appeals for the DC Circuit.

In his dissent in the Rasul case, Justice Scalia wisely pointed out that at the end of World War II, the United States held approximately 2 million enemy soldiers, many of whom no doubt had some complaint about their capture or conditions of confinement. Today, approximately 25,000 persons are detained by the United States in Iraq, Afghanistan, and at Guantanamo Bay.

Restoring jurisdiction over alien enemy combatants could result in providing the right of habeas corpus to all those detainees held outside the United States so long as their place of detention is under the jurisdiction and control of the U.S. Armed Forces.

In fact, habeas challenges on behalf of detainees held in Afghanistan have already been filed.

The Supreme Court recognized in Johnson v. Eisentrager that allowing habeas petitions from enemy combatants forces the judiciary into direct oversight of the conduct of war in which they will be asked to hear petitions from all around the world, challenging actions and events on the battlefield. This would simply be unworkable as a practical matter and could greatly interfere with the Executive's authority to wage war. As the Supreme Court revisits these issues, Congress should not undue what it has done.

Federal courts have ruled twice—in December 2006 at the district court level on the remand of the Hamdan case from the Supreme Court and again in February 2007 at the DC Circuit Court level in the consolidated cases of Boumediene and Al Odah—that the Military Commissions Act is constitutional and that alien enemy unlawful combatants have no constitutional rights to habeas corpus.

The Supreme Court, at the end of June, decided it would hear these cases on expedited appeal this fall. It is appropriate for Congress to allow the Supreme Court to review the decision made by the DC Circuit Court of Appeals, applying the standards of review enacted in the DTA and the MCA before granting habeas rights to and opening the Federal courts to thousands of detainees held outside the United States.

For these reasons, and simply because it represents extremely bad policy, I urge my colleagues to oppose the Leahy-Specter amendment.

Mr. President, I had also intended to talk a little while today about Senator GRAHAM's amendment seeking to strike section 1023 of the underlying bill. It is my understanding now that there are discussions ongoing relative to the possibility of trying to work that amendment out. So if that amendment does come to the floor for consideration, I will be back to talk about the support of that amendment at that time.

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

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

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

The PRESIDING OFFICER. The Senate is now proceeding under a previous order in a period of morning business, with Senators being recognized for up to 10 minutes.

The Senator from Alabama is recognized.

Mr. SESSIONS. I thank the Chair.

DEFENSE AUTHORIZATION AND APPROPRIATIONS

Mr. SESSIONS. Mr. President, I would just say that we have a limited amount of time in this body—and we all know that—before the end of the fiscal year will be coming up on September 30. We have to pass some sort of appropriation to fund our defense and our military by that date. We need to pass the Defense authorization bill, which has been voted out of the Armed Services Committee. Senator LEVIN, our Democratic chairman, has moved that bill forward, and it had strong bipartisan support. It is on the floor today, and it provides quite a number of valuable and critically important benefits for our defense on which we need to vote. For example, it increases the number of persons in the Army, the end-strength of the Army, by 13,000, and 9,000 for the Marine Corps. We have a lot of people talking about the stress on the military, so we need to authorize the growth of the military. It is something we know we need to do, and I think we have a general agreement on that. It is in this bill. We need to move this bill. It authorizes numerous pay bonuses and benefits for our warfighters and their family members. It allows a reservist to draw retirement before age 60 if they volunteer under certain circumstances for active mobilizations. It directs studies on mental health and well-being for soldiers and marines. It establishes a Family Readiness Council. It authorizes funding for the MRAPs, which are those vehicles which are so much more effective against even the most powerful bombs and IED-type attacks.

So this bill, this authorization bill, is not an unimportant matter. Our soldiers are out there now in harm's way, where we sent them, executing the policies we asked them to execute, and we need to support them by doing our job. We complain that Iraq can't pass this bill or that bill; we need to pass our own bill.

Not only do we need to get this authorization bill passed, but we have to get on next week to the appropriations bill to actually fund the military because if we do not do so, the funding stops. Under American law, if Congress does not appropriate funds, nobody can spend funds. It is just that simple.

We have to do our job, and I hope we will. I am troubled to see a lot of things beginning to occur that indicate there is an agenda afoot here, at least by some, that would make it difficult, if not impossible, for us to get this work done.

For example, the first amendment brought up on the Defense bill—not a part of the committee bill but on the floor here—is to provide to enemy terrorists habeas corpus rights they have never been provided by any nation in history during a time of war and certainly not our own Nation. It is frustrating for me to hear people say we want to restore habeas rights to captive enemy combatants. If we did it, we should at least perhaps give priority to lawful enemy combatants. Most of these are unlawful enemy combatants who have not in any way followed the rules of war and therefore are not provided, in normal circumstances, the full protections of the Geneva Convention. So I am worried about that.

The President has said if that amendment passes, he will veto the bill. So what will we have done then? Are people in here going to have a good feeling about that—they made the President veto the bill—that we provide unprecedented rights to captives who are setting about to attack and kill Americans? We are releasing people from Guantanamo and have released quite a number of them. Quite a number of them have been recaptured on the battlefield trying to kill our sons and our daughters who are out there because this Congress sent them out there. So I think we need to get our heads straight.

Now, in addition to that, we have Senator DURBIN offering the DREAM Act amendment, an immigration bill, to this bill.

Senator KENNEDY says he intends to offer hate crimes legislation. These are controversial pieces of legislation, unrelated, really, to the Defense Department. They ought not be passed. They have been rejected before. Certainly the DREAM Act was.

Let me talk about this DREAM Act. It is something Senator DURBIN points out that I have objected to before. I have objected to it before when it came up in the Judiciary Committee, not in the Armed Services Committee.

The Durbin amendment, as filed as of the end of July, would do a number of things. It will, indeed, provide amnesty, the full panoply of rights we give to any citizen who comes here lawfully. It provides a full citizenship track and full rights for quite a number of illegal aliens, putting them on a direct path to citizenship. A conservative estimate done by the Migration Policy Institute suggests that at least 1.3 million will be eligible for amnesty. It will also allow current illegal aliens, those who would be provided amnesty under this bill, and future illegal aliens who come here after this day, illegally—hopefully, I thought we decided when the comprehensive bill was voted down, the American people were saying let's end illegal immigration—it would provide for them to be eligible for in-State tuition at public universities, even when the university denies in-State tuition to U.S. citizens and legally present aliens.

It would reverse 1996 law that quite rationally said let's not reward people who are here illegally by giving them a discounted rate of tuition. How much more simple is it than that?

It would provide Federal financial aid in the form of student loans and work/study programs, subsidized by Federal money. It is unclear, it appears, whether Pell grants, direct Federal grants, are going to be provided to people in our country illegally, with which to go to college, whereas hardworking Americans, many of them, don't qualify for Pell grants—and we need to expand Pell grants. Why would we then be providing them to persons who would come into our country illegally?

They say they may have come when they were younger. Maybe they did. But if you have a limited number of persons to whom you can provide Pell grants or subsidized loans, I suggest they should be given to those who are lawfully here, not those who are unlawfully here.

There is an old slogan: If you are in a hole, the first thing you should do is stop digging. I suggest if you have a problem with people coming into the country illegally, the first thing you should do is stop subsidizing that illegal behavior by giving them discounted tuition.

The DREAM Act establishes a seamless process to take illegal aliens directly from illegal status to conditional permanent resident status, then to legal permanent resident status, and then the next step, of course, is citizenship. First, illegal aliens who came here before age 16 and have been here illegally for the past 5 years will be given ''conditional'' permanent residence, or green cards, if they have been admitted to an institution of higher education or have a GED, or have a high school diploma. The ''conditional'' green card, which is good for 6 years, will be converted to a full green card. A green card means you have a legal permanent residence status in America. In this case it would be a direct result of an illegal entry into the United States, or an illegal overstay. It will be converted to a full green card if the alien completes 2 years of a bachelor's degree or serves 2 years in the uniformed services. This is broader than the term ''military service,'' as people have said. ''Uniformed services,'' as defined by title 10, includes the National Oceanic and Atmospheric Administration Commissioned Corps and the U.S. Public Health Service Commissioned Corps, in addition to the military. Or they would qualify if they can't do those because of hardship.

After 5 years of ''conditional,'' or full green card permanent status, the aliens amnestied under the DREAM Act will be eligible for citizenship.

We are also expanding, through this amendment, if it is to be adopted, immigration into the country based on an illegal action in a number of ways. There is nothing in the DREAM Act that limits the ability of the illegal aliens who are being provided permanent status and citizenship here to bring in their family members. Once an illegal alien becomes a legal resident under the act, they can immigrate their spouses and their children. As soon as the illegal alien becomes a citizen, he or she will be able to bring in, to immigrate their parents to the country as a matter of right. So there is no numerical limit to the number of parents a citizen can immigrate into the United States. I think that is one of the flaws in our current law.

The reason that is important is because we are generous in immigration. We allow a million or more a year to come legally into our country. We do provide quite a number of generous provisions that allow people to come. But if you are allowing those limited number of slots—in effect, we have only so many that the country does allow and would desire to allow to come—we are providing parents of those who have been illegal to be able to come as a guaranteed right, whereas another who may have a master's degree, may have a high skill, may have learned English in Honduras and is valedictorian of their school or college—they can't get in. But they have an automatic right for a parent, who may have done far less in the scheme of things to justify taking one of those limited slots the country has to offer. That is why I am concerned about that.

We don't think about it in correct terms. We have to understand we cannot accept everybody in the world. We should create a generous system of immigration that allows people to come to America, but we ought to set up a legal system that we are proud of and that sets good standards, that allows a person to have the greatest opportunity to be successful here, to have more precedence in entry—which is exactly what Canada does, and Canada is quite proud of it.

In 1996, Congress passed this law:

> Not withstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State . . . for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration and scope) without regard to whether the citizen or national is such a resident.

The DREAM Act eliminates this provision that has been offered on the Defense bill. It would reverse this current Federal law. The result is that States will be able to offer in-State tuition to illegal aliens.

The PRESIDING OFFICER. The Chair advises the Senator from Alabama he has consumed his 10 minutes.

Mr. SESSIONS. I thank the Chair and ask unanimous consent for 1 additional minute.

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

Mr. SESSIONS. Mr. President, I will conclude by saying there are a host of reasons why we need not, ought not pass the DREAM Act itself. But that is a matter of debate that we have had several different times now. What we need to be doing now is providing support for the soldiers, sailors, airmen, marines, and guardsmen we sent in harm's way by passing the Defense authorization bill and the Defense appropriations bill. We don't need to be talking about the DREAM Act. We don't need to be talking about hate crimes. We don't need to be offering the first amendment out of the chute, an amendment that provides habeas benefits to unlawful combatants, legal rights that have never been given by the United States in the history of the Republic, nor any other nation in the history of the world.

We need to get serious and get some work done here that is important and not be distracted with amendments that are going to be politically controversial and can only make it more difficult for us to do our duty as a Congress.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

FIGHT TO END HATE CRIMES

Mr. CARDIN. Mr. President, only 2 weeks ago this Nation marked the 50th Anniversary of the Civil Rights Act of 1957. That landmark legislation, signed into law on September 9, 1957, was Congress' first civil rights bill since the end of Reconstruction.

It established the Civil Rights Division of the Justice Department and empowered Federal prosecutors to obtain court injunctions against interference with the right to vote. It also established a Federal Commission on Civil Rights with authority to investigate discriminatory conditions and recommend corrective measures.

In the Judiciary Committee, under the leadership of my distinguished colleague, the senior Senator from Vermont, we held a hearing to commemorate this milestone, to talk about our Nation's progress over the past half century and how we must move forward if we are to live up to the ideals enumerated in the Constitution. My former colleague from the House and an American hero, JOHN LEWIS, shared his recollections and his hopes for the future with us.

Today, however, it is with great sadness that I come to the Senate floor to talk about a rash of incidents that have occurred over the past month in this region of the country. These incidents are a painful reminder of just how far we have to go.

At the College Park Campus of the University of Maryland, fewer than 10 miles from here, students found a noose hanging in a tree near the University's African-American Cultural Center. It is believed that the noose had been hanging there for almost 2 weeks before the assistant editor of the school's African-American newspaper noticed it and notified the police.

University President C.D. Mote has denounced the incident, as have student leaders and faculty. It is under investigation as a possible hate crime and may be connected to the trial of six African-American teenagers in Jena, Louisiana. In that case, three nooses were placed in the so called ''white-only'' tree on campus after black students sat under it. The ensuing altercations led to charges of attempted murder against only the black teenagers, charges that have since been dismissed.

In Montgomery County, Maryland, three separate acts of vandalism were reported at Jewish centers in Rockville, Gaithersburg, and Silver Spring.

In two of those cases, vandals defaced banners declaring the synagogues' support for the State of Israel, scrawling anti-Semitic slurs on them. Police are investigating all three acts as possible hate crimes.

Then, in the hills of Big Creek, West Virginia, a 20-year-old African-American woman was held captive in a shed for more than a week. During her ordeal, she was beaten, choked, stabbed, sexually assaulted, and forced to perform inhumane acts. Throughout, she was called racist slurs and was told she was being victimized because of her skin color. She was rescued by police responding to an anonymous tip. A local Sheriff described this as ''something that would have come out of a horror movie.'' Six people, all white, have been arrested in connection with the assault and kidnapping, and police are still searching for two more. The young woman is recovering in a hospital from her ordeal.

In Gaithersburg, Maryland, a Muslim family was again the victim of vandalism. Over the years, the family had been victimized multiple times, beginning in 1994 when they moved to the area. Their house and automobiles were broken into, garbage and dead animals were strewn in their yard, and racist notes were taped to their door.

This time, on September 11, tires on both of the family's vehicles were slashed. The mother has worked hard to counteract anti-Muslim and anti-Arab sentiment in America, speaking at schools and libraries about Islam and Arab-American culture and teaching a cultural sensitivity class. Police are continuing to investigate this incident as a possible hate crime.

In Manassas, Virginia, the Ku Klux Klan recently began distributing leaflets urging ''white Christian America'' to stand up for its rights. The neighborhood has recently begun a demographic shift as older residents moved out and younger Latino families moved in.

Finally, Mr. President, last Friday, it was reported that the Metropolitan Police Department here in Washington is investigating a series of hate crimes targeting gay and transgender people. The latest attack happened seven blocks from here near the Verizon Center, where reportedly a group of young men threw a 16-year-old male-to-female transgender person through a plate glass window. Police reports indicate that the suspect had been arrested twice before for similar attacks against gay men.

The Federal Bureau of Investigation has reported that in 2005 there were approximately 7,100 incidents classified as hate crimes. The FBI uses voluntary reports from local law enforcement agencies across the country to determine the totals, but the actual number could be far higher.

The Southern Poverty Law Center has analyzed data compiled and reported by the federal Bureau of Justice Statistics. That November 2005 report, based on data from the biannual National Crime Victimization Survey (NCVS), found that fewer than half of hate crimes are reported to the police and others are not counted by the FBI. This is because they are not recorded as hate crimes, or because some police departments do not report statistics to their State offices. The NCVS estimates that the United States averages about 191,000 hate crimes each year.

The report also found that hate crimes involve violence far more than other crimes. The data showed that four out of five hate crimes were violent—involving a sexual attack, robbery, assault or murder, as compared to 23 percent of non-hate crimes.

Mr. President, the situation is even more dire than most Americans imagine. The Southern Poverty Law Center's Intelligence Project counted 844 active hate groups in the United States in 2006.

Hate crimes' tentacles reach far beyond the intended targets. They bring a chill to entire neighborhoods and create a sense of fear, vulnerability, and insecurity in our communities. They poison the well of our democracy and strike at the very heart of the American spirit.

Our local law enforcement agencies need help in investigating and prosecuting these crimes, and this help must come from the United States Attorney General and the Department of Justice.

I am a cosponsor of the Mathew Shepard Local Law Enforcement Hate Crimes Prevention Act, S. 1105, to strengthen existing Federal hate crime laws. I want to thank Senator KENNEDY for his leadership on this issue.

While the responsibility for prosecuting hate crimes primarily rests with the individual States, this new measure will give local law enforcement additional tools to combat violent hate crimes. It also will provide Federal support through training and assistance to ensure that hate crimes

are effectively investigated and prosecuted. In addition, it will ensure that Federal investigations and prosecutions are carried out when local authorities request assistance or are unwilling or unable to effectively prosecute cases.

It is important that the Federal Government have the ability to take aggressive action against hate crimes in States where current laws are inadequate. For example, only 31 States and the District of Columbia include sexual orientation-based or disability-based crimes in their hate crimes statutes. This law will help ensure that all hate crimes are fully investigated and prosecuted.

This measure, which has strong bipartisan support, would strengthen existing law in two ways. First, it would eliminate a serious limitation on Federal involvement under existing law—namely, the requirement that a victim of a hate crime was attacked because he or she was engaged in federally-protected activity such as voting or attending school. It also would authorize the Department of Justice to investigate and prosecute hate crimes based on sexual orientation, gender, gender identity, or disability. Current law does not provide authority for involvement in these four categories.

Hate crimes are un-American. They cannot be tolerated. When individuals are targeted and attacked because of who they are, entire communities suffer and we are all diminished by it.

S. 1105 would give us the tools we need to be more effective in combating crimes of hate. The House passed its version of hate crimes legislation on May 3 and now the Senate must do our part. I call on my colleagues to support S. 1105 and I urge its passage without further delay.

MILITARY COMMISSIONS ACT

The ACTING PRESIDENT pro tempore. The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, first of all, thank you for taking some time and presiding in the chair so I can make this statement.

Last year, I made a very difficult decision. I voted for the Military Commissions Act because I believed it would make our Nation safer and help us fight the war on terrorism. I did not support the bill, however, without reservations.

I said at the time it was not the law I would have written. To the contrary, I supported the bill with the understanding we would go back and fix some of the problems that remained unsolved. Tomorrow, the Senate has an opportunity to fix one of the most glaring of those problems, the failure to provide detainees with the right to habeas corpus.

A right to habeas corpus was a fundamental right in the eyes of our Founding Fathers. It was seen as a mechanism for accountability within our Government, giving prisoners a way to challenge detentions that were unlawful or unconstitutional.

A right to habeas corpus has remained a cornerstone of our criminal justice system since our very beginning as a Nation. It continues to be reaffirmed time and time again by every court in the land. Granting all prisoners the right to petition for habeas corpus is something that makes our Nation special and sets us apart.

Now, I am sure many Americans may wonder: Well, what is habeas corpus? What is the big fuss about this habeas corpus thing? Well, let me try to explain.

Habeas corpus gives a person, a citizen, people, the right to ensure they are being held by the Government lawfully, that they were not the victim of malfeasance or misfeasance on the part of the Government. It is not an easy standard to meet, and it is not taken lightly by the court system.

To make a case for habeas corpus requires a significant amount of proof that a detention of that individual violates the laws of the United States. Let me say that one more time. Proving that you are entitled to relief, proving that you are entitled to a writ of habeas corpus by the court, is not an easy task.

The claim is usually denied. Only those who truly deserve the writ are able to obtain it. I say this to reassure those who may feel that granting detainees the right to habeas corpus, as the amendment would do, would quickly let loose those who would then attack our country and our citizens. That simply will not happen.

What will happen is those detainees who are being held unlawfully, if there are any who are being held unlawfully, who are being denied their basic human rights, will have a chance to make their case in court. They will, for the first time, be able to argue they are being held without any evidence of wrongdoing. They will be able to argue, possibly, they were tortured for a confession that is simply not true.

In short, they will be allowed to hold our great Nation to the standard of fairness, lawfulness, and decency that our Founding Fathers established when they penned the U.S. Constitution.

Some people may not believe detainees are entitled to such a basic right. They argue these people may not be U.S. citizens; that they do not believe the Constitution provides them with any protection or any guarantees.

I disagree. I would ask those people one thing: If the terrorists convince us to throw away the very rights that make us free, the very rights that make our Nation what we uniquely are, does that not mean the terrorists have won?

If we believe in the rule of law, and if we believe in a system of justice, we must give all people detained by our Government the right to challenge that detention. Our Government must play by the rules. It must detain people who are supposed to be detained, and it must be prepared to make that case in a court of law.

The United States can do better than depending on indefinite, unchallengeable detentions to imprison an individual suspected to be a terrorist. We do not need shortcuts to keep our Nation safe.

We can fight the war on terror and respect human rights at the same time. What makes America worthy of fighting for and dying for is the Constitution and the Bill of Rights. It sets us apart from the rest of the world, and we cannot permit its erosion or its undermining. The Constitution and the Bill of Rights need to be preserved.

Therefore, I intend to fully support the Leahy-Specter amendment that will be offered tomorrow to restore habeas rights to detainees. I urge my colleagues to do the same.

I yield the floor.

EULOGY FOR HOWARD GITTIS

Mr. SPECTER. Mr. President, a very close, personal friend and a great American died the day before yesterday, Howard Gittis, a very distinguished Philadelphia lawyer in the great tradition of Andrew Hamilton who defended Peter Zenger. Those of us who are Philadelphia lawyers take great pride in that tradition from Andrew Hamilton and the historic defense of Peter Zenger, and Howard Gittis was in that mold.

I have been a personal friend of Howard Gittis for some 50 years. I was told he went to sleep on Sunday night and didn't awaken, died in his sleep apparently of a heart attack.

Howard Gittis was a partner in the very prestigious firm of Wolf, Block, Schorr & Solis-Cohen for some 23 years. He then joined a noted entrepreneur, Ronald Perelman of New York, and was the executive vice president of McAndrews & Forbes in New York City.

Howard was noted for his charitable contributions both as an alumnus of the University of Pennsylvania Law School, where he contributed substantially to Penn's law school which named Gittis Hall and the Gittis Center for Clinical Legal Studies at Penn in honor of Howard Gittis's contribution to the law school and his charitable support of the university.

Not only did he support the University of Pennsylvania, but he also served on the board of Temple University for 31 years, including 5 as chairman of the board, and the Temple Student Center is named for him.

Always affable, always cheerful, always ready to lend assistance to friends or even to those who were not close friends. He left an indelible mark in the Philadelphia legal community and in the New York business community.

His funeral services occurred earlier today in New York and burial occurred this afternoon in Philadelphia.

I think it appropriate to pay tribute to an outstanding American who did so much for the legal profession and so much for charitable contributions with both the University of Pennsylvania and Temple University.

TRIBUTE TO AUGIE HIEBERT

Mr. STEVENS. Mr. President, I have come to the Senate floor today to honor one of Alaska's most admired pioneers and a dear friend of mine and my whole family.

Alaskans will remember Augie Hiebert for his many achievements in the field of broadcasting and for opening the doors to modern communications for all Alaskans. In a State with few roads, where hundreds of miles of wilderness often separate towns and villages, Alaskans rely upon airwaves to connect them with people and events across our State, across the country, and around the globe. Augie was one of the first to bring the benefits of broadcast technology to our last frontier.

At an early age, Augie developed a fascination for electronics and radio which would lead him to a career in broadcasting. While growing up on an orchard in Washington State during the Great Depression, Augie built his own first radio. He earned his ham radio license at the age of 15. He was just 22 years old when he came to Fairbanks in 1939 to help a friend build KFAR Radio.

On the morning of December 7, 1941, Augie was listening to ham radio broadcasts at KFAR's transmitter when he heard of the attack on Pearl Harbor. He was one of the first in Alaska to hear the shocking news and immediately alerted the commander of Ladd Field right there in Fairbanks.

Having witnessed firsthand the impact broadcasting had on the lives of those who were living in Alaskan territory, Augie set out to bring the technology of television to what we call our great land. In 1953, Augie built Alaska's first television station, KTVA, bringing news, weather, sports, and entertainment to the people of Anchorage. Two years later, he broadcast the first television shows to Fairbanks when he built KTVF. Augie's TV stations brought history's defining events from around the globe into Alaska's living rooms. In 1969, Augie gave us the first live satellite broadcasts, and Alaskans from Fairbanks to Anchorage watched Neil Armstrong walk on the moon.

As Alaska's broadcast industry grew, so did Augie's family. He and his wife Pat raised four daughters.

During his long career in broadcasting, Augie served Alaska in many ways. He was the founder and president of the Alaska Broadcasters Association. When I was practicing law, I helped him form that association. Every year, Augie brought a group of Alaskan broadcasters to Washington for Alaska Day at the Federal Communications Commission, where he gave them a rare opportunity to speak on a one-to-one basis with commissioners about the unique challenges facing broadcasters in Alaska. But Augie's efforts to educate the FCC about Alaskan broadcasting didn't end there. He invited them, and the entire FCC at one time traveled to Alaska at his request.

In the early 1980s, Augie led the fight to preserve AM broadcast coverage in Alaska, which resulted in the creation of the class of the 1–N FCC category, a category just for our State of Alaska. Over the years, Augie introduced countless Alaskans to broadcasting and gave many their start in the industry. Though he officially retired in 1997, Augie remained committed to the future of broadcasting in Alaska, and until the day of his death, he was talking to me about the problem of white spaces in the current debate over new digital broadcasting.

He became a mentor to the students at Mirror Lake Middle School in Chugiak, AK, where he shared his enthusiasm for broadcasting and he helped students produce news programs for the school's closed-circuit television system, and they did that every morning before school started. He showed them how to prepare a morning show for their school. Augie brought leading professionals in the field of broadcasting to Mirror Lake to share their experiences and knowledge with these students. Today, the school operates a low-powered FM radio station which Augie helped build and license. It is the only class D low-powered radio license in the country issued to a school.

Rather than all of the firsts he achieved during his long career, Alaskans will remember Augie most as the man who made the Nation's largest State a little bit smaller. His efforts brought us closer to one another and closer to the rest of the world. Our thoughts and prayers are with Augie's daughters, their families, and all who loved him.

This man was a great American, a great Alaskan, and my great friend.

60TH ANNIVERSARY OF THE UNITED STATES AIR FORCE

Mr. DOMENICI. Mr. President, today I would like to pay tribute to the U.S. Air Force as it commemorates its 60th anniversary, known as ''Heritage to Horizons . . . Commemorating 60 Years of Air and Space Power.'' New Mexico has maintained a long and close relationship with the U.S. Air Force, and I am proud to congratulate the Air Force on its 60th anniversary.

New Mexico is home to Cannon, Holloman, and Kirtland Air Force Bases as well as the former Walker Air Force Base. We in New Mexico are honored and proud that so many Air Force officers and airmen, whose professionalism and dedication are unsurpassed, have called New Mexico home.

The fact that the Air Force is celebrating Air and Space Power is not lost on New Mexico, where work is done in both areas. Holloman will be a premier site of air power when the 49th Tactical Fighter Wing becomes home to the F–22A Raptor, the most advanced fighter in the world. Cannon is also undergoing changes and growth in the air power arena, as Air Force Special Operations Command stands up a new wing at Cannon on October 1. Kirtland continues to grow as home to much space work, including the Air Force Research Laboratory's Space Vehicle Directorate and the Operationally Responsive Space Office.

For the last 60 years, America has been protected by the greatest Air Force in the world. I salute the men and women of the Air Force and hope that on the Air Force's 60th anniversary, New Mexicans will take time to thank the officers and airmen who have served and honor the memory of those who have given their lives in our defense.

Mr. CRAPO. Mr. President, GEN H.H. ''Hap'' Arnold, USAF, once said, ''A modern, autonomous, and thoroughly trained Air Force in being at all times will not alone be sufficient, but without it there can be no national security.'' It is in the name of our national security that today I recognize the U.S. Air Force's 60th anniversary.

One hundred years ago, Henry H. ''Hap'' Arnold graduated from the U.S. Military Academy. That same year, in August 1907, the U.S. Army Signal Corps established an aeronautical division to oversee ''military ballooning, air machines and all kindred subjects.'' Arnold went on to become the Chief of the Army Air Corps, and, upon the creation of the U.S. Air Force as a separate branch of the military in 1947, a year after General Arnold's retirement, Congress appointed him to the rank of five star general—the first and only in the history of the Air Force.

The U.S. Air Force was created by Congress to ''be organized, trained, and equipped primarily for prompt and sustained offensive and defensive air operations.'' ''[It] shall be responsible for the preparation of the air forces necessary for the effective prosecution of war except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Air Force to meet the needs of war.'' Today, on the anniversary of the National Security Act of 1947, we celebrate 60 years of an independent Air Force. This independence was necessary and critical and remains so in order that, in the recent words of MG Charles J. Dunlap, Jr., the United States has ''one service that focuses on maximizing options for decision-makers by optimizing airpower.''

The U.S. Air Force, comprised of close to 700,000 Active Duty, civilian, Air National Guard, and Air Force reservists, plays a vital and instrumental role in the ongoing fight against terrorism and other emerging threats on

multiple fronts, from flying combat missions and conducting manned and unmanned surveillance to logistical ground support. Thirty-five thousand Air Force personnel are currently deployed to 120 duty stations worldwide, keeping freedom alive and the forces of tyranny at bay. Whether it is monitoring satellites in orbit or the space shuttle, delivering precision-guided munitions to air and ground targets or patrolling the far reaches of cyberspace, the USAF maintains strategic and operational dominance in theater and around the globe. Fighters, bombers, missiles, and unmanned aircraft are the unparalleled tools of today's airmen, tools they use with unmatched skill and lethal precision in defense of our freedom and liberties.

On a daily basis for over 4 years now, dozens of close air support missions—troop support, infrastructure protection, reconstruction activities and operations to deter and disrupt terrorist activities—are conducted by coalition forces in Iraq. The U.S. Air Force is responsible for the majority of these.

Sixty years of Air Force excellence and superiority has been possible only because of those who have voluntarily dedicated their lives to the success of U.S. air power. With the esteemed heritage of ''Hap'' Arnold and other distinguished and outstanding leaders in their hearts, the men and women of the USAF and their families serve our Nation with distinction, integrity, and patriotism. They approach their mission in the same spirit with which they swore their oath of allegiance: with a grave sense of duty, honor and bravery.

Idaho has been home to Mountain Home Air Force Base for over 60 years now. Over the past half century, Mountain Home AFB has hosted many diverse missions of the Air Force including special and covert operations, combat and reconnaissance operations, ballistic missile defense, electronic combat, and fighter operations. It is one of the largest employers in the State of Idaho.

The Gunfighters, as Mountain Home AFB personnel are known, deploy to fight terror in an integrated fashion, from the maintenance and piloting of F–15 Eagles, F–15E Strike Eagles, and F–16 Fighting Falcons to complementary support missions such as intelligence and communications. In the air campaign against the Taliban in Afghanistan, the Gunfighters flew almost 1,000 individual sorties.

In addition to executing its military mission, the Air Force recognizes its environmental responsibility to the communities in which it operates and has worked diligently over the years to be a good steward of Federal land in southern Idaho. I have worked with leadership at the base on many land management issues during my service in Congress. Further, the Air Force continues to respect Native-American cultural sensitivities and practices and works hard to do its part in maintaining a respectful relationship for the betterment of Shoshone-Paiute tribal interests as well as maintaining state of the art training for our airmen.

As a Nation, we are blessed to have such an outstanding, committed, and respectable military. The Air Force works intricately and effectively with the other military branches to skillfully execute the war on terror, specifically, but not limited to, military operations in Iraq and Afghanistan. Always innovative, the Air Force continues to look ahead, establishing itself as the dominant space defense force empowered and capable of facing new strategic global realities in an ever-changing global threat environment, ensuring its ability to respond to threats immediately and wherever they arise. Americans can be incredibly proud of and thankful for the sacrifice of their Air Force women and men worldwide. In the words of another famous former Chief of the Air Force, GEN Curtis LeMay, ''If we maintain our faith in God, love of freedom, and superior global air power, the future looks good.''

NEPAL'S FUTURE

Mr. LEAHY. Mr. President, there are times in virtually every country's history when years of underdevelopment and conflict give rise to opportunities to change course. Such times are rare, and such opportunities are too often missed.

I think of our Civil War, which caused so much loss of life and devastation. It preserved the Union, and it led to the emancipation of some 3 million African slaves. Nothing can diminish those achievements or the sacrifice of those who gave their lives. But instead of providing the former slaves with the equal rights to which they were entitled, until passage of the Civil Rights Act a century later African Americans suffered from racially discriminatory laws that kept them in an inferior status. The country remained bitterly divided because of it.

Nepal today faces its own historic choice.

For more than a decade, Nepal has been plagued by an internal armed conflict in which savage brutality was inflicted on impoverished civilians by Maoist insurgents and the Royal Nepal Army. Over 13,000 people died, mostly noncombatants, and virtually no one has been held accountable for those crimes.

For more than two centuries, Nepal has been a monarchy whose Kings, with rare exception, denied the rights and ignored the needs of their people who remain among the world's poorest. In February 2005, King Gyanendra, a narcissistic, arrogant autocrat, seized absolute power, jailed his opponents, and muzzled the press, only to relent in April 2006 in the face of mounting international pressure and the protests of thousands of courageous Nepali citizens.

Nepal's previous experiment with multiparty democracy during the 1990s had been disappointing. The leaders of the country's political parties distinguished themselves by amassing personal fortunes and doing little for the people.

But since the restoration of civilian government in April last year there has been impressive progress. A Comprehensive Peace Agreement was signed, Maoist combatants have gone into cantonments, the army has been confined to barracks, and the Maoists, until today, were part of the interim Government. The King has been stripped of all political power, although the ultimate fate of the monarchy has yet to be decided. The word ''royal'' has been eliminated from Government institutions, including the army. Elections for a Constituent Assembly to be held in June were postponed, but they have been rescheduled for November 22. The assembly is to draft a new constitution.

Also during this period, Nepal's ethnic minorities, women, and other groups who have long been persecuted and denied a voice have demanded equal rights and representation. This poses both challenges and opportunities for the Government.

The international community, including the United States, has supported the peace process directly and through our financial contributions to the United Nations which has performed key monitoring functions. Recently, the United States provided $3 million to purchase the ballots for the elections.

Much has transpired since April 2006, when I last spoke in this Chamber about political developments in Nepal. Today, just 65 days before Nepal's elections, I would like to address my brief remarks to the people of Nepal and to Nepal's political parties, including the Maoists.

On November 22, the people of Nepal will be presented with one of two options: They will either have a historic opportunity to create a legitimate, representative government which can only be achieved through a popular vote or they will be denied that opportunity. If the elections are held, Nepal will continue on a path that can bring its governmental institutions and its society into the modern age and begin to finally address the poverty and injustices that gave rise to the conflict. If they are denied, the Nepali people will likely see their country become more fragmented and ungovernable and more vulnerable to external influences over which they have little control.

Recent developments have been both encouraging and troubling. Perhaps that is to be expected in a country of multiple ethnic groups speaking some 93 languages that is struggling to transform itself.

The bombings in Kathmandu 3 weeks ago, other violent acts perpetrated by newly formed armed groups in the Terai and members of the Maoist young wing, the Young Communist League, and the Maoists decision to

withdraw from the Government illustrate the fragility of the process.

Moreover, the leaders of the Congress parties and the Maoists have done little to prepare for the elections. At times, party members have seemed more interested in furthering their own personal ambitions and in derailing the electoral process altogether. The leading party of the left, the UML, has done more to prepare. But all parties will need to promptly step up their election activities if voters are to have the informed choice they deserve.

On the positive side, the Election Commission deserves credit for a voter registration process that has reached Nepal's remotest villages. There is no doubt that the people are eager to go to the polls, just as they were determined to put an end to the King's abuse of power.

Over the past 3 years, I have observed the fortitude of the Nepali people's desire for peace, for justice, and for a meaningful voice in government. Their desire is shared and admired by the American people.

To the Maoists, I would say that it was you who called for a Constituent Assembly. Saying you are committed to the democratic process at the same time that you withdraw from the Government, make new demands that contradict previous commitments, support disruptive economic strikes, and threaten to return to confrontation is not the way to earn the people's trust and support that are necessary to become an effective force for change. Nor is it the way to earn the trust of the United States.

I have campaigned for elective office five times over more than 30 years, and I know something about earning the people's trust and support. It does not come from dogmatic speeches or lofty party platforms or manifestos. It does not come from saying one thing and then doing the opposite. It certainly does not come through the use of violence, threats, and extortion. It comes by showing that you deserve the people's trust and support. There is no better way to begin that process than to seize this opportunity and show the people that you can make the government work for them.

History is replete with examples of armed groups that achieved popular legitimacy through the democratic process. If the Maoists win seats through free and fair elections, uphold the commitments they have made in the Comprehensive Peace Agreement and other agreements, and devote themselves to working for change peacefully, I am confident the United States will treat them as rightful members of the elected Constituent Assembly or of the Government. We may disagree with their positions on some issues but not about their right to serve in Government and to advocate for those positions.

I know the Maoists are looking to the United States to lift our restrictions on their party and its leaders and to remove them from our list of terrorist organizations. In order for that to happen, the Maoists need to take unequivocal, positive steps. The cases of the murdered Nepali security guards need to be satisfactorily resolved. The party's resumption of land seizures and the reopening of so-called people's courts are steps in the wrong direction.

To the other political parties in Government, I would say that it is time to make good on your commitments. Not only the Maoists but traditionally marginalized groups as well are increasingly skeptical that the Government is serious about delivering on its key commitments to the peace process, whether downsizing and reforming the army, supporting land reform, or creating jobs and opportunities for minority groups that have long been disadvantaged and ignored. While those groups should pursue their grievances through a vigorous election campaign, not through obstruction of the democratic process, the failure of the parties to govern and match rhetoric with action threatens the elections, as does the Maoists' saber rattling.

The leaders of Nepal's political parties know that the power of holding office comes with responsibilities, and the spotlight is on them. Lasting legitimacy comes not only through the ballot box but in the day-to-day ability to honor commitments and improve the lives of all citizens. This is their chance to put the Nepali people and their country first, by showing that they believe in effective, accountable government. If they do not, the United States, and I suspect many other countries, will no longer afford them the legitimacy they will need for our continued support.

Mr. President, Nepal's path to the future may be decided in the waning months of this year. Although a small country wedged between two emerging giants, Nepal is unique in more ways, more beautiful ways, than most other countries its size. Today, the United States—Congress and the Executive—are united in our desire to help Nepal become a democracy whose Government is representative of Nepal's remarkably diverse population and where the fundamental rights of all people are respected.

REPRESENTATIVE PIGNATELLI TAKES ON KATRINA

Mr. KENNEDY. Mr. President, I welcome this opportunity to commend my friend and colleague in Massachusetts, State representative William Pignatelli, who represents the fourth Berkshire district. In addition to his tireless dedication to the people of western Massachusetts, Smitty, as we all call him, has also shown his extraordinary commitment to public service by going far above and beyond the call of duty to help people in New Orleans devastated by Hurricane Katrina.

During a trip to New Orleans last December, Smitty met Stanley Stewart and his family of 12, who had just moved into a FEMA trailer after 16 horrific months of suffering. The family had been rescued from the second-floor balcony of their home in the city after spending 2 days without food, water, and plumbing.

Distressed by the plight of Stanley and his family, Smitty decided to help them rebuild their home and has already made a number of trips to New Orleans to do what he can. Now he has decided to spend his fall vacation in New Orleans to finish the job. On September 30, he will be taking a group of volunteer builders from the Berkshires to New Orleans to do so. With these generous acts of kindness, Smitty has shown us extraordinary dedication to those less fortunate.

As my brother Robert F. Kennedy said, ''Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current which can sweep down the mightiest of oppression and resistance.''

I commend Smitty for the remarkable ripple of hope he is sending forth. A recent article in the Berkshire Eagle describes this amazing chapter in Smitty's life. I believe the article will be of interest to all my colleagues in the Senate, and I ask unanimous consent to have the article printed in the RECORD.

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

[From the Berkshire Eagle, Sept. 3, 2007]

PIGNATELLI WILL TAKE ON KATRINA AGAIN

(By Derek Gentile)

LENOX.—State Rep. William ''Smitty'' Pignatelli admitted yesterday that he understands that he cannot repair all the problems that beset many of the folks in New Orleans affected by Hurricane Katrina.

But he and a group of contractor friends and constituents are going to try to fix a very small corner of that world.

Pignatelli and a small army of local builders will be heading down to New Orleans on Sept. 30 to repair and rebuild the home of New Orleans native Stanley Stewart, whose house was one of the tens of thousands of homes devastated by the 2005 hurricane.

''This is going to be the Berkshire County version of (the television show) 'Extreme Home Makeover,''' Pignatelli said.

This will be Pignatelli's fourth trip to New Orleans. He said he has been appalled by the damage he has seen.

''When you go down there, and see the damage that is still in evidence, you feel ashamed of the government responsible for this,'' he said.

But he is also heartened constantly by the way people from other parts of the country have come to try to help the survivors.

Pignatelli met Stewart, who lives in the lower ninth ward of New Orleans, last December, while on one of his first trips to the beleaguered city. Eventually, he learned that Stewart and his family lost their home in the hurricane and were living in a FEMA trailer ''maybe a little bit bigger than my SUV,'' Pignatelli said.

Resolving to help the family, he has made several trips to New Orleans since with other

builders, basically gutting the two-story home and preparing it for renovation. A few months ago, they put a roof on the house.

Now, he said, the volunteer force he assembled is ready to rebuild the rest of the structure.

''We're going to try to do it in seven days,'' he said.

The companies that are sending workers are Pignatelli Electric (run by brother Scott) and Don Fitzgerald Carpentry of Lenox; Comalli Electric, Cardillo Plumbing electrician Jim Sorrentino and Fabino Drywall of Pittsfield; Doug Trombley Windows and Moran Mechanical of Lee; and carpenter Dan Sartori of West Stockbridge.

In addition, Granite City Electric of Pittsfield donated much of the electrical equipment, Scott's Carpet One of Pittsfield donated the kitchen cabinets and bathroom vanities, and Pam Sandler Architects of Stockbridge donated the blueprint.

All are volunteers, Pignatelli said.

Pignatelli himself sent a letter to many of his supporters asking that, instead of giving to his annual Aug. 31 fundraiser, they donate to the project. To date, he has raised $25,000 for materials, lodging and transportation for the volunteer crew, he said.

''It's not often a politician puts aside political ambition like this,'' said one of his supporters, Rachel Fletcher of Great Barrington. ''It's commendable.''

Don Fitzgerald was one of the carpenters who went down the last time to help with the roof.

''I was on top of the roof, looking around at all the other houses in the neighborhood, and I thought, 'Man, these guys got whacked,' '' he said.

He said he met Stewart, ''and I want to help the guy. He's a good son of a gun.''

As to whether or not the crew can finish the house in one week, Fitzgerald was confident.

''In a week? We're gonna kick the hell out of it,'' he said.

INCAN ARTIFACTS AGREEMENT

Mr. DODD. Mr. President, I rise today to commend Yale University and the Government of Peru on their agreement to settle a 6-year-long dispute over Incan artifacts.

Nearly 100 years ago, Yale history professor Hiram Bingham made a historic archeological discovery near the famed Incan city of Machu Picchu. His find, which included over 300 artifacts, featuring rare examples of jewelry and ceramic pottery, helped bring worldwide attention to the rich culture of the Incan peoples. For the past 95 years, these artifacts, which were claimed by the Peruvian Government, have been in the possession of Yale University.

The landmark agreement, reached on September 14, 2007, between Yale University and the Government of Peru, which includes the creation of a traveling international exhibition featuring these priceless historical artifacts, is a symbol of both parties' dedication to international cooperation and scholarship. I applaud Yale University and the Peruvian Government for finding a compromise that will allow scholars, students, and interested people from across the globe and from all walks of life to enjoy these splendid cultural artifacts for generations to come.

ADDITIONAL STATEMENTS

TRIBUTE TO DR. MARTIN D. ABELOFF

● Mr. CARDIN. Mr. President, I wish to commemorate the life of Dr. Martin Abeloff, a leader in Maryland's health care community who passed away last Thursday, September 14, 2007. Our State and our Nation have lost a phenomenally gifted doctor who was also a pioneer in the fight against cancer. Tragically, his life was taken by the disease he dedicated his career to fighting.

Dr. Martin Abeloff was an internationally recognized oncologist who for 15 years led the Johns Hopkins Kimmel Cancer Center, one of America's premier cancer research and treatment centers.

During his tenure as cancer center director, Dr. Abeloff doubled the size of the center's facility, helped increase research funding sixfold, and expanded facilities to nearly 1 million square feet of treatment and research space. Under his leadership, some of the most salient findings in cancer genetics and cancer cell biology were realized and have begun to be translated into patient care.

Foremost a humanitarian, Dr. Abeloff was an activist who worked diligently to get clinical trials legislation passed in Maryland to ensure that cancer patients have access to state-of-the-art therapies. A staunch advocate for tobacco control, he led the Maryland Cigarette Restitution Fund initiatives at Johns Hopkins supporting research and cancer prevention outreach to benefit poor and underserved communities burdened by disproportionately high cancer death rates.

A trusted authority and adviser, Abeloff had served as president of the American Society of Clinical Oncology, ASCO, chairman of the FDA Oncology Drug Advisory Committee, and he had been a member of the National Cancer Institute Executive Committee.

He is remembered by his colleagues and friends across the globe for his characteristic humility, wry sense of humor, extraordinary devotion to his patients and students, and the collaborative spirit he nurtured in his long tenure at Johns Hopkins, where he spent most of his career.

Dr. Edward Miller, the CEO of Johns Hopkins Medicine, described Abeloff as an ''iconic Hopkins physician, scientist, educator, leader, and good citizen rolled into one.''

I wish to express my condolences to Dr. Abeloff's family and to the Johns Hopkins community, which will also miss him greatly. I ask my colleagues to join me in remembering him today.●

THE 50TH ANNIVERSARY OF EASTERN NEW MEXICO UNIVERSITY-ROSWELL

● Mr. DOMENICI. Mr. President, I wish to recognize Eastern New Mexico University-Roswell for reaching its gold anniversary of 50 years. When the branch was established 50 years ago, founders probably only dreamed it would still be thriving well into the 21st century.

ENMU–R started out as Roswell Community College, only offering night classes 50 years ago. Through the last half century, they have continued to grow and expand into an established branch of Eastern New Mexico University. Most recently, they have opened an expansive housing complex with dormitory rooms as well as apartments for students. The university branch is adding program offerings every year. To date, they offer 70 different certificate and associate degrees. ENMU–R continues to be a great place to learn and experience the college life.

To celebrate the anniversary, the university has planned several events throughout the fall. Events include free concerts, parades, festivals, and even a golf tournament, with the kick off event being a hot air balloon rally held in late August.

I join with ENMU–R in celebrating this momentous milestone. I look forward to at least 50 more years of providing quality education to thousands of students.●

● Mr. CHAMBLISS. Mr. President, I wish to encourage my colleagues to join Senator ISAKSON and me in support of the 2007 Senior League World Series Champions, the Senior League team of Cartersville, GA.

On August 18, 2007, the Senior League team from Cartersville, GA, defeated the defending World Series champions of Falcon, Venezuela, by a score of 9 to 0 after Chris Huth pitched a complete game one-hitter. This victory concluded their impressive season with a record of 30 wins and only 2 losses.

I would like to recognize the 14 young men of the Cartersville Senior League team individually for their great accomplishment: Garison Boston, Ben Bridges, Trey Dickson, Brad Green, Taylor Greene, Tyler Higgins, Chris Huth, Tyler Linn, Levi Mauldin, Colton Montgomery, Cole Payne, Zack Philliber, Hank Stewart, and Tyler Williams. Their manager Eric Stewart and coaches Jeff Payne and Mark Montgomery each deserve strong recognition for guiding these young players to victory.

Moreover, I would be remiss if I did not recognize the teachers and students of these young men's schools, the fans who represented their community, and the State of Georgia for their enthusiasm and support.

It is with great pride that I extend my heartfelt congratulations to the Cartersville Senior League team and their families. I am extremely proud of each of them and their accomplishments. I wish them great success in the future and urge my colleagues to join Senator ISAKSON and me in congratulating them on this great accomplishment.●

LOSS OF RAUL HILBERG

● Mr. SANDERS. Mr. President, the State of Vermont has lost one of its greatest scholars, Raul Hilberg. I wish to honor this remarkable man, the central figure in the founding and establishment of Holocaust studies, not just in the United States, but in the world. It is fitting that he was also a central contributor to the establishment and development of the U.S. Holocaust Museum.

So horrific were the events of the Holocaust that for many years scholars avoided the subject. Not Raul Hilberg. Born in Vienna, Austria, he and his family fled the Anschluss of Hitler and the Nazis to emigrate, first to Cuba, and ultimately to the United States. While in Cuba, he saw the fate of the S.S. St. Louis, a ship full of Jews who had fled Germany seeking asylum. The ship was denied permission to land in Havana, and only after a long voyage from port to port were its 936 Jewish passengers finally allowed to disembark in several European countries.

In the United States, Hilberg served in the Infantry of the U.S. Army. Upon his return to this country he did graduate work at Columbia University, where he received a Ph.D. under the tutelage of Franz Neumann. His doctoral thesis was on the Holocaust: he took careful and copious notes on Nazi documents seized by the U.S. Army, transcribing the information he uncovered on index cards. Then he sat at a small table in his parents' apartment and wrote his thesis on the basis of those cards. That thesis was the kernel of the greatest scholarly work ever written on the Holocaust.

In 1956, Raul Hilberg became an assistant professor of political science at the University of Vermont. He later became professor and chairman of that department. He remained at U.V.M. for the rest of his career until his retirement in 1991, despite many enticements to go to major research universities, sustained in his academic life by his friends Jay Gould, Stan Staron, and Sam Bogorad. He was a great teacher. One of his colleagues remembers attending his course on the Holocaust: ''His words came out in perfectly structured paragraphs, eloquent with a quiet gravity, so compelling that every student in the class was transfixed from the moment Raul began speaking until the bell rang for the end of class.''

In 1961, Raul Hilberg's magisterial ''The Destruction of the European Jews'' was published, but only after rejections from many publishers. Even Yad Vashem rejected the manuscript because some scholars disagreed with Hilberg's perspective. Thereafter revised and updated in succeeding editions, the book was then, and has remained, the most important, the most seminal, work on the Holocaust. It, more than any other scholarly work, was responsible for the creation of what we know today as the field of Holocaust Studies.

The great documentary filmmaker, Claude Lanzmann, spoke recently of his discovery of Hilberg's book, which occurred as he was considering making the film that was to become ''Shoah.'' ''It took me months to get through this formidable, magnificent, monstrous book. Hilberg was a man of details, and that is what I especially liked. The first time he appears in ''Shoah'' he says, 'All along, during my work, I never began with the big questions because I feared inadequate answers.''' Lanzmann continues, ''He laid bare the implacable mechanism of what he held to be a bureaucratic process of destruction. From the moment the German bureaucracy made its object, it could only go all the way, as through carried by its own logic.''

Hilberg published other important books, among them ''Perpetrators, Victims, Bystanders'' and a memoir, ''The Politics of Memory.'' He edited ''The Warsaw Diaries of Adam Czerniakov,'' which was translated by his colleague, Stanislaw Staron.

But he was not just a scholar in an archive. As one of the Senate's representatives on the U.S. Holocaust Memorial Council, I am very aware of his work in the public sphere, work which richly supplemented his great contributions as an academic scholar. An original member of the President's Commission on the Holocaust, Raul Hilberg, played a central role in the founding of the U.S. Holocaust Museum. He then served on the U.S. Holocaust Memorial Council from 1980 through 1988, and further served on the Museum's Academic Committee from its inception through 2005.

His friend, Michael Berenbaum recently wrote this about his involvement with our Nation's great memorial to the ''Shoah'': ''For his work with the U.S. Holocaust Memorial Museum, Hilberg never once accepted remuneration, even when others were paid for their work. He was a consistent, gracious and insisting presence demanding the highest of standards of others and measuring up to them himself.'' In his honor, the museum has established the Raul Hilberg Scholarship.

For his great scholarly and public accomplishments, Raul Hilberg was named a Fellow of the American Academy of Arts and Sciences in 2005.

An enthralling and inspiring teacher, Raul Hilberg will be missed by many generations of students at the University of Vermont. The absence of his deep knowledge and unsparing honesty leaves the world of Holocaust studies bereft of its presiding genius. And his passing leaves a great loss in the lives of his wife, Gwendolyn and his children, David and Deborah.

Raul Hilberg's work, however, which so carefully details the bureaucracy of annihilation, will live on to serve as a constant reminder of the responsibilities that we have, as citizens and as individuals, for the sufferings of others.●

COMMEMORATING THE RETIREMENT OF HANCEL PORTERFIELD

● Mr. AKAKA. Mr. President, today I wish to congratulate Mr. Hancel Porterfield on his retirement from Federal service on September 30, 2007, as the Corrosion Prevention and Control Program Manager for the Marine Corps. Hank, as he is known, along with a handful of staff, has been instrumental in giving new direction and cohesion to the Marine Corps' efforts to combat corrosion. Since being hired as the first Program Manager for USMC CPAC, Mr. Porterfield has been instrumental in completely changing the direction of CPAC from a study program administered by the Naval Surface Warfare Command, NSWC, to a program serving the warfighter at the Marine Expeditionary Force, MEF, level.

Not only has Mr. Porterfield created a full service program with a workforce of 95 people from Camp Lejeune to Okinawa in just 3½ years, Mr. Porterfield also established a research and development arm to examine new products, procedures, and methods for reducing corrosion. Recently, I had occasion to participate in a ribbon-cutting ceremony for a U.S. Marines Corps corrosion prevention and control complex in Kaneohe Bay, HI, and had the privilege of meeting Mr. Porterfield in person. I was impressed by his dedication to duty and his service and leadership in launching the USMC CPAC Program.

I would like to express my deepest appreciation and warmest aloha to Mr. Porterfield. In government we all hope one person can make a difference. I think Mr. Porterfield is one person who has made a difference and leaves behind a legacy of success. Best wishes Hank for a long and enjoyable retirement.●

TRIBUTE TO COBB COUNTY, GEORGIA PUBLIC SAFETY PERSONNEL

● Mr. ISAKSON. Mr. President, on October 1, 2007, the Cobb Chamber of Commerce will hold its Public Safety Recognition Awards breakfast, and I wish to express my heartfelt gratitude and appreciation for all public safety personnel in my home county of Cobb.

Our public safety officers and personnel make the difference in ensuring that we are able to go about our daily routines, get a good night's sleep, and enjoy the many freedoms we have in our country today because we don't have to constantly fear for our well-being. For this, I believe I am representing not only my Cobb County constituents, but all Georgians when I say thank you to all of our public safety personnel.

Whether they are the dispatcher answering the telephone, an officer on the street, an undercover agent living in dirty and dangerous conditions to obtain needed information or an assistant at a desk, they all work as a team to keep me safe, my family safe, and Cobb County safe.

In addition to the daily requirements of basic safety, they go above and beyond by helping to educate our citizens and young people through special programs in schools, such as Partners in Education, and throughout the community to help fight crime and keep folks off drugs.

As we recently observed the sixth anniversary of the September 11 attacks on our Nation, we are reminded of the great lengths our public safety personnel and first responders go to in order to keep us safe. Cobb County's public safety personnel—our police, firefighters and emergency medical professionals—have answered the extraordinary call to serve their county and risk their lives to keep our community safe. They are America's first line of defense, and they are our true American heroes.●

CONGRATULATING THE CARTERSVILLE SENIOR LEAGUE TEAM

● Mr. ISAKSON. Mr. President, I wish to honor in the RECORD the Senior League team of Cartersville, GA, on their victory in the 2007 Senior League World Series.

These fine young men played outstanding baseball through the entire tournament, but in the World Series Championship game, they soared and played like true professionals. In their final game, Chris Huth pitched a complete game one-hitter and Cole Montgomery hit a three-run home run to lead their team to a dominating victory over the defending champion Falcon, Venezuela.

These are special young men: Garison Boston, Ben Bridges, Trey Dickson, Brad Green, Taylor Greene, Tyler Higgins, Chris Huth, Tyler Linn, Levi Mauldin, Colton Montgomery, Cole Payne, Zack Phillliber, Hank Stewart, and Tyler Williams. The men have brought great pride to their State, great pride to their parents, and great pride to the great city of Cartersville, GA.

Their manager Eric Stewart and coaches Jeff Payne and Mark Montgomery each deserve strong recognition for guiding these young players to victory.

I am pleased to join Senator CHAMBLISS in acknowledging the great achievement of these young men and to extend my deepest congratulations to the 2007 Senior League World Series Champions, the Senior League team of Cartersville, GA.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:35 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 954. An act to designate the facility of the United States Postal Service located at 365 West 125th Street in New York, New York, as ''Percy Sutton Post Office Building''.

H.R. 3218. An act to designate a portion of Interstate Route 395 located in Baltimore, Maryland, as ''Cal Ripken Way''.

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1154. An act to award a Congressional Gold Medal to Michael Ellis DeBakey, M.D.

H.R. 1657. An act to establish a Science and Technology Scholarship Program to award scholarships to recruit and prepare students for careers in the National Weather Service and in National Oceanic and Atmospheric Administration marine research, atmospheric research, and satellite programs.

H.R. 3527. An act to extend for two months the authorities of the Overseas Private Investment Corporation.

H.R. 3528. An act to provide authority to the Peace Corps to provide separation pay for host country resident personal services contractors of the Peace Corps.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1657. An act to establish a Science and Technology Scholarship Program to award scholarships to recruit and prepare students for careers in the National Weather Service and in National Oceanic and Atmospheric Administration marine research, atmospheric research, and satellite programs; to the Committee on Commerce, Science, and Transportation.

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 Mrs. CLINTON (for herself and Mr. KENNEDY):

S. 2059. A bill to amend the Family and Medical Leave Act of 1993 to clarify the eligibility requirements with respect to airline flight crews; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FEINGOLD (for himself, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. DODD, and Mr. OBAMA):

S. 2060. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a Volunteer Teacher Advisory Committee; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mrs. MURRAY, Mr. DODD, Mrs. CLINTON, Mr. OBAMA, Mrs. BOXER, Mr. SCHUMER, Ms. CANTWELL, and Mr. CASEY):

S. 2061. A bill to amend the Fair Labor Standards Act of 1938 to exempt certain home health workers from the provisions of such Act; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DORGAN (for himself, Mr. REID, Ms. MURKOWSKI, Mr. INOUYE, Mr. JOHNSON, Ms. CANTWELL, Mr. TESTER, Mr. BINGAMAN, and Mr. DOMENICI):

S. 2062. A bill to amend the Native American Housing Assistance and Self-Determination Act of 1996 to reauthorize that Act, and for other purposes; to the Committee on Indian Affairs.

By Mr. CONRAD (for himself and Mr. GREGG):

S. 2063. A bill to establish a Bipartisan Task Force for Responsible Fiscal Action, to assure the economic security of the United States, and to expand future prosperity and growth for all Americans; to the Committee on the Budget.

By Mr. DURBIN:

S. 2064. A bill to fund comprehensive programs to ensure an adequate supply of nurses; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. MURRAY:

S. 2065. A bill to provide assistance to community health coalitions to increase access to and improve the quality of health care services; to the Committee on Health, Education, Labor, and Pensions.

By Mr. OBAMA:

S. 2066. A bill to establish nutrition and physical education standards for schools; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MARTINEZ (for himself, Mr. BURR, Mr. LOTT, Mrs. DOLE, Mr. ISAKSON, Mr. BUNNING, and Mr. CORNYN):

S. 2067. A bill to amend the Federal Water Pollution Control Act relating to recreational vessels; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DURBIN:

S. Res. 319. A resolution expressing the sense of the Senate regarding the United States Transportation Command on its 20th anniversary; to the Committee on Armed Services.

By Mr. BIDEN (for himself, Mr. LUGAR, and Mr. CARDIN):

S. Res. 320. A resolution recognizing the achievements of the people of Ukraine in pursuit of freedom and democracy, and expressing the hope that the parliamentary elections on September 30, 2007, preserve and extend these gains and provide for a stable and representative government; to the Committee on Foreign Relations.

By Mr. ENZI (for himself, Mr. NELSON of Nebraska, Mr. THUNE, Mr. MARTINEZ, Mr. DOMENICI, Mr. BINGAMAN, Ms. MURKOWSKI, Mr. ALLARD, Mr. CRAPO, Mr. ISAKSON, Mr. GRAHAM, Mr. ROBERTS, Mr. TESTER, Mr. SALAZAR, Mr. BROWNBACK, Mr. BROWN, and Mrs. LINCOLN):

S. Con. Res. 47. A concurrent resolution recognizing the 60th anniversary of the United States Air Force as an independent military service; to the Committee on Armed Services.

ADDITIONAL COSPONSORS

S. 156

At the request of Mr. MCCAIN, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 156, a bill to make the moratorium on Internet access taxes and multiple and discriminatory taxes on electronic commerce permanent.

S. 185

At the request of Mr. LEAHY, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 185, a bill to restore habeas corpus for those detained by the United States.

S. 338

At the request of Mr. CONRAD, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 338, a bill to amend title XVIII of the Social Security Act to ensure and foster continued patient quality of care by establishing facility and patient criteria for long-term care hospitals and related improvements under the Medicare program.

S. 469

At the request of Mr. BAUCUS, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 469, a bill to amend the Internal Revenue Code of 1986 to make permanent the special rule for contributions of qualified conservation contributions.

S. 573

At the request of Ms. STABENOW, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 573, a bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women.

S. 626

At the request of Mr. KENNEDY, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 626, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 638

At the request of Mr. ROBERTS, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 638, a bill to amend the Internal Revenue Code of 1986 to provide for collegiate housing and infrastructure grants.

S. 819

At the request of Mr. DORGAN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 819, a bill to amend the Internal Revenue Code of 1986 to expand tax-free distributions from individual retirement accounts for charitable purposes.

S. 911

At the request of Mr. REED, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 911, a bill to amend the Public Health Service Act to advance medical research and treatments into pediatric cancers, ensure patients and families have access to the current treatments and information regarding pediatric cancers, establish a population-based national childhood cancer database, and promote public awareness of pediatric cancers.

S. 935

At the request of Mr. NELSON of Florida, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 935, a bill to repeal the requirement for reduction of survivor annuities under the Survivor Benefit Plan by veterans' dependency and indemnity compensation, and for other purposes.

S. 988

At the request of Ms. MIKULSKI, the names of the Senator from California (Mrs. BOXER) and the Senator from Minnesota (Ms. KLOBUCHAR) were added as cosponsors of S. 988, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

S. 1239

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1239, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit through 2013, and for other purposes.

S. 1418

At the request of Mr. DODD, the name of the Senator from Pennsylvania (Mr. CASEY) was added as a cosponsor of S. 1418, a bill to provide assistance to improve the health of newborns, children, and mothers in developing countries, and for other purposes.

S. 1430

At the request of Mr. OBAMA, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1430, a bill to authorize State and local governments to direct divestiture from, and prevent investment in, companies with investments of $20,000,000 or more in Iran's energy sector, and for other purposes.

S. 1459

At the request of Mr. MENENDEZ, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of S. 1459, a bill to strengthen the Nation's research efforts to identify the causes and cure of psoriasis and psoriatic arthritis, expand psoriasis and psoriatic arthritis data collection, study access to and quality of care for people with psoriasis and psoriatic arthritis, and for other purposes.

S. 1465

At the request of Mr. CONRAD, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1465, a bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare program of certain medical mobility devices approved as class III medical devices.

S. 1515

At the request of Mr. BIDEN, the names of the Senator from Indiana (Mr. BAYH) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 1515, a bill to establish a domestic violence volunteer attorney network to represent domestic violence victims.

S. 1518

At the request of Mr. REED, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 1518, a bill to amend the McKinney-Vento Homeless Assistance Act to reauthorize the Act, and for other purposes.

S. 1638

At the request of Mr. LEAHY, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1638, a bill to adjust the salaries of Federal justices and judges, and for other purposes.

S. 1708

At the request of Mr. DODD, the names of the Senator from California (Mrs. BOXER) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1708, 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. 1760

At the request of Mr. BROWN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. 1760, a bill to amend the Public Health Service Act with respect to the Healthy Start Initiative.

S. 1843

At the request of Mr. KENNEDY, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 1843, a bill to amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967 to clarify that

an unlawful practice occurs each time compensation is paid pursuant to a discriminatory compensation decision or other practice, and for other purposes.

S. 1895

At the request of Mr. REED, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Maryland (Mr. CARDIN) were added as cosponsors of S. 1895, a bill to aid and support pediatric involvement in reading and education.

S. 1944

At the request of Mr. LAUTENBERG, the names of the Senator from North Carolina (Mr. BURR) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 1944, a bill to provide justice for victims of state-sponsored terrorism.

S. 1958

At the request of Mr. CONRAD, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1958, a bill to amend title XVIII of the Social Security Act to ensure and foster continued patient quality of care by establishing facility and patient criteria for long-term care hospitals and related improvements under the Medicare program.

S. 1984

At the request of Mr. KYL, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 1984, a bill to strengthen immigration enforcement and border security and for other purposes.

S. 2049

At the request of Mr. KENNEDY, the names of the Senator from Missouri (Mrs. MCCASKILL), the Senator from Pennsylvania (Mr. CASEY) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 2049, a bill to prohibit the implementation of policies to prohibit States from providing quality health coverage to children in need under the State Children's Health Insurance Program (SCHIP).

S. CON. RES. 45

At the request of Mr. CARDIN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Con. Res. 45, a concurrent resolution commending the Ed Block Courage Award Foundation for its work in aiding children and families affected by child abuse, and designating November 2007 as National Courage Month.

S. RES. 106

At the request of Mr. DURBIN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Res. 106, a resolution calling on the President to ensure that the foreign policy of the United States reflects appropriate understanding and sensitivity concerning issues related to human rights, ethnic cleansing, and genocide documented in the United States record relating to the Armenian Genocide.

S. RES. 315

At the request of Mr. CORNYN, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. Res. 315, a resolution to express the sense of the Senate that General David H. Petraeus, Commanding General, Multi-National Force-Iraq, deserves the full support of the Senate and strongly condemn personal attacks on the honor and integrity of General Petraeus and all the members of the United States Armed Forces.

S. RES. 316

At the request of Mr. REED, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Res. 316, a resolution designating the week of October 21 through October 27, 2007 as ''National Childhood Lead Poisoning Prevention Week.''

AMENDMENT NO. 2000

At the request of Mr. NELSON of Florida, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of amendment No. 2000 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2057

At the request of Mr. FEINGOLD, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of amendment No. 2057 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2072

At the request of Mrs. LINCOLN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of amendment No. 2072 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2074

At the request of Mrs. LINCOLN, the name of the Senator from Maryland (Mr. CARDIN) was added as a cosponsor of amendment No. 2074 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2313

At the request of Mr. LEVIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of amendment No. 2313 proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2335

At the request of Mr. BIDEN, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from Pennsylvania (Mr. CASEY), the Senator from Ohio (Mr. BROWN), the Senator from Vermont (Mr. SANDERS) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 2335 intended to be proposed to H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FEINGOLD (for himself, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. DODD, and Mr. OBAMA):

S. 2060. A bill to amend the Elementary and Secondary Education Act of 1965 to establish a Volunteer Teacher Advisory Committee; to the Committee on Health, Education, Labor, and Pensions.

Mr. FEINGOLD. Mr. President, I am today introducing the Teachers at the Table Act of 2007. This bill is the Senate companion to legislation introduced in the House of Representatives earlier this year by Representative CAROLYN MCCARTHY of New York and Representative LEE TERRY of Nebraska. I am pleased this legislation is cosponsored by my colleagues, Senator JOSEPH LIEBERMAN of Connecticut, Senator BLANCHE LINCOLN of Arkansas, and Senator CHRISTOPHER DODD of Connecticut.

This legislation would create a Volunteer Teacher Advisory Committee to advise Congress and the Department of Education on the impact of No Child Left Behind, NCLB, on students, their families, and the classroom learning environment. The teachers serving on this Committee would be chosen from past or present state or national Teachers of the Year and would be competitively selected by the Secretary of Education and the majority and minority leaders of both the U.S. Senate and the House of Representatives.

Every year I travel to each of Wisconsin's 72 counties to hold a listening session to listen to Wisconsinites concerns and answer their questions. Since NCLB was enacted in early 2002, education has rated as one of the top issues brought up at my listening sessions. I have received feedback from constituents about the noble intentions of NCLB, but I have also heard

about the multitude of implementation problems with the law's provisions. The feedback from teachers, parents, school administrators, and school board members has been invaluable over the past 5 years and yesterday, I introduced the Improving Student Testing Act of 2007 in response to some of that feedback.

The Teachers at the Table bill I am introducing today seeks to help ensure that Congress and the Department of Education receive high-quality yearly feedback on how NCLB is impacting classroom learning around the country. The teachers who will serve on the committee will be competitively chosen from past and present Teachers of the Year, who represent some of the best that teaching has to offer. The bill would create a committee of twenty teachers, with four selected by the Secretary of Education and four selected by each of the majority and minority leaders in the U.S. Senate and House of Representatives. These teachers would serve 2-year terms on the advisory committee and would work to prepare annual reports to Congress as well as quarterly updates on the law's implementation.

Every State and every school district is different and this legislation ensures that the teacher advisory committee will represent a wide range of viewpoints. The bill specifies that the volunteer teacher advisory committee should include teachers from diverse geographic areas, teachers who teach different grade levels, and teachers from a variety of specialty areas. Creating a diverse committee will help ensure that the committee presents a broad range of viewpoints on NCLB to Congress and the Department of Education.

Much work needs to be done this fall to reform many of the mandates of NCLB and I look forward to working with my colleagues during the reauthorization to make those necessary changes. One thing is certain—whatever form the reauthorized NCLB takes, there will be a need for consistent feedback from a diverse range of viewpoints.

We need to ensure that the voices of students, educators, parents, and administrators, who are on the frontlines of education reform in our country, are heard during the reauthorization of NCLB this fall and going forward during the reauthorized law's implementation in years to come. This bill seeks to help address that need by enlisting the service of some of America's best teachers in providing information to Federal education policymakers. The advisory committee created by this legislation will provide nationwide feedback and will allow Congress to hear about NCLB directly from those who deal with the law and its consequences on a daily basis.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mrs. MURRAY, Mr. DODD, Mrs. CLINTON, Mr. OBAMA, Mrs. BOXER, Mr. SCHUMER, Ms. CANTWELL, and Mr. CASEY):

S. 2061. A bill to amend the Fair Labor Standards Act of 1938 to exempt certain home health workers from the provisions of such Act; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I have come to the floor, today, to introduce the Fair Home Health Care Act of 2007 to recognize the extraordinary value of the services that home health care workers perform. This legislation is in response to a Supreme Court decision in June that ruled that home care workers are not entitled to the protections provided by the Fair Labor Standards Act.

At the center of that case was a 73-year-old retiree named Evelyn Coke, who spent some two decades of her life cooking, bathing, feeding, and caring for the everyday medical needs of people who cannot take care of themselves. Today, Evelyn Coke suffers from kidney failure. But despite 20 years of working more than 40 hours a week, she can't afford a home health care worker to take care of her. She sued her employer for not paying time-and-a-half pay for all those hours that she worked overtime but was denied premium pay by way of compensation. Unfortunately, Evelyn Coke lost her case before the Court because of an outdated exemption to the Federal minimum wage and overtime laws.

In 1974, Congress expanded the Fair Labor Standards Act, FLSA, include protections for most domestic workers, such as chauffeurs and housekeepers. However, a narrow exemption was created for employees providing ''companionship services'' to seniors and people with disabilities. At that time, home care, like babysitting, was largely provided by neighbors and friends.

In the three decades since the exemption was created, the numbers of home care workers and their responsibilities have expanded dramatically as the population has aged and more and more people are choosing long-term health care services in their homes rather than in institutions. There are more than 1 million home care workers in the U.S. They provide physically and emotionally demanding and often life-sustaining care for the elderly and disabled still living in their own homes.

This bill brings together two issues that are very close to my heart—on the one hand, independent living and quality of life for seniors and people with disabilities, and, on the other hand, the basic rights of American workers to premium pay for overtime work. Service providers and the people they serve agree on this: no one is served well when home care workers are not paid a living wage. Home care workers deserve fair pay. Seniors and people with disabilities deserve continuous relationships with home care aides that they can trust to deliver the care that they need.

Last week, several constituents who provide these kinds of services came to my office. One man, Pete Faust, has worked in home care settings for 30 years. Pete makes $12 an hour and admits he has trouble making ends meet; the overtime pay he receives makes it possible to pay the bills. He knows that he could go work somewhere else and make twice as much, but he worries that it is hard on his clients not to see the same friendly familiar face on a regular basis.

Casey Cole is another of my constituents, and he is in a similar position. He works 12 days in a row, and then gets two days off. Often, however, there isn't anyone else to cover the shifts when he is off, so he will work 26 days in a row. Even his days off aren't really days off, because he's answering calls or checking in to make sure that all the people under his care are getting their needs met.

Not everyone is fortunate enough to have a Pete Faust or a Casey Cole to help them out. There is a shortage of qualified home care workers, and of there is high turnover in the field. Some 86 percent of direct care workers turn over every year. Almost 90 percent of homecare workers are women, and they are predominantly minority women, making an average of just $9 an hour.

The reason for the shortage of people to do this work is certainly not a shortage of compassion. The problem is that people need to be able to make a living wage when they have their own families to take care of. It is high time to grant these hard-working people the minimum wage and overtime protection. That is why I am introducing this legislation, today.

The Fair Home Health Care Act will include home care workers under the same rules that currently cover babysitters. That is to say, they will be entitled to Fair Labor Standards Act protections if they are not employed on a ''casual basis.'' Casual basis is defined as employment on an irregular or intermittent basis, when the employee's primary vocation is not the provision of homecare, the employee is not employed by an agency other than the family or household using his or her services, and the employee does not work more than 20 hours per week.

I urge my colleagues to join me in cosponsoring this legislation. The bill will improve pay for hardworking caregivers, and it will increase access to care for our Nation's seniors and people with disabilities.

By Mr. DORGAN (for himself, Mr. REID, Ms. MURKOWSKI, Mr. INOUYE, Mr. JOHNSON, Ms. CANTWELL, Mr. TESTER, Mr. BINGAMAN, and Mr. DOMENICI):

S. 2062. A bill to amend the Native American Housing Assistance and Self-Determination Act of 1996 to reauthorize that Act, and for other purposes; to the Committee on Indian Affairs.

Mr. DORGAN. Mr. President, I am here today with my colleagues Senators REID, MURKOWSKI, INOUYE, JOHNSON, TESTER, DOMENICI and BINGAMAN to introduce legislation to reauthorize and amend the Native American Housing Assistance and Self-Determination Act, NAHASDA. This bill, the Native American Housing Assistance and Self-Determination Reauthorization Act of 2007 will not only reauthorize the primary housing programs for Indian Country but it will enhance the crucial services provided under these programs.

The Native American Housing Assistance and Self-Determination Act provides formula-based block grant assistance to Indian tribes which allows them the flexibility to design housing programs to address the needs of their communities. Since its adoption in 1996, the Native American Housing Assistance and Self-Determination Act has transformed the way in which Indian housing is provided in the tribal communities. It is clear that the programs have been very successful. For example, in 2006, Tribes have been able to build, acquire, or substantially rehabilitate more than 1,600 rental units and more than 6,000 homeownership units. Each of these units became a home to an American Indian or Alaska Native family.

Even with these improvements, we are still facing a housing crisis in Indian Country. At the Senate Committee on Indian Affairs March and July hearings on Indian housing, we heard alarming statistics: 90,000 Indian families are homeless or under-housed. Approximately 40 percent of on-reservation housing is considered inadequate. Over one-third of Indian homes are overcrowded. More than 230,000 housing units are immediately needed to provide adequate housing in Indian Country.

Tribal elders in the Northern Plains are living in homes without roofs, with only tarps to shield them from the harsh elements including below-zero temperatures. Indian children across the country are forced to live in overcrowded conditions in homes with 23 other people or in trailers in the Northern Plains with wood stoves and no fresh drinking water. This is a national disgrace. How are children supposed to grow and learn in these conditions and how are communities supposed to thrive? This is particularly distressing given the fact that funding for Indian housing has decreased over the last several years, because it has not kept up with inflation and the rising cost of building materials.

The U.S. has a trust responsibility to provide housing for our First Americans. The bill my colleagues and I are introducing today will strengthen NAHASDA by providing tribes with increased flexibility, with the goal of producing more homes in Indian country. The amendments are incremental changes to current law. We realize that ''one size does not fit all'' in Indian housing. Housing needs in the Great Plains differ greatly from those in the southwest. This is why we retained the basic structure of the Indian Housing Block Grant Program, because through this block grant program, tribes and tribal housing entities are able to use the funds to serve their unique needs.

NAHASDA works and with the amendments we are proposing, it will continue to improve housing conditions for American Indians and Alaska Natives. Please allow me to highlight some of the major amendments we are proposing.

Title I of the bill would reauthorize the Indian housing block grant and amend the program to streamline reporting requirements. Title I will also allow Indian tribes to have increased flexibility in running their housing programs by allowing funds to be utilized for community buildings such as day-care centers, Laundromats, and multi-purpose community centers. Through housing we are not only building homes, but the hope is to also build communities.

Title II of the bill creates a new Self-Determined Housing Activities program under which grant recipients may use a portion of their funding to meet their distinct needs in a self-determined manner. This title also expands the list of activities that grant funds may be used for to include operation, maintenance and rehabilitation of rental and homeownership units, mold remediation and necessary infrastructure.

Title III of the bill authorizes a study to assess the existing data sources for determining the need for housing for funding purposes, while Title VI creates a new demonstration project to allow grant recipients to access vital economic development and infrastructure programs.

I am committed to finding ways to provide more homes in Indian Country. The Native American Housing Assistance and Self-Determination Reauthorization Act of 2007 is an important and crucial step towards fulfilling this commitment. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2062

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Native American Housing Assistance and Self-Determination Reauthorization Act of 2007''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. CONGRESSIONAL FINDINGS.

Section 2 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101) is amended in paragraphs (6) and (7) by striking ''should'' each place it appears and inserting ''shall''.

SEC. 3. DEFINITIONS.

Section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103) is amended—

(1) by striking paragraph (22);

(2) by redesignating paragraphs (8) through (21) as paragraphs (9) through (22), respectively; and

(3) by inserting after paragraph (7) the following:

''(8) HOUSING RELATED COMMUNITY DEVELOPMENT.—

''(A) IN GENERAL.—The term 'housing related community development' means any facility, community building, business, activity, or infrastructure that—

''(i) is owned by an Indian tribe or a tribally designated housing entity;

''(ii) is necessary to the provision of housing in an Indian area; and

''(iii)(I) would help an Indian tribe or tribally designated housing entity to reduce the cost of construction of Indian housing;

''(II) would make housing more affordable, accessible, or practicable in an Indian area; or

''(III) would otherwise advance the purposes of this Act.

''(B) EXCLUSION.—The term 'housing and community development' does not include any activity conducted by any Indian tribe under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).''.

TITLE I—BLOCK GRANTS AND GRANT REQUIREMENTS

SEC. 101. BLOCK GRANTS.

Section 101 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking ''For each'' and inserting the following:

''(1) IN GENERAL.—For each'';

(ii) by striking ''tribes to carry out affordable housing activities.'' and inserting the following: ''tribes—

''(A) to carry out affordable housing activities under subtitle A of title II; and''; and

(iii) by adding at the end the following:

''(B) to carry out self-determined housing activities for tribal communities programs under subtitle B of that title.''; and

(B) in the second sentence, by striking ''Under'' and inserting the following:

''(2) PROVISION OF AMOUNTS.—Under'';

(2) in subsection (g), by inserting ''of this section and subtitle B of title II'' after ''subsection (h)''; and

(3) by adding at the end the following:

''(j) FEDERAL SUPPLY SOURCES.—For purposes of section 501 of title 40, United States Code, on election by the applicable Indian tribe—

''(1) each Indian tribe or tribally designated housing entity shall be considered to be an Executive agency in carrying out any program, service, or other activity under this Act; and

''(2) each Indian tribe or tribally designated housing entity and each employee of the Indian tribe or tribally designated housing entity shall have access to sources of supply on the same basis as employees of an Executive agency.

''(k) TRIBAL PREFERENCE IN EMPLOYMENT AND CONTRACTING.—Notwithstanding any other provision of law, with respect to any grant (or portion of a grant) made on behalf of an Indian tribe under this Act that is intended to benefit 1 Indian tribe, the tribal employment and contract preference laws (including regulations and tribal ordinances) adopted by the Indian tribe that receives the benefit shall apply with respect to the administration of the grant (or portion of a grant).''.

SEC. 102. INDIAN HOUSING PLANS.

Section 102 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4112) is amended—

(1) in subsection (a)(1)—

(A) by striking ''(1)(A) for'' and all that follows through the end of subparagraph (A) and inserting the following:

''(1)(A) for an Indian tribe to submit to the Secretary, by not later than 75 days before the beginning of each tribal program year, a 1-year housing plan for the Indian tribe; or''; and

(B) in subparagraph (B), by striking ''subsection (d)'' and inserting ''subsection (c)'';

(2) by striking subsections (b) and (c) and inserting the following:

''(b) 1-YEAR PLAN REQUIREMENT.—

''(1) IN GENERAL.—A housing plan of an Indian tribe under this section shall—

''(A) be in such form as the Secretary may prescribe; and

''(B) contain the information described in paragraph (2).

''(2) REQUIRED INFORMATION.—A housing plan shall include the following information with respect to the tribal program year for which assistance under this Act is made available:

''(A) DESCRIPTION OF PLANNED ACTIVITIES.—A statement of planned activities, including—

''(i) the types of household to receive assistance;

''(ii) the types and levels of assistance to be provided;

''(iii) the number of units planned to be produced;

''(iv)(I) a description of any housing to be demolished or disposed of;

''(II) a timetable for the demolition or disposition; and

''(III) any other information required by the Secretary with respect to the demolition or disposition;

''(v) a description of the manner in which the recipient will protect and maintain the viability of housing owned and operated by the recipient that was developed under a contract between the Secretary and an Indian housing authority pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); and

''(vi) outcomes anticipated to be achieved by the recipient.

''(B) STATEMENT OF NEEDS.—A statement of the housing needs of the low-income Indian families residing in the jurisdiction of the Indian tribe, and the means by which those needs will be addressed during the applicable period, including—

''(i) a description of the estimated housing needs and the need for assistance for the low-income Indian families in the jurisdiction, including a description of the manner in which the geographical distribution of assistance is consistent with the geographical needs and needs for various categories of housing assistance; and

''(ii) a description of the estimated housing needs for all Indian families in the jurisdiction.

''(C) FINANCIAL RESOURCES.—An operating budget for the recipient, in such form as the Secretary may prescribe, that includes—

''(i) an identification and description of the financial resources reasonably available to the recipient to carry out the purposes of this Act, including an explanation of the manner in which amounts made available will leverage additional resources; and

''(ii) the uses to which those resources will be committed, including eligible and required affordable housing activities under title II and administrative expenses.

''(D) CERTIFICATION OF COMPLIANCE.—Evidence of compliance with the requirements of this Act, including, as appropriate—

''(i) a certification that, in carrying out this Act, the recipient will comply with the applicable provisions of title II of the Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.) and other applicable Federal laws and regulations;

''(ii) a certification that the recipient will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under this Act, in compliance with such requirements as the Secretary may establish;

''(iii) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this Act;

''(iv) a certification that policies are in effect and are available for review by the Secretary and the public governing rents and homebuyer payments charged, including the methods by which the rents or homebuyer payments are determined, for housing assisted with grant amounts provided under this Act;

''(v) a certification that policies are in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this Act; and

''(vi) a certification that the recipient will comply with section 104(b).'';

(3) by redesignating subsections (d) through (f) as subsections (c) through (e), respectively; and

(4) in subsection (d) (as redesignated by paragraph (3)), by striking ''subsection (d)'' and inserting ''subsection (c)''.

SEC. 103. REVIEW OF PLANS.

Section 103 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4113) is amended—

(1) in subsection (d)—

(A) in the first sentence—

(i) by striking ''fiscal'' each place it appears and inserting ''tribal program''; and

(ii) by striking ''(with respect to'' and all that follows through ''section 102(c))''; and

(B) by striking the second sentence; and

(2) by striking subsection (e) and inserting the following:

''(e) SELF-DETERMINED ACTIVITIES PROGRAM.—Notwithstanding any other provision of this section, the Secretary—

''(1) shall review the information included in an Indian housing plan pursuant to subsections (b)(4) and (c)(7) only to determine whether the information is included for purposes of compliance with the requirement under section 232(b)(2); and

''(2) may not approve or disapprove an Indian housing plan based on the content of the particular benefits, activities, or results included pursuant to subsections (b)(4) and (c)(7).''.

SEC. 104. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.

Section 104(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4114(a)) is amended by adding at the end the following:

''(4) EXCLUSION FROM PROGRAM INCOME OF REGULAR DEVELOPER'S FEES FOR LOW-INCOME HOUSING TAX CREDIT PROJECTS.—Notwithstanding any other provision of this Act, any income derived from a regular and customary developer's fee for any project that receives a low-income housing tax credit under section 42 of the Internal Revenue Code of 1986, and that is initially funded using a grant provided under this Act, shall not be considered to be program income if the developer's fee is approved by the State housing credit agency.''.

SEC. 105. REGULATIONS.

Section 106(b)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4116(b)(2)) is amended—

(1) in subparagraph (B)(i), by striking ''The Secretary'' and inserting ''Not later than 180 days after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2007 and any other Act to reauthorize this Act, the Secretary''; and

(2) by adding at the end the following:

''(C) SUBSEQUENT NEGOTIATED RULEMAKING.—The Secretary shall—

''(i) initiate a negotiated rulemaking in accordance with this section by not later than 90 days after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2007 and any other Act to reauthorize this Act; and

''(ii) promulgate regulations pursuant to this section by not later than 2 years after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2007 and any other Act to reauthorize this Act.

''(D) REVIEW.—Not less frequently than once every 7 years, the Secretary, in consultation with Indian tribes, shall review the regulations promulgated pursuant to this section in effect on the date on which the review is conducted.''.

TITLE II—AFFORDABLE HOUSING ACTIVITIES

SEC. 201. NATIONAL OBJECTIVES AND ELIGIBLE FAMILIES.

Section 201(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4131(b)) is amended—

(1) in paragraph (1), by inserting ''and except with respect to loan guarantees under title VI,'' after ''paragraphs (2) and (4),'';

(2) in paragraph (2)—

(A) by striking the first sentence and inserting the following:

''(A) EXCEPTION TO REQUIREMENT.—Notwithstanding paragraph (1), a recipient may provide housing or housing assistance through affordable housing activities for which a grant is provided under this Act to any family that is not a low-income family, to the extent that the Secretary approves the activities due to a need for housing for those families that cannot reasonably be met without that assistance.''; and

(B) in the second sentence, by striking ''The Secretary'' and inserting the following:

''(B) LIMITS.—The Secretary'';

(3) in paragraph (3)—

(A) in the paragraph heading, by striking ''NON-INDIAN'' and inserting ''ESSENTIAL''; and

(B) by striking ''non-Indian family'' and inserting ''family''; and

(4) in paragraph (4)(A)(i), by inserting ''or other unit of local government,'' after ''county,''.

SEC. 202. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES.

Section 202 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4132) is amended—

(1) in the matter preceding paragraph (1), by striking ''to develop or to support'' and inserting ''to develop, operate, maintain, or support'';

(2) in paragraph (2)—

(A) by striking ''development of utilities'' and inserting ''development and rehabilitation of utilities, necessary infrastructure,''; and

(B) by inserting ''mold remediation,'' after ''energy efficiency,'';

(3) in paragraph (4), by inserting ''the costs of operation and maintenance of units developed with funds provided under this Act,'' after ''rental assistance,''; and

(4) by adding at the end the following:

''(9) RESERVE ACCOUNTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the deposit of amounts, including grant amounts under section 101, in a reserve account established for an Indian tribe only for the purpose of accumulating amounts for administration and planning relating to affordable housing activities under this section, in accordance with the Indian housing plan of the Indian tribe.

''(B) MAXIMUM AMOUNT.—A reserve account established under subparagraph (A) shall consist of not more than an amount equal to ¼ of the 5-year average of the annual amount used by a recipient for administration and planning under paragraph (2).''.

SEC. 203. PROGRAM REQUIREMENTS.

Section 203 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4133) is amended by adding at the end the following:

''(f) USE OF GRANT AMOUNTS OVER EXTENDED PERIODS.—

''(1) IN GENERAL.—To the extent that the Indian housing plan for an Indian tribe provides for the use of amounts of a grant under section 101 for a period of more than 1 fiscal year, or for affordable housing activities for which the amounts will be committed for use or expended during a subsequent fiscal year, the Secretary shall not require those amounts to be used or committed for use at any time earlier than otherwise provided for in the Indian housing plan.

''(2) CARRYOVER.—Any amount of a grant provided to an Indian tribe under section 101 for a fiscal year that is not used by the Indian tribe during that fiscal year may be used by the Indian tribe during any subsequent fiscal year.

''(g) DE MINIMIS EXEMPTION FOR PROCUREMENT OF GOODS AND SERVICES.—Notwithstanding any other provision of law, a recipient shall not be required to act in accordance with any otherwise applicable competitive procurement rule or procedure with respect to the procurement, using a grant provided under this Act, of goods and services the value of which is less than $5,000.''.

SEC. 204. LOW-INCOME REQUIREMENT AND INCOME TARGETING.

Section 205 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4135) is amended by adding at the end the following:

''(c) APPLICABILITY.—This section applies only to rental and homeownership units that are owned or operated by a recipient.''.

SEC. 205. TREATMENT OF FUNDS.

The Native American Housing Assistance and Self-Determination Act of 1996 is amended by inserting after section 205 (25 U.S.C. 4135) the following:

''SEC. 206. TREATMENT OF FUNDS.

''Notwithstanding any other provision of law, tenant- and project-based rental assistance provided using funds made available under this Act shall not be considered to be Federal funds for purposes of section 42 of the Internal Revenue Code of 1986.''.

SEC. 206. AVAILABILITY OF RECORDS.

Section 208(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4138(a)) is amended by inserting ''applicants for employment, and of'' after ''records of''.

SEC. 207. SELF-DETERMINED HOUSING ACTIVITIES FOR TRIBAL COMMUNITIES PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Title II of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4131 et seq.) is amended—

(1) by inserting after the title designation and heading the following:

''Subtitle A—General Block Grant Program'';

and

(2) by adding at the end the following:

''Subtitle B—Self-Determined Housing Activities for Tribal Communities

''SEC. 231. PURPOSE.

''The purpose of this subtitle is to establish a program for self-determined housing activities for the tribal communities to provide Indian tribes with the flexibility to use a portion of the grant amounts under section 101 for the Indian tribe in manners that are wholly self-determined by the Indian tribe for housing activities involving construction, acquisition, rehabilitation, or infrastructure relating to housing activities or housing that will benefit the community served by the Indian tribe.

''SEC. 232. PROGRAM AUTHORITY.

''(a) DEFINITION OF QUALIFYING INDIAN TRIBE.—In this section, the term 'qualifying Indian tribe' means, with respect to a fiscal year, an Indian tribe or tribally designated housing entity—

''(1) on behalf of which a grant is made under section 101;

''(2) that has complied with the requirements of section 102(b)(6); and

''(3) that, during the preceding 3-fiscal-year period, has no unresolved significant and material audit findings or exceptions, as demonstrated in—

''(A) the annual audits of that period completed under chapter 75 of title 31, United States Code (commonly known as the 'Single Audit Act'); or

''(B) an independent financial audit prepared in accordance with generally accepted auditing principles.

''(b) AUTHORITY.—Under the program under this subtitle, for each of fiscal years 2008 through 2012, the recipient for each qualifying Indian tribe may use the amounts specified in subsection (c) in accordance with this subtitle.

''(c) AMOUNTS.—With respect to a fiscal year and a recipient, the amounts referred to in subsection (b) are amounts from any grant provided under section 101 to the recipient for the fiscal year, as determined by the recipient, but in no case exceeding the lesser of—

''(1) an amount equal to 20 percent of the total grant amount for the recipient for that fiscal year; and

''(2) $2,000,000.

''SEC. 233. USE OF AMOUNTS FOR HOUSING ACTIVITIES.

''(a) ELIGIBLE HOUSING ACTIVITIES.—Any amounts made available for use under this subtitle by a recipient for an Indian tribe shall be used only for housing activities, as selected at the discretion of the recipient and described in the Indian housing plan for the Indian tribe pursuant to section 102(b)(6), for the construction, acquisition, or rehabilitation of housing or infrastructure to provide a benefit to families described in section 201(b)(1).

''(b) PROHIBITION ON CERTAIN ACTIVITIES.—Amounts made available for use under this subtitle may not be used for commercial or economic development.

''SEC. 234. INAPPLICABILITY OF OTHER PROVISIONS.

''(a) IN GENERAL.—Except as otherwise specifically provided in this Act, title I, subtitle A of title II, and titles III through VIII shall not apply to—

''(1) the program under this subtitle; or

''(2) amounts made available in accordance with this subtitle.

''(b) APPLICABLE PROVISIONS.—The following provisions of titles I through VIII shall apply to the program under this subtitle and amounts made available in accordance with this subtitle:

''(1) Section 101(c) (relating to local cooperation agreements).

''(2) Subsections (d) and (e) of section 101 (relating to tax exemption).

''(3) Section 101(j) (relating to Federal supply sources).

''(4) Section 101(k) (relating to tribal preference in employment and contracting).

''(5) Section 102(b)(4) (relating to certification of compliance).

''(6) Section 104 (relating to treatment of program income and labor standards).

''(7) Section 105 (relating to environmental review).

''(8) Section 201(b) (relating to eligible families).

''(9) Section 203(c) (relating to insurance coverage).

''(10) Section 203(g) (relating to a de minimis exemption for procurement of goods and services).

''(11) Section 206 (relating to treatment of funds).

''(12) Section 209 (relating to noncompliance with affordable housing requirement).

''(13) Section 401 (relating to remedies for noncompliance).

''(14) Section 408 (relating to public availability of information).

''(15) Section 702 (relating to 50-year leasehold interests in trust or restricted lands for housing purposes).

''SEC. 235. REVIEW AND REPORT.

''(a) REVIEW.—During calendar year 2011, the Secretary shall conduct a review of the results achieved by the program under this subtitle to determine—

''(1) the housing constructed, acquired, or rehabilitated under the program;

''(2) the effects of the housing described in paragraph (1) on costs to low-income families of affordable housing;

''(3) the effectiveness of each recipient in achieving the results intended to be achieved, as described in the Indian housing plan for the Indian tribe; and

''(4) the need for, and effectiveness of, extending the duration of the program and increasing the amount of grants under section 101 that may be used under the program.

''(b) REPORT.—Not later than December 31, 2011, the Secretary shall submit to Congress a report describing the information obtained pursuant to the review under subsection (a) (including any conclusions and recommendations of the Secretary with respect to the program under this subtitle), including—

''(1) recommendations regarding extension of the program for subsequent fiscal years and increasing the amounts under section 232(c) that may be used under the program; and

''(2) recommendations for—

''(A)(i) specific Indian tribes or recipients that should be prohibited from participating in the program for failure to achieve results; and

''(ii) the period for which such a prohibition should remain in effect; or

''(B) standards and procedures by which Indian tribes or recipients may be prohibited from participating in the program for failure to achieve results.

''(c) PROVISION OF INFORMATION TO SECRETARY.—Notwithstanding any other provision of this Act, recipients participating in the program under this subtitle shall provide such information to the Secretary as the Secretary may request, in sufficient detail and in a timely manner sufficient to ensure that the review and report required by this section is accomplished in a timely manner.''.

(b) TECHNICAL AMENDMENT.—The table of contents in section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended—

(1) by inserting after the item for title II the following:

''Subtitle A—General Block Grant Program'';

(2) by inserting after the item for section 205 the following:

''Sec. 206. Treatment of funds.'';

and

(3) by inserting before the item for title III the following:

''Subtitle B—Self-Determined Housing Activities for Tribal Communities

''Sec. 231. Purposes.
''Sec. 232. Program authority.
''Sec. 233. Use of amounts for housing activities.
''Sec. 234. Inapplicability of other provisions.
''Sec. 235. Review and report.''.

TITLE III—ALLOCATION OF GRANT AMOUNTS

SEC. 301. ALLOCATION FORMULA.

Section 302 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4152) is amended—

(1) in subsection (a)—

(A) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(B) by adding at the end the following:

''(2) STUDY OF NEED DATA.—

''(A) IN GENERAL.—The Secretary shall enter into a contract with an organization with expertise in housing and other demographic data collection methodologies under which the organization, in consultation with Indian tribes and Indian organizations, shall—

''(i) assess existing data sources, including alternatives to the decennial census, for use in evaluating the factors for determination of need described in subsection (b); and

''(ii) develop and recommend methodologies for collecting data on any of those factors, including formula area, in any case in which existing data is determined to be insufficient or inadequate, or fails to satisfy the requirements of this Act.

''(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.''; and

(2) in subsection (b), by striking paragraph (1) and inserting the following:

''(1)(A) The number of low-income housing dwelling units developed under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), pursuant to a contract between an Indian housing authority for the tribe and the Secretary, that are owned or operated by a recipient on the October 1 of the calendar year immediately preceding the year for which funds are provided, subject to the condition that such a unit shall not be considered to be a low-income housing dwelling unit for purposes of this section if—

''(i) the recipient ceases to possess the legal right to own, operate, or maintain the unit; or

''(ii) the unit is lost to the recipient by conveyance, demolition, or other means.

''(B) If the unit is a homeownership unit not conveyed within 25 years from the date of full availability, the recipient shall not be considered to have lost the legal right to own, operate, or maintain the unit if the unit has not been conveyed to the homebuyer for reasons beyond the control of the recipient.

''(C) If the unit is demolished and the recipient rebuilds the unit within 1 year of demolition of the unit, the unit may continue to be considered a low-income housing dwelling unit for the purpose of this paragraph.

''(D) In this paragraph, the term 'reasons beyond the control of the recipient' means, after making reasonable efforts, there remain—

''(i) delays in obtaining or the absence of title status reports;

''(ii) incorrect or inadequate legal descriptions or other legal documentation necessary for conveyance;

''(iii) clouds on title due to probate or intestacy or other court proceedings; or

''(iv) any other legal impediment.''.

TITLE IV—COMPLIANCE, AUDITS, AND REPORTS

SEC. 401. REMEDIES FOR NONCOMPLIANCE.

Section 401(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4161(a)) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

''(2) SUBSTANTIAL NONCOMPLIANCE.—The failure of a recipient to comply with the requirements of section 302(b)(1) regarding the reporting of low-income dwelling units shall not, in itself, be considered to be substantial noncompliance for purposes of this title.''.

SEC. 402. MONITORING OF COMPLIANCE.

Section 403(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4163(b)) is amended in the second sentence by inserting ''an appropriate level of'' after ''shall include''.

SEC. 403. PERFORMANCE REPORTS.

Section 404(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4164(b)) is amended—

(1) in paragraph (2)—

(A) by striking ''goals'' and inserting ''planned activities''; and

(B) by adding ''and'' after the semicolon at the end;

(2) in paragraph (3), by striking ''; and'' at the end and inserting a period; and

(3) by striking paragraph (4).

TITLE V—TERMINATION OF ASSISTANCE FOR INDIAN TRIBES UNDER INCORPORATED PROGRAMS

SEC. 501. EFFECT ON HOME INVESTMENT PARTNERSHIPS ACT.

(a) IN GENERAL.—Title V of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4181 et seq.) is amended by adding at the end the following:

''SEC. 509. EFFECT ON HOME INVESTMENT PARTNERSHIPS ACT.

''Nothing in this Act or an amendment made by this Act prohibits or prevents any participating jurisdiction (within the meaning of the HOME Investment Partnerships Act (42 U.S.C. 12721 et seq.)) from providing any amounts made available to the participating jurisdiction under that Act (42 U.S.C. 12721 et seq.) to an Indian tribe or a tribally designated housing entity for use in accordance with that Act (42 U.S.C. 12721 et seq.).''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended by inserting after the item relating to section 508 the following:

''Sec. 509. Effect on HOME Investment Partnerships Act.''.

TITLE VI—GUARANTEED LOANS TO FINANCE TRIBAL COMMUNITY AND ECONOMIC DEVELOPMENT ACTIVITIES

SEC. 601. DEMONSTRATION PROGRAM FOR GUARANTEED LOANS TO FINANCE TRIBAL COMMUNITY AND ECONOMIC DEVELOPMENT ACTIVITIES.

(a) IN GENERAL.—Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4191 et seq.) is amended by adding at the end the following:

''SEC. 606. DEMONSTRATION PROGRAM FOR GUARANTEED LOANS TO FINANCE TRIBAL COMMUNITY AND ECONOMIC DEVELOPMENT ACTIVITIES.

''(a) AUTHORITY.—To the extent and in such amounts as are provided in appropriation Acts, subject to the requirements of this section, and in accordance with such terms and conditions as the Secretary may prescribe, the Secretary may guarantee and make commitments to guarantee the notes and obligations issued by Indian tribes or tribally designated housing entities with tribal approval, for the purposes of financing activities carried out on Indian reservations and in other Indian areas that, under the first sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308), are eligible for financing with notes and other obligations guaranteed pursuant to that section.

''(b) LOW-INCOME BENEFIT REQUIREMENT.—Not less than 70 percent of the aggregate amount received by an Indian tribe or tribally designated housing entity as a result of a guarantee under this section shall be used for the support of activities that benefit low-income families on Indian reservations and other Indian areas.

''(c) FINANCIAL SOUNDNESS.—

''(1) IN GENERAL.—The Secretary shall establish underwriting criteria for guarantees under this section, including fees for the guarantees, as the Secretary determines to be necessary to ensure that the program under this section is financially sound.

''(2) AMOUNTS OF FEES.—Fees for guarantees established under paragraph (1) shall be established in amounts that are sufficient, but do not exceed the minimum amounts necessary, to maintain a negative credit subsidy for the program under this section, as determined based on the risk to the Federal Government under the underwriting requirements established under paragraph (1).

''(d) TERMS OF OBLIGATIONS.—

''(1) IN GENERAL.—Each note or other obligation guaranteed pursuant to this section shall be in such form and denomination, have such maturity, and be subject to such conditions as the Secretary may prescribe, by regulation.

''(2) LIMITATION.—The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless—

''(A) the period is more than 20 years; or

''(B) the Secretary determines that the period would cause the guarantee to constitute an unacceptable financial risk.

''(e) LIMITATION ON PERCENTAGE.—A guarantee made under this section shall guarantee repayment of 95 percent of the unpaid principal and interest due on the note or other obligation guaranteed.

''(f) SECURITY AND REPAYMENT.—

''(1) REQUIREMENTS ON ISSUER.—To ensure the repayment of notes and other obligations and charges incurred under this section and as a condition for receiving the guarantees, the Secretary shall require the Indian tribe or housing entity issuing the notes or obligations—

''(A) to enter into a contract, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed under this section;

''(B) to demonstrate that the extent of each issuance and guarantee under this section is within the financial capacity of the Indian tribe; and

''(C) to furnish, at the discretion of the Secretary, such security as the Secretary determines to be appropriate in making the guarantees, including increments in local tax receipts generated by the activities assisted by a guarantee under this section or disposition proceeds from the sale of land or rehabilitated property, except that the security may not include any grant amounts received or for which the issuer may be eligible under title I.

''(2) FULL FAITH AND CREDIT.—

''(A) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section.

''(B) TREATMENT OF GUARANTEES.—

''(i) IN GENERAL.—Any guarantee made by the Secretary under this section shall be conclusive evidence of the eligibility of the obligations for the guarantee with respect to principal and interest.

''(ii) INCONTESTABLE NATURE.—The validity of any such a guarantee shall be incontestable in the hands of a holder of the guaranteed obligations.

''(g) TRAINING AND INFORMATION.—The Secretary, in cooperation with Indian tribes and tribally designated housing entities, shall carry out training and information activities with respect to the guarantee program under this section.

''(h) LIMITATIONS ON AMOUNT OF GUARANTEES.—

''(1) AGGREGATE FISCAL YEAR LIMITATION.—Notwithstanding any other provision of law, subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, and to the extent approved or provided for in appropriations Acts, the Secretary may enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount not to exceed $200,000,000 for each of fiscal years 2008 through 2012.

''(2) AUTHORIZATION OF APPROPRIATIONS FOR CREDIT SUBSIDY.—There are authorized to be appropriated to cover the costs (as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a)) of guarantees under this section such sums as are necessary for each of fiscal years 2008 through 2012.

''(3) AGGREGATE OUTSTANDING LIMITATION.—The total amount of outstanding obligations guaranteed on a cumulative basis by the Secretary pursuant to this section shall not at any time exceed $1,000,000,000 or such higher amount as may be authorized to be appropriated for this section for any fiscal year.

''(4) FISCAL YEAR LIMITATIONS ON INDIAN TRIBES.—

''(A) IN GENERAL.—The Secretary shall monitor the use of guarantees under this section by Indian tribes.

''(B) MODIFICATIONS.—If the Secretary determines that 50 percent of the aggregate guarantee authority under paragraph (3) has been committed, the Secretary may—

''(i) impose limitations on the amount of guarantees pursuant to this section that any single Indian tribe may receive in any fiscal year of $25,000,000; or

''(ii) request the enactment of legislation increasing the aggregate outstanding limitation on guarantees under this section.

''(i) REPORT.—Not later than 4 years after the date of enactment of this section, the Secretary shall submit to Congress a report describing the use of the authority under this section by Indian tribes and tribally designated housing entities, including—

''(1) an identification of the extent of the use and the types of projects and activities financed using that authority; and

''(2) an analysis of the effectiveness of the use in carrying out the purposes of this section.

''(j) TERMINATION.—The authority of the Secretary under this section to make new guarantees for notes and obligations shall terminate on October 1, 2012.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 note) is amended by inserting after the item relating to section 605 the following:

''Sec. 606. Demonstration program for guaranteed loans to finance tribal community and economic development activities.''.

TITLE VII—OTHER HOUSING ASSISTANCE FOR NATIVE AMERICANS

SEC. 701. TRAINING AND TECHNICAL ASSISTANCE.

(a) DEFINITION OF INDIAN ORGANIZATION.—In this section, the term ''Indian organization'' means—

(1) an Indian organization representing the interests of Indian tribes, Indian housing authorities, and tribally designated housing entities throughout the United States;

(2) an organization registered as a nonprofit entity that is—

(A) described in section 501(c)(3) of the Internal Revenue Code of 1986; and

(B) exempt from taxation under section 501(a) of that Code;

(3) an organization with at least 30 years of experience in representing the housing interests of Indian tribes and tribal housing entities throughout the United States; and

(4) an organization that is governed by a Board of Directors composed entirely of individuals representing tribal housing entities.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Housing and Urban Development, for transfer to an Indian organization selected by the Secretary of Housing and Urban Development, in consultation with Indian tribes, such sums as are necessary to provide training and technical assistance to Indian housing authorities and tribally-designated housing entities for each of fiscal years 2008 through 2012.

TITLE VIII—FUNDING

SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

(a) BLOCK GRANTS AND GRANT REQUIREMENTS.—Section 108 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4117) is amended in the first sentence by striking ''1998 through 2007'' and inserting ''2008 through 2012''.

(b) FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL HOUSING ACTIVITIES.—Section 605 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4195) is amended in subsections (a) and (b) by striking ''1997 through 2007'' each place it appears and inserting ''2008 through 2012''.

(c) TRAINING AND TECHNICAL ASSISTANCE.—Section 703 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4212) is amended by striking ''1997 through 2007'' and inserting ''2008 through 2012''.

SEC. 802. FUNDING CONFORMING AMENDMENTS.

Chapter 97 of title 31, United States Code, is amended—

(1) by redesignating the first section 9703 (relating to managerial accountability and flexibility) as section 9703A;

(2) by moving the second section 9703 (relating to the Department of the Treasury Forfeiture Fund) so as to appear after section 9702; and

(3) in section 9703(a)(1) (relating to the Department of the Treasury Forfeiture Fund)—

(A) in subparagraph (I)—

(i) by striking ''payment'' and inserting ''Payment''; and

(ii) by striking the semicolon at the end and inserting a period;

(B) in subparagraph (J), by striking ''payment'' the first place it appears and inserting ''Payment''; and

(C) by adding at the end the following:

''(K)(i) Payment to the designated tribal law enforcement, environmental, housing, or health entity for experts and consultants needed to clean up any area formerly used as a methamphetamine laboratory.

''(ii) For purposes of this subparagraph, for a methamphetamine laboratory that is located on private property, not more than 90 percent of the clean up costs may be paid under clause (i) only if the property owner—

''(I) did not have knowledge of the existence or operation of the laboratory before the commencement of the law enforcement action to close the laboratory; or

''(II) notified law enforcement not later than 24 hours after discovering the existence of the laboratory.''.

By Mr. CONRAD (for himself and Mr. GREGG):

S. 2063. A bill to establish a Bipartisan Task Force for Responsible Fiscal Action, to assure the economic security of the United States, and to expand future prosperity and growth for all Americans; to the Committee on the Budget.

Mr. CONRAD. Madam President, I rise today to introduce, along with Senator JUDD GREGG, the ranking member of the Senate Budget Committee, legislation we have called the

Bipartisan Task Force for Responsible Fiscal Action. We are introducing this legislation because, as the chairman and ranking member of the Budget Committee, we understand that we are on an unsustainable fiscal course; that we confront a budgetary crisis of unprecedented proportions if we fail to act. That crisis will be caused by a combination of our current budget deficits and enormous Federal debt, combined with the explosion created by the baby boom generation.

Here is the outlook we confront with respect to the demographic tidal wave coming at us. We see, in 2007, we are at about 40 million people who are of retirement age, and that will grow to 80 million by 2050, dramatically changing the budget circumstance for this country.

We know we face enormous challenges with Medicare and Social Security. You can see the long-term cost of Medicare. The shortfall over 75 years is now estimated at $33.9 trillion. The shortfall in Social Security over that same period is $4.7 trillion. These are staggering amounts, a shortfall in Medicare of almost $34 trillion, a shortfall in Social Security of over $4.7 trillion.

Looked at another way, Medicare and Medicaid spending, according to experts, if it stays on the current course, will consume as much of our national economy as the entire Federal budget does today.

Let me repeat that. If the trend lines continue, by 2050 we will be spending as much, just on Medicare and Medicaid, of our national income as we spend for the entire Federal Government today. This fundamentally threatens the economic security of the country.

At the same time, we have tax cuts in place. they are extended, according to the President's proposal, it will drive us right over the cliff.

This chart shows the Medicare deficits in purple, the Social Security deficits in green, and the cost of extending the President's tax cuts in red. We can see the combined effect is to take us right over the fiscal cliff, deep into debt and deficit in a way that is unprecedented.

The Chairman of the Federal Reserve said this about our budget outlook in January:

[O]ne might look at these projections and say, ''Well, these are about 2030 and 2040 and so . . . we don't really have to start worrying about it yet.'' But, in fact, the longer we wait, the more severe, the more draconian, the more difficult . . . the adjustments are going to be. I think the right time to start is about 10 years ago.

The Chairman of the Federal Reserve has it right.

SENATOR GREGG and I are coming to our colleagues today and calling for this bipartisan task force for responsible fiscal action.

What would it do? Simply, it would be given the responsibility to address our unsustainable long-term imbalances between spending and revenue. Everything is on the table. The task force would consist of 16 members, 8 Democrats, 8 Republicans, all of them Members of Congress, except for 2 representing the administration. The Secretary of the Treasury would chair the task force. The obligation of this group would be to submit a report on December 9, 2008. It would take 12 of the 16 members to report a blueprint for our fiscal future. They would be given the responsibility to find ways to address the shortfall in Medicare and Social Security and the ongoing and endemic budget deficits. These 16 members, 8 Democrats, 8 Republicans, would have the opportunity and the responsibility to develop a plan for our fiscal future, but it would take 12 of the 16 to report a plan, and the plan would only come at the beginning of the next administration. This would not be part of election year politics. This would be part of a serious plan to address our long-term fiscal imbalances.

If 12 of the 16 agreed to a plan, it would then receive fast-track treatment in the Senate. It would come to a vote without amendment after 100 hours of debate. Final passage would require a supermajority, 60 votes in the Senate, 60 percent of the House of Representatives.

Senator GREGG and I have worked on this all year. We have discussed this with many Members in both the House and the Senate. This is our best judgment of how best to proceed. We believe this would give the Congress and the country an opportunity to write a better fiscal future, one that would strengthen America, reduce our dependence on foreign capital and put us in a position to keep the promise that has been made to the American people of a country that is strong and fair, that respects those in retirement and, at the same time, gives maximum opportunity to those working to strengthen their families and this country.

I thank my colleague Senator GREGG, the ranking member of the Budget Committee, for the extraordinary time and effort he has put into developing this proposal.

I ask unanimous consent to have printed comments in the RECORD about this proposal: Support for it from David Walker, the Comptroller General of the United States; support from the Concord Coalition, the bipartisan Concord Coalition that is well known for its support of a fiscally responsible future; and from the Committee for a Responsible Federal Budget.

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

CONRAD/GREGG TASK FORCE

I would like to thank and commend Chairman Conrad and Senator Gregg for their leadership in connection with the issue of fiscal sustainability and intergenerational equity. As I have noted on numerous occasions, our nation is on an imprudent and unsustainable fiscal path. Tough choices are required in order to help ensue that our future is better than our past The sooner we make these choices the better because time is working against us.

During the past two years, I have traveled to 23 states as part of the Fiscal Wake-up Tour. During the Tour, it has become clear that the American people are starved for two things from their elected officials—truth and leadership. I am here today because Senators Conrad and Gregg are trying to address this need. I'm pleased to say that several other members on both side of the political aisle and on both ends of Capitol Hill are taking steps to answer this call by proposing bills to accomplish similar objectives and by also putting ''everything on the table.''

I was especially pleased to see that the ''Task Force'' that would be created by Senator Conrad's and Gregg's legislation was informed by GAO's work on the key elements necessary for any task force or commission to be successful. For example, the commission would have a statutory basis, be bipartisan, involve leaders from both the executive and legislative branch, and would require a super-majority vote for any recommendations to be sent to the President and the Congress. As a result, the Conrad-Gregg proposal provides one potential means to achieve an objective we all should share—taking steps to make the tough choices necessary to Keep America Great, and to help make sure that our country's, children's and grandchildren's future is better than our past. Hopefully, this and other related bills will be given serious and timely consideration by the Congress and the President.

Thank you Senators Conrad and Gregg for your leadership and thank you for the opportunity to join the both of you today.

[From the Concord Coalition, Sept. 18, 2007]

CONCORD COALITION PRAISES SENATORS CONRAD AND GREGG FOR BIPARTISAN INITIATIVE TO ADDRESS LONG-TERM FISCAL IMBALANCE

WASHINGTON.—The Concord Coalition today praised Senate Budget Committee Chairman Kent Conrad (D–ND) and Ranking Member Judd Gregg (R–NH) for introducing legislation that would create a bipartisan commission charged with developing specific solutions to the nation's long-term fiscal imbalance.

''There is very little dispute that current fiscal policies are unsustainable. Yet, too few of our elected leaders in Washington are willing to acknowledge the seriousness of the long-term fiscal problem and even fewer are willing to put it on the political agenda. By focusing attention on this critical issue and insisting that it must be dealt with in a bipartisan manner, Senators Conrad and Gregg are setting a very positive example,'' said Concord Coalition Executive Director Robert L. Bixby.

Changing course to a more sustainable path will require hard choices, the active involvement of the American people and suspension of partisan trench warfare. Since the regular legislative process has been incapable of dealing with the impending fiscal crisis, a new bipartisan commission makes sense as a means of jump-starting serious action,'' Bixby said.

In Concord's view, several aspects of this proposal are promising:

First, the commission would have equal representation from Democrats and Republicans. It would thus be truly bipartisan—an essential element for success.

Second, the commission would have a broad mandate to address the overall fiscal imbalance, not just the actuarial imbalance of individual programs.

Third, there are no preconditions. If either side sets preconditions, the other side will not participate.

Fourth, the commission's recommendations would be given an up or down vote in Congress. Absent that, the report would likely join many others on a shelf.

''This proposal, and others like it that are now being put forward, are very welcome. Our experience with the Fiscal Wake-Up Tour is that the public is hungry for a nonpartisan dialogue on the long-term fiscal challenge. When presented with the facts, they appreciate that each of the realistic options comes with economic and political consequences that must be carefully weighed, and that there must be tradeoffs. This commission would help to clarify those tradeoffs and establish a process for resolving them,'' Bixby said.

[From the Committee for a Responsible Federal Budget, Sept. 18, 2007]

CRFB PRAISES BIPARTISAN TASK FORCE EFFORT

WASHINGTON, DC.—Today, the Committee for a Responsible Federal Budget applauded the effort by Senators Conrad and Gregg to form a Bipartisan Task Force on Responsible Fiscal Action.

''This is precisely the type of bipartisan collaboration we need to jumpstart the discussion of how to confront the nation's fiscal challenges,'' said Maya MacGuineas, President of the Committee for a Responsible Federal Budget. ''Bringing together sitting Members of Congress and representatives from the Administration to discuss these daunting challenges and evaluate the options for reform is a critical first step. We applaud the effort to get this discussion underway and very much hope that it leads to the hard choices that are needed to rebalance the federal government's budget.''

The task force would be made up of sixteen members. Seven would come from the House of Representatives (four appointed by the Speaker of the House and three appointed by the Minority Leader of the House); seven would come from the Senate (four appointed by the Majority Leader of the Senate and three appointed by the Minority Leader of the Senate); and two would come from the Administration (one of whom would be the Secretary of the Treasury, who would serve as the Chairman of the task force). The task force would review all areas of the budget including Social Security, Medicare, and taxes. The task force would be responsible for submitting a set of policy recommendations to improve the federal government's fiscal imbalances, which would then be considered by Congress on an expedited basis.

While the specific mission of the task force—to significantly improve the long-term fiscal balance of the federal government—is somewhat vague, it nonetheless represents an important effort to begin discussing these issues on a bipartisan basis with no preconditions regarding the policy options which can be considered. The Committee for a Responsible Budget supports the creation of a Bipartisan Task Force as an important first step to addressing the country's fiscal policy challenges.

Mr. CONRAD. Again, I recognize my colleague, the very able Senator from New Hampshire, the ranking member of the Senate Budget Committee.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Let me begin by thanking the chairman of the Budget Committee, Senator CONRAD, for moving forward with this important effort to try to reach a conclusion and progress on the most significant issue this Nation faces beyond our fight with Islamic terrorism. In the post-Katrina world, if the country knew that a category 5 hurricane was headed at us, we knew where it was going to hit, we knew the size of the hurricane, and we knew the damage it would do, the Government would be absolutely irresponsible not to respond to that.

What we have coming at us is a category 5 fiscal hurricane. We know when it is going to hit, and that is when the baby boom generation retires and begins to retire next year and reaches its peak in its retirement size by about the year 2025. We know the impact of the problem, the size of the problem, that there is $62 trillion of unfunded liability which will be generated by the retirement of the baby boom generation to pay for the benefits under Medicare, Medicaid, and Social Security.

To try to put that in context, that is more than the entire net worth of all of America—all our homes, cars, stocks, all our assets. That is how big this liability is. We know the effect of this category 5 fiscal hurricane because we know it is going to basically wipe out the ability of our children and our children's children to have as high a quality of life as we have had because the cost of paying for this fiscal tsunami will be so high.

We need to get on to the issue of trying to address this looming threat. As the Comptroller General said today, we have a category 5 hurricane headed at us and people are still playing on the beach as if the wave is not going to arrive. Well, the wave is going to arrive. So what the chairman of the Budget Committee has put forward today—and I am honored to have the opportunity to participate in this effort—is a proposal to move forward with substantive and definitive legislation which will result in action. That is what we need—action. It is similar to the old Fram oil filter ad: You can pay me now or you can pay me later. If we act now, the cost is going to be less than if we act later.

So this proposal, which has been put together after a lot of thought and effort on behalf of myself and Senator CONRAD, is basically built around three concepts. First, that there must be absolute bipartisanship. So as Senator CONRAD has outlined, the task force, when it meets, must have a three-fourths vote in favor of whatever proposal they bring forward. Secondly, everything has to be on the table. Nothing can be off. After all the discussion, in order for this to work, all these parts interplay with each other, you have to be willing to address not only reform and how you deliver better benefits at a lower cost under Medicare and Medicaid and better benefits at a reasonable cost under Social Security, but you also have to address the tax side of the ledger. So everything needs to be on the table. Third, that for this to work, there has to be an action-forcing mechanism. We have seen report after report, commission after commission. A lot of them have done excellent work. But on these issues, which are such hot buttons, what happens is, a commission will make a report, and all the interest groups will attack it from this side and that side and the next side. So this proposal is structured so there is an action-forcing event; specifically, fast-track approval which, again, has to be by a supermajority of the final report of the task force.

This truly is an opportunity to move forward to address this issue. Our failure to do so would be truly ironic because the problem which we confront as a nation, which I say is probably the single biggest issue after the war on Islamic terrorism, fighting the war against Islamic terrorism, is that this fiscal category 5 hurricane is headed toward us, which is essentially going to wipe out our children's opportunity to have a quality of lifestyle equal to ours, is totally the responsibility of the present generation who is governing, the baby boom generation. We are the generation of governance today. So before we pass our problem on to the next generation, we have a responsibility to address it and to try to improve the effort.

I know, as I look around this Chamber and at this administration, there are people of goodwill who, given the right structure, which this task force is, would be willing to come together, make the difficult decisions, and have the expertise to know how to make those decisions to move maybe not a complete resolution of these issues but a significant resolution of the issues down the road so the next generation does not have to bear the whole burden of resolving the problems. It is time to act.

I congratulate the chairman of the Budget Committee for being the force behind getting this effort going. It is a very positive initiative. I think it will be received very well on our side of the aisle. I believe strongly that the administration will receive it well. Therefore, I believe we have a great opportunity to move forward in a way which will make sure our children and their children have as good a country and as strong a country from the standpoint of fiscal policy as we have.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I again thank my colleague, Senator GREGG, who has been incredibly engaged in this effort. He is very fair-minded in the structure of this proposal and I think visionary in terms of understanding the need for action.

I say to my colleagues or staffs who may be listening, all those who recognize we are headed for a fiscal cliff and that we need to take action, this is our opportunity. This is it. Those who say we have to do something, here is our chance. This is completely bipartisan, eight Democrats, eight Republicans. It takes 12 of the 16 to make a report, a supermajority; that is, to assure it is bipartisan in result. This is a task

force of Members of Congress and representatives of the administration, 14 Members of Congress, 2 representatives of the administration. It is not outside experts, people who would not be responsible or be held accountable for the outcome. These will be people who are accountable, who are responsible for the outcome. This is a measure that will lead to a vote.

I say to my colleagues, this will assure that the work of this group will come before the Congress if 12 of the 16 agree. Because if they do, there will then be 100 hours of debate but no amendment permitted, and there will be a vote up or down. Those who recognize it takes us working together to face up to these difficult problems, I ask them to join with us, Republicans and Democrats. Absent this, I suspect what will happen is further delay, further divisiveness, and no real result. That will mean even tougher choices in the future.

I urge my colleagues to think carefully of this moment. This will not be considered until after the election. We have done everything we can to take election politics out of this, understanding it is highly unlikely that a matter of this import would be considered in an election year and that perhaps the best opportunity is at the beginning of a new administration. None of us know whether the new administration will be a Republican or a Democratic administration. None of us can know the makeup of the next Congress. What we do know is we face a ticking timebomb. The faster we act, the better for our Nation.

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

Mr. CONRAD. I am happy to yield.

Mr. GREGG. I think the Senator made an excellent point that we are now in a Presidential election. This Commission is a gift to those candidates because they can come forward and point to this Commission as taking on some of the most complicated issues they are going to face. Because this timebomb—which is an appropriate description, using the Senator's words—is going to start to explode, and the explosion will be rather large during the term of the next Presidency.

So this is an opportunity to give those candidates for President a forum and a procedure where these issues, which are so critical to the success of the next Presidency, can actually be moved down the road toward resolution. Is that not true?

Mr. CONRAD. I thank the Senator. I had a number of my colleagues, as the Senator knows, come to me with great concern. Their concern was: Gee, you are putting the Presidential candidates in an awkward position. How are they going to react to this? My reaction was: This is a gift to all the Presidential candidates, this is a gift to the next administration because this will provide them a bipartisan blueprint on how to proceed with some of the most vexing issues facing this country.

So I see absolutely no downside for either side, Republican or Democratic—for Presidential candidates on either side or candidates for Congress on either side—because this is a process leading to a proposal that would have bipartisan support if it is to proceed.

If I were an incoming administration, I would welcome a bipartisan plan to deal with Social Security, with Medicare, with the growth of deficits and the debt, and not to have it come in the middle of an election but to only be presented after the election but before the next Congress meets and the next administration takes on its responsibilities.

I see it as not only a gift to the candidates but, more importantly, as a gift to the American people to take on some of the greatest challenges facing our country and to do it in a bipartisan way and to do it in a way that actually leads to a result and action.

Mr. GREGG. I once again congratulate the chairman of the Budget Committee for his exceptional leadership in this area. This is the first step in a bipartisan effort which, hopefully, will lead to a bipartisan solution that America will see as fair and which will pass on to our children a stronger and more vital Nation.

Thank you.

Mr. CONRAD. I again thank my colleague. This is the beginning of an effort. I ask colleagues on both sides, please, join us in this effort. Let's do what we all know must happen—that we must take on these issues, that we must come up with solutions, and we must do it sooner rather than later.

I thank my colleagues.

By Mr. DURBIN:

S. 2064. A bill to fund comprehensive programs to ensure an adequate supply of nurses; to the Committee on Health, Education, Labor, and Pensions.

Mr. DURBIN. Mr. President, Americans depend on nurses to deliver quality patient care, yet our Nation faces a critical shortage of nurses. The U.S. Bureau of Labor Statistics projects that more than 1.2 million new and replacement nurses will be needed by 2014 to keep up with the aging Baby Boomer population and the increased demand for health care.

To avoid this dramatic shortage, we need to reach a significant and sustained increase in the number of nurses entering the workforce each year. We can do this by building on the current health care workforce. Nurses who advance from other health care positions are better prepared to meet the demands of the bedside because they are more aware of the work environment and ready to meet its unique challenges. They also require less time in orientation than new workers and represent a diverse population more representative of the patients being served.

Today, I am pleased to introduce legislation that will foster career ladders for current health care workers who are ready to upgrade their skills. Our health care system is an untapped resource in the effort to increase the supply of nurses. Many people in the health care workforce are in entry level jobs that don't always offer opportunities for advancement. For much of this population, advanced education is unaffordable and unattainable.

The Nurse Training and Retention Act offers incumbent health care workers realistic options to enhance their skills, advance their careers, and meet the growing demand for nurses. The legislation authorizes the Department of Labor to award grants to support training programs for health care workers. Health aides can use these programs to earn a certificate or degree in nursing. Nurses can upgrade their skills and qualifications so that they can serve as nurse faculty, which would help relieve the backlog of qualified applicants who aren't in nursing school because of the lack of faculty.

Programs administered by joint labor/management training partnerships have made great progress in the effort to educate and retain nurses. The proposed grant program builds on the good work these partnerships have done, and encourages further collaboration with colleges and universities. The combination of support at the workplace and collaboration with nursing schools to meet the needs of the non traditional student has led to strong performance by these students in nursing school. These new nurses have higher retention rates than other, more traditional students who do not have work experience in the field. Another benefit of the career ladder is that these collaborations are building a more diverse nursing workforce.

Another important player in this process is the employer. That is why my bill asks employers of incumbent health care workers to invest in the training programs. This completes the partnership, so that labor, employer, and the participating school are all working together to retain and grow the health care workforce we have today.

Nurses play an invaluable role in patient care in this country. Unless we do something today to improve the way we train and retain nurses, we face a severe shortage within the next decade. The Nurse Training and Retention Act can help us tap an overlooked resource by ensuring those who are in the health care industry have a chance to move up in their field, while expanding the supply of nurses and nurse faculty. I urge my colleagues to join me in supporting this legislation.

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

S. 2064

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 ''Nurse Training and Retention Act of 2007''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) America's healthcare system depends on an adequate supply of trained nurses to deliver quality patient care.

(2) Over the next 15 years, this shortage is expected to grow significantly. The Health Resources and Services Administration has projected that by 2020, there will be a shortage of nurses in every State and that overall only 64 percent of the demand for nurses will be satisfied, with a shortage of 1,016,900 nurses nationally.

(3) To avert such a shortage, today's network of healthcare workers should have access to education and support from their employers to participate in educational and training opportunities.

(4) With the appropriate education and support, incumbent healthcare workers and incumbent bedside nurses are untapped sources which can meet these needs and address the nursing shortage and provide quality care as the American population ages.

SEC. 3. ESTABLISHMENT OF GRANT PROGRAM.

(a) PURPOSES.—It is the purpose of this section to authorize grants to—

(1) address the projected shortage of nurses by funding comprehensive programs to create a career ladder to nursing (including Certified Nurse Assistants, Licensed Practical Nurses, Licensed Vocational Nurses, and Registered Nurses) for incumbent ancillary healthcare workers;

(2) increase the capacity for educating nurses by increasing both nurse faculty and clinical opportunities through collaborative programs between staff nurse organizations, healthcare providers, and accredited schools of nursing; and

(3) provide training programs through education and training organizations jointly administered by healthcare providers and healthcare labor organizations or other organizations representing staff nurses and frontline healthcare workers, working in collaboration with accredited schools of nursing and academic institutions.

(b) GRANTS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Labor (referred to in this section as the ''Secretary'') shall establish a partnership grant program to award grants to eligible entities to carry out comprehensive programs to provide education to nurses and create a pipeline to nursing for incumbent ancillary healthcare workers who wish to advance their careers, and to otherwise carry out the purposes of this section.

(c) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section an entity shall—

(1) be—

(A) a healthcare entity that is jointly administered by a healthcare employer and a labor union representing the healthcare employees of the employer and that carries out activities using labor management training funds as provided for under section 302 of the Labor-Management Relations Act, 1947 (18 U.S.C. 186(c)(6));

(B) an entity that operates a training program that is jointly administered by—

(i) one or more healthcare providers or facilities, or a trade association of healthcare providers; and

(ii) one or more organizations which represent the interests of direct care healthcare workers or staff nurses and in which the direct care healthcare workers or staff nurses have direct input as to the leadership of the organization; or

(C) a State training partnership program that consist of non-profit organizations that include equal participation from industry, including public or private employers, and labor organizations including joint labor-management training programs, and which may include representatives from local governments, worker investment agency one-stop career centers, community based organizations, community colleges, and accredited schools of nursing; and

(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(d) ADDITIONAL REQUIREMENTS FOR HEALTHCARE EMPLOYER DESCRIBED IN SUBSECTION (C).—To be eligible for a grant under this section, a healthcare employer described in subsection (c) shall demonstrate—

(1) an established program within their facility to encourage the retention of existing nurses;

(2) it provides wages and benefits to its nurses that are competitive for its market or that have been collectively bargained with a labor organization; and

(3) support for programs funded under this section through 1 or more of the following:

(A) The provision of paid leave time and continued health coverage to incumbent healthcare workers to allow their participation in nursing career ladder programs, including Certified Nurse Assistants, Licensed Practical Nurses, Licensed Vocational Nurses, and Registered Nurses.

(B) Contributions to a joint labor-management training fund which administers the program involved.

(C) The provision of paid release time, incentive compensation, or continued health coverage to staff nurses who desire to work full- or part-time in a faculty position.

(D) The provision of paid release time for staff nurses to enable them to obtain a Bachelor of Science in Nursing degree, other advanced nursing degrees, specialty training, or certification program.

(E) The payment of tuition assistance which is managed by a joint labor-management training fund or other jointly administered program.

(e) OTHER REQUIREMENTS.—

(1) MATCHING REQUIREMENT.—

(A) IN GENERAL.—The Secretary may not make a grant under this section unless the applicant involved agrees, with respect to the costs to be incurred by the applicant in carrying out the program under the grant, to make available non-Federal contributions (in cash or in kind under subparagraph (B)) toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided in the grant. Such contributions may be made directly or through donations from public or private entities, or may be provided through the cash equivalent of paid release time provided to incumbent worker students.

(B) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in subparagraph (A) may be in cash or in kind (including paid release time), fairly evaluated, including equipment or services (and excluding indirect or overhead costs). Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(2) REQUIRED COLLABORATION.—Entities carrying out or overseeing programs carried out with assistance provided under this section shall demonstrate collaboration with accredited schools of nursing which may include community colleges and other academic institutions providing Associate, Bachelor's, or advanced nursing degree programs or specialty training or certification programs.

(f) ACTIVITIES.—Amounts awarded to an entity under a grant under this section shall be used for the following:

(1) To carry out programs that provide education and training to establish nursing career ladders to educate incumbent healthcare workers to become nurses (including Certified Nurse Assistants, Licensed Practical Nurses, Licensed Vocational Nurses, and Registered Nurses). Such programs shall include one or more of the following:

(A) Preparing incumbent workers to return to the classroom through English as a second language education, GED education, pre-college counseling, college preparation classes, and support with entry level college classes that are a prerequisite to nursing.

(B) Providing tuition assistance with preference for dedicated cohort classes in community colleges, universities, accredited schools of nursing with supportive services including tutoring and counseling.

(C) Providing assistance in preparing for and meeting all nursing licensure tests and requirements.

(D) Carrying out orientation and mentorship programs that assist newly graduated nurses in adjusting to working at the bedside to ensure their retention post graduation, and ongoing programs to support nurse retention.

(E) Providing stipends for release time and continued healthcare coverage to enable incumbent healthcare workers to participate in these programs.

(2) To carry out programs that assist nurses in obtaining advanced degrees and completing specialty training or certification programs and to establish incentives for nurses to assume nurse faculty positions on a part-time or full-time basis. Such programs shall include one or more of the following:

(A) Increasing the pool of nurses with advanced degrees who are interested in teaching by funding programs that enable incumbent nurses to return to school.

(B) Establishing incentives for advanced degree bedside nurses who wish to teach in nursing programs so they can obtain a leave from their bedside position to assume a full- or part-time position as adjunct or full time faculty without the loss of salary or benefits.

(C) Collaboration with accredited schools of nursing which may include community colleges and other academic institutions providing Associate, Bachelor's, or advanced nursing degree programs, or specialty training or certification programs, for nurses to carry out innovative nursing programs which meet the needs of bedside nursing and healthcare providers.

(g) PREFERENCE.—In awarding grant under this section the Secretary shall give preference to programs that—

(1) provide for improving nurse retention;

(2) provide for improving the diversity of the new nurse graduates to reflect changes in the demographics of the patient population;

(3) provide for improving the quality of nursing education to improve patient care and safety;

(4) have demonstrated success in upgrading incumbent healthcare workers to become nurse or which have established effective programs or pilots to increase nurse faculty; or

(5) are modeled after or affiliated with such programs described in paragraph (4).

(h) EVALUATION.—

(1) PROGRAM EVALUATIONS.—An entity that receives a grant under this section shall annually evaluate, and submit to the Secretary a report on, the activities carried out under the grant and the outcomes of such activities. Such outcomes may include—

(A) an increased number of incumbent workers entering an accredited school of

nursing and in the pipeline for nursing programs;

(B) an increasing number of graduating nurses and improved nurse graduation and licensure rates;

(C) improved nurse retention;

(D) an increase in the number of staff nurses at the healthcare facility involved;

(E) an increase in the number of nurses with advanced degrees in nursing;

(F) an increase in the number of nurse faculty;

(G) improved measures of patient quality (which may include staffing ratios of nurses, patient satisfaction rates, patient safety measures); and

(H) an increase in the diversity of new nurse graduates relative to the patient population.

(2) GENERAL REPORT.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary of Labor shall, using data and information from the reports received under paragraph (1), submit to Congress a report concerning the overall effectiveness of the grant program carried out under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 319—EXPRESSING THE SENSE OF THE SENATE REGARDING THE UNITED STATES TRANSPORTATION COMMAND ON ITS 20TH ANNIVERSARY

Mr. DURBIN submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 319

Whereas the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99–433) revoked prohibitions on the consolidation of military transportation functions, and President Reagan subsequently ordered the establishment of a unified transportation command within the Armed Forces;

Whereas October 1, 2007, marks the 20th year anniversary of the activation of the United States Transportation Command at Scott Air Force Base, Illinois;

Whereas the United States Transportation Command consists of—

(1) the United States Transportation Command at Scott Air Force Base, Illinois;

(2) the Air Mobility Command at Scott Air Force Base, Illinois;

(3) the Military Sealift Command in Washington, District of Columbia; and

(4) the Military Surface Deployment and Distribution Command at Scott Air Force Base, Illinois;

Whereas Operation Desert Shield and Operation Desert Storm provided a wartime test for the United States Transportation Command, resulting in a command that is fully operational in both peacetime and wartime;

Whereas the United States Transportation Command has continued to prove its worth during United States contingency operations, such as Operation Desert Thunder (enforcing United Nations resolutions in Iraq) and Operation Allied Force (North Atlantic Treaty Organization operations against Serbia), and United States peacekeeping endeavors, such as Operation Restore Hope (in Somalia), Operation Support Hope (in Rwanda), Operation Uphold Democracy (in Haiti), Operation Joint Endeavor (in Bosnia-Herzegovina), and Operation Joint Guardian (in Kosovo);

Whereas the United States Transportation Command has also supported numerous humanitarian relief operations transporting relief supplies to victims of natural disasters at home and abroad;

Whereas the United States Transportation Command is a vital element in the war against terrorism, supporting the Armed Forces around the world;

Whereas since October 2001, the United States Transportation Command, and its components and national partners, have transported nearly 4,000,000 passengers, 9,000,000 short tons of cargo, and more than 4,000,000,000,000 gallons of fuel in support of the war on terrorism;

Whereas in 2003 the Secretary of Defense designated the Commander of the United States Transportation Command as Distribution Process Owner to serve as the single Department of Defense entity to ''improve the overall efficiency and interoperability of distribution related activities—deployment, sustainment and redeployment support during peace and war'';

Whereas the Quadrennial Defense Review of 2005 recognized the importance of joint mobility and the critical role that it plays in global power projection; cited the successful investment in cargo transportability, strategic lift, and pre-positioned stock; and called for continued recapitalization and modernization of the airlift and aerial tanker fleet; and

Whereas the assigned responsibilities of the United States Transportation Command include—

(1) providing common-user and commercial transportation, terminal management, and aerial refueling;

(2) providing global patient movement for the Department of Defense through the Defense Transportation System;

(3) serving as the Mobility Joint Force Provider; and

(4) serving as Distribution Process Owner for the Department of Defense: Now, therefore, be it

Resolved, That the Senate—

(1) honors the sacrifice and commitment of the 155,000 members of the Armed Forces (including the National Guard and Reserve) and civilian employees and contractors that comprise the United States Transportation Command and recognizes the debt of gratitude of the American people;

(2) honors the families of United States Transportation Command members and recognizes their sacrifices while their loved ones are deployed around the world; and

(3) recognizes the success of United States Transportation Command over the last 20 years and its continuing vital contributions to the war against terrorism.

SENATE RESOLUTION 320—RECOGNIZING THE ACHIEVEMENTS OF THE PEOPLE OF UKRAINE IN PURSUIT OF FREEDOM AND DEMOCRACY, AND EXPRESSING THE HOPE THAT THE PARLIAMENTARY ELECTIONS ON SEPTEMBER 30, 2007, PRESERVE AND EXTEND THESE GAINS AND PROVIDE FOR A STABLE AND REPRESENTATIVE GOVERNMENT

Mr. BIDEN (for himself, Mr. LUGAR, and Mr. CARDIN) submitted the following resolutin; which was referred to the Committee on Foreign Relations:

S. RES. 320

Whereas the people of Ukraine have overcome financial and political hardships to achieve a democratic system in which decisions have been reached without violence and through free and fair elections;

Whereas Ukraine has already conducted elections considered free, fair, and consistent with the principles of the Organization for Security and Cooperation in Europe on 2 previous occasions;

Whereas the people of Ukraine deserve an elected and representative government that can work together and pass legislation to improve the quality of life for all Ukrainians; and

Whereas the people of Ukraine have successfully established a growing free press, an increasingly independent judiciary, and a respect for human rights and the rule of law, which enhance freedom, stability, and prosperity: Now, therefore, be it

Resolved, That the Senate—

(1) acknowledges the cooperation and friendship between the people of the United States and the people of Ukraine since the restoration of Ukraine's independence in 1991 and the natural affections of the millions of Americans whose ancestors emigrated from Ukraine;

(2) expresses the admiration of the American people for the ongoing success of the Ukranian people at removing violence from politics, for which Ukrainians should be proud, in particular the free and fair presidential elections of December 26, 2004, and the parliamentary elections of March 26, 2006;

(3) encourages the people of Ukraine to maintain the democratic successes of the Orange Revolution of 2004, and expresses the hope that the leaders of Ukraine will conduct the September 30, 2007, elections in keeping with the standards of the Organization for Security and Cooperation in Europe (OSCE), of which both the United States and Ukraine are participating states;

(4) urges the leaders and parties of Ukraine to overcome past differences and work together constructively to enhance the economic and political stability of the country that the people of Ukraine deserve; and

(5) pledges the continued assistance of the United States to the continued progress and further development of a free and representative democratic government in Ukraine based on the rule of law and the principle of human rights.

SENATE CONCURRENT RESOLUTION 47—RECOGNIZING THE 60TH ANNIVERSARY OF THE UNITED STATES AIR FORCE AS AN INDEPENDENT MILITARY SERVICE

Mr. ENZI (for himself, Mr. NELSON of Nebraska, Mr. THUNE, Mr. MARTINEZ, Mr. DOMENICI, Mr. BINGAMAN, Ms. MURKOWSKI, Mr. ALLARD, Mr. CRAPO, Mr. ISAKSON, Mr. GRAHAM, Mr. ROBERTS, Mr. TESTER, Mr. SALAZAR, Mr. BROWNBACK, Mr. BROWN, and Mrs. LINCOLN) submitted the following concurrent resolution; which was referred to the Committee on Armed Services:

S. CON. RES. 47

Whereas President Harry S. Truman signed the National Security Act of 1947 on July 26, 1947, to realign and reorganize the Armed Forces and to create a separate Department of the Air Force from the existing military services;

Whereas the National Security Act of 1947 was enacted on September 18, 1947;

Whereas the Aeronautical Division of the United States Army Signal Corps, consisting of one officer and two enlisted men, began operation under the command of Captain Charles DeForest Chandler on August 1, 1907, with the responsibility for ''all matters pertaining to military ballooning, air machines, and all kindred subjects'';

Whereas in 1908, the Department of War contracted with the Wright brothers to build one heavier-than-air flying machine for the United States Army, and accepted the Wright Military Flyer, the world's first military airplane, in 1909;

Whereas United States pilots, flying with both allied air forces and with the Army Air Service, performed admirably in the course of World War I, participating in pursuit, observation, and day and night bombing missions;

Whereas pioneering aviators of the United States, including Mason M. Patrick, William ''Billy'' Mitchell, Benjamin D. Foulois, Frank M. Andrews, Henry ''Hap'' Arnold, James ''Jimmy'' H. Doolittle, and Edward ''Eddie'' Rickenbacker, were among the first to recognize the military potential of air power and courageously forged the foundations for the creation of an independent arm for air forces in the United States in the decades following World War I;

Whereas on June 20, 1941, the Department of War created the Army Air Forces (AAF) as its aviation element and shortly thereafter the Department of War made the AAF co-equal to the Army Ground Forces;

Whereas General Henry H. ''Hap'' Arnold drew upon the industrial prowess and human resources of the United States to transform the Army Air Corps from a force of 22,400 men and 2,402 aircraft in 1939 to a peak wartime strength of 2.4 million personnel and 79,908 aircraft;

Whereas the standard for courage, flexibility, and intrepidity in combat was established for all Airmen during the first aerial raid in the Pacific Theater on April 18, 1942, when Lieutenant Colonel James ''Jimmy'' H. Doolittle led 16 North American B–25 Mitchell bombers in a joint operation from the deck of the naval carrier USS Hornet to strike the Japanese mainland in response to the Japanese attack on Pearl Harbor;

Whereas President Harry S. Truman supported organizing air power as an equal arm of the military forces of the United States, writing on December 19, 1945, that air power had developed so that the responsibilities and contributions to military strategic planning of air power equaled those of land and sea power;

Whereas on September 18, 1947, W. Stuart Symington became the first Secretary of the newly formed and independent United States Air Force (USAF), and on September 26, 1947, General Carl A. Spaatz became the first Chief of Staff of the USAF;

Whereas the Air National Guard was also created by the National Security Act of 1947 and has played a vital role in guarding the United States and defending freedom in nearly every major conflict and contingency since its inception;

Whereas on October 14, 1947, the USAF demonstrated its historic and ongoing commitment to technological innovation when Captain Charles ''Chuck'' Yeager piloted the X–1 developmental rocket plane to a speed of Mach 1.07, becoming the first flyer to break the sound barrier in a powered aircraft in level flight;

Whereas the USAF Reserve, created April 14, 1948, is comprised of Citizen Airmen who steadfastly sacrifice personal fortune and family comfort in order to serve as unrivaled wingmen of the active duty USAF in every deployment, mission, and battlefield around the globe;

Whereas the USAF operated the Berlin Airlift in 1948 and 1949 to provide humanitarian relief to post-war Germany and has established a tradition of humanitarian assistance in responding to natural disasters and needs across the world;

Whereas the USAF announced a policy of racial integration in the ranks of the USAF on April 26, 1948, 3 months prior to a Presidential mandate to integrate all military services;

Whereas in the early years of the Cold War, the USAF's arsenal of bombers, such as the long-range Convair B–58 Hustler and B–36 Peacemaker, and the Boeing B–47 Stratojet and B–52 Stratofortress, under the command of General Curtis LeMay served as the United States' preeminent deterrent against Soviet Union forces and were later augmented by the development and deployment of medium range and intercontinental ballistic missiles, such as the Titan and Minuteman developed by General Bernard A. Schriever;

Whereas the USAF, employing the first large-scale combat use of jet aircraft, helped to establish air superiority over the Korean peninsula, protected ground forces of the United Nations with close air support, and interdicted enemy reinforcements and supplies during the conflict in Korea;

Whereas after the development of launch vehicles and orbital satellites, the mission of the USAF expanded into space and today provides exceptional real-time global communications, environmental monitoring, navigation, precision timing, missile warning, nuclear deterrence, and space surveillance;

Whereas USAF Airmen have contributed to the manned space program of the United States since the program's inception and throughout the program's development at the National Aeronautics and Space Administration by dedicating themselves wholly to space exploration despite the risks of exploration;

Whereas the USAF engaged in a limited campaign of air power to assist the South Vietnamese government in countering the communist Viet Cong guerillas during the Vietnam War and fought to disrupt supply lines, halt enemy ground offensives, and protect United States and Allied forces;

Whereas Airmen were imprisoned and tortured during the Vietnam War and, in the valiant tradition of Airmen held captive in previous conflicts, continued serving the United States with honor and dignity under the most inhumane circumstances;

Whereas, in recent decades, the USAF and coalition partners of the United States have supported successful actions in Panama, Bosnia-Herzegovina, Kosovo, Iraq, Afghanistan, and many other locations around the globe;

Whereas Pacific Air Forces, along with Asia-Pacific partners of the United States, ensure peace and advance freedom from the west coast of the United States to the east coast of Africa and from the Arctic to the Antarctic, covering more than 100 million square miles and the homes of 2 billion people in 44 countries;

Whereas the United States Air Forces in Europe, along with European partners of the United States, have shaped the history of Europe from World War II, the Cold War, Operation Deliberate Force, and Operation Allied Force to today's operations, and secured stability and ensured freedom's future in the Europe, Africa, and Southwest Asia;

Whereas, for 17 consecutive years beginning with 1990, Airmen have been engaged in full-time combat operations ranging from Desert Shield to Iraqi Freedom, and have shown themselves to be an expeditionary air and space force of outstanding capability ready to fight and win wars of the United States when and where Airmen are called upon to do so;

Whereas the USAF is steadfast in its commitment to field a world-class, expeditionary air force by recruiting, training, and educating its Total Force of active duty, Air National Guard, Air Force Reserve, and civilian personnel;

Whereas the USAF is a trustworthy steward of resources, developing and applying technology, managing professional acquisition programs, and maintaining exacting test, evaluation, and sustainment criteria for all USAF weapon systems throughout such weapon systems' life cycles;

Whereas, when terrorists attacked the United States on September 11, 2001, USAF fighter and air refueling aircraft took to the skies to fly combat air patrols over major United States cities and protect families, friends, and neighbors of people of the United States from further attack;

Whereas, on December 7, 2005, the USAF modified its mission statement to include flying and fighting in cyberspace and prioritized the development, maintenance, and sustainment of war fighting capabilities to deliver unrestricted access to cyberspace and defend the United States and its global interests;

Whereas Airmen around the world are committed to fighting and winning the Global War on Terror and have flown more than 430,000 sorties to precisely target and engage insurgents who attempt to violently disrupt rebuilding in Iraq and Afghanistan;

Whereas talented and dedicated Airmen will meet the future challenges of an ever-changing world with strength and resolve;

Whereas the USAF, together with its joint partners, will continue to be the United States' leading edge in the ongoing fight to ensure the safety and security of the United States; and

Whereas during the past 60 years, the USAF has repeatedly proved its value to the Nation, fulfilling its critical role in national defense, and protecting peace, liberty, and freedom throughout the world: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress remembers, honors, and commends the achievements of the United States Air Force in serving and defending the United States on the 60th anniversary of the creation of the United States Air Force as an independent military service.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2887. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1124, to extend the District of Columbia College Access Act of 1999.

SA 2888. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1124, supra.

SA 2889. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table.

SA 2890. Mr. THUNE submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2891. Mr. DODD submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2892. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2893. Mr. BOND (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2894. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2895. Mr. CONRAD (for himself, Mr. HATCH, Mr. DORGAN, Mr. GREGG, Mr. ROBERTS, Mr. SUNUNU, Ms. CANTWELL, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2896. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2897. Mr. KENNEDY (for himself, Mr. BYRD, Ms. MIKULSKI, and Mr. CARDIN) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2898. Mr. LEVIN (for himself and Mr. REED) submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2899. Mr. FEINGOLD (for himself, Mr. CASEY, Mr. KENNEDY, Ms. MIKULSKI, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2900. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2166 submitted by Mr. SMITH and intended to be proposed to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2901. Mr. SESSIONS (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2902. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2903. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2904. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2905. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2906. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2907. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, supra; which was ordered to lie on the table.

SA 2908. Mr. REID (for Mr. DOMENICI (for himself and Mr. KENNEDY)) proposed an amendment to the bill S. 558, to provide parity between health insurance coverage of mental health benefits and benefits for medical and surgical services.

TEXT OF AMENDMENTS

SA 2887. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1124, to extend the District of Columbia College Access Act of 1999; as follows:

At the end of the bill, add the following:

SEC. 2. MEANS TESTING.

(a) IN GENERAL.—Section 3(c)(2) of the District of Columbia College Access Act of 1999 (113 Stat. 1324; Public Law 106–98) is amended—

(1) in subparagraph (E), by striking ''and'' after the semicolon at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(G) is from a family with a taxable annual income of less than $1,000,000.''.

(b) CONFORMING AMENDMENT.—Section 5(c)(2) of the District of Columbia College Access Act of 1999 (113 Stat. 1328; Public Law 106–98) is amended by striking ''through (F)'' and inserting ''through (G)''.

SA 2888. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1124, to extend the District of Columbia College Access Act of 1999; as follows:

At the end of the bill, add the following:

SEC. 2. NON-DISCRIMINATION FOR PRIVATE SCHOOL STUDENTS.

Section 6 of the District of Columbia College Access Act of 1999 (113 Stat. 1327; Public Law 106–98) is amended by adding at the end the following:

''(i) NON-DISCRIMINATION FOR PRIVATE SCHOOL STUDENTS.—In awarding grants under this Act to eligible institutions, the Mayor shall pay amounts, on behalf of eligible students, that are equivalent regardless of whether the students attend a public or private eligible institution.''.

SA 2889. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construciton, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. UNIFORM STANDARDS FOR THE INTERROGATION OF INDIVIDUALS DETAINED BY THE GOVERNMENT OF THE UNITED STATES.

(a) IN GENERAL.—No individual in the custody or under the effective control of an officer or agent of the United States or detained in a facility operated by or on behalf of the Department of Defense, the Central Intelligence Agency, or any other agency of the Government of the United States shall be subject to any treatment or technique of interrogation not authorized by and listed in United States Army Field Manual 2–22.3, entitled ''Human Intelligence Collector Operations''.

(b) APPLICABILITY.—Subsection (a) shall not apply with respect to any individual in the custody or under the effective control of the Government of the United States based on—

(1) an arrest or conviction for violating Federal criminal law; or

(2) an alleged or adjudicated violation of the immigration laws of the United States.

(c) CONSTRUCTION.—Nothing in this section may be construed to diminish the rights under the Constitution of the United States of any individual in the custody or within the physical jurisdiction of the Government of the United States.

(d) DEFINITION.—In this section, the term ''officer or agent of the United States'' includes any officer, employee, agent, contractor, or subcontractor acting for or on behalf of the United States.

SA 2890. Mr. THUNE submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construciton, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 827. MULTIYEAR PROCUREMENT AUTHORITY FOR THE DEPARTMENT OF DEFENSE FOR THE PURCHASE OF SYNTHETIC FUELS.

(a) MULTIYEAR PROCUREMENT AUTHORIZED.—

(1) IN GENERAL.—Chapter 141 of title 10, United States Code, as amended by section 826 of this Act, is further amended by adding at the end the following new section:

''§ 2410r. Multiyear procurement authority: purchase of synthetic fuels

''(a) MULTIYEAR CONTRACTS AUTHORIZED.—Subject to subsections (b) and (c), the head of an agency may enter into contracts for a period not to exceed 10 years for the purchase of synthetic fuels.

''(b) LIMITATIONS ON CONTRACTS FOR PERIODS IN EXCESS OF FIVE YEARS.—The head of an agency may exercise the authority in subsection (a) to enter a contract for a period in excess of five years only if the head of the agency determines, on the basis of a business case prepared by the agency, that—

''(1) the proposed purchase of fuels under such contract is cost effective for the agency; and

''(2) it would not be possible to purchase fuels from the source in an economical manner without the use of a contract for a period in excess of five years.

''(c) LIMITATION ON LIFECYCLE GREENHOUSE GAS EMISSIONS.—The head of an agency may not purchase synthetic fuels under the authority in subsection (a) unless the lifecycle greenhouse gas emissions from such fuels are not greater than the lifecycle greenhouse gas emissions from conventional petroleum-based fuels that are used in the same application.

''(d) DEFINITIONS.—In this section:

''(1) The term 'head of an agency' has the meaning given that term in section 2302(1) of this title.

''(2) The term 'synthetic fuel' means any liquid, gas, or combination thereof that—

''(A) can be used as a substitute for petroleum or natural gas (or any derivative thereof, including chemical feedstocks); and

''(B) is produced by chemical or physical transformation of domestic sources of energy.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 141 of such title, as so amended, is further amended by adding at the end the following new item:

''2410r. Multiyear procurement authority: purchase of synthetic fuels.''.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations requiring the head of an agency initiating a multiyear contract as authorized by section 2410r of title 10, United States Code (as added by subsection (a)), to find that—

(A) there is a reasonable expectation that throughout the contemplated contract period the head of the agency will request funding for the contract at the level required to avoid contract cancellation;

(B) there is a stable design for all related technologies to the purchase of synthetic fuels as so authorized; and

(C) the technical risks associated with such technologies are not excessive.

(2) MINIMUM ANTICIPATED SAVINGS.—The regulations required by paragraph (1) shall provide that, in any case in which the estimated total expenditure under a multiyear contract (or several multiyear contracts with the same prime contractor) under section 2410r of title 10, United States Code (as so added), are anticipated to be more than (or, in the case of several contracts, the aggregate of which is anticipated to be more than) $540,000,000 (in fiscal year 1990 constant dollars), the head of an agency may initiate such contract under such section only upon a finding that use of such contract will result in savings exceeding 10 percent of the total anticipated costs of procuring an equivalent amount of fuel for the same application through other means. If such estimated savings will exceed 5 percent of the total anticipated costs of procuring an equivalent amount of fuel for the same application through other means, but not exceed 10 percent of such costs, the head of the agency may initiate such contract under such section only upon a finding in writing that an exceptionally strong case has been made with regard to findings required in paragraph (1).

(3) LIMITATION ON USE OF AUTHORITY.—No contract may be entered into under the authority in section 2410r of title 10, United States Code (as so added), until the regulations required by paragraph (1) are prescribed.

SA 2891. Mr. DODD submitted an amendment intended to be proposed to amendment SA 2011 proposed by MR. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XV, add the following:

SEC. 1535. REDEPLOYMENT REQUIREMENTS AND SPENDING RESTRICTIONS RELATED TO MILITARY OPERATIONS IN IRAQ.

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

(1) there is no military solution to the ongoing conflict in Iraq;

(2) the President should change direction in Iraq if he wants to find a solution to the conflict in that country; and

(3) the President should launch a new diplomatic offensive in order to promote reconciliation and stability in Iraq, by appointing a special envoy to engage Iraqi leaders, regional leaders, and international organizations, such as the United Nations and the Arab League.

(b) REDEPLOYMENT OF UNITED STATES COMBAT FORCES.—

(1) REDEPLOYMENT REQUIRED.—The Secretary of Defense shall begin the phased redeployment of members of the Armed Forces from Iraq not later than 30 days after the date of the enactment of this Act, and shall redeploy all such forces, except those who are essential for the limited purposes set forth in paragraph (3), by April 30, 2008.

(2) PROHIBITION ON FUNDING.—No funds may be used to support military operations of the United States in Iraq after April 30, 2008, except for the limited purposes set forth in paragraph (3).

(3) EXCEPTION FOR LIMITED PURPOSES.—The requirement to redeploy forces under paragraph (1) and the prohibition on funding under paragraph (2) do not apply to forces essential—

(A) to conduct targeted operations, limited in duration and scope, against members of al Qaeda and other international terrorist organizations;

(B) to provide security for United States infrastructure and personnel; or

(C) to train and equip Iraqi security forces.

(c) ARMED FORCES READINESS.—Upon completion of the redeployment required under subsection (b), funds authorized to be appropriated by this title for Operation Iraqi Freedom may be available to be expended in accordance with the lists of program priorities or requirements not included in the President's proposed budget for fiscal year 2008 submitted to the Committees on Armed Forces of the Senate and the House of Representatives by the Chief of the National Guard Bureau, the Chief of Staff of the Army, the Commandant of the Marine Corps, the Chief of Staff of the Air Force, and the Chief of Naval Operations. Such amounts may not exceed—

(1) $1,000,000,000 for the National Guard Reserve Equipment Account;

(2) $10,288,000,000 for the Army;

(3) $3,189,600,000 for the Marine Corps;

(4) $16,943,600,000 for the Air Force; and

(5) $5,657,000,000 for the Navy.

(d) LIMITATION ON USE OF FUNDS IN EVENT OF FAILURE TO REDEPLOY FORCES.—Twenty-five percent of the funds appropriated or otherwise made available for the Department of Defense for fiscal year 2008 for activities in Iraq may not be obligated or expended unless the number of members of the Armed Forces deployed in Iraq by January 31, 2008, is at least 50,000 fewer than the number so deployed as of September 12, 2007, unless the President certifies to the congressional defense committees that it is still possible to redeploy all such forces, except those who are essential for the limited purposes set forth in subsection (b)(3), by April 30, 2008.

(e) REPORT.—Not later than 60 days after the date of the enactment of this Act, and every 30 days thereafter until May 31, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the status of redeployment efforts under this section.

(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting funding for personal protective equipment or other equipment or materiel necessary for improving the safety of members of the Armed Forces.

SA 2892. Mr. KYL submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1234. INCLUSION OF INFORMATION ON ASYMMETRIC CAPABILITIES IN ANNUAL REPORT ON MILITARY POWER OF THE PEOPLE'S REPUBLIC OF CHINA.

Section 1202(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 10 U.S.C. 113 note) is amended by adding at the end the following new paragraph:

''(9) Developments in asymmetric capabilities, including cyberwarfare, including—

''(A) detailed analyses of the countries targeted;

''(B) the specific vulnerabilities targeted in these countries;

''(C) the tactical and strategic effects sought by developing threats to such targets; and

''(D) an appendix detailing specific examples of tests and development of these asymmetric capabilities.''.

SA 2893. Mr. BOND (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

TITLE XVI—NATIONAL GUARD BUREAU MATTERS AND RELATED MATTERS

SEC. 1601. SHORT TITLE.

This title may be cited as the ''National Guard Empowerment Act of 2007''.

SEC. 1602. EXPANDED AUTHORITY OF CHIEF OF THE NATIONAL GUARD BUREAU AND EXPANDED FUNCTIONS OF THE NATIONAL GUARD BUREAU.

(a) EXPANDED AUTHORITY.—

(1) IN GENERAL.—Subsection (a) of section 10501 of title 10, United States Code, is amended by striking ''joint bureau of the Department of the Army and the Department of the Air Force'' and inserting ''joint activity of the Department of Defense''.

(2) PURPOSE.—Subsection (b) of such section is amended by striking ''between'' and all that follows and inserting ''between—

''(1)(A) the Secretary of Defense, the Joint Chiefs of Staff, and the commanders of the combatant commands of the United States, and (B) the Department of the Army and the Department of the Air Force; and

''(2) the several States.''.

(b) ENHANCEMENTS OF POSITION OF CHIEF OF NATIONAL GUARD BUREAU.—

(1) ADVISORY FUNCTION ON NATIONAL GUARD MATTERS.—Subsection (c) of section 10502 of title 10, United States Code, is amended by inserting ''to the Secretary of Defense, to the Chairman of the Joint Chiefs of Staff,'' after ''principal adviser''.

(2) GRADE.—Subsection (d) of such section is amended by striking ''lieutenant general'' and inserting ''general''.

(3) ANNUAL REPORT TO CONGRESS ON VALIDATED REQUIREMENTS.—Section 10504 of such title is amended by adding at the end the following new subsection:

''(c) ANNUAL REPORT ON VALIDATED REQUIREMENTS.—Not later than December 31 each year, the Chief of the National Guard Bureau shall submit to Congress a report on the following:

''(1) The requirements validated under section 10503a(b)(1) of this title during the preceding fiscal year.

''(2) The requirements referred to in paragraph (1) for which funding is to be requested in the next budget for a fiscal year under section 10544 of this title.

''(3) The requirements referred to in paragraph (1) for which funding will not be requested in the next budget for a fiscal year under section 10544 of this title.''.

(c) ENHANCEMENT OF FUNCTIONS OF NATIONAL GUARD BUREAU.—

(1) ADDITIONAL GENERAL FUNCTIONS.—Section 10503 of title 10, United States Code, is amended—

(A) by redesignating paragraph (12) as paragraph (13); and

(B) by inserting after paragraph (11) the following new paragraph (12):

''(12) Facilitating and coordinating with other Federal agencies, and with the several States, the use of National Guard personnel and resources for and in contingency operations, military operations other than war, natural disasters, support of civil authorities, and other circumstances.''.

(2) MILITARY ASSISTANCE FOR CIVIL AUTHORITIES.—Chapter 1011 of such title is further amended by inserting after section 10503 the following new section:

''§ 10503a. Functions of National Guard Bureau: military assistance to civil authorities

''(a) IDENTIFICATION OF ADDITIONAL NECESSARY ASSISTANCE.—The Chief of the National Guard Bureau shall—

''(1) identify gaps between Federal and State capabilities to prepare for and respond to emergencies; and

''(2) make recommendations to the Secretary of Defense on programs and activities of the National Guard for military assistance to civil authorities to address such gaps.

''(b) SCOPE OF RESPONSIBILITIES.—In meeting the requirements of subsection (a), the Chief of the National Guard Bureau shall, in coordination with the adjutants general of the States, have responsibilities as follows:

''(1) To validate the requirements of the several States and Territories with respect to military assistance to civil authorities.

''(2) To develop doctrine and training requirements relating to the provision of military assistance to civil authorities.

''(3) To acquire equipment, materiel, and other supplies and services for the provision of military assistance to civil authorities.

''(4) To assist the Secretary of Defense in preparing the budget required under section 10544 of this title.

''(5) To administer amounts provided the National Guard for the provision of military assistance to civil authorities.

''(6) To carry out any other responsibility relating to the provision of military assistance to civil authorities as the Secretary of Defense shall specify.

''(c) CONSULTATION.—The Chief of the National Guard Bureau shall carry out activities under this section in consultation with the Secretary of the Army and the Secretary of the Air Force.''.

(3) BUDGETING FOR TRAINING AND EQUIPMENT FOR MILITARY ASSISTANCE TO CIVIL AUTHORITIES AND OTHER DOMESTIC MISSIONS.—Chapter 1013 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 10544. National Guard training and equipment: budget for military assistance to civil authorities and for other domestic operations

''(a) IN GENERAL.—The budget justification documents materials submitted to Congress in support of the budget of the President for a fiscal year (as submitted with the budget of the President under section 1105(a) of title 31) shall specify separate amounts for training and equipment for the National Guard for purposes of military assistance to civil authorities and for other domestic operations during such fiscal year.

''(b) SCOPE OF FUNDING.—The amounts specified under subsection (a) for a fiscal year shall be sufficient for purposes as follows:

''(1) The development and implementation of doctrine and training requirements applicable to the assistance and operations described in subsection (a) for such fiscal year.

''(2) The acquisition of equipment, materiel, and other supplies and services necessary for the provision of such assistance and such operations in such fiscal year.''.

(4) LIMITATION ON INCREASE IN PERSONNEL OF NATIONAL GUARD BUREAU.—The Secretary of Defense shall, to the extent practicable, ensure that no additional personnel are assigned to the National Guard Bureau in order to address administrative or other requirements arising out of the amendments made by this subsection.

(d) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CONFORMING AMENDMENT.—The heading of section 10503 of title 10, United States Code, is amended to read as follows:

''§ 10503. Functions of National Guard Bureau: charter''.

(2) CLERICAL AMENDMENTS.—(A) The table of sections at the beginning of chapter 1011 of such title is amended by striking the item relating to section 10503 and inserting the following new items:

''10503. Functions of National Guard Bureau: charter.

''10503a. Functions of National Guard Bureau: military assistance to civil authorities.''.

(B) The table of sections at the beginning of chapter 1013 of such title is amended by adding at the end the following new item:

''10544. National Guard training and equipment: budget for military assistance to civil authorities and for other domestic operations.''.

SEC. 1603. PROMOTION OF ELIGIBLE RESERVE OFFICERS TO LIEUTENANT GENERAL AND VICE ADMIRAL GRADES ON THE ACTIVE-DUTY LIST.

(a) SENSE OF CONGRESS.—It is the sense of Congress that, whenever officers are considered for promotion to the grade of lieutenant general, or vice admiral in the case of the Navy, on the active duty list, officers of the reserve components of the Armed Forces who are eligible for promotion to such grade should be considered for promotion to such grade.

(b) PROPOSAL.—The Secretary of Defense shall submit to Congress a proposal for mechanisms to achieve the objective specified in subsection (a). The proposal shall include such recommendations for legislative or administrative action as the Secretary considers appropriate in order to achieve that objective.

(c) NOTICE ACCOMPANYING NOMINATIONS.—The President shall include with each nomination of an officer to the grade of lieutenant general, or vice admiral in the case of the Navy, on the active-duty list that is submitted to the Senate for consideration a certification that all reserve officers who were eligible for consideration for promotion to such grade were considered in the making of such nomination.

SEC. 1604. PROMOTION OF RESERVE OFFICERS TO LIEUTENANT GENERAL GRADE.

(a) TREATMENT OF SERVICE AS ADJUTANT GENERAL AS JOINT DUTY EXPERIENCE.—

(1) DIRECTORS OF ARMY AND AIR NATIONAL GUARD.—Section 10506(a)(3) of title 10, United States Code, is amended—

(A) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively; and

(B) by inserting after subparagraph (B) the following new subparagraph (C):

''(C) Service of an officer as adjutant general shall be treated as joint duty experience for purposes of subparagraph (B)(ii).''.

(2) OTHER OFFICERS.—The service of an officer of the Armed Forces as adjutant general, or as an officer (other than adjutant general) of the National Guard of a State who performs the duties of adjutant general under the laws of such State, shall be treated as joint duty or joint duty experience for purposes of any provisions of law required such duty or experience as a condition of promotion.

(b) REPORTS ON PROMOTION OF RESERVE MAJOR GENERALS TO LIEUTENANT GENERAL GRADE.—

(1) REVIEW REQUIRED.—The Secretary of the Army and the Secretary of the Air Force shall each conduct a review of the promotion practices of the military department concerned in order to identify and assess the practices of such military department in the promotion of reserve officers from major general grade to lieutenant general grade.

(2) REPORTS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army and the Secretary of the Air Force shall each submit to the congressional defense committees a report on the review conducted by such official under paragraph (1). Each report shall set forth—

(A) the results of such review; and

(B) a description of the actions intended to be taken by such official to encourage and facilitate the promotion of additional reserve officers from major general grade to lieutenant general grade.

SEC. 1605. REQUIREMENT THAT POSITION OF DEPUTY COMMANDER OF THE UNITED STATES NORTHERN COMMAND BE FILLED BY A QUALIFIED NATIONAL GUARD OFFICER.

(a) IN GENERAL.—A position of Deputy Commander of the United States Northern Command shall be filled by a qualified officer of the National Guard who is eligible for promotion to the grade of lieutenant general.

(b) PURPOSE.—The purpose of the requirement in subsection (a) is to ensure that information received from the National Guard Bureau regarding the operation of the National Guard of the several States is integrated into the plans and operations of the United States Northern Command.

SEC. 1606. REQUIREMENT FOR SECRETARY OF DEFENSE TO PREPARE ANNUAL PLAN FOR RESPONSE TO NATURAL DISASTERS AND TERRORIST EVENTS.

(a) REQUIREMENT FOR ANNUAL PLAN.—Not later than March 1, 2008, and each March 1 thereafter, the Secretary of Defense, in consultation with the commander of the United States Northern Command and the Chief of the National Guard Bureau, shall prepare and submit to Congress a plan for coordinating the use of the National Guard and members of the Armed Forces on active duty when responding to natural disasters, acts of terrorism, and other man-made disasters as identified in the national planning scenarios described in subsection (e).

(b) INFORMATION TO BE PROVIDED TO SECRETARY.—To assist the Secretary of Defense in preparing the plan, the National Guard Bureau, pursuant to its purpose as channel of communications as set forth in section 10501(b) of title 10, United States Code, shall provide to the Secretary information gathered from Governors, adjutants general of States, and other State civil authorities responsible for homeland preparation and response to natural and man-made disasters.

(c) TWO VERSIONS.—The plan shall set forth two versions of response, one using only members of the National Guard, and one using both members of the National Guard and members of the regular components of the Armed Forces.

(d) MATTERS COVERED.—The plan shall cover, at a minimum, the following:

(1) Protocols for the Department of Defense, the National Guard Bureau, and the Governors of the several States to carry out

operations in coordination with each other and to ensure that Governors and local communities are properly informed and remain in control in their respective States and communities.

(2) An identification of operational procedures, command structures, and lines of communication to ensure a coordinated, efficient response to contingencies.

(3) An identification of the training and equipment needed for both National Guard personnel and members of the Armed Forces on active duty to provide military assistance to civil authorities and for other domestic operations to respond to hazards identified in the national planning scenarios.

(e) NATIONAL PLANNING SCENARIOS.—The plan shall provide for response to the following hazards:

(1) Nuclear detonation, biological attack, biological disease outbreak/pandemic flu, the plague, chemical attack-blister agent, chemical attack-toxic industrial chemicals, chemical attack-nerve agent, chemical attack-chlorine tank explosion, major hurricane, major earthquake, radiological attack-radiological dispersal device, explosives attack-bombing using improvised explosive device, biological attack-food contamination, biological attack-foreign animal disease and cyber attack.

(2) Any other hazards identified in a national planning scenario developed by the Homeland Security Council.

SEC. 1607. ADDITIONAL REPORTING REQUIREMENTS RELATING TO NATIONAL GUARD EQUIPMENT.

Section 10541 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d) Each report under this section concerning equipment of the National Guard shall also include the following:

''(1) A statement of the accuracy of the projections required by subsection (b)(5)(D) contained in earlier reports under this section, and an explanation, if the projection was not met, of why the projection was not met.

''(2) A certification from the Chief of the National Guard Bureau setting forth an inventory for the preceding fiscal year of each item of equipment—

''(A) for which funds were appropriated;

''(B) which was due to be procured for the National Guard during that fiscal year; and

''(C) which has not been received by a National Guard unit as of the close of that fiscal year.''.

SA 2894. Mr. CARDIN submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 555. ASSESSMENTS OF SPONSOR PROGRAMS AT THE MILITARY SERVICE ACADEMIES.

(a) ASSESSMENTS REQUIRED.—Not later than 180 days after the date of the enactment of this Act, each Secretary concerned shall submit to the congressional defense committees an assessment of the sponsor program at each military service academy of such military department together with a copy of the policy of the academy with respect to such program.

(b) CONTENT.—Each assessment submitted under subsection (a) shall describe—

(1) the purpose of the policy regarding the sponsor program at the academy;

(2) the implementation of the policy;

(3) the method used to screen potential sponsors;

(4) the responsibilities of sponsors;

(5) the guidance provided to midshipmen and cadets regarding the sponsor program; and

(6) any recommendations for change in the sponsor program.

SA 2895. Mr. CONRAD (for himself, Mr. HATCH, Mr. DORGAN, Mr. GREGG, Mr. ROBERTS, Mr. SUNUNU, Ms. CANTWELL, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 143. SENSE OF CONGRESS ON THE REPLACEMENT OF THE TANKER AIRCRAFT FLEET.

It is the sense of Congress that timely replacement of the Air Force aerial refueling tanker fleet in a manner that achieves the best value for the taxpayer is a vital national security priority for the reasons as follows:

(1) The average age of the aircraft in the Air Force aerial refueling tanker fleet is now more than 43 years, with the age of the aircraft in the KC–135 tanker fleet averaging 46 years.

(2) The development and fielding of a replacement tanker aircraft will allow the United States military to continue to project combat capability anywhere in the world on short notice without relying on intermediate bases for refueling.

(3) Under current plans, it will take more than 30 years to replace the current fleet of KC–135 tanker aircraft, meaning that some KC–135 tanker aircraft are scheduled to remain operational until they are nearly 80 years old.

SA 2896. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1031. PROHIBITION ON USE OF FUNDS FOR CRUEL, INHUMAN, AND DEGRADING TREATMENT AND PUNISHMENT.

(a) PROHIBITION ON USE OF FUNDS FOR CRUEL, INHUMAN, AND DEGRADING TREATMENT AND PUNISHMENT.—No funds authorized to be appropriated by this Act may be used in contravention of the following laws enacted or regulations prescribed to implement the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (done at New York on December 10, 1984):

(1) Section 2340A of title 18, United States Code.

(2) Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (division G of Public Law 105–277; 112 Stat. 2681–822; 8 U.S.C. 1231 note) and regulations prescribed thereto, including regulations under part 208 of title 8, Code of Federal Regulations, and part 95 of title 22, Code of Federal Regulations;

(3) Sections 1002 and 1003 of the Detainee Treatment Act of 2005 (10 U.S.C. 801 note; 42 U.S.C. 2000dd).

(b) PROHIBITION ON USE OF FUNDS FOR EXTRAORDINARY RENDITIONS.—No funds authorized to be appropriated by this Act may be used for any transfer (commonly referred to as an ''extraordinary rendition'') of any person who is imprisoned, detained, or held, or otherwise in the custody or control of a department, agency, or official of the United States Government, or any contractor of a department or agency of the United States Government, to a country where there are substantial grounds for believing that such person would subjected to torture.

SA 2897. Mr. KENNEDY (for himself, Mr. BYRD, Ms. MIKULSKI, and Mr. CARDIN) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1070. ESTABLISHMENT OF JOINT PATHOLOGY CENTER.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Joint Pathology Center located at the National Naval Medical Center in Bethesda, Maryland, that shall function as the reference center in pathology for the Department of Defense.

(b) SERVICES.—The Joint Pathology Center shall provide, at a minimum, the following services:

(1) Diagnostic pathology consultation in medicine, dentistry, and veterinary sciences (including consultation services for patients who are civilians, veterans, or active duty military personnel).

(2) Pathology education, to include graduate medical education, including residency and fellowship programs, and continuing medical education.

(3) Diagnostic pathology research.

(4) Maintenance and continued modernization of the Tissue Repository and, as appropriate, utilization of such Repository in conducting the activities described in paragraphs (1) through (3).

SA 2898. Mr. LEVIN (for himself and Mr. REED) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 1535. REDUCTION AND TRANSITION OF UNITED STATES FORCES IN IRAQ.

(a) DEADLINE FOR COMMENCEMENT OF REDUCTION.—The Secretary of Defense shall

commence the reduction of the number of United States forces in Iraq not later than 90 days after the date of the enactment of this Act.

(b) IMPLEMENTATION OF REDUCTION ALONG WITH A COMPREHENSIVE STRATEGY.—The reduction of forces required by this section shall be implemented along with a comprehensive diplomatic, political, and economic strategy that includes sustained engagement with Iraq's neighbors and the international community for the purpose of working collectively to bring stability to Iraq. As part of this effort, the President shall direct the United States Special Representative to the United Nations to use the voice, vote, and influence of the United States to seek the appointment of an international mediator in Iraq, under the auspices of the United Nations Security Council, who has the authority of the international community to engage political, religious, ethnic and tribal leaders in Iraq in an inclusive political process.

(c) LIMITED PRESENCE AFTER REDUCTION AND TRANSITION.—After the conclusion of the reduction and transition of United States forces to a limited presence as required by this section, the Secretary of Defense may deploy or maintain members of the Armed Forces in Iraq only for the following missions:

(1) Protecting United States and Coalition personnel and infrastructure.

(2) Training, equipping, and providing logistic support to the Iraqi Security Forces.

(3) Engaging in targeted counterterrorism operations against al Qaeda, al Qaeda affiliated groups, and other international terrorist organizations.

(d) COMPLETION OF TRANSITION.—The Secretary of Defense shall complete the transition of United States forces to a limited presence and missions as described in subsection (c) by not later than nine months after the date of the enactment of this Act.

SA 2899. Mr. FEINGOLD (for himself, Mr. CASEY, Mr. KENNEDY, Ms. MIKULSKI, and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROGRAMS FOR USE OF LEAVE BY CAREGIVERS FOR FAMILY MEMBERS OF INDIVIDUALS PERFORMING CERTAIN MILITARY SERVICE.

(a) FEDERAL EMPLOYEES PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) CAREGIVER.—The term ''caregiver'' means an individual who—

(i) is an employee;

(ii) is at least 21 years of age; and

(iii) is capable of self care and care of children or other dependent family members of a qualified member of the Armed Forces.

(B) COVERED PERIOD OF SERVICE.—The term ''covered period of service'' means any period of service performed by an employee as a caregiver while the individual who designated the caregiver under paragraph (3) remains a qualified member of the Armed Forces.

(C) EMPLOYEE.—The term ''employee'' has the meaning given under section 6331 of title 5, United States Code.

(D) FAMILY MEMBER.—The term ''family member'' includes—

(i) individuals for whom the qualified member of the Armed Forces provides medical, financial, and logistical support (such as housing, food, clothing, or transportation); and

(ii) children under the age of 18 years, elderly adults, persons with disabilities, and other persons who are unable to care for themselves because of a mental or physical disability in the absence of the qualified member of the Armed Forces.

(E) QUALIFIED MEMBER OF THE ARMED FORCES.—The term ''qualified member of the Armed Forces'' means—

(i) a member of a reserve component of the Armed Forces as described under section 10101 of title 10, United States Code, who has received notice to report to, or is serving on, active duty in the Armed Forces in support of a contingency operation as defined under section 101(a)(13) of title 10, United States Code; or

(ii) a member of the Armed Forces on active duty who is eligible for hostile fire or imminent danger special pay under section 310 of title 37, United States Code.

(2) ESTABLISHMENT OF PROGRAM.—The Office of Personnel Management shall establish a program to authorize a caregiver to use under paragraph (4)—

(A) any sick leave of that caregiver during a covered period of service; and

(B) any leave available to that caregiver under subchapter III or IV of chapter 63 of title 5, United States Code, during a covered period of service.

(3) DESIGNATION OF CAREGIVER.—

(A) IN GENERAL.—A qualified member of the Armed Forces shall submit a written designation of the individual who is the caregiver for any family member of that member of the Armed Forces during a covered period of service to—

(i) the employing agency; and

(ii) the uniformed service of which the individual is a member.

(B) DESIGNATION OF SPOUSE.—Notwithstanding paragraph (1)(A)(ii), an individual less than 21 years of age may be designated as a caregiver if that individual is the spouse of the qualified member of the Armed Forces making the designation.

(4) USE OF CAREGIVER LEAVE.—Leave may only be used under this subsection for purposes directly relating to, or resulting from, the employee's giving of care under the designation of the employee as a caregiver.

(5) COVERAGE OF FEDERAL EMPLOYEES NOT UNDER THE FEDERAL ANNUAL- AND SICK-LEAVE SYSTEM.—The program developed by the Office of Personnel Management under paragraph (2) shall also authorize employees of the executive branch who are not employees referred to in paragraph (1)(C) to use sick leave, or any other leave available to the employee, during a covered period of service for purposes relating to, or resulting from, the employee's giving of care under the designation of the employee as a caregiver.

(6) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out this subsection, including a definition of activities that qualify as the giving of care.

(7) TERMINATION.—The program under this subsection shall terminate on December 31, 2009.

(b) VOLUNTARY PRIVATE SECTOR LEAVE PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) CAREGIVER.—The term ''caregiver'' means an individual who—

(i) is an employee;

(ii) is at least 21 years of age; and

(iii) is capable of self care and care of children or other dependent family members of a qualified member of the Armed Forces.

(B) COVERED PERIOD OF SERVICE.—The term ''covered period of service'' means any period of service performed by an employee as a caregiver while the individual who designated the caregiver under paragraph (4) remains a qualified member of the Armed Forces.

(C) EMPLOYEE.—The term ''employee'' means an employee of a business entity participating in the program under this subsection.

(D) FAMILY MEMBER.—The term ''family member'' includes—

(i) individuals for whom the qualified member of the Armed Forces provides medical, financial, and logistical support (such as housing, food, clothing, or transportation); and

(ii) children under the age of 18 years, elderly adults, persons with disabilities, and other persons who are unable to care for themselves because of mental or physical disability in the absence of the qualified member of the Armed Forces.

(E) QUALIFIED MEMBER OF THE ARMED FORCES.—The term ''qualified member of the Armed Forces'' means—

(i) a member of a reserve component of the Armed Forces as described under section 10101 of title 10, United States Code, who has received notice to report to, or is serving on, active duty in the Armed Forces in support of a contingency operation as defined under section 101(a)(13) of title 10, United States Code; or

(ii) a member of the Armed Forces on active duty who is eligible for hostile fire or imminent danger special pay under section 310 of title 37, United States Code.

(2) ESTABLISHMENT OF PROGRAM.—

(A) IN GENERAL.—The Secretary of Labor shall establish a program to authorize employees of business entities described under paragraph (3) to use sick leave, or any other leave available to an employee, during a covered period of service for purposes relating to, or resulting from, the employee's giving of care under the designation of the employee as a caregiver.

(B) EXCEPTION.—Subparagraph (A) shall not apply to leave made available under the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

(3) VOLUNTARY BUSINESS PARTICIPATION.—The Secretary of Labor shall solicit business entities to voluntarily participate in the program under this subsection.

(4) DESIGNATION OF CAREGIVER.—

(A) IN GENERAL.—A qualified member of the Armed Forces shall submit a written designation of the individual who is the caregiver for any family member of that member of the Armed Forces during a covered period of service to—

(i) the employing business entity; and

(ii) the uniformed service of which the individual is a member.

(B) DESIGNATION OF SPOUSE.—Notwithstanding paragraph (1)(A)(ii), an individual less than 21 years of age may be designated as a caregiver if that individual is the spouse of the qualified member of the Armed Forces making the designation.

(5) USE OF CAREGIVER LEAVE.—Leave may only be used under this subsection for purposes directly relating to, or resulting from, the employee's giving of care under the designation of the employee as a caregiver.

(6) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary of Labor shall prescribe regulations to carry out this subsection.

(7) TERMINATION.—The program under this subsection shall terminate on December 31, 2009.

(c) GAO REPORT.—Not later than March 31, 2009, the Government Accountability Office

shall submit a report to Congress on the programs under subsections (a) and (b) that includes—

(1) an evaluation of the success of each program; and

(2) recommendations for the continuance or termination of each program.

(d) OFFSET.—The aggregate amount authorized to be appropriated for fiscal year 2008 for the use of the Department of Defense for research, development, test and evaluation shall be reduced by $2,000,000.

SA 2900. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 2166 submitted by Mr. SMITH and intended to be proposed to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

On page 20 of the amendment, after line 12, insert the following:

(m) LIABILITY OF PARENT COMPANIES FOR VIOLATIONS OF SANCTIONS BY FOREIGN ENTITIES.—

(1) SHORT TITLE.—This subsection may be cited as the ''Stop Business with Terrorists Act of 2007''.

(2) DEFINITIONS.—In this subsection:

(A) ENTITY.—The term ''entity'' means a partnership, association, trust, joint venture, corporation, or other organization.

(B) PARENT COMPANY.—The term ''parent company'' means an entity that is a United States person and—

(i) the entity owns, directly or indirectly, more than 50 percent of the equity interest by vote or value in another entity;

(ii) board members or employees of the entity hold a majority of board seats of another entity; or

(iii) the entity otherwise controls or is able to control the actions, policies, or personnel decisions of another entity.

(C) UNITED STATES PERSON.—The term ''United States person'' means—

(i) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States; and

(ii) an entity that is organized under the laws of the United States, any State or territory thereof, or the District of Columbia, if natural persons described in clause (i) own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such entity.

(3) LIABILITY OF PARENT COMPANIES.—In any case in which an entity engages in an act outside the United States that, if committed in the United States or by a United States person, would violate the provisions of Executive Order 12959 (50 U.S.C. 1701 note) or Executive Order 13059 (50 U.S.C. 1701 note), or any other prohibition on transactions with respect to Iran imposed under the authority of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the parent company of the entity shall be subject to the penalties for the act to the same extent as if the parent company had engaged in the act.

(4) APPLICABILITY.—Paragraph (3) shall not apply to a parent company of an entity on which the President imposed a penalty for a violation described in paragraph (3) that was in effect on the date of the enactment of this Act if the parent company divests or terminates its business with such entity not later than 90 days after such date of enactment.

SA 2901. Mr. SESSIONS (for himself and Mr. COBURN) submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 115. M4 CARBINE RIFLE.

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

(1) The members of the Armed Forces are entitled to the best individual combat weapons available in the world today.

(2) Full and open competition in procurement is required by law, and is the most effective way of selecting the best individual combat weapons for the Armed Forces at the best price.

(3) The M4 carbine rifle is currently the individual weapon of choice for the Army, and it is procured through a sole source contract.

(4) The M4 carbine rifle has been proven in combat and meets or exceeds the existing requirements for carbines.

(5) In recent months, government testing and surveys of commercially available small arms have identified alternative riles and carbines that, like the M4 carbine, meet or exceed existing performance and maintenance requirements for the Armed Forces.

(6) The Army Training and Doctrine Command is conducting a full Capabilities Based Assessment (CBA) of the small arms of the Army which will determine whether or not gaps exist in the current capabilities of such small arms and inform decisions as to whether or not a new individual weapon is required to address such gaps.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should establish a new program of record for the Joint Enhanced Carbine not later than October 1, 2008.

(c) REPORT ON CAPABILITIES BASED ASSESSMENT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report on the Capabilities Based Assessment of the small arms of the Army referred to in subsection (a)(6).

(d) COMPETITION FOR NEW INDIVIDUAL WEAPON.—

(1) COMPETITION REQUIRED.—In the event the Capabilities Based Assessment identifies gaps in the current capabilities of the small arms of the Army and the Secretary of the Army determines that a new individual weapon is required to address such gaps, the Secretary shall procure the new individual weapon through one or more contracts entered into after full and open competition described in paragraph (2).

(2) FULL AND OPEN COMPETITION.—The full and open competition described in this paragraph is full and open competition among all responsible manufacturers that—

(A) is open to all developmental item solutions and nondevelopmental item (NDI) solutions; and

(B) provides for the award of the contract or contracts concerned based on best weapon performance in light of the capabilities identified to be required in the Capabilities Based Assessment.

(e) REPORT ON CLASSIFICATION AS JOINT ENHANCED CARBINE.—Not later than March 1, 2008, the Secretary of Defense shall submit to the congressional defense committees a report on the feasibility and advisability of each of the following:

(1) The certification of a Joint Enhanced Carbine requirement that does not require commonality with existing technical data.

(2) The award of contracts for all available nondevelopmental carbines in accordance with the Joint Enhanced Carbine requirement.

(3) The reclassification, effective August 1, 2008, of funds for M4 Carbines to Joint Enhanced Carbines authorized only as the result of competition.

(4) The use of rapid equipping authority to procure weapons under $2,000 per unit using contracts for nondevelopmental items that are awarded through full and open competition.

SA 2902. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 594. ENHANCEMENT OF CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY.

The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, modify the Certificate of Release or Discharge from Active Duty (Department of Defense from DD214) in order to permit a member of the Armed Forces, upon discharge or release from active duty in the Armed Forces, to elect the forwarding of the Certificate to the following:

(1) The Central Office of the Department of Veterans Affairs in Washington, District of Columbia.

(2) The appropriate office of the United States Department of Veterans in the State in which the member will first reside after such discharge or release.

SA 2903. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 536. ENHANCEMENT OF REVERSE SOLDIER READINESS PROCESSING DEMOBILIZATION PROCEDURE.

The Secretary of Defense and the Secretary of Veterans Affairs shall jointly modify the demobilization procedure for members of the Armed Forces known as Reverse Soldier Readiness Processing by providing for the presence of appropriate Department of Veterans Affairs personnel during such demobilization procedure in order to achieve the following:

(1) The voluntary registration of members of the Armed Forces covered by such procedure in applicable systems of the Department of Veterans Affairs.

(2) The voluntary registration of members of the Armed Forces covered by such procedure for applicable benefits and services from the Department of Veterans Affairs.

(3) The provision of information to members of the Armed Forces covered by such procedure on the benefits and services available to veterans from or through the Department of Veterans Affairs.

SA 2904. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 594. ELECTRONIC DISTRIBUTION OF MEDICAL AND OTHER PERSONNEL RECORDS TO MEMBERS OF THE ARMED FORCES UPON THEIR DISCHARGE OR RELEASE FROM THE ARMED FORCES.

(a) IN GENERAL.—The Secretary of Defense shall prescribe in regulations a policy, to apply uniformly across the military departments, for the distribution and transfer to members of the Armed Forces of their medical and other personnel records in CD-ROM or other appropriate electronic format at the following times:

(1) Upon the discharge or release of such members from the Armed Forces.

(2) In the case of members of the National Guard or Reserve, upon the deactivation or demobilization of such members after a period on active duty in the Armed Forces of more than 30 days.

(b) PRIVACY AND OTHER APPLICABLE REQUIREMENTS.—The policy required by subsection (a) shall ensure the privacy, security, and protection of medical and other personnel records distributed and transferred pursuant to the policy in a manner consistent with applicable law.

SA 2905. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, which was ordered to lie on the table; as follows:

On page 114, between lines 4 and 5, insert the following:

SEC. 583. PILOT PROGRAM ON MILITARY FAMILY READINESS AND SERVICEMEMBER REINTEGRATION.

(a) PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of Defense shall carry out a pilot program to assess the feasibility and advisability of providing grants to eligible entities to create comprehensive soldier and family preparedness and reintegration outreach programs for members of the Armed Forces and their families to further the purposes described in section 1781b(b) of title 10, United States Code, as added by section 582(a) of this Act.

(2) COORDINATION.—In carrying out the pilot program, the Secretary shall—

(A) coordinate with the Department of Defense Military Family Readiness Council (established under section 1781a of title, United States Code, as added by section 581 of this Act); and

(B) consult with the Secretary of Veterans Affairs.

(3) DESIGNATION.—The pilot program established pursuant to paragraph (1) shall be known as the ''National Military Family Readiness and Servicemember Reintegration Outreach Program'' (in this section referred to as ''the pilot program'').

(b) GRANTS.—The Secretary shall carry out the pilot program through the award of grants to eligible entities for the provision of outreach services to members of the Armed Forces and their families as described in subsection (a).

(c) ELIGIBLE ENTITIES.—For purposes of this subsection, an eligible entity is any of the following:

(1) An Adjutant General of a State or territory of the United States.

(2) A medical center of a Veterans Integrated Service Network (VISN).

(3) A State veterans affairs agency.

(4) A family support group for regular members of the Armed Forces or for members of the National Guard or Reserve, if such organization partners with an entity described in paragraphs (1) through (3).

(5) An organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38, United States Code, if such organization partners with an entity described in paragraphs (1) through (3).

(6) A State or local nonprofit organization, if such organization partners with an entity described in paragraphs (1) through (3).

(d) USE OF GRANT FUNDS.—

(1) IN GENERAL.—Recipients of grants under the pilot program shall develop programs of outreach to members of the Armed Forces and their family members to educate such members and their family members about the assistance and services available to them that meet the purposes of section 1781b(b) of title 10, United States Code, as added by section 582(a) of this Act, and to assist such members and their family members in obtaining such assistance and services. Such assistance and services may include the following:

(A) Marriage counseling.

(B) Services for children.

(C) Suicide prevention.

(D) Substance abuse awareness and treatment.

(E) Mental health awareness and treatment.

(F) Financial counseling.

(G) Anger management counseling.

(H) Domestic violence awareness and prevention.

(I) Employment assistance.

(J) Development of strategies for living with a member of the Armed Forces with post traumatic stress disorder or traumatic brain injury.

(K) Other services that may be appropriate to address the unique needs of members of the Armed Forces and their families who live in rural or remote areas with respect to family readiness and servicemember reintegration.

(L) Assisting members of the Armed Forces and their families find and receive assistance with military family readiness and servicemember reintegration, including referral services.

(M) Development of strategies and programs that recognize the need for long-term follow-up services for reintegrating members of the Armed Forces and their families for extended periods following deployments, including between deployments.

(N) Assisting members of the Armed Forces and their families in receiving services and assistance from the Department of Veterans Affairs, including referral services.

(2) PROVISION OF OUTREACH SERVICES.—A recipient of a grant under this section shall carry out programs of outreach in accordance with paragraph (1) to members of the Armed Forces and their families before, during, between, and after deployment of such members of the Armed Forces.

(e) SELECTION OF GRANT RECIPIENTS.—

(1) APPLICATION.—An eligible entity seeking a grant under the pilot program shall submit to the Secretary an application therefor in such form and in such manner as the Secretary considers appropriate.

(2) ELEMENTS.—An application submitted under subparagraph (A) shall include such elements as the Secretary considers appropriate.

(3) PRIORITY.—In selecting eligible entities to receive grants under the pilot program, the Secretary shall give priority to eligible entities that propose programs with a focus on personal outreach to members of the Armed Forces and their families by trained staff (with preference given to veterans and, in particular, veterans of combat) conducted in person.

(f) FUNDING.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities, $30,000,000 may be available to carry out this section.

SA 2906. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 1585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, which was ordered to lie on the table; as follows:

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

SEC. 827. INAPPLICABILITY OF BERRY AMENDMENT TO PROCUREMENTS OF FIRE RESISTANT RAYON FIBER MANUFACTURED IN AUSTRIA FOR UNIFORMS.

Section 2533a(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(3) Fire resistant rayon fiber manufactured in Austria for use in the production of uniforms, unless fire resistant rayon fiber for such use is produced in the United States.''.

SA 2907. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 2011 proposed by Mr. NELSON of Nebraska (for Mr. LEVIN) to the bill H.R. 2585, to authorize appropriations for fiscal year 2008 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 827. FIRE RESISTANT RAYON FIBER FOR UNIFORMS FROM FOREIGN SOURCES.

(a) AUTHORIZED SOURCES.—Chapter 141 of title 10, United States Code, as amended by section 826 of this Act, is further amended by adding at the end the following:

''§ 2410r. Foreign manufactured fire resistant rayon fiber for uniforms: procurement

''(a) AUTHORITY.—The Secretary of Defense may procure fire resistant rayon fiber manufactured in a foreign country referred to in

subsection (b) for use in the production of uniforms.

''(b) FOREIGN COUNTRIES COVERED.—The authority under subsection (a) applies with respect to a foreign country that—

''(1) is a party to a defense memorandum of understanding entered into under section 2531 of this title; and

''(2) permits United States firms that manufacture fire resistant rayon fiber to compete with foreign firms for the sale of fire resistant rayon fiber in that country, as determined by the Secretary of Defense.

''(c) APPLICABILITY TO SUBCONTRACTS.—The authority under subsection (a) applies with respect to subcontracts under Department of Defense contracts as well as to such contracts.

''(d) DEFINITIONS.—In this section, the terms 'United States firm' and 'foreign firm' have the meanings given such terms in section 2532(d) of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as so amended, is further amended by adding at the end the following new item:

''2410r. Foreign manufactured fire resistant rayon fiber for uniforms: procurement''.

SA 2908. Mr. REID (for Mr. DOMENICI (for himself and Mr. KENNEDY)) proposed an amendment to the bill S. 558, to provide parity between health insurance coverage of mental health benefits and benefits for medical and surgical services; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mental Health Parity Act of 2007''.

SEC. 2. MENTAL HEALTH PARITY.

(a) AMENDMENTS OF ERISA.—Subpart B of part 7 of title I of the Employee Retirement Income Security Act of 1974 is amended by inserting after section 712 (29 U.S.C. 1185a) the following:

''SEC. 712A. MENTAL HEALTH PARITY.

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, such plan or coverage shall ensure that—

''(1) the financial requirements applicable to such mental health benefits are no more restrictive than the financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage), including deductibles, copayments, coinsurance, out-of-pocket expenses, and annual and lifetime limits, except that the plan (or coverage) may not establish separate cost sharing requirements that are applicable only with respect to mental health benefits; and

''(2) the treatment limitations applicable to such mental health benefits are no more restrictive than the treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage), including limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

''(b) CLARIFICATIONS.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, and complies with the requirements of subsection (a), such plan or coverage shall not be prohibited from—

''(1) negotiating separate reimbursement or provider payment rates and service delivery systems for different benefits consistent with subsection (a);

''(2) managing the provision of mental health benefits in order to provide medically necessary services for covered benefits, including through the use of any utilization review, authorization or management practices, the application of medical necessity and appropriateness criteria applicable to behavioral health, and the contracting with and use of a network of providers; and

''(3) applying the provisions of this section in a manner that takes into consideration similar treatment settings or similar treatments.

''(c) IN- AND OUT-OF-NETWORK.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, and that provides such benefits on both an in- and out-of-network basis pursuant to the terms of the plan (or coverage), such plan (or coverage) shall ensure that the requirements of this section are applied to both in- and out-of-network services by comparing in-network medical and surgical benefits to in-network mental health benefits and out-of-network medical and surgical benefits to out-of-network mental health benefits.

''(d) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), this section shall not apply to any group health plan (or group health insurance coverage offered in connection with a group health plan) for any plan year of any employer who employed an average of at least 2 (or 1 in the case of an employer residing in a State that permits small groups to include a single individual) but not more than 50 employees on business days during the preceding calendar year.

''(2) NO PREEMPTION OF CERTAIN STATE LAWS.—Nothing in paragraph (1) shall be construed to preempt any State insurance law relating to employers in the State who employed an average of at least 2 (or 1 in the case of an employer residing in a State that permits small groups to include a single individual) but not more than 50 employees on business days during the preceding calendar year.

''(3) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection:

''(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(C) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(e) COST EXEMPTION.—

''(1) IN GENERAL.—With respect to a group health plan (or health insurance coverage offered in connections with such a plan), if the application of this section to such plan (or coverage) results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health benefits under the plan (as determined and certified under paragraph (3)) by an amount that exceeds the applicable percentage described in paragraph (2) of the actual total plan costs, the provisions of this section shall not apply to such plan (or coverage) during the following plan year, and such exemption shall apply to the plan (or coverage) for 1 plan year. An employer may elect to continue to apply mental health parity pursuant to this section with respect to the group health plan (or coverage) involved regardless of any increase in total costs.

''(2) APPLICABLE PERCENTAGE.—With respect to a plan (or coverage), the applicable percentage described in this paragraph shall be—

''(A) 2 percent in the case of the first plan year in which this section is applied; and

''(B) 1 percent in the case of each subsequent plan year.

''(3) DETERMINATIONS BY ACTUARIES.—Determinations as to increases in actual costs under a plan (or coverage) for purposes of this section shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American Academy of Actuaries. All such determinations shall be in a written report prepared by the actuary. The report, and all underlying documentation relied upon by the actuary, shall be maintained by the group health plan or health insurance issuer for a period of 6 years following the notification made under paragraph (6).

''(4) 6-MONTH DETERMINATIONS.—If a group health plan (or a health insurance issuer offering coverage in connection with a group health plan) seeks an exemption under this subsection, determinations under paragraph (1) shall be made after such plan (or coverage) has complied with this section for the first 6 months of the plan year involved.

''(5) NOTIFICATION.—An election to modify coverage of mental health benefits as permitted under this subsection shall be treated as a material modification in the terms of the plan as described in section 102(a) and shall be subject to the applicable notice requirements under section 104(b)(1).

''(6) NOTIFICATION TO APPROPRIATE AGENCY.—

''(A) IN GENERAL.—A group health plan (or a health insurance issuer offering coverage in connection with a group health plan) that, based upon a certification described under paragraph (3), qualifies for an exemption under this subsection, and elects to implement the exemption, shall notify the Department of Labor or the Department of Health and Human Services, as appropriate, of such election.

''(B) REQUIREMENT.—A notification under subparagraph (A) shall include—

''(i) a description of the number of covered lives under the plan (or coverage) involved at the time of the notification, and as applicable, at the time of any prior election of the cost-exemption under this subsection by such plan (or coverage);

''(ii) for both the plan year upon which a cost exemption is sought and the year prior, a description of the actual total costs of coverage with respect to medical and surgical benefits and mental health benefits under the plan; and

''(iii) for both the plan year upon which a cost exemption is sought and the year prior, the actual total costs of coverage with respect to mental health benefits under the plan.

''(C) CONFIDENTIALITY.—A notification under subparagraph (A) shall be confidential. The Department of Labor and the Department of Health and Human Services shall make available, upon request and on not more than an annual basis, an anonymous itemization of such notifications, that includes—

''(i) a breakdown of States by the size and type of employers submitting such notification; and

''(ii) a summary of the data received under subparagraph (B).

''(7) AUDITS BY APPROPRIATE AGENCIES.—To determine compliance with this subsection, the Department of Labor and the Department of Health and Human Services, as appropriate, may audit the books and records of a group health plan or health insurance issuer relating to an exemption, including any actuarial reports prepared pursuant to paragraph (3), during the 6 year period following the notification of such exemption under paragraph (6). A State agency receiving a notification under paragraph (6) may also conduct such an audit with respect to an exemption covered by such notification.

''(f) MENTAL HEALTH BENEFITS.—In this section, the term 'mental health benefits' means benefits with respect to mental health services (including substance use disorder treatment) as defined under the terms of the group health plan or coverage, and when applicable as may be defined under State law when applicable to health insurance coverage offered in connection with a group health plan.''.

(b) PUBLIC HEALTH SERVICE ACT.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by inserting after section 2705 (42 U.S.C. 300gg-5) the following:

''SEC. 2705A. MENTAL HEALTH PARITY.

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, such plan or coverage shall ensure that—

''(1) the financial requirements applicable to such mental health benefits are no more restrictive than the financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage), including deductibles, copayments, coinsurance, out-of-pocket expenses, and annual and lifetime limits, except that the plan (or coverage) may not establish separate cost sharing requirements that are applicable only with respect to mental health benefits; and

''(2) the treatment limitations applicable to such mental health benefits are no more restrictive than the treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage), including limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

''(b) CLARIFICATIONS.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, and complies with the requirements of subsection (a), such plan or coverage shall not be prohibited from—

''(1) negotiating separate reimbursement or provider payment rates and service delivery systems for different benefits consistent with subsection (a);

''(2) managing the provision of mental health benefits in order to provide medically necessary services for covered benefits, including through the use of any utilization review, authorization or management practices, the application of medical necessity and appropriateness criteria applicable to behavioral health, and the contracting with and use of a network of providers; and

''(3) applying the provisions of this section in a manner that takes into consideration similar treatment settings or similar treatments.

''(c) IN- AND OUT-OF-NETWORK.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, and that provides such benefits on both an in- and out-of-network basis pursuant to the terms of the plan (or coverage), such plan (or coverage) shall ensure that the requirements of this section are applied to both in- and out-of-network services by comparing in-network medical and surgical benefits to in-network mental health benefits and out-of-network medical and surgical benefits to out-of-network mental health benefits.

''(d) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), this section shall not apply to any group health plan (or group health insurance coverage offered in connection with a group health plan) for any plan year of any employer who employed an average of at least 2 (or 1 in the case of an employer residing in a State that permits small groups to include a single individual) but not more than 50 employees on business days during the preceding calendar year.

''(2) NO PREEMPTION OF CERTAIN STATE LAWS.—Nothing in paragraph (1) shall be construed to preempt any State insurance law relating to employers in the State who employed an average of at least 2 (or 1 in the case of an employer residing in a State that permits small groups to include a single individual) but not more than 50 employees on business days during the preceding calendar year.

''(3) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection:

''(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(C) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(e) COST EXEMPTION.—

''(1) IN GENERAL.—With respect to a group health plan (or health insurance coverage offered in connection with such a plan), if the application of this section to such plan (or coverage) results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health benefits under the plan (as determined and certified under paragraph (3)) by an amount that exceeds the applicable percentage described in paragraph (2) of the actual total plan costs, the provisions of this section shall not apply to such plan (or coverage) during the following plan year, and such exemption shall apply to the plan (or coverage) for 1 plan year. An employer may elect to continue to apply mental health parity pursuant to this section with respect to the group health plan (or coverage) involved regardless of any increase in total costs.

''(2) APPLICABLE PERCENTAGE.—With respect to a plan (or coverage), the applicable percentage described in this paragraph shall be—

''(A) 2 percent in the case of the first plan year in which this section is applied; and

''(B) 1 percent in the case of each subsequent plan year.

''(3) DETERMINATIONS BY ACTUARIES.—Determinations as to increases in actual costs under a plan (or coverage) for purposes of this section shall be made and certified by a qualified and licensed actuary who is a member in good standing of the American Academy of Actuaries. All such determinations shall be in a written report prepared by the actuary. The report, and all underlying documentation relied upon by the actuary, shall be maintained by the group health plan or health insurance issuer for a period of 6 years following the notification made under paragraph (6).

''(4) 6-MONTH DETERMINATIONS.—If a group health plan (or a health insurance issuer offering coverage in connection with a group health plan) seeks an exemption under this subsection, determinations under paragraph (1) shall be made after such plan (or coverage) has complied with this section for the first 6 months of the plan year involved.

''(5) NOTIFICATION.—An election to modify coverage of mental health benefits as permitted under this subsection shall be treated as a material modification in the terms of the plan as described in section 102(a) of the Employee Retirement Income Security Act of 1974 and shall be subject to the applicable notice requirements under section 104(b)(1) of such Act.

''(6) NOTIFICATION TO APPROPRIATE AGENCY.—

''(A) IN GENERAL.—A group health plan (or a health insurance issuer offering coverage in connection with a group health plan) that, based upon a certification described under paragraph (3), qualifies for an exemption under this subsection, and elects to implement the exemption, shall notify the Department of Labor or the Department of Health and Human Services, as appropriate, of such election. A health insurance issuer providing health insurance coverage in connection with a group health plan shall provide a copy of such notice to the State insurance department or other State agency responsible for regulating the terms of such coverage.

''(B) REQUIREMENT.—A notification under subparagraph (A) shall include—

''(i) a description of the number of covered lives under the plan (or coverage) involved at the time of the notification, and as applicable, at the time of any prior election of the cost-exemption under this subsection by such plan (or coverage);

''(ii) for both the plan year upon which a cost exemption is sought and the year prior, a description of the actual total costs of coverage with respect to medical and surgical benefits and mental health benefits under the plan; and

''(iii) for both the plan year upon which a cost exemption is sought and the year prior, the actual total costs of coverage with respect to mental health benefits under the plan.

''(C) CONFIDENTIALITY.—A notification under subparagraph (A) shall be confidential. The Department of Labor and the Department of Health and Human Services shall make available, upon request and on not more than an annual basis, an anonymous itemization of such notifications, that includes—

''(i) a breakdown of States by the size and type of employers submitting such notification; and

''(ii) a summary of the data received under subparagraph (B).

''(7) AUDITS BY APPROPRIATE AGENCIES.—To determine compliance with this subsection, the Department of Labor and the Department of Health and Human Services, as appropriate, may audit the books and records of a group health plan or health insurance issuer relating to an exemption, including any actuarial reports prepared pursuant to paragraph (3), during the 6 year period following the notification of such exemption under paragraph (6). A State agency receiving a notification under paragraph (6) may

also conduct such an audit with respect to an exemption covered by such notification.

''(f) MENTAL HEALTH BENEFITS.—In this section, the term 'mental health benefits' means benefits with respect to mental health services (including substance use disorder treatment) as defined under the terms of the group health plan or coverage, and when applicable as may be defined under State law when applicable to health insurance coverage offered in connection with a group health plan.''.

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—The provisions of this Act shall apply to group health plans (or health insurance coverage offered in connection with such plans) beginning in the first plan year that begins on or after January 1 of the first calendar year that begins more than 1 year after the date of the enactment of this Act.

(b) TERMINATION OF CERTAIN PROVISIONS.—

(1) ERISA.—Section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a) is amended by striking subsection (f) and inserting the following:

''(f) SUNSET.—This section shall not apply to benefits for services furnished after the effective date described in section 3(a) of the Mental Health Parity Act of 2007.''.

(2) PHSA.—Section 2705 of the Public Health Service Act (42 U.S.C. 300gg-5) is amended by striking subsection (f) and inserting the following:

''(f) SUNSET.—This section shall not apply to benefits for services furnished after the effective date described in section 3(a) of the Mental Health Parity Act of 2007.''.

SEC. 4. FEDERAL ADMINISTRATIVE RESPONSIBILITIES.

(a) GROUP HEALTH PLAN OMBUDSMAN.—

(1) DEPARTMENT OF LABOR.—The Secretary of Labor shall designate an individual within the Department of Labor to serve as the group health plan ombudsman for the Department. Such ombudsman shall serve as an initial point of contact to permit individuals to obtain information and provide assistance concerning coverage of mental health services under group health plans in accordance with this Act.

(2) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall designate an individual within the Department of Health and Human Services to serve as the group health plan ombudsman for the Department. Such ombudsman shall serve as an initial point of contact to permit individuals to obtain information and provide assistance concerning coverage of mental health services under health insurance coverage issued in connection with group health plans in accordance with this Act.

(b) AUDITS.—The Secretary of Labor and the Secretary of Health and Human Services shall each provide for the conduct of random audits of group health plans (and health insurance coverage offered in connection with such plans) to ensure that such plans are in compliance with this Act (and the amendments made by this Act).

(c) GOVERNMENT ACCOUNTABILITY OFFICE STUDY.—

(1) STUDY.—The Comptroller General shall conduct a study that evaluates the effect of the implementation of the amendments made by this Act on the cost of health insurance coverage, access to health insurance coverage (including the availability of in-network providers), the quality of health care, the impact on benefits and coverage for mental health and substance use disorders, the impact of any additional cost or savings to the plan, the impact on out-of-network coverage for mental health benefits (including substance use disorder treatment), the impact on State mental health benefit mandate laws, other impact on the business community and the Federal Government, and other issues as determined appropriate by the Comptroller General.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the appropriate committees of Congress a report containing the results of the study conducted under paragraph (1).

(d) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Labor and the Secretary of Health and Human Services shall jointly promulgate final regulations to carry out this Act.

NOTICE OF HEARING

SUBCOMMITTEE ON NATIONAL PARKS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources, Subcommittee on National Parks.

The hearing will be held on September 27, 2007, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of this hearing will be to receive testimony on the following bills: S. 128, 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; S. 148, to establish the Paterson Great Falls National Park in the State of New Jersey, and for other purposes; S. 189, to decrease the matching funds requirement and authorize additional appropriations for Keweenaw National Historical Park in the State of Michigan; S. 697, to establish the Steel Industry National Historic Site in the State of Pennsylvania; S. 867, to adjust the boundary of Lowell National Historical Park, and for other purposes; S. 1341, to provide for the exchange of certain Bureau of Land Management land in Pima County, Arizona, and for other purposes; S. 1476, to authorize the Secretary of the Interior to conduct a special resources study of the Tule Lake Segregation Center in Modoc County, California, to determine the suitability and feasibility of establishing a unit of the National Park System; S. 1709 and H.R. 1239, to amend the National Underground Railroad Network to Freedom Act of 1998 to provide additional staff and oversight of funds to carry out the Act, and for other purposes; S. 1808, to authorize the exchange of certain land in Denali National Park in the State of Alaska; S. 1969, to authorize the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of designating Estate Grange and other sites related to Alexander Hamilton's life on the island of St. Croix in the United States Virgin Islands as a unit of the National Park System, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send it to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150, or by e-mail to rachel_pasternack@energy.senate.gov.

For further information, please contact David Brooks at (202) 224–9863 or Rachel Pasternack at (202) 224–0883.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. AKAKA. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a hearing during the session of the Senate on Tuesday, September 18, 2007, at 10 a.m., in room 253 of the Russell Senate Office Building.

The hearing will focus on the National Football League Retirement System and the current compensation system for NFL retirees with claims of advanced injuries that became symptomatic after retiring from the NFL.

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

COMMITTEE ON FINANCE

Mr. AKAKA. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, September 18, 2007, at 10 a.m., in room 215 of the Dirksen Senate Office Building, to hear testimony on ''Breaking the Methamphetamine Supply Chain: Meeting Challenges at the Border.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. AKAKA. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 18, 2007, at 2:30 p.m., to hold a nomination hearing.

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

COMMITTEE ON THE JUDICIARY

Mr. AKAKA. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be authorized to meet to conduct a hearing entitled ''Examining Approaches to Corporate Fraud Prosecutions and the Attorney-Client Privilege Under the McNulty Memorandum'' on Tuesday, September 18, 2007 at 10:30 a.m., in the Dirksen Senate Office Building, room 226.

Witness list

Panel I: Karin Immergut, United States Attorney, District of Oregon, U.S. Department of Justice, Chair; and White Collar Subcommittee for the Attorney General's Advisory Committee, Portland, Oregon.

Panel II: Dick Thornburgh, Of Counsel, K&L Gates, Washington, DC; Daniel Richman, Professor, Columbia Law

School, New York, NY; Michael Seigel, Professor, University of Florida Levin College of Law, Gainesville, FL; and Andrew Weissmann, Partner, Jenner & Block, New York, NY.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. AKAKA. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 18, 2007, at 2:30 p.m., to hold a closed business meeting.

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

MENTAL HEALTH PARITY ACT OF 2007

Mr. REID. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 93, S. 558.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 558) to provide parity between health insurance coverage of mental health benefits and benefits for medical and surgical services.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Health, Education, Labor and Pensions with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Mental Health Parity Act of 2007''.

SEC. 2. MENTAL HEALTH PARITY.

(a) AMENDMENTS OF ERISA.—Subpart B of part 7 of title I of the Employee Retirement Income Security Act of 1974 is amended by inserting after section 712 (29 U.S.C. 1185a) the following:

''SEC. 712A. MENTAL HEALTH PARITY.

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, such plan or coverage shall ensure that—

''(1) the financial requirements applicable to such mental health benefits are no more restrictive than the financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage), including deductibles, copayments, coinsurance, out-of-pocket expenses, and annual and lifetime limits, except that the plan (or coverage) may not establish separate cost sharing requirements that are applicable only with respect to mental health benefits; and

''(2) the treatment limitations applicable to such mental health benefits are no more restrictive than the treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage), including limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

''(b) CLARIFICATIONS.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, such plan or coverage shall not be prohibited from—

''(1) negotiating separate reimbursement or provider payment rates and service delivery systems for different benefits consistent with subsection (a);

''(2) managing the provision of mental health benefits in order to provide medically necessary services for covered benefits, including through the use of any utilization review, authorization or management practices, the application of medical necessity and appropriateness criteria applicable to behavioral health, and the contracting with and use of a network of providers; or

''(3) applying the provisions of this section in a manner that takes into consideration similar treatment settings or similar treatments.

''(c) IN- AND OUT-OF-NETWORK.—

''(1) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, and that provides such benefits on both an in- and out-of-network basis pursuant to the terms of the plan (or coverage), such plan (or coverage) shall ensure that the requirements of this section are applied to both in- and out-of-network services by comparing in-network medical and surgical benefits to in-network mental health benefits and out-of-network medical and surgical benefits to out-of-network mental health benefits.

''(2) CLARIFICATION.—Nothing in paragraph (1) shall be construed as requiring that a group health plan (or coverage in connection with such a plan) eliminate, reduce, or provide out-of-network coverage with respect to such plan (or coverage).

''(d) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of any employer who employed an average of at least 2 (or 1 in the case of an employer residing in a State that permits small groups to include a single individual) but not more than 50 employees on business days during the preceding calendar year.

''(2) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection:

''(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(C) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(e) COST EXEMPTION.—

''(1) IN GENERAL.—With respect to a group health plan (or health insurance coverage offered in connections with such a plan), if the application of this section to such plan (or coverage) results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health benefits under the plan (as determined and certified under paragraph (3)) by an amount that exceeds the applicable percentage described in paragraph (2) of the actual total plan costs, the provisions of this section shall not apply to such plan (or coverage) during the following plan year, and such exemption shall apply to the plan (or coverage) for 1 plan year. An employer may elect to continue to apply mental health parity pursuant to this section with respect to the group health plan (or coverage) involved regardless of any increase in total costs.

''(2) APPLICABLE PERCENTAGE.—With respect to a plan (or coverage), the applicable percentage described in this paragraph shall be—

''(A) 2 percent in the case of the first plan year in which this section is applied; and

''(B) 1 percent in the case of each subsequent plan year.

''(3) DETERMINATIONS BY ACTUARIES.—Determinations as to increases in actual costs under a plan (or coverage) for purposes of this section shall be made by a qualified actuary who is a member in good standing of the American Academy of Actuaries. Such determinations shall be certified by the actuary and be made available to the general public.

''(4) 6-MONTH DETERMINATIONS.—If a group health plan (or a health insurance issuer offering coverage in connections with a group health plan) seeks an exemption under this subsection, determinations under paragraph (1) shall be made after such plan (or coverage) has complied with this section for the first 6 months of the plan year involved.

''(5) NOTIFICATION.—An election to modify coverage of mental health benefits as permitted under this subsection shall be treated as a material modification in the terms of the plan as described in section 102(a)(1) and shall be subject to the applicable notice requirements under section 104(b)(1).

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require a group health plan (or health insurance coverage offered in connection with such a plan) to provide any mental health benefits.

''(g) MENTAL HEALTH BENEFITS.—In this section, the term 'mental health benefits' means benefits with respect to mental health services (including substance abuse treatment) as defined under the terms of the group health plan or coverage.''.

(b) PUBLIC HEALTH SERVICE ACT.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by inserting after section 2705 (42 U.S.C. 300gg-5) the following:

''SEC. 2705A. MENTAL HEALTH PARITY.

''(a) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, such plan or coverage shall ensure that—

''(1) the financial requirements applicable to such mental health benefits are no more restrictive than the financial requirements applied to substantially all medical and surgical benefits covered by the plan (or coverage), including deductibles, copayments, coinsurance, out-of-pocket expenses, and annual and lifetime limits, except that the plan (or coverage) may not establish separate cost sharing requirements that are applicable only with respect to mental health benefits; and

''(2) the treatment limitations applicable to such mental health benefits are no more restrictive than the treatment limitations applied to substantially all medical and surgical benefits covered by the plan (or coverage), including limits on the frequency of treatment, number of visits, days of coverage, or other similar limits on the scope or duration of treatment.

''(b) CLARIFICATIONS.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, such plan or coverage shall not be prohibited from—

''(1) negotiating separate reimbursement or provider payment rates and service delivery systems for different benefits consistent with subsection (a);

''(2) managing the provision of mental health benefits in order to provide medically necessary services for covered benefits, including through the use of any utilization review, authorization or management practices, the application of medical necessity and appropriateness criteria applicable to behavioral health, and the contracting with and use of a network of providers; or

''(3) be prohibited from applying the provisions of this section in a manner that takes into consideration similar treatment settings or similar treatments.

''(c) IN- AND OUT-OF-NETWORK.—

''(1) IN GENERAL.—In the case of a group health plan (or health insurance coverage offered in connection with such a plan) that provides both medical and surgical benefits and mental health benefits, and that provides such benefits on both an in- and out-of-network basis pursuant to the terms of the plan (or coverage), such plan (or coverage) shall ensure that the requirements of this section are applied to both in- and out-of-network services by comparing in-network medical and surgical benefits to in-network mental health benefits and out-of-network medical and surgical benefits to out-of-network mental health benefits.

''(2) CLARIFICATION.—Nothing in paragraph (1) shall be construed as requiring that a group health plan (or coverage in connection with such a plan) eliminate, reduce, or provide out-of-network coverage with respect to such plan (or coverage).

''(d) SMALL EMPLOYER EXEMPTION.—

''(1) IN GENERAL.—This section shall not apply to any group health plan (and group health insurance coverage offered in connection with a group health plan) for any plan year of any employer who employed an average of at least 2 (or 1 in the case of an employer residing in a State that permits small groups to include a single individual) but not more than 50 employees on business days during the preceding calendar year.

''(2) APPLICATION OF CERTAIN RULES IN DETERMINATION OF EMPLOYER SIZE.—For purposes of this subsection:

''(A) APPLICATION OF AGGREGATION RULE FOR EMPLOYERS.—Rules similar to the rules under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986 shall apply for purposes of treating persons as a single employer.

''(B) EMPLOYERS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of an employer which was not in existence throughout the preceding calendar year, the determination of whether such employer is a small employer shall be based on the average number of employees that it is reasonably expected such employer will employ on business days in the current calendar year.

''(C) PREDECESSORS.—Any reference in this paragraph to an employer shall include a reference to any predecessor of such employer.

''(e) COST EXEMPTION.—

''(1) IN GENERAL.—With respect to a group health plan (or health insurance coverage offered in connections with such a plan), if the application of this section to such plan (or coverage) results in an increase for the plan year involved of the actual total costs of coverage with respect to medical and surgical benefits and mental health benefits under the plan (as determined and certified under paragraph (3)) by an amount that exceeds the applicable percentage described in paragraph (2) of the actual total plan costs, the provisions of this section shall not apply to such plan (or coverage) during the following plan year, and such exemption shall apply to the plan (or coverage) for 1 plan year. An employer may elect to continue to apply mental health parity pursuant to this section with respect to the group health plan (or coverage) involved regardless of any increase in total costs.

''(2) APPLICABLE PERCENTAGE.—With respect to a plan (or coverage), the applicable percentage described in this paragraph shall be—

''(A) 2 percent in the case of the first plan year in which this section is applied; and

''(B) 1 percent in the case of each subsequent plan year.

''(3) DETERMINATIONS BY ACTUARIES.—Determinations as to increases in actual costs under a plan (or coverage) for purposes of this section shall be made by a qualified actuary who is a member in good standing of the American Academy of Actuaries. Such determinations shall be certified by the actuary and be made available to the general public.

''(4) 6-MONTH DETERMINATIONS.—If a group health plan (or a health insurance issuer offering coverage in connections with a group health plan) seeks an exemption under this subsection, determinations under paragraph (1) shall be made after such plan (or coverage) has complied with this section for the first 6 months of the plan year involved.

''(5) NOTIFICATION.—An election to modify coverage of mental health benefits as permitted under this subsection shall be treated as a material modification in the terms of the plan as described in section 102(a)(1) and shall be subject to the applicable notice requirements under section 104(b)(1).

''(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require a group health plan (or health insurance coverage offered in connection with such a plan) to provide any mental health benefits.

''(g) MENTAL HEALTH BENEFITS.—In this section, the term 'mental health benefits' means benefits with respect to mental health services (including substance abuse treatment) as defined under the terms of the group health plan or coverage, and when applicable as may be defined under State law when applicable to health insurance coverage offered in connection with a group health plan.''.

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—The provisions of this Act shall apply to group health plans (or health insurance coverage offered in connection with such plans) beginning in the first plan year that begins on or after January 1 of the first calendar year that begins more than 1 year after the date of the enactment of this Act.

(b) TERMINATION OF CERTAIN PROVISIONS.—

(1) ERISA.—Section 712 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a) is amended by striking subsection (f) and inserting the following:

''(f) SUNSET.—This section shall not apply to benefits for services furnished after the effective date described in section 3(a) of the Mental Health Parity Act of 2007.''.

(2) PHSA.—Section 2705 of the Public Health Service Act (42 U.S.C. 300gg-5) is amended by striking subsection (f) and inserting the following:

''(f) SUNSET.—This section shall not apply to benefits for services furnished after the effective date described in section 3(a) of the Mental Health Parity Act of 2007.''.

SEC. 4. SPECIAL PREEMPTION RULE.

(a) ERISA PREEMPTION.—Section 731 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191) is amended—

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

(2) by inserting after subsection (b), the following:

''(c) SPECIAL RULE IN CASE OF MENTAL HEALTH PARITY REQUIREMENTS.—

''(1) IN GENERAL.—Notwithstanding any provision of section 514 to the contrary, the provisions of this part relating to a group health plan or a health insurance issuer offering coverage in connection with a group health plan shall supercede any provision of State law that establishes, implements, or continues in effect any standard or requirement which differs from the specific standards or requirements contained in subsections (a), (b), (c), or (e) of section 712A.

''(2) CLARIFICATIONS.—Nothing in this subsection shall be construed to preempt State insurance laws relating to the individual insurance market or to small employers (as such term is defined for purposes of section 712A(d)).''.

(b) PHSA PREEMPTION.—Section 2723 of the Public Health Service Act (42 U.S.C. 300gg-23) is amended—

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

(2) by inserting after subsection (b), the following:

''(c) SPECIAL RULE IN CASE OF MENTAL HEALTH PARITY REQUIREMENTS.—

''(1) IN GENERAL.—Notwithstanding any provision of section 514 of the Employee Retirement Income Security Act of 1974 to the contrary, the provisions of this part relating to a group health plan or a health insurance issuer offering coverage in connection with a group health plan shall supercede any provisions of State law that establishes, implements, or continues in effect any standard or requirement which differs from the specific standards or requirements contained in subsections (a), (b), (c), or (e) of section 2705A.

''(2) CLARIFICATIONS.—Nothing in this subsection shall be construed to preempt State insurance laws relating to the individual insurance market or to small employers (as such term is defined for purposes of section 2705A(d)).''.

(c) EFFECTIVE DATE.—The provisions of this section shall take effect with respect to a State, on the date on which the provisions of section 2 apply with respect to group health plans and health insurance coverage offered in connection with group health plans.

SEC. 5. FEDERAL ADMINISTRATIVE RESPONSIBILITIES.

(a) GROUP HEALTH PLAN OMBUDSMAN.—

(1) DEPARTMENT OF LABOR.—The Secretary of Labor shall designate an individual within the Department of Labor to serve as the group health plan ombudsman for the Department. Such ombudsman shall serve as an initial point of contact to permit individuals to obtain information and provide assistance concerning coverage of mental health services under group health plans in accordance with this Act.

(2) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services shall designate an individual within the Department of Health and Human Services to serve as the group health plan ombudsman for the Department. Such ombudsman shall serve as an initial point of contact to permit individuals to obtain information and provide assistance concerning coverage of mental health services under health insurance coverage issued in connection with group health plans in accordance with this Act.

(b) AUDITS.—The Secretary of Labor and the Secretary of Health and Human Services shall each provide for the conduct of random audits of group health plans (and health insurance coverage offered in connection with such plans) to ensure that such plans are in compliance with this Act (and the amendments made by this Act).

(c) GOVERNMENT ACCOUNTABILITY OFFICE STUDY.—

(1) STUDY.—The Comptroller General shall conduct a study that evaluates the effect of the implementation of the amendments made by this Act on the cost of health insurance coverage, access to health insurance coverage (including the availability of in-network providers), the quality of health care, the impact on benefits and coverage for mental health and substance abuse, the impact of any additional cost or savings to the plan, the impact on out-of-network coverage for mental health benefits (including substance abuse treatment), the impact on State mental health benefit mandate laws, other impact on the business community and the Federal Government, and other issues as determined appropriate by the Comptroller General.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the appropriate committees of Congress a report containing the results of the study conducted under paragraph (1).

(d) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Labor and the Secretary of Health and Human Services shall jointly promulgate final regulations to carry out this Act.

Mr. KENNEDY. Mr. President, today is a landmark day in our nation's struggle to achieve access to mental health services for all Americans. The Mental Health Parity Act of 2007 reflects a major agreement by the mental health community, business leaders, and the insurance industry to guarantee that persons with mental health needs receive fair and equitable health insurance. Its passage will mean dramatic new help for 113 million Americans who today are without mental health care and treatment.

Access to such care and treatment is one of the most important and neglected civil rights issues facing the nation. For too long, persons living with mental disorders have suffered discriminatory treatment at all levels of society. They have been forced to pay more for the services they need and to worry about their job security if their employer learns of their condition. Sadly, in America today, patients with biochemical problems in their livers receive better care and greater compassion than patients with biochemical problems in their brains.

This bill will help end such unacceptable discrimination. As we have seen in the recent bipartisan CHIP legislation, no one questions the need for affordable treatment of physical illnesses, but those who suffer from mental illnesses face serious barriers in obtaining the care they need at a cost they can afford.

Like those suffering from physical illnesses, persons with mental disorders deserve the opportunity for quality care. The failure to obtain treatment can mean years of shattered dreams, unfulfilled potential and broken lives.

The need is clear. One in five Americans will suffer some form of mental illness this year, but only a third of them will receive treatment. Millions of our fellow citizens are unnecessarily enduring the pain and sadness of seeing a family member, friend, or loved one suffer illnesses that seize the mind and break the spirit.

Battling mental illness is a difficult process, but discrimination against persons with such illnesses is especially cruel, since the success rates for treatment often equal or surpass those for physical conditions. According to the National Institute of Mental Health, clinical depression treatment can be 70 percent successful, and treatment for schizophrenia can be 60 percent successful.

Eleven years ago, a bipartisan majority in Congress approved the original Mental Health Parity Act. That legislation was an important first step in bringing attention to discriminatory practices against the mentally ill, but it did little to correct the injustices that so many Americans continue to face. This bill takes the actions needed to end the long-standing discrimination against persons with mental illness.

Over the years we have heard compelling testimony from experts, activists, and patients about the need to equalize coverage of physical and mental illnesses. Some of the most forceful testimony came several years ago from Lisa Cohen, a hardworking American from New Jersey, who suffers from both physical and mental illnesses, and is forced to pay exorbitant costs for treating her mental disorder, while paying very little for her physical disorder. Lisa is typical of millions of Americans for whom the burden of mental illness is compounded by the burden of unfair discrimination.

No Americans should be denied equal treatment for an illness because it involves the brain instead of the heart, the lungs, or other parts of their body. Mental health parity is a good investment for the Nation. The costs from lost worker productivity and extra physical care outweigh the costs of implementing parity for mental health treatment.

Study after study has shown that parity makes good financial sense. Mental illness imposes a huge financial burden on the Nation. It costs us $300 billion each year in treatment expenses, lost worker productivity, and crime. This country can afford mental health parity. What we can't afford is to continue denying persons with mental disorders the care they need.

But equal treatment of those affected by mental illness is not just an insurance issue. It is a civil rights issue. At its heart, mental health parity is a question of simple justice.

Today is a turning point. We are finally moving toward ending this shameful form of discrimination in our society—discrimination against persons with mental illness. This bill is a true commitment by the insurance industry, business industry and the mental health community to bring fairness and dignity to the millions of Americans who have been second class patients for too long.

The 1996 act was an important step towards ending health insurance discrimination against mental illness. This bill takes another large step to close the loopholes that remain.

We would not be here without the strong commitment and skillful determination of the late Senator Paul Wellstone and Senator PETE DOMENICI. They deserve immense credit for their bipartisan leadership on mental health parity.

I also commend the staff, both Democrat and Republican, who worked so long and hard on this legislation. I particularly thank Carolyn Gluck of Senator REID's office and all the Democratic staff who worked in recent weeks to help us produce the bill we have today.

I also commend Ed Hild of Senator DOMENICI's staff and Andrew Patzman of Senator ENZI's staff for the many hours they spent with my staff to negotiate the bill.

On my staff, I especially commend several who worked so long and hard and well on this legislation—Michael Myers, Carmel Martin, Kelsey Phipps, Daniel Dawes, Jennie Fay, Ches Garrison, and above all Connie Garner, whose passion, counsel and commitment I value so highly on this and many other issues. Without her dedicated guidance, we would not be at this important threshold today.

My hope is that as we improve access to mental health services for all Americans, we will also help end the stigma and discrimination against those with mental illness. Mental illnesses are treatable and curable, and it is high time to bring relief to those who suffer from them.

Mr. President, I yield the floor.

Mr. ENZI. Mr. President, I rise to join my colleagues and sponsors of this legislation, Senators DOMENICI and KENNEDY, for their long and tireless work bringing us to passage of this bill tonight.

This legislation is literally years, if not decades in the making, and reflects countless hours of sweat and negotiation.

With much effort and indispensable help, we managed to bring together long-opposed advocates from the mental health advocacy, provider, employer, and insurance communities around a solid, responsible, bipartisan, and long-overdue bill.

Passage of this bill is a beacon example of what can be accomplished when people roll up their sleeves and work together in a bipartisan way.

This legislation will bring fairness and relief to millions of Americans suffering from mental illness. The road is not yet over, but tonight is a tremendous step forward.

Mr. REID. Mr. President, Passage of the Mental Health Parity Act of 2007 is an important victory for individuals who are affected by mental illnesses. Over a decade has passed since we enacted the landmark 1996 mental health parity law that was championed by my good friend, the late Senator Paul Wellstone, and Senator DOMENICI. Before his untimely death, Paul Wellstone was a tireless and eloquent advocate for legislation that would strengthen the 1996 law and achieve full parity in coverage between mental and physical illnesses.

The Mental Health Parity Act of 2007 is the culmination of many years of work to build on and strengthen the 1996 Mental Health Parity Act. It is a good compromise that will ensure that plans covering mental health services cannot provide different financial requirements or treatment limitations than they would for medical or surgical benefits. This legislation is long overdue and I will continue to work to ensure it is enacted as soon as possible.

Mr. DODD. Mr. President, I rise in support of S. 558, the Mental Health Parity Act of 2007. After many months of negotiations, I am pleased to call myself a strong supporter of this legislation. I thank the Chairman of the Health, Education, Labor and pensions Committee and the senior Senator

from New Mexico for working with me and congratulate them on passage of S. 558. They and their staff have worked long hours to craft this compromise bill. Supporters of mental health parity, old and new, should commend the leadership of Senators KENNEDY and DOMENICI for their years of commitment and struggle to pass expanded Federal mental health parity legislation.

Millions of Americans are affected by mental illness. Each year, more than 50 million American adults will suffer from a mental disorder. All of us know a friend, a relative, a neighbor, a colleague whose life has been touched by mental illness, either their own or the illness of a loved one. Yet despite the compelling need, under many health plans, mental health benefits are much more limited than benefits for medical or surgical care. Even though a range of effective treatments exist for almost all mental disorders, those suffering from mental illness often face increased barriers to care and the stigma that underlies discriminatory practices in how we treat mental illness. These are the individuals that have insurance. It can only be worse for those without insurance. Mental health must not take a backseat to other health conditions.

My own State of Connecticut recognized the disparity between insurance coverage for physical and mental illness and made significant steps to address it by enacting strong mental health parity and consumer protection laws. These laws far exceed what exists currently at the Federal level and I believe the bill being passed by the Senate today will allow my State to maintain those strong laws in the future.

I was an original cosponsor of the original mental health parity bill in 1996 along with Senator DOMENICI and the late Senator Wellstone and have been a strong supporter of efforts to strengthen that bill since it was signed into law. But the legislation the HELP Committee marked up last February was different from what our late colleague Paul championed for so many years. The legislation our committee marked up contained preemption language which was broader in scope than what was in Federal mental health parity bills in the past.

For that reason, I offered amendments during that markup to address preemption in a way I believed would have taken a major step toward protecting State insurance laws and ensuring that we do no harm to State-based consumer protections through passage of Federal mental health parity. At that markup, I voiced concerns about the impact the bill would have on States like Connecticut who have strong mental health parity laws, strong consumer protection laws, and strong benefit mandate laws.

As a result of my continued concerns about the impact this bill would have on the residents of my State, I withheld cosponsorship of the legislation until the issues surrounding preemption could be resolved. Due to the hard work and dedication of members on both sides of the aisle, my concerns have been addressed and I can now support the legislation.

Specifically, the bill being passed today removed the broad preemption language entirely. The bill now relies on the existing preemption of State law standard currently in the Employee Retirement Income Security Act and the Public Health Service Act, preserving States' laws relating to health insurance issuers. In many States, such issuers contract out the key insurance function of reviewing medical claims by their insureds to utilization review or medical management companies, which are licensed and regulated by the states. In fact, the legislation written by Chairman KENNEDY, called the Health Insurance Portability and Accountability Act, HIPAA, was an innovative approach to Federal health care reform that has worked well in setting a minimum standard of protections while allowing stronger State-based consumer protections. It is my understanding that the bill passed today will operate in a very similar manner.

I thank Senators KENNEDY and DOMENICI for entering into a colloquy with me to further clarify the intent of this legislation. They have been open and willing to working with me since the HELP Committee markup occurred to address the concerns I had with this legislation. I would also like to acknowledge and thank the tremendous work and expertise of Mila Kofman, Associate Research Professor, Health Policy Institute, Georgetown University. She worked tirelessly to assist the members and staff through the complex issues of ERISA and preemption. From my own State of Connecticut, I would like to thank Kevin Lembo, Victoria Veltri, and Richard Kehoe who worked closely with my staff to ensure that Connecticut's strong mental health parity laws would be protected under this legislation.

The bill we are passing today will not only mean new Federal protections for people in self-insured ERISA plans, but it will also protect workers and families in States with insurance laws that are stronger than the Federal ones by allowing those State laws to remain in effect. It reflects months and years of hard work and compromise. It is a victory for patients who need coverage for mental health services and I am pleased to stand in support of this legislation.

Mr. DOMENICI. Mr. President, I want to start by thanking my colleagues, Senators KENNEDY and ENZI, for all of their work and dedication on the Mental Health Parity Act of 2007. We would not be here this evening without them and a whole host of others both in and out of the Senate.

Simply put, our legislation will ensure individuals with a mental illness have parity between mental health coverage and medical and surgical coverage. No longer will people with a mental illness have their mental health coverage treated differently than their coverage for other illnesses. That means parity between the coverage of mental illnesses and other medical conditions like cancer, heart disease, and diabetes.

No longer will people be treated differently only because they suffer from a mental illness, and that means 113 million people in group health plans will benefit from our bill. We are here after years of hard work. We have worked with the mental health community and the business and insurance groups to carefully craft a compromise bill.

No longer will a more restrictive standard be applied to mental health coverage and another more lenient standard be applied to medical and surgical coverage. What we are doing is a matter of simple fairness. I believe that becomes even more important when you consider the following: 26 percent of American adults, or nearly 58 million people, suffer from a diagnosable mental disorder each year, and 6 percent of those adults suffer from a serious mental illness. More than 30,000 people commit suicide each year in the United States, and 16 percent of all inmates in State and local jails suffer from a mental illness.

I would like to take a minute to talk about what we are doing with the passage of the Mental Health Parity Act of 2007. The bill provides mental health parity for about 113 million Americans who work for employers with 50 or more employees, ensures that 98 percent of businesses which provide a mental health benefit do so in a manner that is no more restrictive than the coverage of medical and surgical benefits, and ensures health plans do not place more restrictive conditions on mental health coverage than on medical and surgical coverage. The bill accomplishes this by providing parity for financial requirements like deductibles, copayments, and annual and lifetime limits and parity for treatment limitations, the number of covered hospital days and visits.

Again, I want to thank everyone for their extraordinary efforts that have allowed us to achieve Senate passage of the Mental Health Parity Act of 2007.

Mr. DURBIN. Mr. President, today the Senate takes a long overdue step in the right direction for the health of all Americans. The passage of the Mental Health Parity Act of 2007 recognizes the millions of people living with a mental illness and the millions of friends, family members, and communities who support them.

Mental health parity legislation simply calls for health plans to provide comparable levels of coverage for mental health services as are provided for traditional medical services. It doesn't sound like a radical proposal, yet it has taken years to move this legislation through the Senate.

We have made progress, though, and much of the leadership on this issue has been provided by Senator KENNEDY and Senator DOMENICI in recent years. We started in 1992, when my good friend, the late Senator Paul Wellstone, and Senator PETE DOMENICI introduced the Mental Health Parity Act to correct the unfair burden placed on American families living with mental illness without access to mental health services.

It took a while, but in 1996, the first mental health parity legislation was enacted into law. It wasn't a perfect bill. It fell far short of its goal in many respects, but it was a significant piece of legislation that acknowledged the longstanding bias against covering mental health services.

Based on what we did in 1996, current law requires insurers that offer mental health care to offer comparable benefit caps for mental health and physical health. Unfortunately, that left a loophole that has allowed the common practice in which insurers set higher deductibles, charge higher copays, and cover fewer services for mental health care. As a result, millions of Americans are left without affordable mental health treatment. What they are left with is the often crushing aftermath—loss of employment, poor school performance, poverty, and even suicide.

Every year since that 1996 law was enacted, the Senate has had a mental health parity bill to fix this problem, but to no avail. This year, for the first time in a decade, the Senate has passed a bill to address the loopholes in the mental health parity law. I commend Senators KENNEDY and DOMENICI for their dedication to seeing this through. I only wish that Paul Wellstone could have lived to see this day.

Paul Wellstone was a good friend of mine and an inspiration to me and to many others who served with him in the Chamber. Throughout his congressional career, Paul fought tirelessly for equal rights for all, regardless of their race, religion, socioeconomic status, or health status. He was a champion of many causes, but no cause was more dear, or more personal, to him than making sure that people with mental illness were treated fairly and with dignity.

Paul Wellstone was touched personally by mental illness. His older brother lived and struggle with mental illness most of his life. Paul believed that for his brother, and for all Americans, mental health was as important as physical health. Senator PETE DOMENICI, too, understands the importance of having access to mental health services. His daughter also has struggled with mental illness.

Fifteen years ago, Senators Wellstone and DOMENICI brought home a fact that is as true today as it was then—nearly everyone knows someone living with a mental illness. According to the National Institute of Mental Health, more than one in four adults in the United States—more than 57 million adults—suffer from a diagnosable mental disorder in a given year. One in seventeen Americans suffers from a serious mental illness.

These two Senators were fiercely determined to end discrimination against people with mental illness. We all lost a spirited champion for mental health on October 25, 2002, when Paul Wellstone was in a fatal plane crash. But the fight for mental health parity has lived on. Senator KENNEDY quickly took up the fight, and he and Senator DOMENICI have resolutely worked to strengthen common ground and supporters who would bring us to this day, the day of Senate passage of the mental health parity bill.

Last year, the Senate passed a resolution I submitted that marked the fourth anniversary of Paul Wellstone's death. The resolution expresses the sense of the Senate that Congress should act ''to provide for equal coverage of mental health benefits with respect to health insurance coverage''—in other words, pass mental health parity.

I am proud to note the Senate's action today. With the passage of the Mental Health Parity Act of 2007, we are assuring millions of Americans that mental illness deserves equal treatment as physical illness. We are telling millions of families that help is available and that they no longer have to feel excluded. And most importantly, we are opening doors to hope and closing doors to desperation.

We may not live in a perfect world but we are closer to a more perfect union. It is in the spirit of Paul Wellstone and—thanks to Senators KENNEDY and DOMENICI—the spirit of bipartisanship that we pass this historic piece of legislation. Senator Wellstone was quoted as saying:

I don't think politics has anything to do with left, right, or center. It has to do with trying to do right by the people.

Today, I think Paul would agree that the Senate has done right.

PREEMPTION AND PROTECTING STATE LAWS

Mr. DOMENICI. Mr. President, as someone who has worked to bring a greater understanding of mental illness and to end all forms of discrimination against people who suffer from a mental illness, I am pleased to report that the Senate has passed a monumental mental health parity bill that could bring hope and greater measure of fairness in mental health insurance care coverage to as many as 113 million Americans and nearly 500,000 New Mexicans. This legislation, the Mental Health Parity Act of 2007, builds on the 1996 Mental Health Parity law that I authored with the late Senator Paul Wellstone. It is supported by more than 230 organizations and has been a bipartisan effort from the beginning. I thank Senator KENNEDY, the chairman of the Health, Education, Labor and Pensions Committee, for his vision, his leadership and his support for this legislation.

Mr. KENNEDY. I thank the Senator from New Mexico for his tremendous leadership on this bill. He has fought for this legislation for many years, and I am grateful for his commitment to getting this bill passed. This legislation represents the culmination of more than a year's negotiations involving lawmakers, mental health, insurance and business organizations to craft compromise legislation. During the markup of the bill last February, my colleague Senator DODD raised very important issues regarding the effects of the preemption language in the legislation. Since then, he was joined by several other Senators, attorneys general, and State insurance commissioners who have voiced concerns about unintended consequences of the bill. It was never the intent of the bill to harm or weaken State insurance laws but in response to concerns raised by several of my colleagues and insurance experts, the language pertaining to preemption was stricken from the legislation.

Mr. DODD. I thank the chairman of the HELP Committee and the distinguished senior Senator from New Mexico and congratulate them on passage of S. 558, the Mental Health Parity Act. They and their staff have worked long hours to craft this compromise bill, and I congratulate them on this victory for individuals with mental illness throughout the country. Supporters of mental health parity, old and new, should commend the leadership of Senators DOMENICI and KENNEDY for their years of commitment and struggle to pass Federal mental health parity legislation.

I was an original cosponsor of the original mental health parity bill in 1996, along with Senator DOMENICI and the late Senator Wellstone, and have been a strong supporter of efforts to strengthen that bill since it was signed into law. But, as my colleagues may know, the legislation the HELP Committee marked up last February which is now before the Senate is different from what our late colleague Paul championed for so many years. The legislation our committee marked up contained preemption language which was broader in scope than what was in Federal mental health parity bills in the past. For that reason, I filed amendments during that markup to address preemption in a way I believed would have taken a major step toward protecting State insurance laws and ensuring that we do no harm to State-based consumer protections through Federal mental health parity. At that markup, I voiced concerns about the impact the bill would have on States like Connecticut who have strong mental health parity laws, strong consumer protection laws, and strong benefit mandate laws.

As a result of my continued concerns about the impact this bill would have on the residents of my State, I withheld cosponsorship of the legislation until the issues surrounding preemption could be resolved. I am pleased to say that because of the hard work and

dedication of Members on both sides of the aisle, my concerns have been addressed and I can now support the legislation.

Mr. KENNEDY. I thank the senior Senator from Connecticut and appreciate his leadership on this issue. He raised a number of important issues during the consideration of this bill. I believe we have addressed those concerns in the legislation and I am pleased that he is now a strong supporter of the legislation.

Mr. DODD. The bill passing the Senate today relies on the existing preemption of State law standard currently in ERISA and the Public Health Service Act, preserving States laws relating to health insurance issuers. In many States, such issuers contract out the key insurance function of reviewing medical claims by their insurers to utilization review or medical management companies, which are licensed and regulated by the States. In fact, the legislation written by the Senator from Massachusetts, called HIPAA, was an innovative approach to Federal health care reform that has worked so well in setting a minimum standard of protections while allowing stronger State-based consumer protections. Is it the distinguished senior Senator from Massachusetts' belief that S. 558 preserves the States' ability to regulate such companies?

Mr. KENNEDY. Yes, nothing in this bill affects any State law or State regulation of any company or issuer who performs utilization review or other medical management services. The changes made to the preemption section of S. 558 mean that the current HIPAA standard would apply to this legislation, just like it applies to existing law passed in 1996. By using existing preemption language, we mean only the narrowest preemption of State laws. A minimum standard of Federal protection allows States to provide additional protection for their citizens. State laws designed to regulate medical management or utilization review to protect plan participants are not preempted under the bill because they do not ''prevent the application'' of the substantive provisions of this bill.

Mr. DODD. Is it also the understanding of the senior Senator from New Mexico that this legislation will not only mean new Federal protections for people in self-insured ERISA plans, but it will also protect workers and families in States with insurance laws that are stronger than the Federal ones by allowing those State laws to remain in effect?

Mr. DOMENICI. Yes, the senior Senator from Connecticut is correct.

Mr. DODD. I thank the Senator and want to thank the Senator from Massachusetts for allowing my concerns about preemption and protecting State laws to be heard in the committee and for working tirelessly with me to address those concerns. The bill we are passing reflects months and years of hard work and compromise, and I am pleased to voice my strong support for S. 558. It is a victory for patients who need coverage for mental health services.

Mr. REID. I ask unanimous consent that the amendment at the desk be considered and agreed to; the committee-reported amendment, as amended, be agreed to; the motions to reconsider be laid upon the table, en bloc; the bill, as amended, be read three times and passed; the motion to reconsider be laid upon the table; and that any statements be printed in the RECORD.

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

The amendment (No. 2908) was agreed to.

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

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 558), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. REID. Mr. President, I congratulate Senators KENNEDY, ENZI, and others who worked on this legislation for such a long time. They are to be commended. Senator Wellstone, I am sure, is smiling on us today.

ORDERS FOR WEDNESDAY, SEPTEMBER 19, 2007

Mr. REID. I ask unanimous consent that when the Senate completes its business today, it stand adjourned until 9:30 a.m. tomorrow; that on September 19, following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, and, following the time utilized by the two leaders, the Senate then resume consideration of H.R. 1585, the Defense Department authorization bill, and we proceed to 60 minutes of debate prior to a vote on the motion to invoke cloture on amendment No. 2022, with the time to be equally divided and controlled between the leaders or their designees; that upon the conclusion of the debate, the Senate proceed to vote on the motion to invoke cloture; that Members have until 10 a.m. to file any germane second-degree amendments to amendment No. 2022.

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

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 6:47 p.m., adjourned until Wednesday, September 19, 2007, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

DEPARTMENT OF DEFENSE

ANITA K. BLAIR, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE WILLIAM A. NAVAS, JR., RESIGNED.

DEPARTMENT OF VETERANS AFFAIRS

MICHAEL W. HAGER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (HUMAN RESOURCES AND MANAGEMENT), VICE ROBERT ALLEN PITTMAN, RESIGNED.

DEPARTMENT OF LABOR

KEITH HALL, OF VIRGINIA, TO BE COMMISSIONER OF LABOR STATISTICS, DEPARTMENT OF LABOR, FOR A TERM OF FOUR YEARS, VICE KATHLEEN P. UTGOFF, TERM EXPIRED.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

REAR ADM. (LH) MICHAEL R. SEWARD, 0000

THE FOLLOWING NAMED OFFICERS OF THE COAST GUARD PERMANENT COMMISSIONED TEACHING STAFF FOR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 188:

To be captain

JOSEPH E. VORBACH, 0000
RICHARD W. SANDERS, 0000

To be commander

DARRELL SINGLETERRY, 0000

To be lieutenant commander

THOMAS W. DENUCCI, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD RESERVES UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JEFFREY G. ANDERSON, 0000
MICHAEL A. CICALESE, 0000
MICHAEL D. COLLINS, 0000
DOUGLAS J. DAWSON, 0000
SERENA J. DIETRICH, 0000
DALE V. FERRIERE, 0000
DAVID M. GARDNER, 0000
DOUGLAS W. HEUGEL, 0000
BRIAN H. OFFORD, 0000
KEVIN J. OLD, 0000
CONRAD W. ZVARA, 0000

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 captain

CHRISTOPHER D. ALEXANDER, 0000
LATICIA J. ARGENTI, 0000
WEBSTER D. BALDING, 0000
MATTHEW T. BELL, 0000
MELISSA BERT, 0000
MELVIN W. BOUBOULIS, 0000
WYMAN W. BRIGGS, 0000
JAMES M. CASH, 0000
PAULINE F. COOK, 0000
THOMAS E. CRABBS, 0000
JOHN T. DAVIS, 0000
SCOTT N. DECKER, 0000
JERRY D. DOHERTY, 0000
THOMAS H. FARRIS, 0000
JAMES O. FITTON, 0000
JOHN M. FITZGERALD, 0000
PAUL E. FRANKLIN, 0000
JOHN D. GALLAGHER, 0000
PETER W. GAUTIER, 0000
GLENN L. GEBELE, 0000
ANTHONY R. GENTILELLA, 0000
VERNE B. GIFFORD, 0000
NANCY R. GOODRIDGE, 0000
THOMAS C. HASTINGS, 0000
BEVERLY A. HAVLIK, 0000
WILLIAM G. HISHON, 0000
GWYN R. JOHNSON, 0000
ERIC C. JONES, 0000
WILLIAM G. KELLY, 0000
JOHN S. KENYON, 0000
JAMES L. KNIGHT, 0000
DONALD A. LACHANCE, 0000
ROGER R. LAFERRIERE, 0000
JOHN K. LITTLE, 0000
GORDON A. LOEBL, 0000
KEVIN E. LUNDAY, 0000
SEAN M. MAHONEY, 0000
DWIGHT T. MATHERS, 0000
STUART M. MERRILL, 0000
MICHAEL A. MOHN, 0000
FREDERICK G. MYER, 0000
JACK W. NIEMIEC, 0000
JOANNA M. NUNAN, 0000
SALVATORE G. PALMERI, 0000
JOHN J. PLUNKETT, 0000
ANTHONY POPIEL, 0000
RAYMOND W. PULVER, 0000
STEVEN J. REYNOLDS, 0000
MARK D. RIZZO, 0000
MATTHEW T. RUCKERT, 0000
JAMES W. SEBASTIAN, 0000

KEITH M. SMITH, 0000
MARC D. STEGMAN, 0000
GRAHAM S. STOWE, 0000
ROBERT J. TARANTINO, 0000
JOHN G. TURNER, 0000
KEITH J. TURRO, 0000
ANTHONY J. VOGT, 0000
SAMUEL WALKER, 0000
ROBERT B. WATTS, 0000
STEVEN A. WEIDEN, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT IN THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be major

FREDERICK M. ABRUZZO, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT IN THE GRADES INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be colonel

WILLIAM W. DODSON, 0000

To be major

NICHOLAS MEXAS, 0000
DAVID A. NIEMIEC, 0000
JOHN R. SHAW, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT IN THE GRADES INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be colonel

THOMAS E. MARCHIONDO, 0000

To be lieutenant colonel

KENNETH KLINE, 0000

To be major

KYUNG L. BOEN, 0000

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

To be colonel

DAVID W. ASHLEY, 0000
PETER G. BAER, 0000
WILLIAM S. BAIR, 0000
RUTH P. BAKER, 0000
WALTER R. BALL, 0000
DAVID A. BECK, 0000
ROBERT C. BOLTON, 0000
WILLIE BRAGGS III, 0000
ROBERT T. BROOKS, JR., 0000
RANDY D. BUCKNER, 0000
PETER J. BYRNE, 0000
ANTHONY J. CARRELLI, 0000
CHARLES W. CHAPPUIS, 0000
JOEL A. CLARK, 0000
JAMES A. CONWAY, JR., 0000
RONALD G. COREY, 0000
MICHAEL E. CRADER, 0000
JIM A. CUMINGS, 0000
GREGG A. DAVIES, 0000
GEORGE M. DEGNON, 0000
PETER J. DEPATIE, 0000
THOMAS H. DOUGLAS, 0000
MARY S. DOWLING, 0000
DANIEL J. DUNBAR, 0000
HAROLD S. EGGENSPERGER, 0000
CLARENCE ERVIN, 0000
MARK T. FAVETTI, 0000
MICHAEL J. FEELEY, 0000
GREGORY R. FOURNIER, 0000
MATTHEW R. GODFREY, 0000
JOHN S. GOODWIN, 0000
JAMES E. GRANDY, 0000
JUDY M. GRIEGO, 0000
JOHN J. HERNANDEZ, 0000
EDWARD G. HERRERA, 0000
BARRY K. HOLDER, 0000
PAUL HUTCHINSON, 0000
CHARLES C. INGALLS, 0000
PAUL D. JACOBS, 0000
STEPHEN E. JESELNICK, 0000
PAUL D. JULIAN, 0000
ROBERT S. JUSTUS, 0000
WOODY R. KLINNER, JR., 0000
KENNETH L. KOBS, 0000
JAMES M. LEFAVOR, 0000
ROBERT P. LEMIEUX, 0000
CARLISLE A. LINCOLN III, 0000
MICHAEL J. LINDEMAN, 0000
ANDREW J. MAMROL, 0000
MURIEL A. MARSHALL, 0000
RICHARD L. MARTIN, 0000
STEVEN D. MARTIN, 0000
DONALD A. MCGREGOR, 0000
JUAN J. MEDINALAMELA, 0000
PETER A. MERCIER, 0000
BRIAN A. MILLER, 0000
MURRY MITTEN, 0000
BRIAN C. NEWBY, 0000
JOHN W. OGLE III, 0000
GERALD R. OSTERN, 0000
MATTHEW J. PAPE, 0000
ROBERT R. PETERSEN, 0000
WILLIAM S. PETTI, 0000
THOMAS POWERS, JR., 0000
ROY V. QUALLS, 0000
MARK J. RICHMAN, 0000
DAVID L. ROMUALD, 0000
MATHEW J. RULAND, 0000
CHRIS K. SAKAMOTO, 0000
LEIGH A. SCARBORO, 0000
NANCY L. SEETS, 0000
DAVID A. SIMON, 0000
MICHAEL P. SKOMROCK, 0000
CALVIN C. STARLIN, JR., 0000
TERRANCE C. STIFF, 0000
STEPHEN A. SUTHERLAND, 0000
GREGORY P. SWANSON, 0000
DEAN A. TREMPS, 0000
ERIC R. VOGT, 0000
JONATHAN T. WALL, 0000
THOMAS K. WARK, 0000
PATTY R. WILBANKS, 0000
MARC D. WILSON, 0000

IN THE ARMY

THE FOLLOWING NAMED INDIVIDUAL FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY JUDGE ADVOCATE GENERAL'S CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be major

SHAWN D. SMITH, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT IN THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

BRIAN D. ALLEN, 0000
MICHAEL R. CONNERS, 0000

WITHDRAWAL

Executive Message transmitted by the President to the Senate on September 18, 2007 withdrawing from further Senate consideration the following nomination:

ANITA K. BLAIR, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE MICHAEL L. DOMINGUEZ, WHICH WAS SENT TO THE SENATE ON JANUARY 9, 2007.